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University of Southampton

Faculty of Humanities

Department of English

Disappearing Women? Wives in Fact and Fiction During the Long Eighteenth Century

Alison Heather Daniell

Thesis for the degree of Doctor of Philosophy

August 2020

Abstract

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The thesis examines how coverture was imagined, reconfigured and interrogated within a range of women's fictions of the long eighteenth century. This comparative study of law, history and literature is a unique, novel and wide-ranging study which brings existing secondary research together with new data and interpretations. The thesis firstly sets out to discover how coverture was experienced by women of the time. This is vital because the existing secondary historical literature suggests a gap between the lived experience of women and the strict legal provisions contained in the doctrine. This in turn means that some of the assumptions which have previously been made about coverture in women's fiction may not be accurate as they do not reflect historical reality. A series of models of coverture were therefore constructed to provide an accurate backdrop for the various literary interpretations which follow. These historical models draw on established secondary sources and also use new research formulated especially for this thesis. The thesis also examines the underlying philosophies which supported coverture: justifications which were not true in fact but which were promulgated in order to support its existence. These were powerful cultural ideas in their own right and the thesis argues that the way in which they were integrated into fiction changed over time.

Each chapter focuses on one aspect of coverture. Chapter One examines land ownership; Chapter Two looks at moveable goods, money and investments; Chapter Three analyses coverture within the marital relationship, with a particular emphasis on how the androcentric power structures at its heart might be subverted and Chapter Four examines working wives. Each chapter contains an explanation of the theoretical legal position which is then examined against the existing secondary literature and new primary-source case studies. The findings are then applied to selected fictions. The only exception to this is Chapter Three, which seeks to analyse Mary Wollstonecraft's *Mary* and *Maria* in terms of her own experimental relationship with Gilbert Imlay. In Chapter One, a range of novels from the early eighteenth century is examined, including *The Prude* and Davys' *The Reform'd Coquet*. Chapter Two focusses on the work of Eliza Haywood, with the *Female Spectator* and *The History of Miss Betsy Thoughtless* taking centre stage. Chapter Three concerns Mary Wollstonecraft's two novels and Chapter Four examines Frances Burney's final novel *The Wanderer*. As well as addressing separate aspects of coverture, each chapter also focuses on a different period of time. This enables cross-chronological analysis to be undertaken to identify changes to the understanding of coverture that occurred over time and how these were expressed in society and the literature of the period. This three-way analysis of law, history and female-authored fiction, together with the cross-chronological nature of this study, provides fresh insights into women's fiction and the ways in which coverture was understood by those living under it.

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Declaration

Disappearing Women? Wives in Fact and Fiction During the Long Eighteenth Century

I declare that this thesis and the work presented in it is my own and has been generated by me as the result of my own original research.

I confirm that:

1. This work was done wholly or mainly while in candidature for a research degree at this University;
2. Where any part of this thesis has previously been submitted for a degree or any other qualification at this University or any other institution, this has been clearly stated;
3. Where I have consulted the published work of others, this is always clearly attributed;
4. Where I have quoted from the work of others, the source is always given. With the exception of such quotations, this thesis is entirely my own work;
5. I have acknowledged all main sources of help;
6. Where the thesis is based on work done by myself jointly with others, I have made clear exactly what was done by others and what I have contributed myself;
7. None of this work has been published before submission.

Alison Daniell

21st August 2020

Acknowledgements

This project has been a long time in the making. I first had an idea for a study on women, property and the eighteenth-century novel back in 1994. However, life got in the way and it was not until a few years ago that I was finally able to turn that initial idea into this project. As such, it is the product of the last four years but also belongs to a much longer time-span. The influences and inspirations have been many and various and I am extremely grateful to everyone who has helped and supported me. I would like to begin by thanking my supervisory team of Dr Gillian Dow, Dr Helen Paul and Dr Stephen Bending who have all given generously of their time and expertise. As well as providing an exemplary level of academic support, they have opened doors which have led to opportunities and experiences which have profoundly enriched my time at Southampton: I am indebted to them for this. It has also been a real pleasure to be part of the Centre for Eighteenth-Century Studies and the English Department more widely, where I have encountered kindness, help and support from many wonderful colleagues. In particular, I would like to thank Dr Kim Simpson for her generosity and encouragement and I look forward to bringing our ‘Adventurous Wives’ project to fruition in the near future. I would also like to thank Professor Stephen Bygrave for the advice he gave in his capacity as my confirmation examiner and to Professor Emma Clery for her continued interest in and support of the project. My time at Southampton has also allowed me to gain valuable teaching experience and I need to thank Alison Dickens and Kate Borthwick in particular for their help on this part of my journey: I am extremely grateful to you both. I have also had the wonderful experience of being part of the team working on the MOOC ‘Jane Austen: Myth, Reality and Global Celebrity’. I owe everyone involved an enormous ‘thank you’ for giving me the opportunity to share my love of all things Jane with a global community of Austen enthusiasts. Gillian, Kim, Kate, Amy, Alastair and the technical team – it has been a wonderful experience.

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A PhD, as I have discovered, has a way of permeating all areas of one's life and there are many, many people who I need to thank. I'd like to begin by acknowledging the contribution of my husband, Chris. He has put up with me reverting to studenthood for four years and has supported me with grace and enthusiasm. He has also sorted out various tech issues, shown me where to find resources such as the Victoria County Histories and census returns and told me how archives work. I could not have done this without him. Likewise, my two boys Matt and Jamie. They have put up uncomplainingly with a mother who has had other calls on her time: I hope this inspires you and does not put you off academic life and thank you for your patience. My mother and step-mother, too deserve huge thanks. You have both contributed much to this project in the way of time, proof-reading, emotional input and so much more. Also, thank you, Mum for paying my fees for the first two years when money was tight. My wider family too – my father, my brother Duncan for paving the way at Southampton and my cousin, Dr Grace Clifton, for her unwavering support in many, many aspects of this project: from proof-reading, lending books, listening and even babysitting my car when I was at a conference.

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Finally, as Virginia Woolf reminds us, it is important to have mothers to look back through. As well as the inspirational women already listed above, I would also like to

acknowledge two more without whom I would not have begun this odyssey. In 1991 Professor Felicity Riddy and Dr Karen Hodder ran an undergraduate module called 'Sex and Gender in Medieval Literature'. If I had not taken that module – and then continued to King's Manor for the amazing interdisciplinary M.A. 'Women in the Late Medieval World' – I would not have had the academic and methodologic skills to conceive of or to complete this project. Whilst Southampton has been the place this was brought to fruition, it owes a lot to my initial student experience at the University of York. The Department of English and Related Literature and the Centre for Medieval Studies lie deep within its DNA.

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Introduction

‘Fiction is like a spider’s web, attached ever so lightly perhaps, but still attached to life at all four corners.’

Virginia Woolf *A Room of One’s Own*¹

‘Law is not outside life but deep within it. Law is so deeply woven into our consciousness that a first step of critical practice is to find it at work and challenge the claims that law is external to suffering, privation, inequality and oppression.’

Catherine L. Fisk and Robert W. Gordon²

In the mid-1720s, in a country house deep in the south of England, a woman reached for her pen. She selected a sheet of paper and sat down to write to her lawyer, Mr Horsman, who had chambers in Lincoln’s Inn, London. She was getting married and she wanted to make sure that certain provisions were in place before she did. It was her second taste of matrimony and, whether because of her previous experience, or simply because she liked to be in control of her own affairs, she had decided on a number of legally-binding arrangements necessary to safeguard her interests. The most important of these was that her husband, and anyone who might inherit her lands, should change their name to hers – Knight. Also, that her estate in Hampshire and its rents and profits should be reserved to her sole use and finally, if she outlived her new husband, that she would receive a settlement in proportion to her considerable church lands and personal estate.³ This woman was Elizabeth Knight, a wealthy land owner, whose income from land alone stood at well over three thousand pounds per annum.⁴ The letter she drafted set out her wishes very clearly: she knew what she was seeking, she used the correct legal terminology to request it and did not require either her steward, the long serving Mr Munford, or any other male advisor to write it for her.

¹ Virginia Woolf, *A Room of One’s Own* (London, Grafton, 1977) p.47.

² Catherine L. Fisk and Robert W. Gordon, ‘Forward: ‘Law as . . .’: Theory and Method in Legal History’ *UCI Law Review* 1.3 (2011) 519-541 <<http://dx.doi.org/10.2139/ssrn.2066039>> [accessed June 2nd 2020] p. 541.

³ Hampshire Record Office (HRO) Knight of Chawton papers 39M89/E/B887

⁴ HRO/E/B/587/14

What she was asking Mr Horsman of Lincoln's Inn to create sounds similar to what today might be called a 'pre-nuptial settlement': a formal agreement between two people, about to marry, setting out how they wish to divide their assets if their marriage ends in divorce. But Knight's settlement was not to decide what would happen in the case of a divorce. Instead, it was to regulate what happened to her property whilst she was married. The reason she needed to do this was because she, as an autonomous individual with a legal and economic personality, was about to disappear.

From the Middle Ages through to the nineteenth century, all women who married automatically entered into a legal state known as coverture. Essentially, it was a doctrine – a set of rules and procedures – of English common law. It removed the legal and economic personality of all married women and gave control of much of their property and economic activities to their husbands. The provisions were wide ranging and had a profound real-world impact upon women's day-to-day lives. Upon marriage, for example, ownership of a wife's moveable goods passed absolutely to her husband. With a (very limited) number of exemptions he could sell them, give them away or even leave them to a third party in his will. He was also entitled to any rents and profits from her land (a provision Elizabeth Knight was keen to avoid) although he could not dispose of the land itself without her permission. Wives were also unable to make contracts, including debts, except in their husbands' name whilst acting as his agent. In return, for coverture was presented by the legal establishment as a *quid pro quo* arrangement, husbands would maintain their wives and be responsible for any contracts, debts or purchases made by them during the duration of the marriage. Husbands also had powers over their wives' bodies, although a husband's power physically to abuse his wife was not unlimited. Coverture was an unavoidable fact of life for every single married women in England and Wales, as well as wives within the common law jurisdictions to which it was exported, including the North American colonies. As Tim Stretton and Krista Kesselring put it: 'a typical wife in New England in 1750 had much in common with a typical wife in England in 1250.'⁵

Indeed, coverture has never been formally abolished and there is an argument to be made that it still haunts society today. Some aspects were palliated by the Married Women's Property Acts of the 1880s. Subsequent legislation, such as the Equal Pay Act 1970, has also

⁵ Stretton and Kesselring, 'Introduction' *Married Women and the Law: Coverture in England and the Common Law World* (Montreal: McGill-Queens University Press, 2013) pp.3-23

<www.jstor.org/stable/j.ctt32b7jq> [accessed 28th July 2020] ProQuest Ebook Central p.5.

attempted to level up the legal and economic playing field for women. However, women in England and Wales, even at the start of the twenty-first century, still do not enjoy equality with their male counterparts in many aspects of life – and the gains which have been made are precariously held. A recent publication by the United Nations outlined how damaging the coronavirus outbreak has been for women’s rights in a number of areas, ranging from increases in domestic abuse to continued inequalities in the division of household labour and childcare.⁶ Few today have ever heard of coverture but its combination of control, economic discrimination and political marginalisation still echoes through western society; perhaps all the stronger for being hidden from view.

Coverture’s power also lay in its ability to constrain the lives of all women. It supported and justified a series of social, legal and economic inequalities which channelled wealth and opportunity away from the female half of the population and located them firmly with the male half. Where wealth and opportunity were redirected, influence and power naturally followed. One can see the effects of coverture operating as a series of vicious circles where the removal of women’s autonomy affected the perception of women’s *ability* to wield that power in the first place.⁷ The letter of the law may have been the starting point but its shadow was long and extended well beyond the discrete boundaries it was supposed to occupy. This was not accidental. As Laura Edwards argues: ‘[i]t is too simplistic to say that the law restricted women’s social and economic options – options that somehow existed outside the law. The law...shaped all the options.’⁸

It is important to point out, however, that the impact of coverture is most visible in the lives of those women from the higher social classes – the ‘middling sort’ and above. In part, this is because these women were more likely to have left records that allow the historian to glimpse into their lives. They were also more likely to have the means to mitigate some of coverture’s restrictions, for example by placing their assets in trust before marriage. It is no coincidence, therefore, that most of the women (and fictional female characters) featured in this study come from higher (and therefore also) literate, legally-active, wealthier socio-

⁶ United Nations, ‘Policy Brief: The Impact of COVID-19 on Women’ <<https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf>> [accessed 29th May 2020]

⁷ Stretton and Kesselring, p.6.

⁸ Laura F. Edwards, ‘Law as Social History’ in *The Oxford Handbook of Legal History* ed. Markus D. Dubber and Christopher Tomlins (Oxford: Oxford University Press, 2018) 119-133 (p. 125).

economic groups. However, coverture as a legal doctrine attached to all women, whatever their rank or social status. Although women from the lower social classes are more difficult to locate because they rarely left traces of themselves in the historical record, they still – technically – lived under coverture and I have done my best to ensure they are represented in this study, even if only in a small way. In Chapter Two, for example, I have included an analysis of Joanne Bailey’s book *Unquiet Lives* which includes evidence drawn from records including quarter sessions and applications for parish poor relief. Amy Louise Erickson’s work also provides glimpses of married women from all classes who sought to mitigate the effects of coverture. Erickson estimates that ten percent of all probate accounts for married men contained arrangements protecting their wife’s property rights (or those of the wife’s children from a former marriage).⁹ The paucity of records means ultimately, however, that studies such as these focus on wealthier. Even so, all married women who worked, earned money or brought any items at all into their marriages would have been impacted to a greater or lesser extent by coverture.

Coverture as a Doctrine of English Common Law

Although the basic provisions of coverture remained unchanged until the nineteenth century, the reasons given for its existence did not: coverture changed its philosophical justification through time. The core idea of a ‘unity of persons’, famously expounded by William Blackstone in his *Laws of England*, appears to have been in existence since the Middle Ages. However, it was not until the eighteenth century that it became the central, defining rationale of coverture.¹⁰ In the medieval period, the designation of husband and wife as, respectively, ‘baron’ and ‘feme’ underlined coverture’s feudal overtones. The vision of marriage was one of a power

⁹ Erickson *Women and Property* (London: Routledge, 1993) pp.129-130.

¹⁰ The changes in the theoretical underpinning of coverture are summarised by Stretton and Kesselring pp.13-15. Citing Sarah M. Butler (below) they say ‘unity of persons’ did exist before Blackstone but was ‘correlative’ of the husband’s authority, not a primary factor. The *Laws Resolutions of Women’s Rights* (1632) also describes husband and wife as ‘one individed substance.’ Cited in Erickson *Women and Property* p.150.

relationship in which the husband enjoyed ultimate authority.¹¹ For women, it also marked a distinct break with their single existence: according to the justices in a King's Bench case of 1340 a wife was 'essentially a different person than she had been before marriage'.¹² By the sixteenth and seventeenth centuries, this had changed. In its place was a correlation of the marital relationship with a divinely ordained social hierarchy.¹³ A definition of coverture at the beginning of the eighteenth century renders it thus:

Coverture is *tegere* in Latin, and is so called for that the Wife is *sub potestate viri*. The Law of Nature hath put her under the Obedience of her Husband, and hath submitted her Will to his.¹⁴

The middle of the eighteenth century, however, was arguably coverture's defining moment. Seeking to move away from the concept of social hierarchy, William Blackstone placed the 'unity of persons' philosophy centre-stage:

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 or consolidated into that of the husband: under whose wing, protection and *cover* she performs everything; and is therefore called in our law-french a *feme-covert*; is said to be *covert-baron* or under the protection and influence of her husband, or *baron* or lord; and her condition during her marriage is called her *coverture*. And upon this principle, of an union of person in husband and wife, depend

¹¹ Sarah M. Butler, 'Discourse on the Nature of Coverture in the Later Medieval Courtroom' in Stretton and Kesselring pp.24-44 (p.25).

¹² Butler, p.32.

¹³ Stretton and Kesselring, p.14.

¹⁴ *Baron and Feme: A Treatise of the Common Law Concerning Husbands and Wives* (London: Richard and Edward Atkyns, 1700)

<<https://quod.lib.umich.edu/e/eebo2/A31029.0001.001/1:1?rgn=div1;view=fulltext>> [accessed 23rd June 2020] p.4.

almost all the legal rights, duties, and disabilities, that either of them acquire during the marriage.¹⁵

Blackstone was also clear that, in civil law at least, marriage was a contract:

Our law considers marriage in no other light than as a civil contract. The *holiness* of the matrimonial state is left entirely to the ecclesiastical law.¹⁶

He was also keen to assert that even though coverture might be seen by the uninitiated as disadvantageous to the wife, it was in fact a boon for her because ‘even the disabilities...are for the most part intended for her protection and benefit.’¹⁷ Key to the formation of the marriage contract – and thus coverture – for Blackstone was willing consent. He describes a valid marriage thus:

The law treats it as it does all other contracts; allowing it to be good and valid in all cases, where the parties at the time of making it were, in the first place, *willing* to contract; secondly, *able* to contract; and, lastly, actually *did* contract, in the proper forms and solemnities required by law.¹⁸

This Blackstonian definition of coverture is not simply the one with which most people are familiar today, it also had a tremendous influence in its own time. Elizabeth Chudleigh, author of *The Laws Respecting Women* (1777) a learned and not uncritical volume describing the legal position of women within English society, opens her chapter ‘Of a Wife’ quoting (although not acknowledging) Blackstone verbatim.¹⁹ Blackstone’s rebranding of coverture

¹⁵ William Blackstone, *Commentaries on the Laws of England Vol. 1.* (Oxford: Clarendon Press, 1765) p.430.

¹⁶ Blackstone, *Commentaries* Vol. 1 p.421.

¹⁷ Blackstone, *Commentaries* Vol. 1 p.433.

¹⁸ Blackstone, *Commentaries* Vol. 1 p.421.

¹⁹ Elizabeth Chudleigh, *The Laws Respecting Women as they Regard their Natural Rights or their Connections and Conduct; in which their Interests and Duties as Daughters, Wives, Wards, Widows, Heiresses, Mothers, Spinsters, Legatees, sisters, Executrixes etc. are Ascertained and Enumerated: Also, the Obligations of Parent and Child and the Condition of Minors, the Whole Laid Down*

using the unity of persons as its core concept was designed to be seductively egalitarian. Not only were wives depicted as freely entering into its constraints but spouses were allocated rights and responsibilities: the husband gaining control of the wife's property in return for providing legal and economic protection. It was not, of course, 'equality' in any real sense, although it broadly fitted into the social discourses of the period.²⁰ It was enthusiastically embraced by those who stood to benefit from it. Lord Thurlow, for example, giving judgement in a leading case concerning the rights of husbands, explained that '[t]he law conveys the marital rights to the husband, because it charges him with all the burthens, which are the consideration, he pays for them.'²¹ The idea that husbands somehow required compensation for the control of their wives and their wives' property handed to them by the law is central to his argument.

Although coverture was powerful both in terms of its underlying philosophy, its legal provisions and its potentiality for affecting the lives of all women, married and unmarried, strictly speaking its application was limited. As has already been mentioned, it was a doctrine of common law and, as such, did not exist in the other jurisdictions that made up the framework of laws operational within England. Equity was one such element, as was ecclesiastical law, with its network of church courts. Within these, women continued to enjoy rights such as property ownership and access to justice as autonomous individuals. Equity too entitled women to own and control property, irrespective of their marital status. Indeed it was through equity that wives such as Elizabeth Knight were able to mitigate some of the most stringent restrictions on property ownership imposed by common law coverture. This mitigation was achieved by the use of trusts. Originally known as 'uses', medieval law allowed for the legal title to land to be held by one person whilst the benefits of that land were enjoyed by another: a grant of land by A to B for the use of C. Over the course of the centuries, these 'uses' gradually evolved into the modern trust and their application expanded. Trusts were used for purposes such as managing the financial assets of minors and creating

According to the Principles of the Common and Statute Law, explained by the Practice of the Courts of Law and Equity, and describing the Nature and Extent of the Ecclesiastical Jurisdiction. (London: Joseph Johnson, 1777) p.65.

²⁰ Blackstone's remodelling of coverture to take account of new philosophies surrounding individual freedoms is discussed in a number of sources including Stretton and Kesselring p.14 and Laura Edwards p.24.

²¹ *Strathmore v Bowes* (1789) 1 Ves. Jun. 22 p.28; 30 E.R. 211 p.214.

the mechanisms that governed the strict settlement of landed estates. They also gave married women a means to control their property during coverture. This separation of the *legal title* (the legal ownership) and the *beneficial title* (i.e. the benefits that flow from ownership) created a way in which the common law rules could be avoided. The legal ownership fell under the jurisdiction of the common law (and thus coverture would attach). However, if one only owned the beneficial interest, one came under the jurisdiction of the Court of Chancery and common law rules and doctrines did not apply. Known as ‘sole and separate estate’, this started to be used to protect women’s property during marriage from the end of the fifteenth century.²² The trust had to be set up whilst a woman was still single and *de facto* separate estate could be achieved by deed, covenant or even a simple bond.²³ Equity was not, however, a panacea. Whilst wives could (and did) have recourse to forums such as the church courts or Chancery, this did not mean that issues pertaining to the common law could be addressed in those courts – they could not, leaving wives with limited room for manoeuvre.²⁴

English common law had, and arguably still has, a certain mythic quality attaching to it. It enjoyed the reputation of being impartial, applying equally to all irrespective of their power, wealth or social standing. Judge made, it was bound by its own precedent: inferior courts bowing to the rulings of more senior tribunals and every court following the decisions in cases that had gone before.²⁵ By thus seeming to remove human interference from its processes, it presented itself as almost self-regulating; disengaged from vested interests, political or economic concerns. This was enhanced by the notion that its principles dated from a ‘time immemorial’, loosening it from any appearance that it might be rooted in the concerns of a particular historical period.²⁶ This appearance of timeless impartiality was, of course, tremendously useful for anyone seeking to bend the common law to their own purpose.

²² Amy Louise Erickson, *Women and Property* p. 107. This is the earliest example found by Erickson.

²³ Amy Louise Erickson, *Women and Property* pp.129-130.

²⁴ For a detailed introduction to the history of Equity and the development of trust law, please see Jill E. Martin, *Modern Equity* Fifteenth Edition (London: Sweet and Maxwell, 1997).

²⁵ For an analysis of the historical shifts in jurisdictional power which empowered the common law see Amy Louise Erickson, *Women and Property* p.29.

²⁶ Kumal M. Parker, *Law "In" and "As" History: The Common Law in the American Polity, 1790-1900*, 1 U.C. Irvine L. Rev. (2011) 587-609 <<https://scholarship.law.uci.edu/ucilr/vol1/iss3/6>> [accessed 20th June 2020] p.600.

Indeed, I would argue, it was particularly so for those who had much to gain from the continuation of coverture.

In addition to being depicted as unchanging, the common law was simultaneously trumpeted as being flexible and open to adaptation: seventeenth-century lawyers, for example, managed to depict it as a timeless bulwark against the abuses of royal power and, at the same time, fit for purpose as a modern, responsive system of laws.²⁷ Of course, both these things could not be true: one cannot have a legal system which is at once timeless but adaptable; flexible and yet unmoving. These inherent contradictions, though, help to demonstrate the powerful ideology that surrounded the common law. It was capable of reinvention and adaption but also – crucially – could make itself appear independent of the prevailing economic and political power structures which supported it. This explains why coverture, a common law doctrine, was able to repeatedly reinvent itself but at the same time present as an unchanging keystone of English society. Holly Brewer in ‘The Transformation of Domestic Law’ argues that this recourse to immemoriality whilst simultaneously fashioning change was part of Blackstone’s skill:

Blackstone’s representation of an unchanging common law, of course, actually hid what had been years of fundamental transformation... A common law that had been primarily about property and the rights of lords...now devoted itself – under Blackstone’s careful hand – to the rights of persons.²⁸

What is Law and Where is it Found?

One of the consequences of understanding the inherent contradictions surrounding English common law is a realisation that the law does not exist as an impartial arbiter of rights and freedoms. During the course of the twentieth century legal theorists revolutionised the understanding of ‘the law’ as a concept, including challenging assumptions about where it is to be found and who controls it. In some ways, these new approaches are analogous to movements within other disciplines (including history and literature) which seek to broaden

²⁷ Kumal M. Parker, pp.600-602. Amy Louise Erickson also discusses the balance of the competing jurisdictions in English law *Women and Property* pp.4-5.

²⁸ Holly Brewer, ‘The Transformation of Domestic Law’ in M. Gross, and C. Tomlins (eds) *The Cambridge History of Law in America* (Cambridge: Cambridge University Press, 2008) 288-323 <doi:10.1017/CHOL9780521803052.010> [accessed 2nd June 2020] Cambridge Core ebook p.312.

acceptance of what is considered worthy of academic study. This democratisation of acceptable scholarly subject matter has also brought with it a certain amount of interdisciplinary thinking. Marxist literary theory, or the schools of New Historicism and Cultural Materialism for example, all import seemingly external frames of reference to the analysis of literary texts. The law is no different. In recent years, in addition to the established scholarly framework of ‘law and...’ studies (law and economics or society or literature and so forth) ‘law as...’ has also been proposed as a fruitful alternative approach.²⁹ Katherine L. Fisk and Robert W. Gordon argue that the concept of the ‘the law and...’ is, ultimately, misleading in that it creates a vision of the law as somehow removed from the society which created it:

‘Law and’ scholarship perpetuates the idea that, even though it is situated in society, law is distinct from society and can, or must, be studied in relationship to it.³⁰

The effect of this, they argue, is to allow a disappearing act to take place. ‘Law and’ formulations foster an understanding of the law as a remote, impartial arbiter. This, as has already been seen in relation to English common law, is both misleading and potentially dangerous. Conversely they contend ‘law as’ analyses allow the law to be properly situated in the centre of whichever prevailing power structure one wishes to examine. This has much wider scholarly implications than the intellectual niceties of whether or not one is applying – or waiving – the appropriate disciplinary boundaries. This is because although ‘the law’ exists as a discipline within the academy, it must also be understood as a working cog within the machine of wider society: if it cannot be seen in operation, then it also cannot be held accountable for its actions:

The violence of the law...disappears when [it] makes its operations seem to be the product of consent, custom, contract or civilisation. The law accomplishes its own vanishing when it makes the movement of money, land or other resources seem to be

²⁹ A search of book titles on Google Books featuring the words ‘law and’ will provide upwards of two billion results: ‘law and’...economics, society, policy, parliament, the midwife, social work and so on.

³⁰ Catherine L. Fisk and Robert W. Gordon, p.520.

the product of putatively autonomous institutions like the market, the employment contract or the family.³¹

Within this context, even traditionally ‘objective’ concepts such as ‘the market economy’, ‘economic man’ or ‘the family’ can be seen as manufactured legal constructs – and, when this occurs, it becomes easier to view the mechanisms and vested interests which drive them.³²

One can see this theorisation at work within the legal fictions supporting coverture: coverture, the underpinning justifications tell us, is not the creation of lawyers, legislators or the ruling elite. Instead it is the product of the fall of Adam and Eve or feudalism or a divinely-ordained social hierarchy or civil society. Likewise, even though coverture may appear unfair to women, this is not the case because wives consent freely to its repressions – and in any event, they are not repressions but protections. These statements, formulated as they were by the same men who administered and pronounced upon the law, served to disguise the reality that coverture was an active choice made by English society to restrict the rights, autonomy and opportunities of a substantial portion of its subjects. Those who benefitted from the system economically and politically were also those who ensured its survival. However, its location deep within the apparently timeless and impartial system of common law caused those vested interests to vanish in a puff of legal logic. ‘Law as’ scholarship helps to collapse the disciplinary boundaries surrounding coverture and reveal the presence of the law at the heart of the political, economic and societal policies that supported it.

If the law is operative deep within society, the next questions that must be addressed are, what is the law and where is it to be found? Law, traditionally, lies in texts. Whether these are statutes, judgements, digests or legal text books, the law is seen to inhabit a repository of written records. As mentioned above, however, just as disciplines such as history and literature have sought to democratise their content by legitimising sources once considered irrelevant or destabilising, so jurisprudence has also expanded to accommodate the idea that law can also be found in non-traditional texts. Indeed, these texts may not even record legal concepts, arguments or philosophies. Instead, they may record the law as it is lived. The various schools of legal realism which promote this approach differ in nuance but all accept a basic, empirical premise which ‘rejects the concept of natural law and believes

³¹ Fisk and Gordon, p.538.

³² Fisk and Gordon, p.540.

that...legal concepts, terminology and values should be based on experience and observation'.³³ For legal historians, this has facilitated a revolutionising collapse of disciplinary boundaries as previously unexplored sources of legal history have been legitimised. Laura Edwards cites Hendrik Hartog's 'Pigs and Positivism' article as an example of how 'the law' as a scholarly discipline moved from using only evidence originating in the courtroom (or equivalent traditional sources) to evidence available on the street: in the early nineteenth century, pigs were a common sight roaming on the streets of New York. The more refined members of the community found this distasteful and sought to banish the pigs through litigation. They were successful. However, this made no difference in practice: the pigs still continued to wander freely in the New York streets. As Edwards concludes, 'the law was made through practice, on the streets of New York City, as well as in its courthouses.'³⁴

This jurisprudential approach has an immediate and irresistible resonance with the subject of coverture. There has long been an assumption in the secondary historical research on the topic that a gap existed between the letter of the law and how it was lived and interpreted.³⁵ This gap has been variously characterised as representing a subversive,

³³ G. Sreeparvathy, 'Scandinavian Realists' (2 May, 2011) SSRN < <https://ssrn.com/abstract=1829163> > [accessed 2 June 2020] p.1. For a summary of American Realism see Ian McLeod, 'American Realism' in *Legal Theory* Macmillan Law Masters (London: Palgrave, 1999) 114-124 <https://link.springer.com/chapter/10.1007/978-1-349-14269-9_8> [accessed 13th August 2020]. Gregory S. Alexander's article also summarises the realist approach and its engagement with classical economics. 'Comparing Two Realisms - American and Scandinavian' *The American Journal of Comparative Law* 50.1 Winter (2002) 131-74 <<https://doi.org/10.2307/840832>> [accessed August 13th 2020].

³⁴ Edwards, p.121.

³⁵ See, for example, Susan Moller Okin, 'Patriarchy and Married Women's Property in England: Questions on Some Current Views' *Eighteenth-Century Studies* 17.2 Winter (1983-84) 121-138 <<https://www.jstor.org/stable/2738280>> [accessed 14th August 2020]; Rebecca Probert, *Marriage Law and Practice in the Long Eighteenth Century: A Reassessment* (Cambridge: Cambridge University Press, 2009) <<https://doi.org/10.1017/CBO9780511596599>> [accessed 14th August 2020] Cambridge Core ebook; Joanne Bailey, 'Favoured or Oppressed? Married Women, Property and 'Coverture' in England 1660-1800' *Continuity and Change* 17.3 (2002) 351-72

progressive or even purely functional reaction to the (traditional) law. However it is interpreted, though, the gap remains stubbornly present. As will be seen in this thesis women, their husbands and indeed society at large refused to accept that the restrictions of coverture were to be performed in their entirety at all times. Realist jurisprudence sees this not as a failure of the law but as a relocation of the law away from its traditional sources and manifesting instead within the actions of a society. This is not to deny that the letter of the law, or how it was enforced through the courts or, indeed, William Blackstone's famous pronouncement in his *Commentaries* were not legitimate operations of the law. Instead, it serves to redistribute the weight which should to be attached to each and makes the experience and performance of coverture itself 'the law', however it was recorded.

So, the theoretical justification for the legal methodologies used in this thesis is to be found not only in the collapsing of disciplinary boundaries but also through the use of jurisprudential theory which asserts that 'the law' is not only located in rules (or the texts in which those rules are formally encoded) but in the lived experience of those who encountered it. This can feel like a contradictory intellectual space in which the law is at once the economic/ political pronouncements of a ruling elite and simultaneously, for example, a married female shopkeeper making contracts with her suppliers in the same way as she did when she was *sole*. However, by recognising both as being valid examples of 'the law' it becomes possible to deconstruct the various forces at work behind the scenes and move towards a better understanding of the gap between the letter of law and its lived experience. It also models how 'the law' may also be viewed as a collective, contested process, rather than a diktat handed down from on high – although one where relative power positions and status will still hold sway. In some cases it is even possible that, like Hartog's pigs, actions which stand in direct contradiction of the letter of law may define its actuality.

Texts as Law: *Reality v. Fiction*

For the twenty-first century legal historian, watching first-hand as pigs roam the streets of nineteenth-century New York is not an option. This means that the available sources of law considered in this thesis will necessarily be texts of some description. Even though realist jurisprudence widens the pool of potential source materials it does not, of course, mean that all texts are legal texts, or that all legal texts provide an uncritical window into the law.

<<https://doi.org/10.1017/S0268416002004253>> [accessed 20th October 2016] and Amy Louise Erikson *Women and Property*.

However, it does mean that there will be sources which can be read as legal texts even though they may have enjoyed another primary function at the time of their creation. Indeed, their creators may not have been cognisant that they were creating a legal text when bringing them into being. When analysing these texts, as with any other source, it is of course imperative to be aware of the context of their creation: speech acts, which includes those which are written down, are also necessarily social acts, and their social context is important when interpreting them.³⁶

One must also be wary of how others have previously treated the same sources and ensure that the secondary historical context is properly acknowledged when weighing up one's approach to the evidence. Some commentators, for example, have felt it was helpful to the women's rights movement to emphasise the restrictions of coverture over the freedoms accorded to women by the law of equity and this may have helped created an historical, feminist bias against coverture which was not part of the experience of women living under it.³⁷ It is also necessary to understand that Blackstone's rendering into print of the rules of coverture was perhaps more influential in the American colonies (and beyond) than it was in England where it simply restated what "everyone knew" anyway, and had known, from at least the seventeenth century, about women and the law'.³⁸ Similarly, there are scholars who embrace narratives of decline, continuity or even advancement in women's property rights as the long eighteenth century progressed.³⁹ Rather than shedding light on the past, these can sometimes speak to powerful contemporary forces or even wish fulfilment on the part of individual scholars – Judith M. Bennett, a vocal proponent of the 'continuity' school, counsels against the 'seductive' pull of progress narratives for female academics who may have become personally invested in a wider narrative of positive social change for women.⁴⁰

³⁶ Marianne Constable, 'Law as Claim to Justice: Legal History and Legal Speech Acts' 1 U.C. IRVINE L. REV.(2011) 633–34 <<http://online.fliphtml5.com/lmbi/ijwy/#p=1>> [accessed 13th August 2020] p.631.

³⁷ For example Edwards, p.126 and Margot Finn, 'Women, consumption and coverture, 1760-1860' *The Historical Journal* 39:3 (1996) 703-22 <<https://www.jstor.org/stable/2639966>> [accessed 29th June 2020] p.705.

³⁸ Caroline Steedman, *History and the Law: A Love Story* (Cambridge: Cambridge University Press, 2020) p.98.

³⁹ This decline narrative is addressed in relation to real property in Chapter One. The debate between the decline, progress and continuity schools of thought is outlined in Chapter Four.

⁴⁰ 'Confronting Continuity' *Journal of Women's History* 9.3 (1997) 73-94

If it is accepted that ‘the law’ exists as a multiplicity of texts within the historical record, can one extend this to say that ‘the law’ is also contained within fiction? As has already been discussed there is an established school of legal history which attempts to locate ‘the law’ in historical sources which have either not been seen traditionally as legal texts. These would include research which examine actions and activities which, at first glance, are nothing to do with the law but, because of the ways in which they can be interpreted, shed light on how people in real life interpreted or manoeuvred round rules and regulations. This project uses many, many examples of this type of research, including work by Joanne Bailey, Amanda L. Capern, Margot Finn, Amy Louise Erickson, Rebecca Probert, and Susan Moller Okin.⁴¹

There are also a number of scholars who have examined the intersection of legal theory and practice using literary texts. For example, Cheryl Nixon’s ‘Regulating the

<<https://doi.org/10.1353/jowh.2010.0485>> [accessed 13th August 2020] p80.

⁴¹ Joanne Bailey, *Unquiet Lives: Marriage and Marriage Breakdown in England 1660-1800* Cambridge Studies in Early Modern British History (Cambridge: Cambridge University Press, 2003) <<https://www.cambridge.org/core/books/unquiet-lives/975D118191CF86B21FFC07D1FBE9ED8C>> [accessed 30th June 2020] Cambridge Core Ebook; Amanda L. Capern, ‘The Landed Woman in Early Modern England’ *Parergon* 19.1 January (2002) 185-214 <<https://muse.jhu.edu/article/474529/pdf>> [accessed 29th January 2018]; Amy Louise Erickson, ‘Common Law versus Common Practice: The Use of Marriage Settlements in Early Modern England’ *Economic History Review* Second Series 43.1 (1990) 21-39 <<https://www.jstor.org/stable/2596511>> [accessed 14th August 2020]; Margot Finn ‘Women, consumption and coverture, 1760-1860’ *The Historical Journal* 39:3 (1996) 703-22 <<https://discovery.ucl.ac.uk/id/eprint/1398776/1/S0018246X0002450Xa.pdf>> [accessed 29th June 2020]; Pamela Hammons, ‘Rethinking Women and Property in Sixteenth and Seventeenth-Century England’ *Literature Compass* 3.6 (2006) 1386-1407 <<https://doi.org/10.1111/j.1741-4113.2006.00385.x>> [accessed 14th August 2020]; Susan Moller Okin, ‘Patriarchy and Married Women’s Property in England: Questions on Some Current Views’ *Eighteenth-Century Studies* 17.2 Winter (1983-84) 121-138 <<https://www.jstor.org/stable/2738280>> [accessed 14th August 2020]; Rebecca Probert, *Marriage Law and Practice in the Long Eighteenth Century: A Reassessment* (Cambridge: Cambridge University Press, 2009) <<https://doi.org/10.1017/CBO9780511596599>> [accessed 14th August 2020] Cambridge Core ebook; Danaya C. Wright, ‘Well-Behaved Women Don’t Make History: Rethinking English Family, Law, and History’ 19.2 *Wisconsin Women’s Law Journal* (2004) 212-318 <[dx.doi.org/10.2139/ssrn.1618603](https://doi.org/10.2139/ssrn.1618603)> [accessed 14th August 2020] pp..

Unstable Family: Eliza Haywood's Fiction and the Development of Family Law' and Jennifer Hobgood "'I will sign, but it shall be in Flames": Eliza Haywood's Critique of Contract' both analyse Haywood's fiction in order to locate her views on legal issues (guardianship and contract law respectively).⁴² Kaley Kramer also uses literary texts to address questions of law, although she is less concerned with strict legal rules, seeking instead to explore theories of property ownership and inheritance as metaphors within female-authored genre fiction.⁴³ I would argue, however, that it is possible to take the analysis of law within literature further than has so far been achieved. To begin with, no study has yet fully collapsed the boundaries between the three disciplinary areas (literature, history and law). Instead, research mainly focusses on the law as it appears within the historical record (legal history) or how literary texts interrogate the theoretical legal position. Few, if any, seek a comparative analysis of all three. Further, there is a tendency for those who engage with legal interpretations of literary texts to err on the 'law and' side, viewing the law as a methodology through which to better understand those texts rather than explore the how lived experiences are represented within them. Although I will be allocating separate space to each discipline within the chapters of this thesis so that my comparative processes and use of data are clear, I will also be moving past the 'law and' approach of current literary legal scholarship and consider the possibility that we may be able to view fictions as legal texts in their own right. Of course, one has to be careful is assigning meaning to fictions, perhaps even more so than when one is assessing an historical source. Fiction is, by its very nature, not intended to be a straight-forward representation of life. Conversely, though, neither is it a pure confection of the imagination: instead it inhabits a liminal space where it both represents, and seeks to shape, reality. I would like to suggest, therefore, that just as the law exists in texts and actions which might not be considered traditional sources of law, so a novel, other narrative fiction (or any other piece of literature for that matter) can also be considered as a potential legal text.

⁴² *Journal for Early Modern Cultural Studies* Vol 14.4 Fall (2004)

<<https://muse.jhu.edu/article/555621>> 49-78 [accessed 14th August 2020] and *Journal for Early Modern Cultural Studies* 4.1 Spring/Summer (2004) 72-101

<<https://www.jstor.org/stable/27793778>> [accessed 14th August 2020].

⁴³ 'Women and Property in Late Eighteenth Century Fiction: Gendered Property and Generic Belonging in Charlotte Smith and Mary Wollstonecraft' *Literature Compass* 6.6 (2009) 1145-1158 <<https://doi.org/10.1111/j.1741-4113.2009.00658.x>> [accessed 14th August 2020].

As has been mentioned above, novels can be agents of change just as they are representations of the society out of which they are created. They do not necessarily reflect society as it is, so much as the author might wish it to be (or indeed, in the case of dystopias, as they *do not* wish it to be). This, though, poses its own dangers for anyone attempting to use them as an historical source. Indeed, their very nature as realist narratives can be deceptive: they may appear to be faithful representations of the world when in fact they are crafting an alternative vision of it. This is the case, for example, in Chapter Three of this thesis where Mary Wollstonecraft places her heroine in a fantastical – but highly impactful – position as an advocate in a court of law. This allows her to not only demonstrate her heroine’s skills as an orator and legal strategist but, through the use of gendered role-reversal, reveals the androcentric power structures which seek to silence women.

As well as being aware of what is a reflection and what is a construct, those using the novel as a tool for legal analysis must also be cognisant of the issue of authorial intention. There may be multiple meanings which can be ascribed to a single literary text, some of which may not have been consciously intended by the author.

The ‘accuracy’ of novels as a record of social history is...complicated. Novels rely on a context of which they are only a part, and they address it with a design to modify it...novels like any other texts may produce effects either consciously wrought or not.⁴⁴

This slipperiness, though, is only a problem if one is attempting to understand the novel or other fictions as consciously literal representations of society. If one is not, and one is prepared to read against the text, then they are a potentially excellent source of information – both intended and unintended. Indeed, unintended authorial meanings make fictional writing a rich hunting ground. If one accepts the argument offered above that the law can exist simultaneously in a number of (sometime contradictory) sources and that these sources may seek to reshape the law as well as reflect it, fiction suggests itself as a prime example of such a source.

⁴⁴ Paul J. Hunter, ‘The novel and social/cultural history’ in *Cambridge Companion to the Novel* J. Richetti (ed) (Cambridge: Cambridge University Press, 1996) 9-40 <<https://doi.org/10.1111/j.1741-4113.2009.00658.x>> [accessed 4 June 2020] Cambridge Core ebook p.24.

If the boundaries between ‘law’ and ‘fiction’ can be collapsed, it is also important to remember that the division between history and fiction may also be viewed as similarly artificial. Hayden White, for example, asserts that Aristotle himself argued that history and poetry should be viewed as complimentary rather than standing in opposition to each other. White also argues that ‘historiography [is] informed by an idea of time in which the future feature[s] as prominently as the past.’⁴⁵ History, like fiction, seeks to curate the present in order to influence the future. It has even been argued that the artificial division between history and literature was constructed along gendered lines, seeking to elevate the masculine ‘facts’ of history above the feminised stories of fiction.⁴⁶ If this is the case, then novels and other such fictions are exactly where one should expect female experiences of coverture to be located.

If literary texts can also be legal texts, is there any particular justification for choosing the novel – and other similar fictions – for scrutiny in this study? Do they enjoy any special ability to convey the uniquely female experience of coverture? This is a complex issue. To begin with, it is important to stress that it is misleading to talk in terms of ‘the eighteenth-century novel’ or ‘eighteenth-century fictions’ as though these were homogenous entities. The novel (assuming one can even use the definite article) in 1700 was a very different creature to that which existed in 1750, let alone 1800. Further, despite some suggestions to the contrary, in cases where it is possible to identify an author’s gender, women do not account for the majority of novelists – at least until much later in the long eighteenth century. Peter Garside, using the metric of author numbers rather than individual publications, argues that the novel cannot really be counted as a ‘female’ literary form until late on in the long eighteenth century: 1810, for example saw 172 women novelists published as against 124 men. Within this overall picture, he argues that there were periods when women novelists also tended to be more productive than men: in 1800-1819, out of fifty-nine novelists who produced more than

⁴⁵ Hayden White, ‘Introduction: Historical Fiction, Fictional History, and Historical Reality’ *Rethinking History* 9. 2/3 June-September (2005) 147-157 <<https://doi.org/10.1111/j.1741-4113.2009.00658.x>> [accessed 14th August 2020] p.147.

⁴⁶ Jane Spencer, ‘Not being a historian: women telling tales in Restoration and eighteenth-century England’ in *Contexts of Pre-Novel Narrative: The European Tradition* Roy (ed.) Erickson (Berlin: Mouton de Gruyter, 1994) pp.319-40.

five titles, nearly two thirds were women.⁴⁷ Garside also suggests that a pronounced surge of female authors in the years 1785-9 coincided with the popularity of subgenres ‘strongly associated with female authorship, notably the sentimental domestic romance’, alongside a rash of novels seeking to imitate Burney’s *Cecilia* (1782).⁴⁸

This analysis, however, needs take into account the number of novels published by that most prolific of authors, ‘anonymous’. James Raven estimates that in the 1770s it is not possible to identify the authorial gender of more than half the novels produced, although the decadal totals for decline as the century progresses: more than fifty per cent in the 1770s falls to over forty per cent in the 1780s and, by the 1790s, has shrunk again to twenty-nine per cent.⁴⁹ In contrast, the number of novels which can be identified as having a female author stands at fourteen per cent between 1750-1779, before an upsurge in the 1780s and 1790s (presumably that which is also noted by Garside, above) when fractionally more titles by authors who can be identified as women, as opposed to men, were published.⁵⁰ Anonymity remained popular into the start of the nineteenth century with approximately half of all novels being published (at least in their first edition) anonymously.⁵¹ However, it is important to note that anonymity of *name* does not necessarily mean anonymity of *gender* and the gender of a substantial number of authors can be ascertained through various means: for example through retrospective identification of the author or gendered statements of authorship (‘by a lady’).⁵² Further, as Garside points out, anonymous publication was not the sole preserve of female authors: male novelists too may have been keen to hide their identity, not least for ‘fear of

⁴⁷ Peter Garside, ‘Authorship’ in Peter Garside and Karen O’Brien (eds.) *The Oxford History of the Novel in English Vol.2 English and British Fiction 1750–1820* (Oxford: Oxford University Press, 2015) 29-52 <<https://doi:10.1093/oso/9780199574803.003.0002>> [accessed 4th June 2020] Oxford Scholarship Online p.41.

⁴⁸ Garside, ‘Authorship’ p.45.

⁴⁹ James Raven, ‘The Novel Comes of Age’ in Peter Garside, James Raven and Rainer Schöwerling (eds.) *The English Novel 1770-1829: A Bibliographical Survey of Prose Fiction Published in the British Isles Volume 1 1770-1799* (Oxford: Oxford University Press, 2000) pp.48-49.

⁵⁰ Raven, p.48.

⁵¹ Peter Garside ‘The English Novel in the Romantic Era’ in Peter Garside, James Raven and Rainer Schöwerling (eds.) *The English Novel 1770-1829: A Bibliographical Survey of Prose Fiction Published in the British Isles Volume 2 1800-1829* (Oxford: Oxford University Press, 2000) p.66.

⁵² Garside ‘The English Novel in the Romantic Era’ pp.68-72.

association with a predominantly female mode'.⁵³ Neither was 'anon' necessarily a refuge for delicate lady authors anxious about the unfeminine implications of celebrity or paid labour. Jennie Batchelor, in *Women's Writing 1660-1830 Feminisms and Futures*, argues that anonymous (and pseudonymous) authors used their hidden identities to curate a complicated and disruptive textual space. This enabled them, *inter alia*, to speak freed from the shackles of gendered associations, take on the gender (and the accompanying cultural associations) of the opposite sex or even adopt a consciously gender-neutral stance ('the doubtful gender').⁵⁴ The overall trend, though, seems to be one where the number of identifiable female novelists increased as the long eighteenth century progressed. During the period 1750-1769, even if every single anonymous novel had been written by a woman, the total number of female-authored novels would still not exceed the number written by men; by 1810 – although this was not a linear transition – the picture of male dominance appears to have been reversed.

Jane Spencer too, suggests that the number of female-authored novels escalated towards the end of the eighteenth century and that there were some subgenres where 'women novelists may have equalled or even slightly outnumbered men'.⁵⁵ Interestingly, she also argues that even though the number of female authors may not have greatly outstripped the men, because there were comparatively more women writing novels than there were creating poetry or drama there was a perception that 'women were...taking over [the novel], even though they were not.'⁵⁶ Thus, if one is looking for representations of coverture – a uniquely female experience – within literature then, it would seem that the novel would be a sensible place to begin. Spencer, however, goes further than merely asserting the presence of comparatively large numbers of women engaged in novel-writing. She points to the second half of the eighteenth century as the time when she believes a 'typical' female-authored novel can begin to be identified.⁵⁷ She contends that by the end of the century, women's influence

⁵³ Garside 'The English Novel in the Romantic Era' p.67.

⁵⁴ 'Anon, Pseud and 'By a Lady': The Spectre of Anonymity in Women's Literary History' in Jennie Batchelor and Gillian Dow (eds.) *Women's Writing 1660-1830 Feminisms and Futures* (London: Palgrave Macmillan, 2017).

⁵⁵ Jane Spencer, 'Women writers and the eighteenth-century novel' in J. Richetti (ed.) *The Cambridge Companion to the Eighteenth-Century Novel* (Cambridge: Cambridge University Press, 1996) 212-35 <<https://doi.org/10.1017/CCOL0521419085.01>>[accessed 4th June 2020] Cambridge Core ebook (p.212).

⁵⁶ Spencer, 'Women writers' p.212.

⁵⁷ Spencer, 'Women writers' pp.214-215.

was even stronger: the three- or four-volume novel with a third person narrator had become the dominant form and was one where ‘women writers were developing their own distinctive use of narrative voice.’⁵⁸ Further, it does seem to have been the case that women chose to write about marriage – whether this was a free choice or because it was considered an acceptably ‘feminine’ subject.⁵⁹ Therefore, if by the end of the long eighteenth century one can identify a ‘typical’ female novel and one also accepts the argument that coverture lay at the very heart of the female experience of marriage, it follows that women’s fictions concerning marriage or courtship should also inevitably discuss coverture. Indeed, because one cannot talk about marriage without also including coverture, it should be present on some level within the text even if there is no explicit mention of it. Whilst Caroline Steedman argues that the use of ‘coverture’ as a word declined as the eighteenth century progressed, as legal doctrine it was of continued importance. Indeed, she states that ‘[n]ovelists showed a high level of awareness of its circumstance.’⁶⁰ If coverture is to be found in literature, therefore, the novel appears to be the place to search for it.

The Aims of the Thesis

The overarching aim of this research is to examine how (and indeed, if) coverture was imagined within women’s fiction of the long eighteenth century. In order to do this effectively it is important to know how coverture was actually experienced by women at the time these novels were created. Pinning down *how* coverture was experienced by women is all the more important because the secondary historical literature suggests a gap between this and the strict legal provisions of the doctrine. Therefore, I decided that it was not enough to consider just the relationship between the legal theory and how that was presented in fictions of the period but to have a working model of coverture constructed from the historical record as a control. Although this might seem to go against my earlier suggestion that the various disciplinary boundaries should be collapsed, the collapse can only be productive when both the letter of the law and the empirical evidence are clear – otherwise one cannot know what one might be looking for in the fictions. Once this has been done, the disciplinary boundaries can then be

⁵⁸ Spencer, ‘Women writers’ p.215.

⁵⁹ Julie Shaffer, ‘Not Subordinate: Empowering Women in the Marriage-Plot – The Novels of Frances Burney, Maria Edgeworth, and Jane Austen’ *Criticism* 34.1 winter (1992) 51-73
<<https://www.jstor.org/stable/23113581>> [accessed 14th August 2020] p.52.

⁶⁰ Steedman, p.109.

relaxed and the overlap between the three areas assessed effectively. By comparing all three side-by-side – and doing so using the theoretical basis which allows one to read the fictions and the historical sources as potential legal texts in their own right – new findings should emerge.

In addition to the strict letter of the law (i.e. the rules themselves) I will also examine the underlying justifications which supported coverture. These are, essentially, fictions in their own right: interpretations of the law which were not true but which were promulgated in order to justify its existence. These powerful cultural ideas need to be examined in order to establish whether or not they (as well as the strict letter of the law) impinged upon the public consciousness – and then found their way into the female-authored fictions of the day.

As well as engaging in an interdisciplinary project, this thesis also aims to be cross-chronological. Although it cannot provide a view of the entirety of coverture from the Middle Ages to the nineteenth century, it will provide analysis for the whole of the long eighteenth century. This is necessary in order to obtain a perspective on coverture which might otherwise be skewed by shorter-term trends and indicators. Once these short-term factors are properly contextualised it is easier to identify more fundamental changes or sustained trends visible over the longer term. Where it is helpful to do so, I will also use data from chronologies outside the long eighteenth century which highlight specific continuities or changes within the eighteenth century itself – data on medieval women traders, for example, will be used in Chapter Four in order to establish a framework of continuity in the types of trades considered acceptable for women. This theme of change and continuity is also an important sub-aim of the thesis: to contribute to the ongoing debate in feminist historiography as to whether the status of women in the past declined, improved or remained stable. Different aspects of this debate are discussed in Chapters One and Four.

It is important to make clear that this research is limited to novels which unambiguously reflect the legal system which existed in England. As has already been stated in this introduction, coverture was a doctrine of the English system of common law. Thus, when I talk about ‘the English novel’ what is being referred is a novel written in England and describing English law. It does not mean – as might be assumed in some quarters – simply a novel published in England or one which was written in the English language. Therefore authors such as Susan Ferrier, a Scot, are excluded from the analysis in this thesis. I have similarly made the decision to exclude Maria Edgeworth on the basis that the distinction between Irish and English cultural influences in her work is complex and nuanced. Further, as a corollary to this, I have also chosen to focus on novels which are set primarily in England

rather than abroad. Radcliffe's *The Mysteries of Udolpho* (1803) is mentioned briefly but this is on the basis that Radcliffe is referencing recognisable English law, even though the novel itself is set in an historical European context.

Finally, in order to ensure that the thesis compares like with like, only novels which have a married female protagonist or a significant secondary character who is a wife have been selected for inclusion. However, the final conclusion will seek to broaden out the range of fictions considered and discuss the findings in terms of courtship fiction as well.

Chapters: Rationale and Structure.

Each chapter focuses on one aspect of coverture. Chapter One examines land ownership (real property); Chapter Two, moveable goods, money and investments (personal property); Chapter Three analyses the marital relationship, with a particular emphasis on models for how the androcentric power structures at its heart might be obviated; Chapter Four examines working wives. The structure of each chapter is broadly similar: there is an explanation of the law as it was understood in theory. This is then examined against a selection of historical case studies, together with an analysis of the existing secondary literature on the topic. Once the relationship between legal theory and experience has been ascertained, these findings are then applied to selected fictions. The only exception to this is Chapter Three, which seeks to analyse Mary Wollstonecraft's *Mary* and *Maria* in terms of her own experimental relationship with Gilbert Imlay.

As well as addressing separate aspects of coverture, each chapter also focuses on a different period of time. Chapter One is concerned with the early novel and examines the 1690s to 1735; Chapter Two covers the period from 1736 to the 1754, the dates of two separation agreements: one negotiated for a mother, the second for her daughter; Chapter Three runs from the late 1780s until the death of Wollstonecraft in 1797 and the final chapter examines the 1810s and beyond. The pairing of these chronological periods with a particular aspect of coverture is not coincidental. Land ownership was chosen as the first topic because of the prevailing scholarly narrative suggesting a decline in female landowning from the late seventeenth century onwards: if this is the case, one would expect to find more landowning female characters in early novels rather than in later ones. The second chapter looks at personal property at a time when separation agreements were gaining in popularity and provides an opportunity to see what property adjustment arrangements were being negotiated between husbands and wives on an informal basis. Chapter Three deals with Wollstonecraft and her arguments for a recalibration of the marital relationship at a time when rights and

freedoms were at the forefront of philosophical and political discussion and Chapter Four contrasts the actuality of coverture for working women in the growing economy at the start of the nineteenth century and the (very different) effect when Blackstone's 'unity of persons' philosophy is used in a novel. The advantages of this thematic and chronological structure allows for a broad sweep of legal provisions relating to coverture to be examined and compared. Further, as already indicated, it also enables cross-chronological analysis to be undertaken and recognises changes to the theory of coverture that occurred over time.

Each chapter is given its own micro-conclusion, which brings together the findings and analysis particular to that area of coverture and its allocated time period. However, the final section of the thesis is a more comprehensive 'macro conclusion' which opens out the discussion to include courtship novels more generally. It also addresses bigger, cross-chronological issues: whether there is any change in the treatment of coverture by female authors across the century; which aspects of coverture are addressed by female-authored fictions and whether or not these fictions have any effect on the development of the novel (or its sub-genres) as a literary form.

Overall, this thesis demonstrates how coverture lay at the heart of the female experience of marriage and, because of this, how it was also centred at the heart of female fictions concerning marriage. Whilst coverture itself may have retreated from the forefront of public consciousness, its shadow still reaches out across the centuries. It is only when one understands what it meant for the women who lived under it, that one is able to properly appreciate what it looks like within the fictions they created.

Chapter One

Whether as heirs-at-law, as the recipients of gifts, by purchase or through the mechanisms of dower and jointure, women in England have long been landowners under common law. Indeed, land held in fee simple occupied a privileged position within the doctrine of coverture, being the only species of property over which a woman's husband did not have the power of disposal during their marriage. He had a right to receive the rents and profits generated by her land during his lifetime but he could not compel his wife to dispose of her real property, or do so on her behalf.⁶¹ Land held under a lease or by copyhold fell under different rules.⁶²

Land is a highly-prized resource: it can provide its owner with food, a dwelling place, social status and political influence. Under English law, it also enjoys a position distinct from other forms of private property, supported by rules and procedures which have developed in order to re-enforce and privilege its ownership. Unlike most other forms of property, rights pertaining to a piece of land can be held simultaneously by a number of people, all with differing claims upon it. In England, this has resulted in land ownership evolving as a hierarchy of simultaneous interests, with each 'owner' able to defend his/her claim only against those who have an inferior title.⁶³ A right in land may not even refer to ownership of a physical plot: for example, a right of access across land owned by another, the

⁶¹ *The Lady's Law and Coke Upon Littleton* describe this as the husband gaining the wife's 'right' to her freehold estate. Blackstone is clear in explaining this means he may not dispose of the estate and gains only a title to the rents and profits. *Treatise of Feme Coverts or The Lady's Law* (London: B. Linnot, 1732)

<<https://heinonline.org/HOL/Page?handle=hein.peggy/trfeme0001&id=1&collection=peggy&index=>
> [accessed 2nd June 2020] pp.52-53; Thomas Coventry, *A Readable Edition of Coke Upon Littleton* (London: Saunders and Benning Booksellers, 1830) section 655; William Blackstone, *Commentaries of the Laws of England* Book the Second Fourth Edition (Oxford: Clarendon Press, 1770) p.433. For secondary historical confirmation of the point see also Joanne Bailey, 'Favoured or Oppressed?' p.352; Amy Louise Erickson, *Women and Property* pp.24-25 and Stretton and Kesselring p.8.

⁶² Copyhold land followed the custom of the manor to which that land was attached. Leases were within the class of property known as chattels real. For an explanation of how chattels real operated see Blackstone *Commentaries* Book the Second p.433.

⁶³ For an eighteenth-century explanation of how different titles could be carved out of the same piece of land, see William Blackstone's *Commentaries* Book the Second p. 107.

right to graze cattle or an advowson are all rights in land. This multifaceted structure of competing ownerships and interests can make it difficult to pin down the idea of ‘real property’ as a theoretical concept. However, this complexity has historically been downplayed by those who wish to place land ownership in the same category as other forms of property: one where the private individual enjoys sole control over an asset or resource. Writing in *Feminist Perspectives on Land Law*, Hilary Lim and Anne Bottomley explain that over the centuries land – not merely in England – has become:

constrained into a pattern of private ownership and exchange. Within this pattern, property is presumed to carry the characteristics of ‘absolute dominium’: the ability to control and alienate at will being the imprimatur of ‘ownership’. And yet, whether this is sustainable as a philosophical trope or not, we know that it is not, has not and cannot be sustained in law.⁶⁴

This discourse of private ownership has, they argue, ‘had the effect of suppressing other forms of holding and using land, both of a collective nature and in terms of recognising use value.’⁶⁵

Thus, one finds oneself in a system where those who interpret and make the law have historically privileged the *ownership* of real property (and how to defend that ownership against the claims of other parties) over the *use* of that property. For women, who were much more likely to be property users rather than property owners, the implications of this jurisprudential imperative has been immense. The law is and has been, in Lim and Bottomley’s words, ‘a social construct [which] privileges those who have been able to assert their economic and social power, embedding that privilege within authoritarian legal discourse’ – although a discourse which ‘remains incomplete’ and is ‘resisted’ by those on the outside.⁶⁶

Real property ownership, and the law which supports it, is not a neutral or natural state of affairs. It contains inherent economic, class and gender biases which must be acknowledged if the law is not – in Fisk and Gordon’s words – to ‘accomplish...its own

⁶⁴ Hilary Lim and Anne Bottomley (eds.) *Feminist Perspectives on Land Law* (London: Routledge, 2007) p.8.

⁶⁵ Lim and Bottomley p.8.

⁶⁶ Lim and Bottomley p.23.

vanishing'.⁶⁷ To place this within eighteenth-century philosophical and jurisprudential concepts, when we look at the law relating to land ownership, we are not witnessing a Lockean 'natural state' of possession, or even an agreement amongst equals as to how the resource of land should be distributed. Instead, land ownership together with the legal mechanisms that support it are the fruits of a system of privilege which favours those who already enjoy wealth and power – and who are not usually women.

When embarking upon an analysis of women's experiences as property owners during the eighteenth century, it is important to remember that the common law did not view women as landowners of first choice. The doctrine of primogeniture allowed women only to inherit in default of a male heir (although direct females were preferred to collateral males); dower entitled a widow to one third of her late husband's freehold land, less than the equivalent provision for a widower and, even if she owned land outright at the time of her marriage, a wife could not dispose of it whilst under coverture without the agreement of her husband – and it was he, not she, who was entitled to the benefits that flowed from her ownership.

This subordination though, to adopt Lim and Bottomley's phraseology, has historically been 'resisted' by women. Indeed, possibly the earliest reported use of trust law in order to protect a woman's property for her own use during marriage was that of a woman in the late fifteenth century who 'transferred land to herself and then married'.⁶⁸ However, within a legal system which consistently privileges those with wealth, power and authority, it is easy for the historian to view female landowners as accidental trespassers into a male environment. They find themselves the custodians of land simply because there was no other owner available or because it would prevent them from starving during their widowhood.⁶⁹ Viewed from the outside, the English system demonstrates little willingness to support active, intentional and dynamic female land ownership.

Female landowners in the eighteenth century therefore occupy a strange and equivocal position in law: on the one hand, their right to ownership of their land is uniquely privileged under coverture (their husbands being unable to dispose of it). However, on the other hand,

⁶⁷ P.538.

⁶⁸ Erickson *Women and Property* p.107.

⁶⁹ This is very much the view of Susan Staves. In *Married Women's Separate Property in England, 1660-1833* (London, Harvard University Press, 1990). She argues that provision for women was to ensure a basic level of economic protection for them and any dependent children, not to place them in positions of power pp.221-2.

under common law they were only entitled to inherit in default of a suitable direct male heir. Further, if they were married, they required their husband's consent in order to sell land to which they owned the legal title and were not entitled to receive the benefits which flowed from ownership. The freedoms of ownership enjoyed by their male peers were denied to them.

In order to explore the contradictory nature of women's land ownership during the early part of the eighteenth-century, I first survey the secondary literature relating to female landownership of the period in order to establish the historical context. I will then examine the experiences of Elizabeth Freke and Elizabeth Knight, two landowning women whose lives straddle the turn of the seventeenth and eighteenth centuries. Although coverture and its rules attached to all wives, whatever their class, it is worth emphasising that Knight and Freke were from the upper strata of society and had access to resources and knowledge which many women did not. Nevertheless, their experiences demonstrate that some women embraced landowning and the freedom it gave them. Finally, I will analyse the depiction of landowning women in a sample of female-authored novels published prior to 1740. Here I argue that although early female-authored fictions created a potentially agentic space for female protagonists, the legal, economic and social narratives of those novels reflect the normative masculine consensus of contemporary society, particularly a desire to keep the power and wealth land brought with it in the hands of men. This in turn has implications for readings of coverture within those novels, in particular, the hierarchical model which Stretton and Kesselring argue pre-dated Blackstone's emphasis on the 'unity of persons'.

Before examining the relationship between early eighteenth-century female landowners and their fictional portrayals, it is necessary to establish how common land ownership amongst women actually was. The dominant narrative for eighteenth-century female landowning has been one of decline and fall (or even decline and vanish). Eileen Spring, in her seminal book *Law, Land, and Family: Aristocratic Inheritance in England 1300 to 1800* calculated that in a stable population operating the doctrine of primogeniture, approximately twenty-five per cent of all real property inheritances should in theory go to women.⁷⁰ She cites the work of Milsom and Holt to argue that this was the case during the

⁷⁰ Eileen Spring, *Land Law and Family: Aristocratic Inheritance in England 1300 to 1800* (Chapel Hill: The University of North Carolina Press, 1993). In order to reach her figure of twenty five per cent female land inheritances, she uses a formula developed by E. A. Wrigley in 'Fertility Strategy for the

high Middle Ages.⁷¹ It is important to note, however, that neither Milson nor Holt engaged in quantitative analysis on this point. Further, Spring admits that the figures provided by their research are indicative rather than conclusive.⁷² Nonetheless, she uses these data as a baseline.

In order to obtain inheritance figures for the eighteenth century, she then relies on the work of Lawrence and Jean Stone. They concluded that eight per cent of inheritances between 1540 and 1780 went to women.⁷³ Of these, five per cent were inheritances by daughters and the remaining three per cent were by collateral female relatives.⁷⁴ Spring then compares the Stones' data to that of a third study by Peter Laslett, which argues that approximately thirteen per cent of all land inherited between 1540 and 1780 went to, or through, women.⁷⁵

The Stones' figure of eight per cent and Laslett's of thirteen per cent compare badly to the medieval statistics. Spring's conclusion is thus that, from the medieval period onwards, there was a decline in the number of women inheriting real property by somewhere in the region of one half to two thirds. Spring blames this on a rise in strict settlements and the increased use of the 'tail male' as an inheritance practice. She also cites the development of uses (the forerunners of the modern trust) and the 1540 Statute of Wills, which allowed land to be devised by will rather than to the heir-at-law.⁷⁶

Individual and the Group' *Historical Studies in Changing Fertility* Charles Tilly (ed.) (Princeton: Princeton University Press, 1977) pp.150-51 (Spring's citation).

⁷¹ S.F.C. Milsom, 'Inheritance by Women in the Twelfth and Early Thirteenth Centuries' *On the Laws and Customs of England: Essays in Honour of Samuel Thorne* Morris S. Arnold, Thomas A. Green, Sally A. Scully and Stephen D. White (Chapel Hill, 1981) pp.60-89 and James Holt, 'Feudal Society and the Family in Early Medieval England: The Heiress and the Alien' *Transactions of the Royal Historical Society* 5th series 35 (1985) pp.1-28. Both as cited by Spring.

⁷² Spring, pp.12-13.

⁷³ Lawrence Stone and Jean C. Fawtier Stone, *An Open Elite? England 1540-1880* (Oxford: Clarendon Press, 1984) cited by Spring at pp.13-14. The Stones' study was based on country houses rather than other forms of land.

⁷⁴ Spring, p.14, drawing her data from tables 3.8 and 4.2 in *An Open Elite?*

⁷⁵ Peter Laslett, *The World We Have Lost* third edition (London: Routledge, 1983) p.239 cited by Spring at p.15.

⁷⁶ 32 Hen. 8 c.1 Spring argues this encouraged male landowners to use wills to pass land to collateral male relatives rather than their daughters, which had not previously been possible.

Spring builds a compelling case for the marginalisation of the female heir-at-law both historically and by her fellow historians, whom she accuses of mistakenly inflating the number of female landowners by wrongly interpreting the term ‘heiress’ to include those with purely monetary inheritances. Her conclusions must, however, be taken with some caveats. In addition to relying on the Milsom and Holt figures which are not quantitative studies, Spring is, of course, only looking at those women who inherited property. Other routes to property ownership existed: including purchase, dower and (sometimes) jointure. Indeed, ‘jointure’ derived originally from the idea of a joint tenancy whereby land would be purchased in the names of both a husband and wife and the survivor would inherit sole ownership on the death of their spouse.⁷⁷ Jointure could in theory, therefore, confer superior benefits to dower. By the eighteenth century, however, it had commonly come to mean something analogous to a widows’ pension which was financed by investments or rent charges on land, rather than ownership of land itself.⁷⁸ It was also normally held in trust for the widow and would terminate on her remarriage or death.⁷⁹

Spring’s headline figure, though, is striking and constructs a clear narrative suggesting a conscious and growing marginalisation of women as potential landowners. Further, the explanations offered by Spring, particularly the rise in strict settlement and use of the tail male, appear to show an acceleration of that marginalisation towards the end of the seventeenth and the start of the eighteenth centuries.

However, Spring’s conclusions, in particular her cliff-edge demise of female landowners, may not be accurate. A more recent study on female landholding patterns argues instead that the amount of land held by women (not just via inheritance) was, in fact, stable from the end of the Middle Ages through into the nineteenth century. Briony McDonagh’s 2017 research includes a survey of recent scholarship in the area of women’s land ownership.

⁷⁷ Barbara Hanawalt, *The Wealth of Wives Women, Law and Economy in Late Medieval London* (Oxford: Oxford University Press, 1997) p.64.

⁷⁸ See Staves, ‘Equitable Jointure’ pp.95-130 in *Married Women’s Separate Property*. Also, for a discussion of portion: jointure ratios see H.J. Habakkuk, ‘Marriage Settlements in the Eighteenth Century’ *Transactions of the Royal Historical Society* 32 (1950) 15 -30 <<https://doi.org/10.2307/3678475>> [accessed 14th August 2020].

⁷⁹ Jointure was regulated by Statute of Uses 1535 (27 Hen. 8) but to bar dower had to satisfy seven pre-requisites, including that the jointure should be an estate of freehold land and that it had to be for the life of the wife, or a greater estate (Staves p.99).

It concludes that in the eighteenth century, somewhere in the region of 10.3 per cent of all landowners were women.⁸⁰ Placing her findings against the metadata from other research from the later Middle Ages onwards, McDonagh argues that between ten and twenty per cent of landowners at any given time were female:

there is little in the available data to suggest that women's land ownership declined dramatically across the medieval and early modern period, despite Spring and others' claims that the shift from dower to jointure and the introduction of strict settlement contributed to a long term decline in women's property rights.⁸¹

McDonagh suggests that legal developments during the early modern period may have removed some landowning opportunities for women but, conversely, created new ones. For example, the move away from dower might have adversely effected widows' potential to own freehold land but, on the other hand, the increased use of marriage settlements may have created a 'language of female property ownership' that enabled women to take on the role of land owner.⁸² She also argues that this swings and roundabouts understanding of land ownership patterns could also have varied between social classes: some women may well have experienced a reduction in landowning within their socio-economic group, whereas others would have seen an increase in such opportunities.⁸³

Historically, there has been no single way in which women experienced landownership. Women owned land when single or as wives or as widows; others did so collaboratively with a husband or male relative. Just like men, the majority of women experienced landownership as a smallholder rather than controlling great estates although

⁸⁰ Briony McDonagh, *Elite Women and the Agricultural Landscape 1700-1830* (London: Routledge, 2017). McDonagh drew her original data (as opposed to the 'metadata' gleaned from others' research) from a large sample of parliamentary enclosure awards from 1740 to 1830. These encompassed a swathe of the country running through the 'so-called Central Province' from Hampshire in the south up to Lancashire and the East Riding of Yorkshire. It is important to stress that McDonagh views her analysis as 'provisional' given the patchy nature of the data (p31). However, it raises tantalising possibilities for a revisionist assessment of female landholding patterns.

⁸¹ McDonagh, p.31.

⁸² McDonagh, p.31.

⁸³ McDonagh, p.31.

there were still women who held (and managed) large tracts of land. There is also the matter of regional variation to consider. McDonagh notes significant geographical differences across her data set: women owned more than fifteen per cent of the land in Nottinghamshire and almost twenty-two per cent in Bedfordshire; whilst in Lancashire, Staffordshire and East Yorkshire it was less than five per cent.⁸⁴ Overall, though, McDonagh concludes that ‘somewhere in excess of 3 million acres in England were owned by women in the later eighteenth century and more than...6 million across Great Britain as a whole.’⁸⁵ Additionally, on a local level, she points to female landowners being present in the vast majority of the parishes in her study, indicating that female landowners would not have been an alien species.⁸⁶

Of huge significance for a study of coverture, McDonagh also found that: ‘[I]and held in trust made up only a small proportion of female-owned land, with more than ten times as much...held by women either alone or as co-heirs’.⁸⁷ The fact that women’s real property was *not* being put into trust as a matter of course suggests an awareness of the protections for real property during coverture and a general acceptance that these were adequate.

Using McDonagh’s analysis, a picture emerges where women were not, by any means or in any era from the medieval onwards, owning land and/or managing it on a scale equal to men. However, they are consistently represented as a significant sub-set within the class of landowners – and at a level where they should not have been considered a rarity. This is, of course, not to present those women who owned land as an homogenous group. McDonagh’s research shows that as well as differences in the amount of land owned and the way in which it came into the possession of the woman who owned it, there was no agreed consensus on how a female landowner should manage her land: was it to be handed over to the *de facto* control of her husband? Was she to rely on the services of a professional land agent or legal

⁸⁴ McDonagh, p.30.

⁸⁵ McDonagh, p.27.

⁸⁶ Maxine Berg’s research on women and property in Sheffield and Birmingham during the Industrial Revolution also supports the idea that more women than has been generally acknowledged were land owners. Maxine Berg, ‘Women’s Property and the Industrial Revolution’ *Journal of Interdisciplinary History* 24.2 (1993) 233-50 <<https://doi.10.2307/205358>> [accessed 29th June 2020] pp.243-5.

⁸⁷ McDonagh, p.28.

advisor? Or was she to manage it herself, developing the skills necessary to ensure her real property performed at an optimum level and provided appropriate fiscal returns?

Despite chronicling some notable exceptions, McDonagh sees a tendency amongst the (elite) female landowners in her own study to:

represent their estate management as an act of familial duty rather than a disruption to traditional gender roles, although this discourse could on occasion be subverted and reworked for their own benefit.⁸⁸

This recognition of established gendered roles in relation to land ownership is significant. Essentially, it means that women of the period felt that active participation in managing land, especially where this included decision making, was gendered against them. They therefore attempted to rationalise it in terms that were culturally acceptable. Although whether this rationalisation was a conscious act of gender performance or the product of cognitive dissonance on the part of individual women, it is impossible to know.

Mimi Schippers' research has added nuance to the existing model of performative gender roles.⁸⁹ She argues that masculine hegemonies are always dominant and, because femininities are constructed through their relation to masculinities, they will always be subordinate.⁹⁰ Further, masculinities enacted by a woman will not be viewed as masculine but will instead be interpreted as a negative ('pariah') femininity, even though such behaviour would be desirable in a man. The price to be paid by a woman who performs a perceived masculinity will range from criticism or derision to social exclusion. In this context, it would be understandable for a female landowner, recognising she was overstepping the boundaries of hegemonic femininity, to recalibrate her actions in terms of family duty – an acceptable femininity.

There is also intriguing evidence to show that there may be differences in how women felt about the land they owned, depending on how it came into their possession. An early

⁸⁸ McDonagh, p.140.

⁸⁹ Essentially, that in order to conform to gender types, individuals enact – or 'perform' – particular signifiers that align them with gendered norms for their social group.

⁹⁰ Mimi Schippers, 'Recovering the Feminine Other: Masculinity, Femininity and Gender Hegemony' *Theory and Society* 36.1 (2007) 85-102 <<https://www.jstor.org/stable/4501776>> [accessed 14th August 2020].

modern example of this was Anne Clifford, who distinguished between the lands which formed her inheritance (and which she regarded as a fundamental to her self-identity) and those she received as dower, control over which she appeared happy to negotiate away in return for a jointure.⁹¹

So far, I have argued that the law and traditional – as opposed to empirical – jurisprudence relating to land ownership during the long eighteenth century was inherently biased against women. Further, the types of interaction which women would most frequently have with land and land management (for example, through the use of communal land) was contrary to the prevailing model of private ownership. It may also have been the case that women chose to frame their landownership in terms of acceptable femininities, playing down the masculine role of ‘landowner’. However, against this, McDonagh’s evidence still suggests that women consistently formed a significant subset of landowners and that the concept of a female landowner would have been generally familiar during the period.

In order to try to understand this fragmented, complex picture in more detail, I would like to examine the case studies of two women who owned and managed land during the eighteenth century. They both came from the landed classes, although they occupied different strata within that social group. Elizabeth Knight lived between 1674 and 1737 and Elizabeth Freke between 1641 and 1714. Elizabeth Knight inherited her land because she was the ultimate survivor in her family line; whereas Freke may have purchased her land herself (although with the help of her father and perhaps also her husband). Both women demonstrate agentic approaches to either the acquisition, management or retention of their land. However, their experiences of ownership are radically different.

Elizabeth Knight did not choose to be a landowner. As the ultimate survivor of a complex web of inter-familial marriages and inheritances, she controlled a number of estates spread across the south of England and, despite marrying twice, kept a tight rein on her interests. Her real story, however, lies in the fact that she not only managed her land effectively but remained in control of it through two marriages to powerful men.⁹² As we will

⁹¹ Mary Chan and Nancy E. Wright, ‘Marriage, Identity, and the Pursuit of Property in Seventeenth-Century England: The Cases of Anne Clifford and Elizabeth Wiseman’ in *Women, Property, and the Letters of the Law* N. E. Wright, M.W. Ferguson, and A. R. Buck (eds) (Buffalo: University of Toronto Press, 2004) 162-82 (pp.164-9).

⁹² Although both were obliged to change their name to ‘Knight’ I will refer to them by their original surnames – Woodward and Peachey – to avoid confusion.

see from the documents relating to her marriage settlement, this did not happen without a struggle and (probably) a degree of personal unhappiness. Significantly, she also controlled a number of votes in the constituency of Midhurst, Sussex. What she did with those votes – and the personal as well as political leverage they gave her – offers a rare and tantalising glimpse into the under-researched area of women’s electoral politics prior to the 1832 Reform Act.

The social class into which Knight was born was relatively stable and remained so throughout the century. H.J. Habakkuk’s analysis of the so-called ‘squirearchy’ in Northamptonshire and Bedfordshire over the period found that most of the non-aristocratic families who enjoyed rental incomes of ‘more than £1000 per annum in 1640, survived intact into the eighteenth century and [were] in many cases still the leading families of the county’ in the 1940s.⁹³ By comparison, those on the lower fringes of the gentry classes were more likely to lose land between 1680 and 1740, than remain stable or expand their holdings.⁹⁴

Knight inherited the estate at Chawton in Hampshire in 1702 following the deaths of her brothers Richard and Christopher.⁹⁵ This particular estate, with its Elizabethan manor house, eventually found its way into the hands of Jane Austen’s brother and it is tempting to speculate whether Knight was an inspiration for some of Austen’s more formidable fictional creations. Knight also held estates that came to her through the Lewkenor side of her family. Following his death in 1721 she also inherited her first husband William Woodward’s estate in Egham and she owned houses in London and Southwark.⁹⁶ Some of these properties she enjoyed only as a life interest but others, such as Chawton, were hers outright. The value of these lands was quite considerable and she seems from the evidence to have kept a close, personal eye on them. Written in her own hand, ‘An Estimate of my Hole [sic] Estates Michaelmas 1737’ gave her a total income from her estates of £3,256 10s 7½ d (net). Of

⁹³ H.J. Habakkuk ‘English Landownership 1680-1740’ *The Economic History Review* 10.1 February (1940) 2-17 <<https://www.jstor.org/stable/2590281>> [accessed 14th August 2020] p.4.

⁹⁴ Habakkuk pp.4-5

⁹⁵The intricacies of Knight’s inheritance are traced by Christine Grover in ‘Edward Knight’s Inheritance: The Chawton, Godmersham, and Winchester Estates’ *Persuasions* 34.1 Winter (2013) <<http://jasna.org/persuasions/on-line/vol34no1/grover.html>> [accessed 25th June2020]. There are no page numbers for *Persuasions* articles.

⁹⁶ Grover and also HRO/39M89/E/T18/6 and HRO/39M89/E/T18/4

these, it was those in Hampshire which provide the largest single tranche, amounting to £1,851 0s 4d.⁹⁷

It appears from the surviving records that she actively managed her estates herself, with the help of her attorney, Mr Munford.⁹⁸ She kept an eye on her tenants, her servants and there are even receipts for deliveries of alcohol bound up with the documentation. She is addressed as ‘Honoured Madam’ and ‘your Ladyship’ and letters received by her are annotated in her own hand (presumably before being filed), indicating the date and whether or not a reply has been sent. The evidence suggests strongly that she was a woman who was not only capable of running a large number of estates but who did so successfully and with a close personal involvement in the process.

By the time of her second marriage (To Bulstrode Peachey in 1725) Knight controlled a great deal of land. She also owned the contents of a number of substantial houses as well as other items, including rich clothes and jewels. As she was a woman who took a close personal interest in the running of her estates, it should come as no surprise to discover that she decided to take steps to preserve some of her autonomy whilst she was under coverture. What is noteworthy about the negotiations for her marriage settlement, though, is the level of legal knowledge and awareness she demonstrates throughout both with regard to the technicalities of the law and an understanding of the negotiation process.⁹⁹

That Knight was aware of the legal implications of her coverture can be seen in the letter of instruction to her lawyers referred to in the introduction.¹⁰⁰ Here she outlines the terms she wishes to see incorporated into her marriage settlement. These are: to insist on the ‘Surname’[sic] of Knight for herself; to settle Sir Richard Knight’s lands as ‘valuable consideration’ for Peachey changing his name also to Knight; to reserve her estate in Hampshire to her own use during their joint lives and to reserve its rents and profits likewise; to draw up a settlement in case of her widowhood and a further settlement on any children of the marriage. She concludes by recommending ‘Mr Horsman A Counesller [sic] In Lincoln’s Inn a good conveyancer’.

⁹⁷ HRO/39M89/E/B587/

⁹⁸ HRO/39M89/E/B587/18 and HRO/39M89/E/B587/15, for example.

⁹⁹ McDonagh also discusses the settlement and the fact that Peachey took Knight’s profits, reserved by Knight to herself pp.22-3 of *Elite Women*.

¹⁰⁰ HRO 39M89/E/B887

The striking thing about this document is not merely the fact that it was written by a woman but that it has a confident, easy use of technical legal terminology: she uses the terms ‘no consideration’ and ‘valuable consideration’ correctly; she is clear about the consequences of coverture and equally clear about reserving her Hampshire estates, together with the rents and profits thereof, for her ‘owne use’. Further, she appears to understand the negotiating process and offers to settle Sir Richard Knight’s estate in return for the assurance that the Knight name will be used by all the heirs to those lands. She has clearly thought through the legal and practical consequences of a number of eventualities and decided what the desired outcome should be in each case. Finally, she recommends her chosen draftsman by name.

There also evidence that she understood land usage and its economic potential. Following Peachey’s death, she had a choice to make as to which pieces of land she should keep and which she should pass to his heir. A letter from Edward Munford to Knight dated February 1735, contains Munford’s thoughts on which estates it would be advantageous for Knight to own – but it is clearly a response to an earlier letter from Knight herself.¹⁰¹

As to Neatham Farm your choice of that instead of Gates Farm and Shirley tithes, I think your Ladyship judges right the former is preferable as being near your other Estate in Hampshire and collected with more ease and less expense than the latter can possibly be done.

This is obviously a response to Knight’s earlier thoughts upon the subject and demonstrate that she has already considered the estate-management choices Peachey’s death necessitated in a detailed and business-like manner. It is also notable for the complete lack of any explanation from Munford regarding the law or the procedures surrounding probate. One could perhaps attribute this to her having been through the process previously on the death of her first husband; however, the straightforward manner of the letter suggests that Munford is fully confident in Knight’s ability to digest and respond to its contents.

Another example of the close attention Knight gave to her estates and other business matters comes from a letter dated December 9th 1703.¹⁰² It concerns a wood, ownership of which appears to be in dispute. Knight instructs the recipient to ‘goo immediately to Chawton and cut [the wood] out and carry it off the ground’. If Farmer Pryor, the man claiming

¹⁰¹ HRO/39M89/E/B587/4

¹⁰² HRO/39M89/E/B613.

ownership, ‘opposes it lett it be at his perrill.’ The letter ends with a P.S.: ‘I hope now you have a good market for my bricks.’ It is necessary to point out that Knight’s active control of her interests was by no means inevitable. She could have handed over estate operations to a trusted steward (Munford) or to either of her husbands. However, she made an active decision not to do neither of these things and the evidence – particularly the hand-written accounts and notes of expenses – suggest that she was fully in control.

Knight’s estates, however, were not merely a conduit for an income. They were also a source of political influence. During the eighteenth century, members of parliament were elected via two distinct systems. The first of these was the county franchise, whereby those who owned land upwards of forty shillings’ value had a vote.¹⁰³ The second was the borough franchise. This system permitted electors in the boroughs (which could be urban areas but also included villages and hamlets) to vote. There was no single national qualification to obtain the franchise and instead depended upon the customs of each borough. These included the so-called ‘potwallopers’ who qualified because they could fit a cooking pot on their hearths; ‘scot and lot’ boroughs where payment towards the local poor and church rates was the qualification to vote; university franchises; freemen and corporation boroughs.¹⁰⁴ Burgage votes, a form of borough franchise, arose from ownership of a ‘land and/or property tenure in a town for which payment was usually made to the king or a lord by the exchange of money rather than services.’ These included the infamous rotten boroughs of Old Sarum and Dunwich.¹⁰⁵ However, just because some women were enfranchised did not mean that they themselves exercised their right to vote. Instead, the practice appears to have been that a female burgage holder would transfer her vote to a man who would then cast it on her behalf. Whilst the categories of men permitted to vote on behalf of their women-folk were

¹⁰³ The land value was so low because it was established in 1430. Freeholders could have more than one vote (for example, if they owned land in two parts of the country, even though they might only reside in one) and might ‘split’ their freehold so that their tenants could cast their votes in favour of the landlord’s preferred candidate: Edward Porritt, *The Unreformed House of Commons: Parliamentary Representation Before 1832* Vol I (Cambridge: Cambridge University Press, 1903) pp. 23-25.

¹⁰⁴ Neil Johnston, ‘The History of the Parliamentary Franchise’ *Research Paper* House of Commons Library 13/14 1 March 2013 < <https://commonslibrary.parliament.uk/research-briefings/rp13-14/> > [accessed 18th October 2019]

¹⁰⁵ Johnston, p.10.

determined by the rules of the individual borough within which the transfer occurred, transfers were most commonly made to husbands, sons and nephews.¹⁰⁶

Elaine Chalus, in her essay ‘Women, Electoral Privilege and Practice in the Eighteenth Century’ makes a number of important points in relation to women’s experience of the franchise.¹⁰⁷ The first of these is that women enjoyed real – and recognised – political influence: as well as holding votes, women campaigned in elections, controlled and influenced politics on behalf of themselves or their families and were even called as formal witnesses to testify in disputed elections by the House of Commons.¹⁰⁸ She maintains that the level of female influence in burgage voting was quite substantial with

[s]ome burgages [being] passed down through women, others...managed by women for underage sons, while yet others were owned and contested by women.¹⁰⁹

Chalus also references the practice of women nominating a man to cast their vote, attributing the practice to ‘custom’ rather than any strict legal requirement.¹¹⁰ Further, she asserts that elite women, like the men of their class, managed their landholdings in order to influence the outcome of elections. This included working with their land agents to purchase boroughs and ensuring that their tenants ascribed to the appropriate political affiliation.¹¹¹

Elizabeth Knight’s landholdings included burgage votes and a double-sided document survives which details the transfer of the control of these votes for a substantial fee to Bulstrode Peachey, the man who would eventually become her second husband. One side of this document is a simple receipt for £875 paid by Peachey for Knight’s ‘burgage votes in the borough of Midhurst, Sussex’.¹¹² The second side is more detailed, being: ‘[a]n account of Madam Knights Mortgages and Burgage votes in the Borough of Midhurst in the County of Sussex Feb 17th 1721/2.’ This, again written in Knight’s hand, states that on 17th February,

¹⁰⁶ Porritt, p.40.

¹⁰⁷ In *Women and British Politics 1760-1860* (Basingstoke: Macmillan, 2002) Kathryn Gleadle and Sarah Richardson (eds.) pp.19-38.

¹⁰⁸ Chalus, p. 19.

¹⁰⁹ Chalus, p.27.

¹¹⁰ Chalus, p.26.

¹¹¹ Chalus, p.26.

¹¹² HRO 39M89/F15

Bulstrode Peachey paid Knight £875 ‘in full consideration of my votes and mortgages in the Borough of Midhurst’.

It is arguable that this was not intended to be a full transfer of Knight’s votes to Peachey because the document also states that Knight:

shall have the liberty of [her] aforesaid votes and mortgages amounting to the sum of Eight hundred and Seventy four pounds fourteen shillings ...any time within twelve months from the Draft hereof, upon paying back the said sum of Eight Hundred and seventy five pounds to the said Bulstrode Peachey.¹¹³

It appears, therefore, that Knight is transferring the votes and mortgages to Bulstrode Peachey with the option of buying them back during the next calendar year. The picture becomes more complicated when one realises that the MP for Midhurst before Peachey was Knight’s first husband (and cousin) William Woodward.¹¹⁴ Woodward was MP from 1713 until his death on 26th October 1721.¹¹⁵ However, the dates in this instance are not what they might seem. Prior to the calendar change in England and Wales in 1752, the year began not on the first of January but on the twenty-fifth of March. This means that, chronologically speaking, 17th February 1721 occurred after Woodward’s death on 26th October 1721. Even so, the story retains some of its intrigue when one considers the fact that the Knight family (including Woodward) were Tories. The Peachey family, on the other hand, were Whigs. Indeed, Peachey’s father had been associated with the Midhurst constituency himself and

¹¹³ The nature of the conveyance is intriguing as it includes mortgages as well as votes. There were two types of mortgage available at the time. The first was a freehold transfer which allowed the mortgagor to live on the land. The other used the mechanism of a lease and allowed the mortgagee to continue in possession of the land. If the debt (or rent, if that was required) failed to be paid, title of the land would pass to the mortgagor. For a summary see B.L. Anderson ‘Provincial Aspects of the Financial Revolution of the Eighteenth Century’ *Business History* 11:1 (1969) 11-22 <<https://doi.org/10.1080/000767969000000003>> [accessed 14th August 2020].

¹¹⁴ Woodward had to change his name to Knight as a condition of inheritance but I will refer to him as Woodward for the sake of clarity.

¹¹⁵ The sources are contradictory but Woodward was certainly still an MP – and voting – in 1719. <<https://www.historyofparliamentonline.org/volume/1690-1715/member/knight-william-1667-1721>> [accessed 14th August 2020].

stood unsuccessfully for election there in 1698. Could Knight have decided to throw her lot in with the political opposition in defiance of her late husband? It would certainly be an interesting move.

Further, there is the fact that a few years later Knight marries Peachey. Might this transaction signal an (unorthodox) start to the courtship process? Against this, though is the fact that Knight was not the only person from whom Peachey purchased votes. He also bought two tranches from the sixth Lord Montagu, a Roman Catholic peer who had also previously supported Woodward, giving him a total of forty-nine votes.¹¹⁶

What is clear, though, is that votes had an economic value and could be traded like any other asset. When Lady Andover's daughter married in the latter half of the eighteenth century, her burgages and the political interest they represented formed part of her daughter's marriage portion.¹¹⁷ Peachey paid a very large sum of money for Knight's burgage votes. What may never become apparent is if this was purely a commercial transaction or if their marriage was already in contemplation.

Although no parliamentary votes were at stake, another woman, Elizabeth Freke, had a different sort of fight on her hands: that of maintaining control of her land. Freke recorded her married life and widowhood in two commonplace books, now in the British Library.¹¹⁸ These contain journal-like reflections on personal events as well as an eclectic plethora of other entries including recipes, medical cures, financial accounts, religious verse, current affairs and inventories. The entries in the books overlap, although there are differing degrees of detail in each text.¹¹⁹ Freke's adversary was none other than her husband, Percy. He wanted Freke to sell so that he could obtain control of the cash proceeds: once land was converted to money it became personal property and, under the rules of coverture, he could dispose of it as he wished. However, this would have placed Freke in a tremendously precarious position: the couple spent much of their marriage estranged and, during this period, she relied on her land not just as a place to live but as a means of financial support.

¹¹⁶ <https://www.historyofparliamentonline.org/volume/1715-1754/member/peachey-bulstrode-1681-1736> [accessed 14th August 2020].

¹¹⁷ Chalus, p.27.

¹¹⁸ British Library B.L. Add. MS 45718 and B.L. Add. MS 45719 cited in Anselment (below).

¹¹⁹ Raymond A. Anselment, (ed.) *The Remembrances of Elizabeth Freke 1671-1714* Camden Fifth Series, Volume 18 (Cambridge: Cambridge University Press, 2001) Introduction p.2.

Freke owned land twice during her married life and on both occasions was grateful for the security it gave her, although on the first occasion her ownership was very short lived. The events surrounding this occurred shortly after she and Percy were married: ‘a mortgage on Sir Robertt Brooke estate of 500...pound a yeare’ was given to her in February 1673 by her father in lieu of a marriage portion.¹²⁰ She states categorically in the *Remembrances* that he did this so ‘that [she] might nott bee disapoynted of a subsistance for [her] life.’¹²¹ However, a few months later, at about the beginning of July, Percy sold Freke’s ‘fortune’ – as she styled it – to Sir Josias Child without telling either Freke, her father or the four trustees who held the legal title for her. This appears to have resulted in more than a loss of income for Freke. Indeed, she indicates that she was actually living at the property because she states that she was ‘turned outt of doors and had nott a place to putt my unfortunate head in.’¹²²

The text of the *Remembrances* makes it clear that, in Freke’s eyes, Percy had no moral authority to sell the mortgage. What is not clear, however, is whether he had any legal right to do so. As mentioned above at note 53, there were two types of mortgage available at the time and the legality of Percy’s actions would depend on whether this was the common law or lease-type model. It is possible, of course, that the terms of the trust might have given Percy the legal right to dispose legitimately of the mortgage. He might even have been one of the trustees. This interpretation does, however, seem unlikely because by placing the mortgage in trust, one must assume that Freke’s father was seeking to keep at least the beneficial interest under his daughter’s control.

Whatever the facts of the matter, the episode did not end well from Freke’s perspective: the monies raised totalled somewhere between £5,764 and £5,664, reducing her ‘fortune’ from a secure income and a place to live to, as she put it, ‘mony in a bankers hand...in danger to be spentt by us or lost by [Percy].’ The cash slowly dwindled to £1,500 and, despite her father’s intentions that it should provide her with a safety net, Freke complains that she did not have control of so much as five pounds of it.

Her complaints about the sale of the mortgage served as the opening volley in an ongoing diatribe by Freke against what she perceived as Percy’s appropriation and misuse of

¹²⁰ P.38. All quotations from the *Remembrances* are in their original spelling.

¹²¹ *Remembrances* p.38.

¹²² *Remembrances* p.39.

'her' property. Freke's use of pronouns throughout the *Remembrances* is telling.¹²³ Even whilst the couple were living apart, Percy would periodically appear at Freke's house, remove 'her' money or chattels from her possession before returning to his home in Ireland. For example, in May 1693 Percy took away all Freke's 'plate, linen, and other goods [she] had been eight years a getting together of whatt was valuable'.¹²⁴ Strictly speaking, under the doctrine of coverture, he was perfectly entitled to dispose of her goods in this way. Freke, however, saw things differently and repeatedly asserted her claims of ownership through the pages of the *Remembrances*. These culminated in a written 'Account of Money E. Freke Lent and Brought to Her Husband', created near the end of Percy's life when the couple were reconciled and living together. The document contains entries such as: 'what I lent him of my own saveings I had his bond for payment' and 'More my deer husband took up of mine of my Indy stock ...to cary for Ireland to compleatt his purchas with the Lord Sidney...' It consistently frames Percy's appropriations of money, stocks and other investments as loans from Freke, rather than property which automatically came under his control via coverture. In order to emphasise the validity of her claims, Freke also asserts that she showed the Account to Percy and he: 'after reading of itt said I was true and he could deny noe partt of itt...'¹²⁵

Next time land came into her possession, she made sure she did things differently. How Freke came into possession of the farm and manor at West Bilney in Norfolk is unclear. Although both the 'W' and 'B' texts state that Percy provided the lion's share of the purchase price (four thousand pounds as *per* the 'B' text, in addition to a loan from Freke's father) by the time Freke wrote up a full 'Account' of her loans, debts and assets in 1712, the story had changed and she claimed that she purchased it herself, with the help of a mortgage:

I bought of my deer father this estate of West Billney, which was given to my brother Austen and by him sould to me, then a mortgage to my father for above 5768l...

When I came into England to see my deer father he gave me up this bond of 768l-i4-io

¹²³ Danaya C. Wright also makes the point about Freke's use of pronouns: 'Coverture and Women's Agency: Informal Modes of Resistance to Legal Patriarchy' in Stretton and Kesselring pp.240-263(p.243).

¹²⁴ *Remembrances* p.228.

¹²⁵ *Remembrances* pp.315-319.

with three years intrist due on itt, for which I mortgaged to him by bond West Billney now my own againe.¹²⁶

Even allowing for Freke's propensity to lay claim to property which was not strictly hers under the rules of coverture, it would appear from other entries in both the 'W' and 'B' texts that, no matter how it came into her possession, the legal ownership of West Bilney was vested in herself and not Percy.¹²⁷ One clue to this comes from the fact that Percy (running true to form) tried to persuade her to sell the land. If it had belonged to him, Freke's concurrence would not have been required. Freke refused. She believed that once converted into cash, the sale proceeds of West Bilney would be dissipated by Percy, depriving her once more of a settled home and placing her again on a precarious financial footing. This conflict of wishes led to a bitter row between the couple which began on Christmas Eve 1685, when Percy arrived at West Bilney from Ireland:

he was dayly importuneing of mee to sell my Billney...butt my God gave me the resolution and courage to keep whatt I had rather then by parting with itt [and] be kept by my frinds.¹²⁸

In the more detailed 'W' text she provides an extra, vital piece of information that confirms she did indeed own the legal title to West Bilney. She says that Percy's:

errantt for England was to joyne with him in the sale of West Billney...Butt I being left the only trusty for my self and my son, God gave me courage to keep whatt I had rather then part with it.¹²⁹

¹²⁶ *Remembrances* pp.316-317. Danaya C. Wright also notes that this property was originally purchased by Percy but later settled by Freke's father on Freke for life (p.244). She does not mention the nature of the settlement which I believe involved the legal title.

¹²⁷ *Inter alia*, at p.55 of the *Remembrances* Freke describes West Bilney unequivocally as a '*gift of my deer father*'.

¹²⁸ *Remembrances* p.225.

¹²⁹ *Remembrances* p.55. 'W' text.

Because Freke would have been required to 'joyne' with Percy (i.e. execute a fine) in order to effect the sale of the land, she must have owned the legal title. Indeed, she states that she herself is a 'trusty', indicating that the title was vested in her with (one presumes) the beneficial ownership held on trust for herself and her son. This is an important distinction: as the legal owner, she had ultimate control over the property, rather than just an interest in the benefits that flowed from that ownership. Further, as a beneficiary of the trust, she might also have been entitled to receive rents and incomes from the land, things which would normally be appropriated by her husband under the rules of coverture (although whether or not this was the case would have depended on the terms of the trust). Potentially therefore, Freke controlled both the land at West Bilney and the financial benefits that flowed from it. If this was so, it is unsurprising that Percy did his best to force a sale: he himself gained nothing from its ownership.

This retention of West Bilney in the face of bitter opposition from her husband had various consequences for Freke. The first of these was a prolonged separation from Percy as he stormed back to Ireland in his 'greatt anger'. However, despite (or maybe because of) this, it appeared that Freke at last found a sense of security that had been sorely lacking during her married life. There were also, though, disadvantages; the most obvious of which being that she found herself with sole responsibility for running the estate and managing her (often unmanageable) tenants. She received no support from her neighbours. Indeed, they seem to have been the source of some additional woes. Her entry for February 8th 1694 states that:

tho every day threatned by the neighbours...I soon evidenced my right to itt and as fast as I could removed those that thretned to turn me out of doors and Billney too.¹³⁰

Freke provides no information as to why, or on what grounds she was being threatened. She focusses instead on her own fortitude in the face of such hostility: an opportunity to parade the self-constructed 'martyr' persona who is visible periodically throughout the text. One possibility, though, is that those who gave her trouble were her tenants, seeking to take advantage of a woman who lacked the protection of a husband. However, as this would have detracted from the narrative of self-sufficiency in the *Remembrances* she may have taken the decision to omit it.

¹³⁰ *Remembrances* pp.55-56.

Like Elizabeth Knight, Freke employed professionals to help her run the estate. In December 1696, after returning from what would be her last visit to Ireland, she travelled to Lyme Regis to visit a Mr Bennett in order to deal with her leases and accounts. She also employed an estate manager, James Wallbutt, although he does not seem to have been particularly competent. By December 1696 he: ‘had fallen the rents of whatt I left itt neer fifty pounds a yeare and lost me above 500 pounds in mony.’¹³¹ However, it is significant that it was Freke herself who superintended the running of the estate. Further, she is also keen to emphasise the range of tasks she embarked upon, whether or not with the help of others. Thus, she did not merely ‘sett [her] self up to farming’ but also arranged for the church on the estate to be ‘new slatted and lathed’ and refurnished her home from scratch.¹³² West Bilney, the *Remembrances* make clear, was her project and she alone was to be credited for its success.

Despite her exertions, land ownership was ultimately not a positive experience for Freke. Particularly during her widowhood, she suffered a series of misfortunes including tenants who absconded without paying rent, law suits against her and a protracted argument with the Bishop of Norwich over the status of the church on her estate. After her husband’s death, Freke chose to focus her investments on stocks and shares rather than acquire more real estate.

She was not alone in doing this. Amy Froide, in her book *Silent Partners: Women as Public Investors during Britain’s Financial Revolution, 1690-1750*, argues that women generally enjoyed a long and established history of investment activity, participating in the stock market from its inception and, before that, investing in family businesses and local credit markets.¹³³ In contrast to Susan Staves, who (like Spring) argues for a decline in female land ownership as an erosion of women’s economic autonomy, Froide argues that the new forms of public investment represented an informed and positive choice for many women:

¹³¹ *Remembrances* p.233.

¹³² *Remembrances* p.225 and p.72.

¹³³ Amy M. Froide *Silent Partners: Women as Public Investors during Britain’s Financial Revolution, 1690-1750* (Oxford: Oxford University Press, 2017) pp.7-8. It is also clear that some women invested in mortgages as a source of income for themselves: see B.L. Anderson ‘Provincial Aspects of the Financial Revolution of the Eighteenth Century’ pp.15-18.

Women preferred these new credit opportunities for their decent rates of interest, their relative security, their reliability of payment, and for their easy liquidity. Collecting quarterly dividends or interest payments...turned out to be much more...reliable than trying to get rents, interest payments, or annuities out of relatives and private individuals.¹³⁴

One feels that Freke might have concurred with Froide, but probably only when Percy was no longer there to help himself to 'her' money and shares. Before then, the evidence embedded in the *Remembrances* suggests that Freke's financial and domestic security depended upon the inability of her husband to liquidate that one vital asset: land.

Although both Knight and Freke owned and actively managed their land, it is important to note that both had male heirs. For Freke, this was more or less inevitable: she had one son who, in turn, had male issue. Unless she had wished to leave her land to a recipient outside her direct bloodline, her property was destined to pass to a male heir. For Knight, though, the situation was not so straightforward. She had no children from her first marriage to Woodward and, when she married for the second time in 1725, she was forty-nine years old. Although she may have hoped to conceive an heir, she must have realised that it was likely this would never happen. As has been well-documented, not least because of the trouble it would eventually cause Edward Austen, Knight used her will to settle her land in 'tail male' entail.¹³⁵ However, it appears this was not always her intention. Indeed, she seems open to having women inherit her estates.

Her draft marriage settlement provides for the

son and sons of the said BP on the body of the said EK his intended wife lawfully to be begotten severally and successively...according to their priority of birth in taylor male.¹³⁶

¹³⁴ Froide p.206. Susan Staves also fully explores the potential (dis)advantages for women of investment-based jointure versus land-based dower (p.130).

¹³⁵ See, for example, Christine Grover 'Pride, Prejudice and the Threat to Edward Knight's Inheritance' *Persuasions* 35.1 Winter (2014) < <http://jasna.org/persuasions/on-line/vol35no1/grover.html?>> [accessed 14th August 2020].

¹³⁶ HRO 39M89/E/T16. BP = Bulstrode Peachey; EK = Elizabeth Knight.

However, in the event that there were no sons to inherit the estates, the document allocates the remainder:

to all and every the Daughters of the said BP on the body of the said EK his intended wife lawfully to be begotten and the several and respective heirs of the body and bodies of all and every such daughter lawfully issuing equally to be divided between them...but if there shall be but one such daughter then to the use of such only daughter and the heirs of her body lawfully issuing.¹³⁷

For Knight, it would appear that whilst she was not willing to overturn convention and disinherit any sons in favour of daughters, in the absence of male children she was content to leave her estates to her female offspring. This was to be done in preference to an entail that would transfer her land to collateral heirs. Whilst it was a requirement that anyone inheriting should take the surname 'Knight', the draft marriage settlement shows a distinct openness on Knight's part to consider a direct female heir. It was only at the time of her own death, when a direct heir was no longer a possibility that she resorted to the 'tail male'.

For Knight and Freke, being a female landowner brought with it undoubted benefits (as well as some disadvantages). Importantly, in so far as it can be established, neither expressed any concerns that their role as landowners conflicted with expectations of their gender. McDonagh's research does indicate that some women of the period felt the need to reframe their work as landowners in more 'feminine' terms, for example as part of their duties as a wife or mother. However, others – like Knight and Freke – clearly did not. This lack of an homogenous experience of amongst landowning women should be borne in mind during the final section of this chapter: how married female landowners were depicted in female-authored fictions of the early eighteenth century.

In order to find a sample of novels, I used Eighteenth Century Collections Online (ECCO) to find novels published between 1700 and 1745 and which were written by identifiable female authors. I also considered a number by 'anon' and admitted those which had a sympathetic, femina-centric focus.¹³⁸ Excluding Eliza Haywood's oeuvre on the basis

¹³⁷ HRO 39M89/E/T16

¹³⁸ I shall be referring to these as 'early' novels in the thesis. There are of course other definitions of 'early' novels but 1700-1745 will be the chronological boundaries for this chapter. Unless stated

that her work is the focus of Chapter Two of this thesis, I chose ten novels by a variety of named and anonymous authors out of a sample of approximately eighteen.¹³⁹ I also explored a number of female-authored plays including Susanna Centilvre's 'The Bassett Table', 'The

otherwise, these were all digital facsimile editions of original eighteenth-century publications on ECCO via the Wellcome Library < <https://0-historicaltexts.jisc.ac.uk/catalogue.wellcomelibrary.org/>> [accessed between October 1st and November 31st 2018].

¹³⁹ Anon *Three Delightful Novels Displaying the Stratagems of Love and Gallantry* (Bury St. Edmunds: Printed by Thomas Baily and William Thompson, 1720) Novel I. 'The Lucky Misfortune'. Novel II. 'The Noble Recompence'. Novel III. 'The Loves of Edgar'.

Anon *The Fair Adulteress. A Novel. A Story Founded on Real Facts and Intended to Encourage Virtue, By Exposing Vice in its Proper Colours* (London: printed for the Author and sold by W. Bickerton in Temple Exchange, Fleet Street, 1744).

A Young Lady (MA. A.) *The Prude: A Novel* (London: printed for D Browne jnr near the Black Swan without Temple Bar:, 1726).

Jane Barker *Love Intrigues: or, the history of the amours of Bosvil and Galesia Written by a Young Lady* (London: printed for E. Currl at the Dial and Bible against St Dunstan's church in Fleet Street, 1713).

Mary Davys *The Armors of Alcippus and Lucippe. A Novel. Written by a Lady.* (London: printed for James Round at the Seneca's Head in Exchange Alley, 1704).

Mary Davys *The Reform'd Coquet; or Memoirs of Amoranda, Familiar Letters Betwixt a Gentleman and Lady* and *The Accomplish'd Rake, or Modern Fine Gentleman* Bowden Martha F. (ed) (Lexington, The University Press of Kentucky: 1999).

MA. A. *The Female Politician or the Statesman Unmasked: A Novel* (London: printed for S. Huddleston at the Bible and Crown in St Martin's, 1733).

Plays:

Stolen Heiress’ and ‘The Wonder, a Woman Keeps a Secret’ as well as Mary Davys’ ‘The Northern Heiress’.¹⁴⁰

The plots of both the novels and the plays were remarkably consistent in the inclusion of wealthy, marriageable young women as characters including as the protagonist. Both used a basic ‘courtship’ plot where the fiction explores the tribulations and adventures of a female protagonist leading to her marriage. However, within this overall picture, two distinct sub-groupings emerged: one which I have styled the ‘parental authority’ plot, where the female protagonist is ordered to marry a man she does not love and the other a ‘seduction’ plot, where the female protagonist has to negotiate a number of dangerous scenarios, frequently including attempted rape, before finally marrying the man of her choice. Generally, the plays tended to focus on the former and the novels on the latter but it was by no means a clear demarcation. Sometimes, the two were combined within a single text.

Because of the dominance of the ‘courtship’ plot, the number of married female protagonists in the sample was low. However, even if the criteria were opened up to include *any* female character who owned land, there were still very, very few. Whilst wealthy women featured frequently as characters (this will be discussed in more detail below) their wealth was rarely derived directly from landowning.

Further, and perhaps more intriguingly, when a female character did own land, this was usually referred to in the text only in passing, normally at the start of the story. It was not usually mentioned again. Significantly, in the novels in the survey, there was only one

Susannah Centlivre:

‘The Stolen Heiress, or the Salamanca Doctor Outplotted’ (London: printed for William Turner at the Angel at Lincoln’s Inn Back Gate and John Nutt near Stationer’s Hall, 1703).

‘The Wonder: A Woman Keeps a Secret’ Fifth Edition (London, 1758). ECCO Text Creation Partnership <<https://quod.lib.umich.edu/e/ecco/004798029.0001.000?view=toc>> [accessed October 2018].

‘The Bassett-Table’ Fourth Edition (London: Printed for W Feales at Rowe’s Head over against St Clements Church in the Strand, 1736).

Mary Davys: ‘The Northern Heiress or The Humours of York’ (London: Printed by H Meere for A Bettesworth in Pater-Noster Row and J Browne and W Mears, 1716).

example of a wife's house and land (and thus by implication, her land-management skills) being described in detail.¹⁴¹ However, there was equally little to suggest that women could not or should not own land. There was no indication, for example, of fictional female-owned estates going to rack and ruin – many seem to have nice gardens with summer houses and arbours that feature in the plots. However, these appeared to run themselves rather than have any input from their owners.

Land, landowning and the transmission of land to the next generation have of course been major themes in English writing across many genres and chronologies. However, as has already been discussed, women's relationship with real property in England is not comparable to that of men: always a minority of landowners, women's interaction with land (at whatever level of society) was statistically unlikely to be one of control and dominance. Instead, as argued by Lim and Bottomley, the English legal system constructed an encoded, institutionalised system that served to marginalise women's interactions with real property. By contrast, male experiences of land and land ownership (and, flowing from this, the literary and critical traditions associated with it) have until recently been considered normative. The question therefore is, did female authors of the early novel accept the cultural system that privileged male ownership, or did they attempt to subvert it? The answer appears to be both no – and yes: there are some female characters who own land but they tend to conform to accepted gendered norms. However, in order to better understand the situation, it is necessary to step back for a moment and examine some of the wider cultural and literary influences playing out within the pages of the early novel.

One genre which has traditionally been associated with land and land ownership is the country house poem. Sharon Young's 2015 PhD thesis provided a fresh analysis of women's contribution to the genre and sought to expand the canon, both by reclaiming poems by female poets which had hitherto been excluded from critical surveys and by extending the chronology for the country house poem to the mid-eighteenth century.¹⁴² She argues that the country house may be viewed 'symbolically...as a political, social or cultural metaphor' but that '...the genre may also be understood spatially as a place where various communities and

¹⁴¹ Emilia in *The Prude*. This is discussed in more detail below.

¹⁴² Sharon L. Young, *The Country House in English Women's Poetry 1650-1750: genre, power and identity* Unpublished Doctoral Thesis University of Worcester 2015

<<http://eprints.worc.ac.uk/6439/1/YOUNG%20SHARON%20The%20Country%20House%20in%20English%20Women%27s%20Poetry%201650-1750.pdf>> [accessed 22nd June 2020]

identities may be established maintained.’¹⁴³ Young views the country house as a real, physical space to which women had access and, crucially, one where the ‘private’ domestic setting ‘could offer support and vital access to networks for women attempting to enter into public debate, whether political, socio-economic or literary.’¹⁴⁴ The boundaries of the private domestic space of the house are thus disrupted and merge with the ‘public’ space of literary discourse. Young argues that this transforms the poems into ‘discursive spaces [which allow] female poets to enter public debate regardless of physical, social or geographical location.’¹⁴⁵ Even though the poet might not have owned the country house depicted (indeed, even in the ‘male’ tradition this was often the case), the textual ‘space’ created by the poem allowed her to move beyond the private and the domestic and command agency over a public, literary space.

The existence of similar disruptive textual spaces in the early novel is proposed by Paula Backscheider. Backscheider argues that early female novelists exploited the novel’s ability to present the reader with points of view which diverged from the normative androcentric perspective.¹⁴⁶ This in turn created textual ‘space’ which allowed for an articulation (even possibly a validation) of ‘the Other’ which could be used by authors to question or criticise dominant orthodoxies.¹⁴⁷ In the early novel, this ‘Other’ came to embrace a feminocentric viewpoint, particularly one which measured the moral worth of male characters against their treatment of women.¹⁴⁸ I would extend this argument further to suggest that, like the textual space created by female country house poets, the novel also created a place in the public sphere where women’s experiences could potentially be articulated – and, importantly, controlled – by them.¹⁴⁹ However, simply because the potential

¹⁴³ Young, p.279.

¹⁴⁴ Young, pp.23-24.

¹⁴⁵ Young, pp.21.

¹⁴⁶ Paula Backscheider, ‘The Novel’s Gendered Space’ in Paula Backscheider (ed) *Revising Women: Eighteenth Century “Women’s Fiction” and Social Engagement* (Baltimore: John Hopkins University Press, 2000) pp.1-30 (p.6).

¹⁴⁷ Backscheider, pp.9-10.

¹⁴⁸ Backscheider, p.7.

¹⁴⁹ It is important to note that authors did not need to have experienced land ownership directly in order to engage with it within their work. Ben Jonson and Aemilia Lanyer did not own land and this did not prevent them from engaging with themes of land ownership in their country house poems,

for an agentic, feminocentric space existed, it does not necessarily follow that it was utilised. Although some barriers were undoubtedly broken down – and it is important not to underestimate the radical nature of *any* non-androcentric perspective being articulated – others invariably remained. Landowning appears to have been one of these.

Throughout the early modern period strong cultural associations, as well as literary traditions, had become attached to the idea of landowning and both were invariably patriarchal. Kari Boyd McBride argues that there was a three-way link between land, power and masculinity:

nobility and legitimacy were understood to be fundamentally and ontologically male...the exercise of power depended on a distinction between masculinity and femininity, or more accurately perhaps, on the control of everything associated with the feminine by those who claimed the fullness of masculine privilege.¹⁵⁰

Thus, to exert masculine power necessarily involved the subjugation of the ‘feminine’. Where land was concerned, McBride and Young (both sub-referencing Judith Butler) insist that ‘it was not [therefore] enough to own land; one had to behave like a landowner’ which included controlling anything ‘feminine’ that pertained to the land.¹⁵¹ This, of course, posed problems for women in a society where the ‘performance’ of land ownership was strongly gendered. According to Young, even the disruptive potential of textual space in female-authored country house poetry did not result in poems which questioned this orthodoxy. Rather, she argues, that space was used by women to explore the ‘problematic’ relationship of their sex with real property and, by implication, the power structures inherent within it.¹⁵² Negotiating the strong gendered associations surrounding land ownership and its links to power and control through literature was culturally problematic.

If landowning female characters in early eighteenth century plays and novels were unusual, however, those who had money were not. Female protagonists in the fictions

just as the novelists and playwrights in this study were not heiresses but still chose to populate their work with rich young women.

¹⁵⁰ Kari Boyd McBride, *Country House Discourse in Early Modern England A study of Landscape and Legitimacy* (Aldershot: Ashgate Publishing, 2001) p.5.

¹⁵¹ Young, p.28 paraphrasing McBride, p.5.

¹⁵² Young, p.278.

considered here are invariably rich. Indeed, it is explicit in some of the texts (whether novels or plays) that the wealth of the heroine is considered of greater importance to her marriageability than her beauty or lineage. In Centlivre's 'The Stolen Heiress' the heroine's father spreads a rumour that his son has died in order to entrap the wealthy Count Pirro into marriage with his daughter. She is beautiful but her attraction for Pirro is explicitly enhanced by her position as sole inheritor of the family wealth. Indeed, all of the female protagonists featured in this chapter enjoy a degree of wealth or occupy an elite level in society where wealth (and thus a decent marriage portion) can be implied. Often the exact amount of a female character's fortune is given. In Mary Davys' play 'The Northern Heiress', for example, Isabella has a fortune of £20,000. Female protagonists may not be the richest females in their family. In *The Prude*, Bellamira does not have access to the same level of fortune as her sister Elisinda but she is still well-off – but Cinderella-style rags-to-riches narratives do not occur in any of the novels or plays in the sample.

This use of monetary, rather than land-based, fortunes becomes highly significant when considered in terms of coverture. As most of the texts (with the exception of *The Fair Adult'ress*) involve a 'courtship' narrative, the end result for the heroine is that she marries and becomes a *feme covert*. As has been discussed above, land was privileged under coverture, being the one form of property which could not be disposed of by the husband during the marriage. Money, as Elizabeth Freke knew to her cost, was not so secure. Unless it was ring-fenced by way of a trust, any lump sum brought to a marriage by a woman would be the husband's to do with as he chose. By locating a heroine's wealth in money rather than land therefore, authors ensured that their female protagonists performed acceptable femininities. Indeed, I would go further and suggest that the novels construct marriage as the only acceptable femininity. Davys' novel *The Armors of Alcippus and Lucippe* makes this point explicitly. The fifteen year-old heroine asks to be given her fortune so that she does not need to marry. In response, her mother tells her that her education has been to make her into a marriageable woman and that she (the mother) would be very displeased if Lucippe continued to want to remain single.¹⁵³ The message in the novel is clear: financially independent women are not valuable members of society; married women are.

The symbolic manner in which literature has encoded the transmission of land by way of inheritance also needs to be considered. Raymond Williams in *The Country and the City*

¹⁵³ Pp.3-6.

argues that the ‘marriage’ plot in the eighteenth-century novel should more properly be read as an ‘inheritance’ plot and that it has a long literary pedigree:

The problems of love and marriage, in a society dominated by issues of property in land, were extended from the later Jacobean comedy and the Restoration comedy of manners, and from the moral epistles of Pope, to the novels of Richardson and Fielding.¹⁵⁴

Williams’ line of literary descent skips neatly from Pope to Richardson, by-passing the novels in this chapter. Indeed, given the time when he was writing, he may not even have been aware of their existence. However, it is clear from his chronology that his analysis could (and should) be applicable to the texts considered here. His hypothesis is thrown into sharper relief by Amy Louise Erickson’s research on the gendering of inherited property. She argues that during the early modern period real property was viewed as ‘symbolically’ male, whereas money was associated with younger sons and daughters.¹⁵⁵ Thus, (*per* Williams) if the ‘courtship’ plot identified in this chapter is really a hidden ‘property-transmission’ narrative and if (*per* Erickson) women of the time were associated with a monetary rather than land-based inheritance, then the female authors in this chapter were re-enforcing contemporary understandings of landowning by making women the inheritors of money and not land. An heiress with a monetary fortune – whether in real life or in a novel – was arguably enacting a socially acceptable femininity, whereas a landed woman was not.

Finally, according to the fictions contained in this chapter, the ideal heroine should be virtuous. This has profound implications for readings of these novels as ‘inheritance’ plots. McBride argues that the depiction of idealised, virtuous women also resonated throughout the country house discourse: ‘the virtuous wife is central to the ideal estate, her virtue both dependent on and significant of her husband’s particular noble virility.’¹⁵⁶

¹⁵⁴ *The City and The Country* (New York: Oxford University Press, 1973) p.61. There are, of course, a number of other discourses implicated by the depiction of land in literature. Williams, for example, also speaks of the symbiotic relationship of ‘city’ with ‘country’ and the interplay of old and new money. However, the limited space in this chapter precludes any greater discussion of these factors.

¹⁵⁵ Erickson *Women and Property* p.77.

¹⁵⁶ McBride p.5.

This is also the case within the context of the early novel. A virtuous heroine may act unwisely, make some mistakes and may even put herself in danger – but she herself must never be morally culpable. In this context, virtue always includes sexual continence. A female character who does not reach her marriage *virgo intacta* or, worse, commits adultery once married, potentially introduces spurious offspring into the conjugal family who could displace the legitimate heir.¹⁵⁷ Women who transgress in this way (such as the aptly-named Libertina in *The Fair Adulteress*, or Elisinda, from *The Prude* who expresses faux piety, may succeed in concealing their activities temporarily but are ultimately unmasked. As a punishment for indulging their appetites they suffer disgrace and sometimes even death. The message is clear: the true heir to the estate must not be displaced by an illegitimate interloper. By way of contrast, Miss Friendly in Davys' *The Accomplish'd Rake* neither dies nor is driven into prostitution, as is the fate of so many 'fallen' women in female-authored fiction. Instead, as the innocent victim of a rape by the hero, whilst unconscious from eating drugged macaroons, she cannot be held morally accountable for the fate which befalls her. Therefore, she is still – theoretically – chaste and not a threat to the system of property inheritance. The fact that she then marries her rapist ensures the resulting baby is brought up as the legitimate heir of his father.¹⁵⁸

Two contrasting female landowners from the novels in my sample are Libertina in *The Fair Adulteress* and Emilia from *The Prude*. Libertina, the aptly named adulteress of the title, brings not just money but a significant amount of land to her marriage. By way of contrast, Emilia functions as the centre of moral gravity within *The Prude*. She owns her own country house and her exemplary character is reflected in its description within the text.

The Fair Adulteress opens with a description of Libertina's family history and the route by which she became an heiress. Her wealth, according to the narrator, was ultimately responsible for her downfall. Her father died:

¹⁵⁷ So potent is this idea that in Act IV, Scene 2 of Centlivre's *The Stolen Heiress*, one female character, Lavinia, attempts to derail her father's plan to marry her to a man she does to love by falsely claiming that she is no longer a virgin and is pregnant.

¹⁵⁸ This theme of death and/or destruction for those who experience extra marital sexual relations emerges early on in the history of the novel: Eliza Haywood's protagonist Alovera from *Love in Excess* (1719-1720), for example, or Althea in *The Mercenary Lover* (1728). It continues into the nineteenth century with characters such as Gaskell's eponymous heroine in *Ruth* (1853) or Hardy's *Tess of the D'Urbervilles* (1891).

having first settled his Fortune and left his Wife, not only a rich Widow, but the Care of Libertina, whose Estate intitled her to be reckoned the richest Heiress in the Kingdom; which he had left under such Restrictions that whatever Man she should marry could be but little better for it; and to this was owing most of the Liberties she has since taken in Life; for it is to this pernicious Custom that occasions so many unhappy Matches, and renders the Matrimonial Union a state of perpetual...Discontent by leaving the Wife Independent of her husband.¹⁵⁹

The Fair Adulteress is keen to position itself as a moral text. Its extended title trumpets the fact that it is

Founded on Real Facts, and intended to encourage Virtue by exposing Vice in its proper Colours: Being a Genuine History of the late Armours of two Persons of the FIRST RANK.

This overt virtue-signalling continues inside its cover. Aside from the warning that independently-wealthy women are a risk to their marriages and themselves, the narrator goes on to warn that cupid himself takes better aim and wounds more deeply when shooting his arrows ‘from lands and tenements than from the brightest Eyes.’¹⁶⁰ This echoes the point made in *The Stolen Heiress*: a landed woman is attractive as a marriage partner because of her real property – even more so perhaps than if she brought only money to the marriage. However, the novels warns, such financial independence makes her dangerous: the landed heiress can (and will) do as she pleases.¹⁶¹

At first glance, the novel appears to be opposed to the idea of a purely transactional marriage – one where the match is based primarily on financial considerations and not affection – and laments that what used to be the bestowing of hands and hearts is now purely a commercial exchange. Indeed the narrator concludes, modern marriage is nothing more than ‘Licens’d Adultery.’¹⁶² However, reading on one discovers that it is not the transactional

¹⁵⁹ *The Fair Adulteress* pp.31-32.

¹⁶⁰ *The Fair Adulteress* p.106.

¹⁶¹ Libertina stands to lose only her reputation, not her ‘substance’.

¹⁶² *The Fair Adulteress* p.123.

marriage *per se* to which the narrator objects but rather that variation of it in which the wife retains her financial autonomy.

Libertina lives up to her name. She takes a string of lovers and ends up being divorced by her husband: the tension in the plot deriving from the question of *when* she will be found out, rather than *whether* she will reform. Her aged, virtually-impotent, husband is cast as the victim and invectives against the dangers of adulterous issue sneaking cuckoo-like into the nest are given full rein. However, Libertina's ownership of land hardly features at all within the body of the novel. As with Amoranda in *The Reform'd Coquet*, it appears to be irrelevant to the story – aside from functioning as an explanation for Libertina's debauched behaviour.

The Fair Adult'ress sees land ownership – indeed any sort of female economic agency – as a profoundly negative femininity. In Shippers' terms, even though Libertina indulges in behaviour which might be tolerated in a male protagonist, she is depicted as being beyond redemption.¹⁶³ However, the novel's strident and uncompromisingly misogynistic message about female financial autonomy could potentially have another purpose: by framing itself as a didactic text that re-enforces normative patriarchal ideals, it can mitigate against criticism that it itself is immoral.

Standing in direct contrast to Libertina is Emilia in *The Prude*. Her ownership of land is treated quite differently. Indeed, it has echoes of literary models such as the country house poem which, rather than expressing femininity, arguably deploy positive masculine associations with land ownership. Even though she is married, Emilia manages her estate herself – at least, there is no mention of it being run for her. As a young woman, she underwent a secret marriage to a man named Belville. However, through the treachery of one of his friends they lost touch with one another. Emilia also believes that their young son died of smallpox. She is proved wrong on both counts when, at the end of the novel, she is rescued from kidnappers by her husband (now known as Claronville) and her son (now called Lysander and the love interest for the heroine of the novel, Bellamira).

In volume three of the novel, Emilia along with a number of other characters arrive at her house and the reader is treated to an extensive and highly symbolic description of her estate. The approving appraisal of the house and estate is mediated through the eyes of two male characters:

¹⁶³ Male and female adultery have been treated differently historically-speaking, even by the legal system. This will be viewed in detail in Chapter Three.

they arrived at Emilia's: Stanorius and Marcander were surprized at the Neatness of the Building with the well-chosen Prospect which being seated on the Side of a Hill, the Front (only intercepted by a few pleasant Pastures over-look'd a River, the breadth of which was not so great, as to prevent the Distant Shore from yielding a delightful Landskip to the Eye. The rising Hills, shining with golden Corn, caused the verdant Vales, and scatter'd Trees, by a confused Variety, at once to entertain them with Nature's chiefest Works.

But if they were charm'd with this delightful View...how infinitely more were they, when entering the House, they found in Miniature, most of the many different Arts and Ways of Building, Statuary, and Painting that not just Europe, but the World affords.¹⁶⁴

This short passage works on a number of different levels simultaneously. It gives the reader a physical description of the house and estate. It also locates that house and grounds within the country house discourse as defined by McBride. Indeed, its emphasis on the architecture of the house and the collection of art contained within it (including the visual description of the 'landskip' surrounding it) allows it to fit snugly into the ekphrastic conceptualisation of the country house, which McBride identifies as occurring towards the end of the seventeenth century. This, she argues, frames the country house as more than a locus of power and status in its own right. Instead:

poems about country houses...paintings of country houses, their inhabitants, and furnishings...stand in for the noble status that once that once inhered in the domesticated landscape.¹⁶⁵

McBride suggests that a growing global economy and nascent capitalism produced a cultural reframing of land and landownership as the 'sign', rather than the 'source', of power. Land itself – and artistic representations of it – became commodities.¹⁶⁶ This can be seen in the passage quoted above: the older tradition of the moral economy (hierarchical ties of mutual obligation that bound the lord of the manor to his tenants and vice versa) are nowhere

¹⁶⁴ *The Prude* Vol 3 p.19.

¹⁶⁵ McBride, p.138. Young also notes this trend, specifically in the poetry of Finch (p.280).

¹⁶⁶ McBride, pp.138-9.

to be seen and we are instead asked to admire the view and reflect on the connection between its beauty and the moral and social standing of its owner.

There are other cultural signifiers encoded here too. In her thesis Young asserts that, whilst women could and did engage with the country house discourse – even using it to create a potentially disruptive textual space – female poets tended to focus on land as a place of retirement, even it ended up being nothing more than ‘a safe space in which to reconsider a bleak future’.¹⁶⁷ Stephen Bending echoes this emphasis on retirement in his book *Green Retreats*, suggesting that women’s real-life experience of creating landscapes ‘could be crucially different from men’s because of the gendered accounts of retirement received by both men and women.’¹⁶⁸ This is the case in *The Prude*. Emilia might be virtuous and a capable, cultured custodian of her land but she is also a woman who has suffered (as far as she knows) abandonment by her husband and the death of her child. Working from Bending’s conclusion that a female ‘retreat’ could often be a lonely and isolating experience, Emilia’s ownership appears to also contain echoes of this: although she mixes in society and invites friends to her home, there is sadness in her backstory which sits well with her beautiful – but geographically isolated – estate.

However, even when these more negative readings are taken into account, the overall impression given by the description is not overly melancholy, nor does it echo the idea of problematic female engagement with land located by Young in female-authored country house poetry. Instead, taken together with the ekphrastic treatment of her estate, Emilia’s ownership is framed as a combination of good taste and good management: the man-made combination of art, architecture and agricultural practice working hand-in-hand with nature. Essentially, on a metaphorical level, she ‘is’ her land. Further, in case the reader requires any more persuasion, the entire description is mediated through the eyes of two high-status men. Thus, although the text refers to female-owned land, the assessment of the cultural and social *value* of that land (and thus its owner) is ultimately masculine. This helps to mitigate any symbolic devaluation that could proceed from its female owner. Emilia, therefore, is not being presented a displaced, dispossessed or marginalised female landowner. Indeed, I would even suggest that her gendered performance in relation to her land is represented by the narrator as

¹⁶⁷ Young, p.280.

¹⁶⁸ Stephen Bending, *Green Retreats Women, Gardens and Eighteenth Century Culture* (Cambridge: Cambridge University Press, 2013) p.7.

a positive *masculinity* – or at least utilises a number of positive masculine tropes in order to achieve its overall effect.

This masculine focus shifts, however, at the end of *The Prude* when Emilia is reunited with her son and husband. In terms of normative patriarchal power structures, this plays out in a highly significant manner: Emilia is taken by Claronville to his house. This is the first time that he has openly acknowledged her as his wife and, on a symbolic level, it also represents the moment where she is re-admitted into the hegemonic ideal of marriage. Emilia may be a wealthy, landowning woman – but she is one whose proper place is in her husband's home.¹⁶⁹

As well as the legacy of the female-authored country house poem, there may be other literary heritages at work in *The Prude*. Sévère Nathalie Genieys in her thesis, *Picturing Women in Urania by Mary Wroth and Clelie by Madeleine de Scudery* discusses landowning women within in the romance genre. Interestingly, she notes that female landowners tend to be widows, maids or otherwise celibate.¹⁷⁰ This is, of course, the position of Emilia who lives chastely and virtuously as a pseudo-widow in her husband's absence. Once the misunderstanding between them is resolved and she resumes her status as his wife, she also surrenders life as mistress of her own estate. Once again, the message is that married women should not own land. Their place is with their husbands, where they – and by extension, their property – can be controlled by him.

The model of spousal control can be seen very clearly in another novel, *The Reform'd Coquet*. Here, the protagonist, Amoranda, inherits the family estate and her uncle (who is also her guardian) sends an elderly man, Formator, to stand in *loco parentis*. At the end of the book it is revealed that Formator is in fact a young man, Alanthus; a suitor who Amoranda's uncle has chosen to marry her. The dynamic of power and control within the novel is very clear: Formator is expected to regulate Amoranda's behaviour whilst single, just as Alanthus will once they are married. That Formator and Alanthus are the same person underlines the

¹⁶⁹ It is interesting to compare this to Jane Austen's *Emma* (1816) where, at the end of the novel, Mr Knightly initially moves into Hartfield, rather than Emma moving to Donwell Abbey.

¹⁷⁰ Sévère Nathalie Genieys *Picturing Women in Urania by Mary Wroth and Clelie by Madeleine de Scudery* Unpublished Doctoral Thesis University of Glasgow (2003) <<http://theses.gla.ac.uk/1075/1/2003genieysphd.pdf>> [accessed 14th August 2020] p.166. Genieys also argues for a 'link between the beauty of a place and that of its female dwellers' (pp.162-4) suggesting a further possible literary influence on the passage quoted above.

fact that roles of quasi-father and husband in governing female behaviour are in many ways identical. Once this is understood, it is unsurprising that Amoranda's status as a landowner is of little importance to the plot. What matters instead is that she learns to obey the man who will become her husband.

Both the historical and literary evidence suggest that there is no clear-cut conclusion to be drawn as to how female land ownership was perceived during the early eighteenth century. Women were in a minority of landholders: approximately ninety per cent of all land from the Middle Ages through to the nineteenth century was owned by men. Thus even though female landowners were not rare, exotic creatures, they did not conform to the gendered norm of land ownership – even before any potential negative femininities associated with landownership are taken into account. Against this, however, there were women like Elizabeth Knight who were happy to use the power land ownership gave them in agentic and (sometimes surprising) ways. For others, such as Elizabeth Freke, their land was the lifeline that ensured their financial security. There was also no hard and fast rule for passing land down to the next generation: whilst male heirs took precedence (supporting Erickson's interpretation of inherited land as being viewed as symbolically 'male'), Knight was still content to leave her land to a daughter rather than a collateral male relative. Even the way in which land was held during coverture appears contradictory – although it remained the inalienable property of the wife, she herself could not deal freely with it without her husband's consent and he reaped all the benefits of her ownership.

Against this backdrop of historical evidence, the early female-authored novels discussed in this chapter appear to take a generally conservative approach, as do the plays: female protagonists display their status and eligibility more frequently through the possession of money rather than land. Where they do own land, however, the results are mixed. It can be portrayed as having negative consequences (*The Fair Adult'ress*); it can be a positive reflection of their exemplary character (Emilia in *The Prude*) or it can be an irrelevance (*The Reform'd Coquet*).

This should not necessarily be a surprise. Even though, as Backscheider argues, the early novel allowed for the development of a feminocentric viewpoint, it does not follow that authors would necessarily also seek to disrupt the accepted norms of gendered behaviour within their society. The novel cannot be described as a 'female' literary form until very late in the century.¹⁷¹ Individual authors may have attempted to draw attention to certain aspects

¹⁷¹ See Garside 'Authorship' at note 39 in the introduction.

of female existence (Eliza Haywood's thoughts on marital breakdown, for example, will be examined in the Chapter Two) but this was by no means a universal approach. Indeed, female authors themselves were embedded within the prevailing hegemony and may not have been able to see beyond it. Equally, they may have chosen deliberately to remain within familiar literary and cultural discourses. The commercial imperative of creating fiction also needs to be recognised: authors such as Mary Davys relied on their writing to provide them with an income. Even if women novelists did not ascribe to the values contained within their books, they may have ensured their work was more marketable by aligning it with the prevailing cultural mores.

There is, however, a further possibility as to why female novelists were not more interested in landowning women and it is related directly to the law of coverture. Just as Raymond Williams argued that all marriage plots should be read as inheritance plots, one could argue that they should instead be read as coverture plots. For women, marriage and coverture were inseparable: if one married, one automatically and unavoidably came under the restrictions of coverture. Indeed, as coverture was a uniquely female experience (or at least, wholly different from the male experience) one might expect female authors to be particularly alive to its implications, even more so when they were writing a female protagonist. Before Blackstone, coverture was justified by reference to a model of hierarchies which placed the wife in a subordinate position. I contend that this hierarchical model is visible in the ideal power dynamic which should exist between wife (or putative wife, in the case of 'courtship' fiction) her fortune and her husband. The husband needs to be in control of both the wife and the wife's fortune. The wife must submit to her husband and agree to subordinate both herself and her fortune to his will. Land, which never comes fully under the husband's control via the rules of coverture, is potentially problematic within this model. Thus, in *The Fair Adult'ress* and *The Reform'd Coquet*, chaos ensues. Financial autonomy is also the reason for the downfall of Elisinda in *The Prude*. Although she is persuaded along the path to corruption by an already-debauched female companion, the fact she is independently wealthy with her own house and servants enables her immorality. By way of contrast, inherently virtuous female landowners (Amoranda – once she has successfully negotiated the dangers of her single life – and Emilia) are symbolically re-absorbed into the prevailing patriarchal structure at the end of the book. This symbolic re-absorption was mirrored by the law itself: a legally and economically independent *feme sole* was transformed by the marriage ceremony into a financially dependent *feme covert*. This hierarchical understanding of coverture may also be the reason why the fictional women in these books and plays are more

likely to have their fortunes in money rather than land: a husband's full control of his wife's property was more easily achieved if it was comprised of liquid capital – as Percy Freke knew only too well. It was simply easier to align non-landowning fictional women with the prevailing rationale for coverture.

Literature is not, of course, a piece of blotting paper which will soak up every nuance and expression of life in a given historical period. It can reflect a myriad of discourses, even if those do not represent the actual views of the individual authors. The lack of representation of landowning women in the early novel, however, does not appear to be a silencing of female voices or a rejection of female experience. Rather, it would seem that the voices themselves are choosing not to articulate the experiences of women like Knight and Freke, probably for a variety of cultural, stylistic and legal reasons.

However, whilst in later eighteenth-century fiction (and indeed beyond into Austen's writings) there is a concern with the ownership of real property, it is still predominantly men who own and control that property and not women. McDonagh is clear: women landowners were in a minority during the long eighteenth century – and well beyond it. Landowning does not appear to be a performative femininity and the evidence from the early novels in this sample supports this. An author might, however, allow a female protagonist to own some land but, once the story is complete and the heroine is safely married no more need be said about it. She, if not her land, is absorbed back into the control of the men around her.

Chapter Two

Unlike land ownership – which was probably only experienced by ten to twenty per cent of eighteenth-century English women – women’s ownership of personal property was much more widespread. However, unlike land (which returned to a wife’s full control if she outlived her husband) wives permanently lost much of their personal property on entering marriage. In the absence of a trust to ring-fence items as sole and separate estate, all goods owned by the wife passed into husband’s absolute control. The only exception to this were goods classed as ‘paraphernalia’ which returned to her if her husband predeceased her. Paraphernalia comprised the ‘furniture of her chamber, her wearing-apparel and ornaments of her person’ – unless these had been disposed of by her husband during the marriage.¹⁷² All other items formed part of his estate and, if he did not leave them to her in his will, were distributed accordingly.

The definition of personal property covered a broad sweep of items referred to by Blackstone as ‘chattels personal’.¹⁷³ This included furniture, household objects, clothes, money, shares and consols. Leasehold property formed a sub-category of property known as ‘chattels real’ and debts were ‘chattels (or ‘choses’) in action’. Chattels real and choses in action were governed by different rules: they were controlled by the husband during the couple’s joint lives and he could deal with them (and dispose of them) without his wife’s consent. However, if he predeceased her and had not done this, ownership returned to her.¹⁷⁴

¹⁷² *A Treatise of Feme Coverts or The Lady’s Law* (London: Printed by E and R Nutt and F Gosling for B Lintot, 1732) digital facsimile edition

<<https://heinonline.org/HOL/LandingPage?handle=hein.peggy/trfeme0001&div=1&src=home>>

[accessed 23rd June 2020] p.40 and p.80. Blackstone, *Commentaries Book the Second* p.433 and p.435; Thomas Edlyne Tomlins, *Popular Law-Dictionary, Familiarly Explaining the Terms and Nature of English Law Adapted to the Comprehension of Persons Not Educated for the Legal Profession and Affording Information Peculiarly Useful to Magistrates, Merchants, Parochial Officers and Others* (London: Longman, 1838) facsimile edition

<https://books.google.co.uk/books/about/A_Popular_Law_dictionary_Familiarly_Expl.html?id=rwEyAAAAIAAJ&redir_esc=y> [accessed online 15th August 2020] p.276.

¹⁷³ Blackstone, *Commentaries Book the Second* p.432.

¹⁷⁴ Blackstone, *Commentaries Book the Second* p.432-433.

These rules were detailed and precise. However, tantalising shreds of evidence exist to suggest that the picture in real life was much more fluid. Indeed, a number of studies indicate that wives' attitudes towards possessions they brought into – or acquired during – marriage were at odds with the strict letter of the common law. This chapter will examine the existing secondary research into the issues surrounding ownership of personal property within marriage. It will then analyse two cases of marital breakdown: the Wymondesold divorce of 1754 and the separation of Lord and Lady Luxborough (Mrs Wymondesold's parents) in 1734. These historical analyses will then be set against the evidence from two of Eliza Haywood's didactic fictions, her novel *Betsy Thoughtless* (1751) and the tales in her sole-authored periodical *The Female Spectator* (1744 – 1746). Haywood's writing has been identified by scholars as showing a particular interest in the law and how the law impacted upon women's lives.¹⁷⁵ By comparing these examples of Haywood's fiction with the historical evidence, I contend that women may well have continued to have a sense of ownership over certain types of personal property following marriage. Further, the way in which Haywood describes such ownership suggests that this was not considered unusual or remarkable in any way.

Identifying examples of wives laying claim to personal property is not a straightforward task. Coverture not only affected women's control of property within marriage but it also had the side-effect of removing them from large parts of the historical record. On marriage, the wife lost her independent legal and economic personality and was instead represented by her husband. Therefore it was the husband's name – and not the wife's – which was recorded in much official documentation.¹⁷⁶ What is needed are documents which were created once a marriage had come to an end but which refer back to the position which existed whilst the marriage was in being. To this end some historians, such as Erickson, Berg and Weatherill, have used probate records to investigate whether wives were seen as owning personal property within marriage. These, particularly probate inventories, can

¹⁷⁵ See for example Jennifer Hobgood, '“I will sign, but it shall be in Flames”: Eliza Haywood's Critique of Contract' and Cheryl Nixon, 'Regulating the Unstable Family: Eliza Haywood's Fiction and the Development of Family Law'. These articles will be discussed in detail later in the chapter.

¹⁷⁶ A point made strikingly – and on a number of occasions – by Amy Louise Erickson's article 'Esther Sleepe, Fan Maker, and her Family' *Eighteenth-Century Life* (2018) 42.2 15-37 <<https://doi.org/10.1215/00982601-4384515> > [accessed 3rd July 2020].

identify which items were viewed as belonging to a husband and which to a wife.¹⁷⁷ This chapter, however, will examine what happened to personal property on divorce or separation. By analysing the types of property which a wife could expect to take with her if her marriage broke down, I will argue that some classes of personal property retained an imprint or aura of female ownership that survived the marriage.

There are, though, caveats to this approach. Matrimonial breakdown does not often happen in an impartial, dispassionate environment. Injured feelings can result in a desire to deprive the other party of assets; even to the point of creating deliberate hardship and suffering. Further, gendered expectations of behaviour also need to be acknowledged: wives' extra-marital affairs were judged more harshly than husbands' and this meant some women received punitive settlements on divorce – an example of which is discussed below.

Before this, however, I wish to address the issue of terminology in relation to the concepts of 'ownership' versus 'control', both of which will be used in this chapter. There is a subtle difference between 'owning' property – whether it is a house, a dress or a second-best bed – and 'controlling' that property. As was explained in the introduction, ownership, as a legal term, means that either the legal or the beneficial title (or both) is vested in the individual who 'owns' it.¹⁷⁸ Ownership may not be absolute, of course. Chapter One examined how land can simultaneously be 'owned' by a number of individuals, all with varying claims upon it. In some circumstances 'control' can be an indicator of ownership. However, the two terms are not synonymous. For example, a thief may control stolen property by virtue of its being in his possession but he does not own it. In some of the examples outlined below the actions of wives in relation to personal property suggests that they had a degree of control over certain types of goods. In some circumstances, this control was strong enough to suggest ownership.

Marital breakdown is as old as matrimony itself. Within England, a number of options were available during the eighteenth century for those whose marriages had become intolerable. The newest of these was the parliamentary divorce: if a wife committed adultery,

¹⁷⁷Amy Louise Erickson, *Women and Property*; Maxine Berg, 'Women's Property and the Industrial Revolution'; Lorna Weatherill, 'A Possession of One's Own: Women and Consumer Behaviour in England 1660-1740' *Journal of British Studies* 25.2 (1986) 131-156
<<https://www.jstor.org/stable/175645>> [accessed 15th August 2020].

¹⁷⁸'Beneficial ownership' is the ownership one experiences as the beneficiary of a trust. The legal title is vested in another person but the beneficiary enjoys the benefits of ownership.

and her husband had the financial means to do so, he could divorce her by private act of parliament. This process was initiated in 1670 by Lord Roos and was the only way to terminate an otherwise valid marriage until the passing of the Matrimonial Causes Act 1857.¹⁷⁹ A number of legal preliminaries were necessary before a private member's bill could be introduced into Parliament. The first step was to obtain a divorce *a mensa et thoro* in the ecclesiastical courts (see below). The petitioner then had to obtain a 'verdict at law' for criminal conversation in the King's Bench or an equivalent court.¹⁸⁰ This preliminary might be waived if bringing such a case could be shown to be impossible, or if the petitioner was a woman.¹⁸¹

Although there were a limited number of parliamentary divorces during the eighteenth century – 310 between 1700 and 1857 – marital breakdown was inevitably more widespread.¹⁸² Another option was to obtain the divorce *a mensa et thoro* by itself. This translates literally from the Latin as a divorce from table and hearth and was roughly analogous to a modern judicial separation: the marriage as a legal contract continued to exist but the marital obligations of the parties towards one another were brought to an end. Both husbands and wives were able to apply for a divorce *a mensa et thoro*. It had the added advantage that it was available for grounds other than adultery, including cruelty. However, because the *mensa et thoro* did not dissolve the marriage, neither party was able to remarry whilst their spouse was alive. Decrees of annulment were also available in particular circumstances. These brought the marriage to an end and allowed the parties to remarry if they wished. Some unions, however, were so flawed that they were considered void *ab initio*

¹⁷⁹ 20 and 21 Vict c.85. This act also removed the jurisdiction of the ecclesiastical courts in matrimonial matters, set up the new Court of Divorce and Matrimonial Causes and abolished adultery as a criminal offence.

¹⁸⁰ This was essentially an action for monetary damages by the aggrieved husband against his wife's lover. The wife played no active part in the proceedings, although evidence of bad behaviour towards her by her husband could reduce the amount of the damages. Crim. con. will be discussed in detail in Chapter Three.

¹⁸¹ For a concise explanation of the divorce process in England during the eighteenth century, please see Sybil Wolfram, 'Divorce in England 1700-1857' *Oxford Journal of Legal Studies* 5.2. (1986) 155-186 <<https://doi.org/10.1093/ojls/5.2.155>> [accessed 15th August 2020]. Wolfram asserts that it would have been impossible for a woman to bring a case of crim. con. p.157.

¹⁸² Wolfram, p.157.

(i.e. they had never come into existence). This was only an option in cases of serious irregularity, such as bigamy. In such instances the parties were also free to contract fresh marriages with new partners.

If none of these choices was available – for example, the couple were unhappy but did not have the grounds required for a divorce – spouses could still choose to live separate and apart. This required the mutual consent of both parties.¹⁸³ For those of higher social status, such arrangements would commonly include agreements which adjusted the financial relationship of the parties to one another. These agreements did not have any impact on the marital status of the couple: they continued in the eyes of the law as husband and wife. Standard features of such agreements included monetary payments made periodically by the husband to the wife for her maintenance, written acknowledgements that the wife should have control over certain items of property and, on the wife's part, undertakings not to contract debts in her husband's name. Susan Staves' research into these arrangements shows that the courts were not unwilling to enforce them in the early years of the eighteenth century. However, she argues, by 1778 attempts were made at both law and equity to argue that, because husbands and wives were one person in law, the wife lacked the necessary legal capacity to make the agreement legally binding.¹⁸⁴ Staves attributes this to an adoption of a conservative 'patriarchal paradigm' amongst the judiciary.¹⁸⁵ However, the agreements continued to be enforced using the logic that payments for the wife's maintenance made by the husband were analogous to accepted forms of wives' separate property, such as pin money.¹⁸⁶ Staves asserts that the amount of these payments was calculated using the wife's

¹⁸³ Wives could use the rules of coverture to their advantage. Margot Finn, 'Women, consumption and coverture, 1760-1860' (citing Lawrence Stone) details examples of wives who forced their husbands to offer good levels of maintenance upon separation by running up large debts in their names – in one instance as much as £3,000 (pp.710-711).

¹⁸⁴ As Staves notes, coverture was capable of treating the couple as separate entities in some situations, so it could presumably have done this in regard to separate maintenance agreements if it so chose (*Married Women's Separate Property* pp.180-181). Separation and maintenance arrangements are also discussed by Erickson in *Women and Property* pp.125-7.

¹⁸⁵ Staves, p.183.

¹⁸⁶ Staves, pp.176-178.

portion.¹⁸⁷ She argues for a correlation between the value of the property which a (high-status) woman would have brought into her marriage and that which she would receive if she separated from her husband. This suggests that the portion, despite coming under the absolute control of the husband on marriage retained a shadowy link with the wife. One argument for the change in approach by the courts not explored by Staves, though, is that the conservative stance of the Lord Chancellors who followed Lord Mansfield may have been enabled (at least in part) by a growing acceptance of Blackstone's concept of 'unity of persons'. This would explain why, during the early part of the century when less emphasis was placed upon marital unity, it was easier to imagine the wife capable of making a valid contract with her husband. Indeed, it is possible that the hierarchical model of pre-Blackstonian coverture may even have encouraged a sense that wives – the subordinate marital partner – needed the protection of the courts.

This 'portion' model for quantifying monies to be paid to a wife on the breakdown of her marriage appears to have a long historical precedent. Sarah M. Butler, in her book *Divorce in Medieval England: From One to Two Persons in Law* cites the 1581 case of Mary Walgrave, who separated from her husband. As Walgrave had no other means of support, she applied to Chancery for an order that her real property (an inheritance from her natal family) be returned to her. The court ordered that it be sold and the proceeds placed in a trust for her sole use.¹⁸⁸ Butler states that, even before this date, if a marriage broke down it was assumed that the wife retained a right to any real property she had brought to the marriage.¹⁸⁹ Therefore, rather than looking upon the 'portion' model as being analogous to a form of separate estate (as Staves argues, likening it to pin money) it may be more accurate to view it as a hang-over from the days when land formed a woman's portion. England's North American colonies also appear to have followed this rule. Nancy F. Cott cites two mid-century examples of women in Boston being awarded the income generated by the real

¹⁸⁷ Staves, p.170. I will use the term 'maintenance' or 'maintenance payments' when referring to periodical income payments for an estranged wife, rather than the more American 'alimony'.

¹⁸⁸ Sarah M. Butler, *Divorce in Medieval England: From One to Two Persons in Law* (Abingdon: Routledge, 2013) <<https://ebookcentral.proquest.com/lib/soton-ebooks/detail.action?docID=1143791>> [accessed 15th August 2020] Pro Quest Central Ebook p.79.

¹⁸⁹ Butler, *Divorce in Medieval England* pp.86-87.

property they brought to their marriages. One was also awarded goods that had belonged to her before her marriage.¹⁹⁰

The cases examined by Staves involved those with the means to litigate in Court of Chancery. However, marital breakdown occurred at all levels of society and many of these separations, annulments or desertions did not leave any trace in the historical record. Unless circumstances brought the parties into contact with a public body, such as a court or the parish poor relief committee, the separation left no trace. There are scattered indications that the numbers of marriages which failed could have been quite significant. Pamela Sharpe's study of Colyton in Devon estimates that ten per cent of all marriages in the town contracted between 1725 and 1756 ended in separation. However, she is highly unusual in being able to provide such a figure and it is impossible to confirm whether or not this might be typical.¹⁹¹

Whilst finding reliable numbers for failing marriages might not be possible, there is evidence to show that when this occurred women took particular items with them when they left the matrimonial home. Joanne Bailey's book *Unquiet Lives* suggests a correlation between a woman's contribution to her marriage in terms of property and what she might expect to take out of it, whether as a separated wife or a widow.¹⁹² Drawing her data from a range of historical sources including quarter sessions, requests to the parish for poor relief and advertisements, Bailey found that the items most frequently taken by wives when leaving the matrimonial home were household goods, followed by beds, bedlinen and clothing.¹⁹³ Jewellery was less common, although this may reflect the wealth-levels of the couples appearing in her data set, rather than any accepted norm of implied ownership. Bailey also observed that some women, particularly those of modest means, had portions consisting of personal possessions, household objects and livestock.¹⁹⁴ In such cases, these appeared to be the items they took with them when their marriages broke down.

¹⁹⁰ 'Divorce and the Changing Status of Women in Eighteenth-Century Massachusetts' *The William and Mary Quarterly* 33. 4 October (1976) 586-614 <<http://www.jstor.com/stable/1921717>> [accessed 15th August 2020] pp.609-610.

¹⁹¹ Joanne Bailey, *Unquiet Lives* p.168 citing P. Sharpe, 'Marital separation in the eighteenth and early nineteenth centuries' *Local Population Studies* 45 (1990) p.67.

¹⁹² Bailey, p.89. Bailey's chronology for this study spans the long eighteenth century (1660-1800).

¹⁹³ Bailey, p.102.

¹⁹⁴ Bailey, p.88.

It is interesting to speculate whether or not there is a ‘gendering’ of goods visible here (linked to the home and domesticity) which perhaps rendered some types of personal property more ‘hers’ than ‘his’, regardless of who brought them into the marriage. Another reason why wives may have selected particular items could be linked to their re-sale value. Bailey suggests that some women may have sought to remove as many high-value objects as possible from the matrimonial home in order to ensure their own – and their children’s – survival. To support this, she makes the important point that wives could not be accused of theft from their husbands and speculates that women may thus have been taking advantage of their immunity from prosecution by helping themselves to as much as possible.¹⁹⁵ Bailey’s data, however, show that women tended to engage in this behaviour only when they had decided to leave their husbands. This suggests that their actions were a survival strategy, rather than one with criminality at its heart.¹⁹⁶ A final possibility suggested by Bailey is that the items removed from the matrimonial home might have been viewed as a form of paraphernalia. This would account for the popularity of objects such as clothes and bedding being removed.¹⁹⁷

So, there is evidence to suggest that women took particular types of personal property with them when their marriages broke down: the women in Bailey’s study removed household goods and those in Staves’ appeared to retain a stake in their (monetary) marriage portions. The next question therefore has to be, is there any evidence that wives felt a sense of ownership over these items? In order to untangle this complex issue, Bailey examined the use of possessive pronouns within the records in her study: i.e. whether specific items were prefixed with ‘my/mine’ or ‘his/hers’. Sadly, no reliable pattern emerged. Some husbands located ownership of the goods in themselves; some made no distinctions between themselves and their wives and some believed the goods belonged to their wives.¹⁹⁸ Women’s use of

¹⁹⁵ Bailey, p.100.

¹⁹⁶ Bailey, p.101.

¹⁹⁷ Bailey, p.102. Lorna Weatherill’s research from the early modern period suggests that there was no material ‘subculture’ in which women expressed themselves through their possessions although she does find a higher instance of some types of item – including decorative goods – occurring in women’s probate inventories: Weatherill, ‘A Possession of One’s Own’ pp.155-156.

¹⁹⁸ Bailey, p.99.

pronouns was similarly inconclusive. In only four per cent of all the secondary complaints made by wives, were husbands accused of disposing of ‘their’ (i.e. the wives’) property.¹⁹⁹

Bailey speculates that some of the identifiable references to wifely ownership may indicate the existence of wives’ separate estates. She cites the example of the Allison who, although of modest means, appear to have had an informal, unwritten arrangement that Mrs Allison ‘should have a right and power to dispose amongst her own friends of what money she was worth before the said marriage.’²⁰⁰ Some of the examples in Bailey’s dataset do not refer to any sort of separate estate, yet still assert that items of property belonged to the wife. Bailey cites the case of Margaret Sayer of York who, in 1711, told the church court that:

when her husband and his son lived with her they privately conveyed away valuable goods and effects that belonged to her before marriage, and broke open her locks in the night and removed her goods in order to use them for their own support, depriving her of the benefit of them towards her own relief.²⁰¹

The fact that some of these items belonged to Margaret before her marriage appears to have had potential evidential weight in the eyes of the court, otherwise there would have been no benefit in her making this assertion. However, the overall picture is not clear-cut. Even when a formal arrangement for separate estate could be identified, this did not necessarily prevent husbands from attempting to gain control of their wives’ goods.²⁰² Bailey concludes:

[i]t is feasible that, during a functioning marriage at least, some husbands saw their wives’ personal property as they did their real property; that is, something which gave them benefit during marriage but which reverted to their wives’ use afterwards.²⁰³

¹⁹⁹ Bailey, p.103. ‘Secondary complaints’ in this instance mean complaints other than the primary allegations made by wives against their husbands.

²⁰⁰ At least, this was Mrs Allison’s case. Bailey, p.104.

²⁰¹ Bailey, p.104.

²⁰² Bailey, p.105.

²⁰³ Bailey, p.105. Bailey echoes this in her article ‘Favoured or Oppressed?’ At p.16.

This hypothesis suggests that, for the majority of couples, spouses pooled their individual resources for the benefit of the family.²⁰⁴ Bailey does not say so, but this aligns with the approach to matrimonial property taken by the English ecclesiastical courts, the traditional arbiters of matrimonial and probate proceedings. They operated a version of community property which was not echoed in the common law.²⁰⁵ Overall, Bailey's findings indicate that some vestiges of wifely ownership may have continued into coverture. However, the rationale on which this ownership would have been understood during the eighteenth century is unclear. One suggestion already put forward is that certain items of personal property may have been understood as correlating with forms of separate estate, such as pin money (Staves' justification for separate maintenance agreements) or, *per* Bailey, paraphernalia.

Against this intriguing and inconclusive picture, I will examine the separations of Harriet Knight (later to become Lady Luxborough) in 1736 and that of their daughter, Henrietta, who was divorced by act of Parliament in 1754. The circumstances surrounding the separation of Harriet Knight and her husband Robert are somewhat murky.²⁰⁶ Following an indiscretion, Harriet was banished indefinitely to a dilapidated family residence in Warwickshire known as Barrells Hall. However, as there was not enough evidence to procure a parliamentary divorce, the couple remained married. What is particularly interesting about the terms of their financial settlement is that the initial agreement made in 1736 did not use Knight's portion as the basis for quantifying her maintenance payments. However, in a *volte face* six years later, Robert then sought to rely on that very model in order to reduce the payments he was making to her.

The settlement in this case – as with all such informal arrangements – was negotiated. These negotiations were quite extensive and the correspondence details what was thought of as 'fair', against what is described as 'normal'. The men of both families took it upon themselves to conduct negotiations, although legal experts were consulted and their opinions formed the basis of the offers put forward. Lord Bolingbroke, Harriet's brother, wrote to his sister stating his intention to:

²⁰⁴ Bailey, p.105.

²⁰⁵ Erickson, *Women and Property* p.4.

²⁰⁶ A detailed description of the incident can be found in Chapter 5 ('Can you not forgive?': Henrietta Knight at Barrells Hall') of Stephen Bending's book *Green Retreats Women, Gardens and Eighteenth Century Culture* (Cambridge: Cambridge University Press, 2013). Bending mentions the negotiations for a settlement but does not go into detail.

have the best advice of chancery Lawyers taken and when I have yt in my pocket will begin by determining your father in law...in your favour...after which I shall be able jointly with him to determine your husband.²⁰⁷

Sadly, as this negotiation was an all-male affair very little information survives to indicate what Knight herself considered an equitable settlement. She eventually accepted an offer of £500 per annum 'separate maintenance' from Robert (a term used by herself) but her words imply she played a passive role in agreeing this amount. She states that she would have considered £600 per annum a more reasonable sum but: 'As to myself I never thought of desiring any sum should be fixt but it was his [Robert's] choice'.²⁰⁸ This may of course be Knight performing the acceptable femininity of a meek and submissive wife rather than expressing a lack of opinion concerning an acceptable level of subsistence.²⁰⁹

What is also not clear is whether this agreement was contained within any sort of formal deed or contract of separation. On one hand, Harriet writes that 'no time is limited in ye paper I signed for my staying at Barrells or quitting it' indicating that her residence at Barrells, although of unspecified duration, was a clause in a written agreement. However, in the same letter she also requests that the £500 per annum be settled on her so she can be sure it will be paid regularly and 'so yt in case [she] be obliged to quit Barrells there may be no new dispute.'²¹⁰ This appears to suggest that the payments had not yet been formalised by way of a written agreement and she believed her interests were best protected by a deed of trust. This in turn might demonstrate an understanding of the vulnerable position in which she found herself. It also echoes Staves' findings that a deed of trust was easier for a wife to enforce through her trustees, than a simple written agreement.²¹¹

The existence (or otherwise) of a written agreement was not clarified until 1742. By this point, Knight's financial circumstances had improved substantially following the deaths

²⁰⁷ British Library Knight Papers: Family Papers and Correspondence of Robert Knight MP. BL Add. MS 45889/f.41v. All spelling is as per the original documents.

²⁰⁸ BL Add. MS 45889/f.17r.

²⁰⁹ A summary of the arrangement can be found at Bending, p.212.

²¹⁰ BL Add. MS 45889/f.16r.

²¹¹ Although this occurred before the 1778 watershed identified by Staves.

of her father and brother.²¹² This was so much so that, in a letter dated 24th April, Robert attempted to renegotiate a reduction of the £500 per annum which had previously been agreed.²¹³ In the letter, he implies that the original figure of £500 was proposed due to his generosity, rather than because of the amount of Harriet's portion: ('notwithstanding the yearly income of your fortune was but £210'). This is highly significant because his assertion is framed in such a way ('notwithstanding') that indicates the 'portion' model would have normally been the basis for such an arrangement.²¹⁴

He then makes a proposal which, for the purposes of this chapter, is highly informative. He suggests that Harriet should keep all the property she inherited from her family, plus the income from a lump sum of £8000 that formed part of their marriage settlement. As Robert was clearly in the business of trying to reduce his financial obligations towards Knight – indeed, this was the sole purpose of his proposal – the fact that he chose to let her retain the assets which had come to her from her natal family is highly significant. In return Harriet was to agree to formal 'articles of separation' which would indemnify Robert against her debts. She was also to relinquish her claim to jointure as set out in their marriage settlement. In short, Robert proposed that she should keep the income from her portion plus her subsequent family inheritances. In return, he would cease her maintenance payments. Of course, the fact that this was open to negotiation at all speaks to the fact that Knight's claim to her portion and inheritances was neither absolute nor irrefutable. However, the rationale behind Robert's offer suggests that she retained some sort of residual claim to both forms of property.

A generation later and Harriet and Robert's daughter, Henrietta Wymondesold, found herself in marital difficulties. Unlike her parents' case, there was nothing ambiguous about this marital rupture and it resulted in a full parliamentary divorce, including crim. con. proceedings. Henrietta's husband Charles accused her of committing adultery with Josiah Child. She was locked out of the matrimonial home and eventually fled to France with her

²¹² Bending mentions this improvement in Harriet's circumstances at p.224 but does not analyse it in detail.

²¹³ BL Add. MS 45889/f.48r-50v.

²¹⁴ This 'generosity' of the husband in giving his wife a level of income above that generated by her portion correlates with one of Haywood's short fiction in the *Female Spectator* and is discussed below.

lover, where she gave birth to Josiah's child in January 1754. The act of Parliament that dissolved the Wymondesold's marriage was passed the same year.

Just like her parents' separation, Henrietta's divorce occasioned heated negotiations over the appropriate level of the financial settlement. This time, however, the disagreements went beyond portions, lump sums and inheritances and included material objects. Almost as soon as her husband had excluded her from the matrimonial home, an argument erupted concerning which items of personal property (if any) she should be allowed to take with her. Initially, Charles sent Henrietta twenty pounds in cash:

but did not then send her any wearing apparel – a few days after she was advised to send to demand her wearing apparel and upon her making that demand, Mr W— instead of complying with it sent her only 3 old gowns and 11 shifts.²¹⁵

This excerpt forms part of the case as set out by Henrietta's legal team. However, even though one might expect them to have framed Charles' response to his wife's requests as inadequate (in order to try and leverage a better deal) the implication is that Charles' went against general expectations. Note that the extract states Henrietta was advised by her lawyers to demand her clothes: this negates any possibility that her request was in any way inappropriate or without legal precedent. Charles' response (the supply of three old gowns and eleven shifts) is likewise presented by the document as being entirely unreasonable.

Of greater value than the clothes, however, was Henrietta's jewellery. In particular, she possessed two pearl and diamond bracelets which had been given to her by her mother and a pair of diamond earrings which had been a present from Charles himself. Together, these were worth the princely sum of £1100. Counsel's advice was that Henrietta should be entitled to:

a restitution of all her wearing apparel and such jewells as the Court shall esteem the decent ornaments of her person, such as the bracelets given her by her mother and some of these presented by her husband.²¹⁶

²¹⁵ Counsel's response to questions BL Add. MS 45889/f.73r.

²¹⁶BL Add. MS 45889/f.74r.

Although she was not entitled to all the jewellery that Charles gave her during the marriage, there appears to be no question that those items which came to her via her mother should not be retained by her. Yet again the idea emerges that jewels – and indeed property originating from the wife’s natal family more generally – retained some imprint of her ownership.

Just as in the Knight case, there is some uncertainty as to whether or not articles of separation were agreed at the time of the Wymondesolds’ initial estrangement. Henrietta’s side certainly believed they had been and mention was made in the correspondence of up to three separate documents which may have been drawn up but never executed. However, the final (binding) agreement dates from January 1754.²¹⁷ It states that Henrietta was not to impede the divorce *a mensa et thoro*, which was currently proceeding in the ecclesiastical court. Charles would also apply for a verdict at law (a sentence of crim. con. against Josiah Child) as well as a parliamentary dissolution of the marriage. The agreement then moved on to issues relating to property. The first item records that Henrietta was to transfer £1500 of East India stock to Charles: this had been purchased out of the £5000 she brought to the marriage and was being held on trust according to the provisions in the marriage settlement. Henrietta herself was to receive £3000 of this and it was to be held in such trusts as she or her brother Henry should direct. The remainder, totalling £500, was to be held by the marriage settlement trustees for two years following the dissolution of the marriage in order to indemnify Charles against any debts Henrietta might subsequently accrue. After this time, any remaining stock was to be transferred to Henrietta on the same conditions as the £3000. Matters relating to her clothes and jewels were also settled thus:

all such Presents of all kinds as upon or after her marriage ...were made or given to the said Henrietta Wymondesold by any of her relations AND all her wearing apparel...shall be held and enjoyed by her for her own purposes.²¹⁸

Again a link is made between and wifely ownership and property which originated with the wife’s natal family. Also, Henrietta’s clothing was to be returned to her and she was to be entitled to any inheritances she might receive from her mother in the future. Finally, she was to receive £500 per annum awarded by the ecclesiastical court for her ‘support and maintenance’ until the act of Parliament dissolving the marriage had been obtained.

²¹⁷ BL Add. MS 45889/f.91r-92r.

²¹⁸ BL Add. MS 45889/f.91v.

This agreement does not exactly copy the ‘portion’ model espoused by Staves for separate maintenance arrangements. However, there are close parallels. The main difference was that Charles was granted £1500 worth of the stocks that had been purchased with Henrietta’s portion, leaving her maintenance payments to be calculated using the remaining £3000 only. The reason for this can be found buried in the correspondence. Lord Luxborough, Henrietta’s father and one of the men negotiating on her behalf, did ask for ‘her own fortune or an equivalent in an annuity for her life.’²¹⁹ The Wymondesold side took a different view, however. Their response stated that:

Mr W. thinks it equitable that at least Part of the Expencc should fall upon Her whose conduct has been the occasion of the Whole; and therefore cannot agree to L.L.’s Proposal to return all her Fortune.²²⁰

Henrietta therefore suffered a reduction in the quantum of her settlement as a punishment for her conduct. However, by couching their argument in the terms quoted above, those negotiating for Mr Wymondesold are actually suggesting that maintenance based on the full portion would be acceptable under other, less blameworthy, circumstances. There was clearly an appetite on the Wymondesold side for the adulterous couple to be punished financially: a proposed indemnity for Josiah Child, Henrietta’s lover, was also refused ‘in justice to [Mr W] and the public.’²²¹

Overall, the negotiations suggest that whilst the income generated by Henrietta’s portion and the gifts given to her during her marriage probably formed the starting point for the settlement, her adultery and continuing relationship with Josiah Child allowed the Wymondesold side to refuse her some of the assets to which she might otherwise have been entitled. It should also be noted that the levy of £1500 paid to Charles was in addition to the

²¹⁹ BL Add. MS 45889/f.81r.

²²⁰ BL Add. MS 45889/f.83r.

²²¹ BL Add. MS 45889/f.83r. The idea that divorce and marital misconduct were matters of public policy appears to have been a common belief during the eighteenth century. As has been discussed above, Susan Staves links the courts’ desire to police marital morality to their changing approach to separate maintenance orders. Further, adultery had long been viewed as having adverse financial consequences for wives: women guilty of adultery could find their right to dower barred, for example.

£2500 damages which he won for crim. con. Crim. con. awards were generally understood as compensation paid to the cuckolded husband for damage done to his property (i.e. his wife). Thus Henrietta and her lover arguably paid twice. As an interesting aside, Lord Luxborough's own marital difficulties also make a reappearance in the Wymondesold negotiations. When Lord Luxborough asserted in correspondence that he had been prepared to grant his wife 'much more' than was being offered to his daughter, the response from the Wymondesold side was that if Luxborough had been able to bring the same proofs of adultery as Charles could, 'he would not have made as large an allowance [to his wife]'.²²² The ambiguity of Lady Luxborough's alleged indiscretion apparently had a quantifiable monetary value.

Finally, it is interesting to note the precise wording of the articles of agreement drawn up between Charles and Henrietta, specifically the manner in which they were to exercise ownership over the funds allocated to them. Charles was given the £1500 of stocks due to him 'for his own proper use' – i.e. the property was to be transferred to him absolutely. Henrietta's £3000, however, together with any residue in the £500 indemnity fund when that became payable, was to be held in trust 'for her benefit'. There was thus a clear difference in the degree of ownership that each enjoyed. Charles had full legal ownership of his stocks, allowing him to dispose of them as he chooses, whereas Henrietta – although by the dissolution of her marriage turned back into a single woman with full legal capacity – only enjoyed the beneficial interest of hers. Whilst this gendered approach to property ownership (in particular the use of trusts for women's property) was common at the time, it might also be possible to glimpse a secondary motive. Could it be that there was a desire on the part of Charles Wymondesold to ring-fence the stocks to ensure they were, as far as possible, out of Josiah Child's control? If Henrietta owned the stocks absolutely and married Child, he would gain control of them through the operation of coverture. Whereas, if the legal title was vested in Henrietta's trustees, there was less chance of him (as the Wymondesold family might have viewed it) benefitting financially from his crime. This can be contrasted with the arrangements made for Henrietta's clothes and jewels, which she was to own absolutely.

Taking together the evidence from Staves' separation agreements, the conclusions from Bailey's research and the Knight and Wymondesold cases, it would appear that upon marital breakdown there was an expectation that certain types of personal property should be allocated to the wife. For those of high social status, there may well have been an

²²² Lord Luxborough's assertion is at: BL Add. MS 45889/f.81v; the response is at BL Add. MS 45889/f.83r.

understanding that the amount of the wife's portion would form the basis of calculating maintenance payments – although these could be reduced if her behaviour was particularly reprehensible. Items such as clothes and jewels also appear to form an expected part of any settlement. So too do assets or belongings which came from the wife's natal family or – as was seen in Bailey's data – goods which the wife brought into her marriage, perhaps in lieu of a monetary portion.

There was, of course, no reason why any of these types of property should, under a strict interpretation of the law, be regarded as more 'hers' than 'his'. Barring the intervention of a trust or other formal agreement, these were all 'chattels personal' and passed to the husband upon marriage. However, even given the patchy nature of the evidence, it does appear to have been a reasonably consistent approach. Even the change from a hierarchical (early modern) model of coverture to one based on the Blackstonian 'unity of persons' theory does not appear to have had an effect on this: cases indicating these residual links between wives and certain types of property stretch from the early modern period through to the end of the eighteenth century.²²³ Therefore, where personal property was concerned, there does appear to have been a gap between the letter of the law and its practical application on divorce or separation.

The next question to consider is whether or not this historical evidence is replicated within the fiction of the period – and if so, with what result. As has been discussed elsewhere in this thesis, it is not inevitable that fiction replicates real life. Instead, factors including genre, literary tradition and the marketplace influence the creative choices made by authors. Additionally, authors might use fiction to critique and re-imagine real life: some appropriating the textual 'space' identified by Backscheider to disrupt and question prevailing hegemonies, others re-enforcing what they perceived to be the status quo.²²⁴ One author who did the former was Eliza Haywood.

Haywood's interest in the law has been well documented, not least by Backscheider herself who asserts: 'If Defoe's characters are always looking for bankers, Haywood's seek lawyers.'²²⁵ Haywood wrote about the relationship of women to the law in a number of her

²²³ Erickson, *Women and Property* p.145 and Bailey's cases ranging from 1660 to 1800.

²²⁴ Chapter 1 note 84.

²²⁵ 'The Story of Eliza Haywood's Novels: Caveats and Questions' in *The Passionate Fictions of Eliza Haywood* Kirsten T. Saxton and Rebecca P. Bocchicchio (eds.) *The Passionate Fictions of Eliza*

works and appears to have been especially interested in the protection it afforded – or denied – to them. As already mentioned, Haywood’s engagement with the law and legal process has been the subject of scholarly analysis. For example, Jennifer Hobgood examined her exploration of contract law and the highly gendered ‘fraternal’ framework which underpinned it and Cheryl Nixon has investigated Haywood’s interest in wardship. Nixon contends that Haywood’s amatory plots frequently show the heroine, usually a vulnerable young woman, being ill-treated by a man acting in *loco parentis*. Quoting Kathryn King, Nixon suggests that ‘Haywood presents ““stories [that] reveal the failures of institutions (Chancery) and social structures (the family) to sustain women.”’²²⁶ This approach, Nixon asserts, allowed Haywood not only to identify problems within the law as it existed, but to propose solutions for what she perceived as the exploitation and manipulation of vulnerable young women.²²⁷

Just as Nixon and Hobgood argue for critiques of wardship and contract law in Haywood’s works, issues relating to marriage, quasi-marital relationships and marital breakdown are also present.²²⁸ Like Nixon, I suggest that Haywood’s exploration of these ideas is, at least in part, to provide solutions to some of the problems she perceived within the institution of marriage. Indeed, I would go as far to contend that she may have done so in order to advise her readership of their rights in certain situations. She uses a variety of devices and mouth-pieces to deliver this information. Some of it is communicated to the reader via lawyer-characters (Mr Markland, the Thoughtless family lawyer, for example). However, a wealth of legal advice is also dispensed by Haywood’s lay characters – including women.²²⁹ This may suggest that it was not usual for women to have such knowledge. Alternatively, it could indicate that Haywood wanted her female readers to feel that knowledge of the law was an acceptable femininity. This in turn would have validated her own position as an author advocating particular legal solutions or criticisms.

Haywood: Her Life and Work First Edition (Lexington: University of Kentucky Press, 2015) 19-47
<<https://doi:10.2307/j.ctt130j57m>> [accessed 17th August 2020] p.24.

²²⁶ Nixon, p.54.

²²⁷ Nixon, p.55.

²²⁸ *The City Jilt* (1726) is a good example of this. *The City Jilt* in *Eliza Haywood Three Novellas* Earla A. Wilputte (ed)(East Lansing: Michigan State University Press, 1995).

²²⁹ For example, Helena from *The City Jilt* who receives advice on the law of agency from a female friend.

The first fiction to be examined is *The History of Miss Betsy Thoughtless*. This novel follows the exploits of the eponymous heroine through single life, courtship, marriage, separation, widowhood and, finally, re-marriage. That *Betsy Thoughtless* is a novel about women's relationship with matrimonial law is in no doubt: the longest single section covers her engagement to, marriage with and separation from Mr Munden. In the novel Haywood places enormous emphasis on how marriage can be little more than a conduit for the transfer of property from the wife's family to her husband. This is done within the novel by allowing the wife's portion to stand as a metaphor for the wife herself: Betsy and her fortune are depicted as being interchangeable, particularly in the way the nuptial settlement offered by Munden relates directly to the size of her fortune. She is objectivised in monetary terms and the commercial nature of her loveless matrimonial arrangements is made explicit. Additionally, when the breakdown of the marriage begins, it is articulated through disagreements about money: Munden lives beyond his means but seeks to blame Betsy for the shortfall in their finances. He tells her she is 'a bad economist' and that she should utilise her pin money (her separate property) to subsidise joint household expenses and her servant's wages. Her response is a cry of powerless desperation that aligns her, and all other wives, with the Israelite slaves in Egypt: "to what have I reduced myself! – Is this to be a wife? – Is this the state of wedlock? – Call it rather an Egyptian bondage;"²³⁰

Eventually, Betsy leaves the matrimonial home. This is, however, a decision made by her and opposed by Munden. As has been discussed above, separation in the absence of any sort of decree authorising the couple to live apart was enforceable only by mutual agreement. The fact, therefore, that it is Betsy who leaves Munden against his wishes is highly significant for two reasons: firstly, because it presents Betsy as a married woman, yet independent of the 'cover' of coverture. She clearly does not accept the subordinate status which, as a wife, she is deemed to occupy within the marriage. Secondly, in questioning his right of ownership over her body, she is also, by implication, questioning his continued right to 'her' property, including personal property and her portion. This does not merely create a disruptive textual space within which to examine the gap between coverture and lived experience – it rips the two apart.

Haywood, however, also uses the separation to deliver important legal and practical information to her readers. Betsy is seen planning, and then making, her exit from the

²³⁰ *The History of Miss Betsy Thoughtless* (Peterborough, Ontario: Broadview Literary Texts, 1998) p.501. All quotations will be from this edition unless stated otherwise.

matrimonial home without Munden's knowledge. In terms of the plot, this circumvents the possibility that he might imprison her in order to prevent her from leaving. However, it also provides advice to anyone in a similar situation: it flags up the dangers and suggests solutions. Haywood also ensures that the reader approves of Betsy's course of action: both Munden's treatment of her and the opinion of Lady Loveit (whose role is to be a moral yard-stick within the novel) justify her decision.

Haywood, however, does not shy away from making clear to her readers how difficult it was to obtain a non-consensual separation. After Betsy leaves the matrimonial home, Munden endeavours to force her to return:

'I know not what you mean by settling terms of separation; - a wife who elopes from her husband forfeits all claim to everything that is his, and can expect nothing from him till she returns to her obedience; but were it otherwise, and the law were entirely on your side at this point, you might be certain, that I look upon the happiness of possessing you in too just a light to be so easily brought into any agreement that would deprive me of you.'²³¹

Munden's view of Betsy as a chattel – a possession – to be controlled as part of a transactional marriage, is unflinching.

In leaving him, Betsy asserts ownership over the possession he is most interested in retaining – herself. However, she also seeks to remove other items of personal property from Munden's clutches. She justifies this in a note written to him where she says she has 'removed nothing...but what was [her] own before marriage.'²³² Technically, of course, unless she had a marriage settlement which gave her the beneficial ownership of these items, the goods she removed from Mr Munden's house were not hers but his. Despite this, the understated way in which Haywood constructs this scene suggests that, although the act of leaving is itself controversial, the removal of the goods is not. Indeed, Haywood writes the episode twice: once from Betsy's point of view and then again as a *fait accompli* from Munden's where it is again stated that she had only removed 'every thing that belonged

²³¹ p.596.

²³² p.594.

immediately to herself'.²³³ This confirms the assertion of ownership Betsy made in her note: the items she removed, on both his and her analysis, were hers.

The specific types of goods she removes should also be considered. Betsy takes jewellery, 'trinkets', clothes and also some items of furniture: 'a large India-chest, a bureau, cabinet dressing-table' as well 'every thing that belonged immediately to herself' as noted above.²³⁴ By comparing these with the items listed in the historical sources at the start of the chapter, it would seem that Haywood was aware of both the broad category of 'wife's possessions before marriage' and of the specific types of goods women took with them when they left their marriages. The furniture, too, was reflected in Bailey's findings, which showed that household goods, including beds, being taken.

Betsy's portion, though, proves more difficult to liberate from her husband's control. Following her exit from the matrimonial home, Mr Markland the lawyer is sent to try and negotiate maintenance payments. Although the historical sources strongly suggest that the amount of the wife's portion should be the starting point for calibrating these payments, such arrangements required the consent of both parties. Munden stubbornly refuses to give his. Haywood does not gloss over the difficulties faced by Betsy in obtaining maintenance from an unwilling husband. These difficulties do, however, give Haywood (via Mr Markland) an opportunity to make clear what is considered 'usual' in such circumstances: Munden's refusal to agree to pay Betsy is presented as unequivocally unreasonable. Mr Markland even uses the word 'cruel' to describe it. Moreover, Markland warns Munden that if he continues to defy accepted precedent on the matter, he risks stigmatising himself socially. Whilst on one hand, this scene could be construed as a warning to Haywood's readers that separation was not a straightforward matter, it also provides further evidence that the 'portion' model was a generally-accepted starting point for quantifying maintenance payments. If this were not the case, then the threats and warnings heaped by Markland upon Munden would carry no weight.

Thus, it can be argued that *Betsy Thoughtless* not only supports the historical evidence in suggesting that a sense of ownership lingered between wives and certain types of personal property but that such matters were so generally accepted that an author could use that knowledge to dramatic effect within the text. Further, the way in which the information is presented within the novel allows Haywood to highlight the inequalities facing women whose

²³³ p.594.

²³⁴ p.594.

marriages have broken down, whilst at the same time pass legal and practical information to her readers.

This is also the case with the *Female Spectator*. The periodical, which predated *Betsy Thoughtless*, was published monthly between April 1744 and May 1746. Haywood wrote in the guise of four different women representing the full spectrum of the – respectable – adult female life-cycle. Topics covered were those suggested by readers' letters (although these too emanated from Haywood's own pen) as well as subjects chosen by the editorial 'team'. Each edition focussed on a particular theme and encompassed direct advice, opinion, anecdotes and real-world observations. Each edition followed a settled format: a statement of opinion from the editorial 'collective' (often prompted by a 'reader's letter'), followed by at least one dramatized story and concluding with yet more direct editorial observations. This enabled Haywood to make and re-make the same points via different textual devices – anecdote, direct observation and so on – in order to re-enforce her key message.

If Haywood used *Betsy Thoughtless* to discuss the vulnerability of women in unhappy and abusive marriages, the *Female Spectator* may have been the seed-bed for many of her thoughts and opinions on the subject. Certainly issues relating to unhappy marriages and marital breakdown form a significant part of the *Female Spectator*'s content, although the fracturing of the coverture myth is not as overt as that seen in *Betsy Thoughtless*. This, however, may have much to do with the demands of the periodical as a genre and less to do with changes in Haywood's thinking. Publications like the *Female Spectator* were, by their nature, instruments designed to instruct. Indeed, it has been argued that they owed far more to the conduct book, with its unrelenting focus on a domestic agenda, than they did to the society periodical.²³⁵ Further, the very existence of women's periodicals may have been symptomatic of a wider cultural shift in the understanding of gender as it related to other social signifiers. The authors of *Women's World* argue that women's periodicals as a concept only became possible because a change in society made:

gender difference, rather than distinctions of status and wealth...the primary arbiter of social power for women.²³⁶

²³⁵ Ros Ballaster and others, *Women's Worlds: Ideology, Femininity, and the Woman's Magazine* (Basingstoke: Macmillan, 1991) pp.49-51.

²³⁶ Ballaster et al, p. 44.

Within this emerging cultural context, therefore, publications such as the *Female Spectator* played the dual role of both disseminating and re-enforcing this new thinking.²³⁷ Thus, although Haywood's *Female Spectator* concerns itself overwhelmingly with the 'feminine' issues of marriage, child-rearing and domestic concerns, its policing of acceptable social norms is an important part of understanding its function as a literary form.

That the *Female Spectator* set out to educate and inform is perhaps hardly a revelation. As the *Female Spectator* herself puts it, hearing about 'other people's affairs [will]...teach everyone to regulate their own.'²³⁸ However, the ways in which Haywood sought to validate her status as a moral arbiter were perhaps less obvious. Manushag Powell, writing in *Performing Authorship in Eighteenth-Century Periodicals* argues that Haywood explicitly aligned her publication with Addison and Steele's *Spectator* and crafted her 'eilodons' (the fictive editors of such periodicals) in order to access the authority inherent in the 'masculine tradition' of the periodical.²³⁹ This essentially meant creating for herself a persona (or, more accurately in the case of the *Female Spectator*, personae) who would command respect amongst her readers by slotting into a recognised tradition of similar creations. Additionally, Haywood did not seek to isolate herself in a purely female echo-chamber. Although her readership was implicitly female, she also made the decision to include male characters, correspondents and sometimes, as Powell points out, spoke explicitly to male readers.²⁴⁰ This implicit inclusion of male approbation added another layer of authority to her writing.

However, whilst the *Female Spectator* centred female issues or, *per Women's Worlds* became 'a medium for women's concerns', this did not necessarily mean that either the content or the editorial position was inherently radical.²⁴¹ Although the subjects covered ranged from the supernatural to the shortcomings of William Shakespeare as a playwright, issues of love, marriage and the myriad of complications thereof still made up a considerable portion of its content. The shifting balance of power between spouses before and after

²³⁷ Ballaster et al, p. 50.

²³⁸ *Female Spectator* 7th Edition (London: printed for H. Gardiner opposite St Clement's Church, in the Strand, 1771) Book 2 Vol. II p.18. All quotations are from this edition unless stated otherwise.

²³⁹ Manushag N. Powell, *Performing Authorship in Eighteenth-Century Periodicals* (Lewisburg: Bucknell University Press, 2012) pp.149-150.

²⁴⁰ Powell, p.151.

²⁴¹ Ballaster et al, p. 59.

marriage was a favourite topic, with women cautioned to expect (and accept) their position as the junior marital partner. The publication also warned female readers about the dangers of rape and seduction as well as the disastrous consequences of taking a lover after marriage. When discussing marriage as an institution, though, the authorial position was very positive. As far as the *Female Spectator* was concerned, good marriages were a desirable (and attainable) ideal. Book II was quite gushing in its praise of matrimony:

It is indeed the fountain-head of all the comforts we can enjoy ourselves...it is that which prevents those numberless irregularities, that would else overthrow all order and destroy society.²⁴²

In contrast to the tale of misery which unfolds in *Betsy Thoughtless*, the pages of the magazine are littered with advice on how to ensure that you, the reader, could enjoy the blissful and societally beneficial state of matrimony. As one drills down into the practical steps which women were advised to take in order to ensure this happiness, though, a surprising level of female agency is revealed. Whilst the overt message of the *Female Spectator* was that wives should conduct themselves with decorum and stoicism (even in the most trying of circumstances) this did not mean that they were expected to be passive. A recurring piece of advice is that women must choose their husbands well. This in turn, the *Female Spectator* insisted, meant that competent, informed consent to matrimony was essential: women should fully understand the importance of the decision they were making. Part of this process involved taking the time to ensure they and their intended spouse were compatible in temperament, religion and financial outlook. Book I, for example, states: 'I cannot approve of hasty marriages, or before persons are of sufficient years to be supposed capable of knowing their own minds'.²⁴³ The expectation that women should take responsibility for themselves extended beyond emotional happiness: *The Female Spectator* also urged women to take active steps to safeguard their finances within marriage – something which presupposed a certain level of financial acumen and a working knowledge of the law. This is perhaps not what one might expect hidden in a publication with such strong roots in conduct literature.

²⁴² Vol 1 Book II p.68.

²⁴³ Vol 1 Book I p.9.

Despite its praise of marriage, however, the *Female Spectator* was cognisant of the fact that relationships do break down:

When both parties are, however, equally determined to maintain their different opinions, tho' at the expence of all the love and tenderness that each has a right to expect from the other, and instead of living together in any manner conformable to their vows before the alter, it is the judgement of every member of our club that it is a less violation of the sacred ceremony which joined their hands to separate intirely than it is to continue in a state where, to persons mutually dissatisfied, the most trifling words or actions will by each be looked on as fresh provocation.²⁴⁴

Pre-empting Lady Loveit's advice that Betsy should leave Mr Munden, the *Female Spectator* is clear that there comes a point where stoicism is no longer enough and a woman has a duty to remove herself from a destructive relationship. However – and perhaps again as a pre-echo of Lady Loveit – the periodical cautions against separation as anything but a final resort, emphasising all sorts of unintended consequences which could ensue. The tale of Sergius and Aranthe, for example, informs the reader that separations are 'extremely shocking' and 'generally attended with the loss of reputation on both sides.' This will be the case even if both parties are innocent of any infidelity.²⁴⁵ Separation, like marriage itself, is something which should not be entered into lightly. It is worth noting at this point that parliamentary divorce is not mentioned by the publication, except in passing. I would suggest, however, that one should be careful not to read too much into this omission – full divorces were exceedingly rare and during the years in which *The Female Spectator* was in print, only two were granted.²⁴⁶

The great number of separations and divorces which we see of late, is a testimony that few ladies are educated in such a manner as to have good qualities sufficient to enable them to bear so great a disregard of themselves [i.e. a husband being in love with

²⁴⁴ Vol 3 Book XVII pp.222-3.

²⁴⁵ Vol 3 Book XVII p.230.

²⁴⁶ Wolfram, Appendix A p.181.

another woman]....How can these mothers think their children will make good wives, when they are taught to be their own mistress from the cradle ²⁴⁷

Conservative though some of the editorial opinions may be at first glance, separations initiated by women feature multiple times in the short fictions of *The Female Spectator*. Even though these women are not always in the right, Haywood still presents the wife-initiated separation as an option – arguably a radical stance in a world where women could neither obtain a parliamentary divorce nor give evidence in crim.con. proceedings relating to themselves. Haywood also discusses the issue of property distribution following a separation. Even where the wife is portrayed as being in the wrong, in the *Female Spectator* she does not leave her marriage empty-handed.

The story of Zimene is one such example. ²⁴⁸ Zimene learns from her friend, Ariana, that a prudish mutual friend, Sophronia, is having an illicit liaison. The two conceal themselves in the house where the encounters have been taking place, only to discover that the man in question is Philamour, Zimene's husband. Zimene, lacking the 'good sense' to 'enable her to bear these wrongs', flies into a rage. She attacks Sophronia, spits at her husband, throws his wig into the fire and has to be restrained from taking up his sword. Ironically, had Zimene not reacted in this way, the *Female Spectator* informs her readers, things may have resolved themselves: Philamour was tired of his mistress and actively looking for an excuse to rid himself of her. As it transpired, however, Zimene's behaviour caused him to be:

very much shocked on account of her friends, and what the world...would say of him...[and] he found nothing of those tender emotions for being deprived of her society, as he would certainly have done, had she borne the detection of his fault with more gentleness and moderation.²⁴⁹

Although perhaps not as blameworthy as Henrietta Wymondesold, the moral verdict of the *Female Spectator* is clearly against Zimene. Despite this, her manner of quitting the

²⁴⁷ Vol 3 Book XIII pp.22-23.

²⁴⁸ Vol 3 Book XIII pp.12-22.

²⁴⁹ Vol 3 Book XIII p.20.

matrimonial home is reminiscent both of Betsy Thoughtless and Helena in *The City Jilt*. The narrator tells us that on discovering her husband's adultery:

she packed up all her jewels, dressing-plate, and cloathes, and with Ariana, her woman and one footman, went away very early.²⁵⁰

This is by now a very familiar list of items. However, what is especially noteworthy is that the removal of these goods is related in a very matter-of-fact manner: it does not excite any additional comment from the narrator. This contrasts with Zimene's other actions (her anger, the attacks on her husband) which are explicitly criticised. Given the moral tone of the tale and the censure directed at its protagonist, a reasonable conclusion is that Haywood (and her audience) would have understood that Zimene had an inherent right to these items, or at least her removal of them was unremarkable.

The same is true of the objects removed by Sabina, the protagonist of another short fiction, when she leaves her marriage. This tale concerns a jealous husband who, we are informed, drives his wife into the arms of another through his 'hateful' behaviour. Sabina elopes with her lover to France where he dies and she enters a monastery.²⁵¹ Surprisingly, not all of the blame in this episode is directed at Sabina. Instead, in what once again feels like a potentially radical stance buried within a conservative literary vehicle, the *Female Spectator* suggests that it was Sabina's husband's ill-treatment that drove her into adultery, rather than any inherent immorality.²⁵² Although Sabina is chastised for her elopement (her entry into holy orders symbolises a need for repentance and chastity) the *Female Spectator* asserts that although 'no ill usage of what kind soever from a husband can excuse us from revenging it in the manner [Sabina] did', still 'this unfortunate lady has a great plea for compassion'.²⁵³ Like Zimene, Sabina too appears to be entitled to remove certain items from the matrimonial home without exciting any undue comment from the narrator:

²⁵⁰ Vol 3 Book XIII p.18.

²⁵¹ Vol 2 Book X p.182-188.

²⁵² This affords a neat contrast with *The Fair Adult'ress*.

²⁵³ Vol 2 Book X p.187.

‘one night [she] packed up all her jewels, and the richest of her cloathes, and quitted for ever [her husband’s] house and his presence’.²⁵⁴

The portable personal possessions chosen to go with her are, once again, her clothes and jewels. Further, as in the story of Zimene above, there is no comment or other intimation from the narrator to suggest that the removal of these objects is in any way reprehensible or, indeed, unusual. It is worth recalling counsel’s opinion in the Wymondesold case at this point. Haywood, in the guise of the Female Spectator, would appear to be concurring with him that clothes and jewellery should normally be retained by the wife upon the breakdown of a marriage, even in the event of that wife’s adultery. What is particularly interesting is that Haywood describes the clothes selected as the ‘richest’ Sabina owns. This could indicate that the choice of objects was more than a simple emotional affinity between item and owner. Presumably, if the former had been had been the case, ‘favourite’ or a similar adjective could have been used. Instead, ‘richest’ suggests that the items were selected possibly on the basis of their value; perhaps even with a view to a later sale, as *per* Bailey’s suggestion. This, just like Elizabeth Freke claiming ownership over her financial profits as a reward for her industry and acumen, is perhaps a further example of women’s sense of ownership not being limited to items to which they had an emotional connection.²⁵⁵ Women, just like men, were capable of asserting their control over goods because of hard-headed financial reasons.

The use of the wife’s fortune as the basis for deciding the quantum of maintenance payments is also touched on by the *Female Spectator*. The tale of Sergius and Aranthe features a wife who is dissatisfied with her husband’s ‘complaisance’ after the wedding. The point of this story is to illustrate the changing balance of power between husband and wife, which the *Female Spectator* believes typically occurs after marriage. Here Aranthe, the new wife, is not happy about the subordinate role she is expected to assume and requests a deed of separation be executed. Her husband agrees and provides ‘an annuity out of his estate for her support’ even though Aranthe herself ‘brought but a small fortune [into the marriage]’.²⁵⁶ The text makes clear that the amount of the annuity owes more to his generosity than any legal or

²⁵⁴ Vol 2 Book X p.186.

²⁵⁵ Maxine Berg suggests that women appear to have invested ‘emotional significance’ in their possessions, evidenced in bequests. Such goods include ‘[h]ousehold goods, linen, jewelry, china and plate’ pp.245-246.

²⁵⁶ Vol 3 Book XVII p.224.

moral obligation to provide it.²⁵⁷ It also supports the theory that the ‘portion’ model was considered an appropriate base-line for quantifying maintenance payments. It does this by referencing a scenario where, if that model had been used, the wife would not have had enough to live on.

The wife’s portion was also the starting point for quantifying the amount of the settlement in the tale of Alcales and Palmyra. This short fiction even involved an example of adultery by the wife. Notwithstanding this:

it was agreed by the lawyers appointed by each party, that she should have the interest of her own fortune to live upon, in what manner was most agreeable to her.²⁵⁸

Yet again the idea that a wife (even an errant one) should be adequately supported using the money she brought to the marriage does not appear to be controversial. The language used is measured and there is no hint that the agreement was unusual or particularly generous – unlike Sergius’ actions, above. Although the matter was placed in the hands of lawyers, there no dispute about the outcome is mentioned. Indeed, the agreement between the legal advisors provides it with added (male-sanctioned) authority.²⁵⁹

In both the *Female Spectator* and *Betsy Thoughtless* Haywood adopted an outwardly pragmatic stance. She did not argue for a recalibration of male authority within marriage or for any fundamental change to that institution. However, in both the *Female Spectator* and *Betsy Thoughtless* she presented her readers with examples of women who were able to leave their unhappy marriages: in Bacscheider’s words ‘model[ing] the realistic possibilities for action that women [had]’.²⁶⁰ Haywood, though, was engaging with the law not simply as a set of rules and conventions. She was also – whether consciously or not – disrupting some of the ideas which underpinned coverture. At the time the *Female Spectator* was published, Blackstone’s *Commentaries* were still twenty years in the future. Haywood was therefore engaging with the predecessor of Blackstonian coverture: the hierarchical model. However, whilst husbands in the *Female Spectator* and *Betsy Thoughtless* are presented as the senior

²⁵⁷ Although husbands did have a duty to support their wives financially during the marriage.

²⁵⁸ Vol I Book 1 p.36.

²⁵⁹ Interestingly, even though she confesses her adultery and her husband is ‘assured’ of her guilt, she could not be divorced because ‘proofs were wanting’. Vol 1 Book I p.36.

²⁶⁰ Bacscheider, p.34.

partner in the marital relationship, women are neither powerless or without agency. Haywood is also keen to hold them responsible for the choices they make. When Dalinda marries Macro, her social inferior, she allows herself to be taken in by his compliant, obliging nature and neglects to make appropriate financial arrangements. The *Female Spectator* does not mince her words when relating the consequences:

She had taken no care that proper settlements, in case of accidents, should be made, and was ashamed to have recourse to any of her kindred...he retrenched her equipage and her table; set limits even to her dress...till at last his tyranny got the better, and he has now reduced her to the most abject slavery.²⁶¹

Here, the performance of socially gendered roles (husband and wife) are depicted as being more important than class. The consequence of this is that the previously socially-superior woman is reduced to being her husband's victim. However, the *Female Spectator* holds Dalinda partially responsible for this: had she engaged in due diligence before committing herself to matrimony, she would not have found herself in such a sorry position.

This is not the only story in the *Female Spectator* which addresses the ill-treatment of wives by their husbands. Although she advocated sweetness and stoicism as wifely virtues, Haywood did not advise complete passivity: women should be educated, they should take responsibility for their future happiness and, if they found themselves in a marriage like Betsy Thoughtless's, they had a moral duty to extricate themselves. Marriage in Haywood's fictions might be a hierarchy but it is not a dictatorship. She does not pretend women are invulnerable, however she is resolute in finding pockets of female agency which can be exploited – even on the pages of a women's periodical. Indeed, the inherently conservative nature of that publication arguably gave her extra authority with which to emphasise these points. Take as an example the tale of Endosia. When her husband, Severis, takes a mistress (even moving her into the family home and giving her his wife's place at the head of the table) Endosia is outwardly the model of patient suffering. However, she has a secret plan. She fakes a mortal illness and writes a letter to her husband to be opened after her death. This urges Severis to marry his mistress once Endosia has died. Just as she intends, it is discovered by him almost immediately. The power of a supposed death-bed request from his ailing wife, combined with her patient suffering, induces unbearable guilt and remorse in Severis. He

²⁶¹ Vol I Book II p.68.

turns his mistress out of doors – exactly as Endosia planned.²⁶² The repeated use of such examples of wifely agency in Haywood’s work are not just a simple rejection of women’s powerlessness within marriage. Rather, I suggest they should be more accurately viewed as a subversion of the theory of marital hierarchy which underpinned coverture.

If the behaviour of Haywood’s female protagonists is subversively agentic, by contrast the possessions they take with them when they leave the matrimonial home appear to conform to expectation. The examples align with the evidence from the historical sources, as does Haywood’s use of the ‘portion’ model for maintenance payments. The question, though, of whether women believed they ‘owned’ these goods, or whether they were merely able to exert a degree of ‘control’ over them is more opaque. Betsy may have taken only what ‘belonged to herself’ but this level of clarity is not uniformly reflected in the historical sources. It may have been the case that such items were infused with an aura of legitimate female ownership but, equally, particular objects may simply have been seen as fair game – particularly if they were removed with a view to supporting wives and children. It is also possible that women, on a practical level, saw no difference in their capacity to own goods and chattels when *sole* as against when they were *covert*. Such continuity of behaviour has been identified in women’s professional domestic purchasing patterns, which did not appear to alter when a woman married.²⁶³

There is one further possibility, though which might explain the use of the ‘portion’ model when calculating maintenance payments. As has already been noted, the types of property wives retained on the breakdown of their marriages broadly corresponded to established categories of sole and separate estate: Staves links maintenance payments with pin-money and Bailey argues for a connection between household goods and paraphernalia. I would like to propose a further option: jointure. Jointure was based roughly on the amount of the portion brought by the woman to her marriage and, although the ratio of jointure to portion diminished over time, it still remained the starting point for calculations.²⁶⁴ Due to the existing nexus between the quantum of her portion and the amount received by a woman in

²⁶² Book 3 Vol XIII pp.25-29.

²⁶³ Bailey, ‘Favoured or Oppressed?’ in particular pp.357-8.

²⁶⁴ H.J. Habakkuk, ‘Marriage Settlements in the Eighteenth Century’ *Transactions of the Royal Historical Society* 4th series 32 (1950) <<https://www.jstor.org/stable/3678475>> [accessed 17th August 2020] p.21. The subject of ratios of portion to jointure, as well as the relationship between portions and land is also discussed at Erickson *Women and Property* pp.121-2.

jointure payments, it seems logical that when searching for a model on which to base maintenance payments following a separation, the point of reference would not be pin-money but jointure. This argument is even more persuasive when one considers that the purpose of pin-money was for the wife to purchase optional extras, rather than wholly support herself.²⁶⁵ This becomes even more interesting if one considers a possible link between the ‘new’ parliamentary divorce and death. Support for this conceptual connection can be found in the act of Parliament which divorced the Wymondesolds.²⁶⁶ The text is overwhelmingly concerned with the property and inheritance rights of the parties and their children following the dissolution of their marriage. In particular, in order to stop Mrs Wymondesold and any illegitimate children she might bear from obtaining property to which they were not entitled the phrase ‘as if she [i.e. Mrs Wymondesold] were naturally dead’ is used repeatedly in the text of the act.²⁶⁷ If this was the case generally (and a much larger study would be required) it might suggest that the idea of death was used by lawyers – and wider society – as a conceptual framework through which to understand the new concept of a complete dissolution of a valid marriage.²⁶⁸ Thus, maintenance payments could have been viewed as form of jointure, just as physical possessions may have been seen as a form of paraphernalia – both classes of goods which the wife retained upon the death of her husband.²⁶⁹ This may have then trickled down to more informal settlements.

Ultimately, this is a question which it is impossible to answer definitively – at least in this thesis. However, the evidence cited here suggests that women may indeed have had some claim over ‘chattels personal’ in the event of the breakdown of their marriage. This disruptive space between the letter of the law and lived reality, small though it is within the mass of

²⁶⁵ Staves, pp.143-7.

²⁶⁶ 27 Geo II c.35 1754 [HL/PO/PB/1/1754/27G2n77].

²⁶⁷ By the time we reach the divorce of Jane Addison in 1801 this has been reworded as ‘were not living’ but the effect is the same (41 Geo. III 1801 HL/PO/JO/10/8/16).

²⁶⁸ Such phrases do not need to form part of modern ancillary relief orders, I would argue, because we now have a concept of divorce *qua* divorce and do not need to conceptualise it in terms of something else.

²⁶⁹ This also feeds into Sarah Butler’s medieval evidence (above) and suggests a thought process that links property adjustment on parliamentary divorce with that which happened upon death. In order to bar dower, jointures had historically been land-based but by the eighteenth century were largely comprised of cash and investments (Staves, pp.99-101).

restrictions which comprise coverture, should not be underestimated. It provides important testimony that the law as it was written did not always accord with the law as it was experienced by the men and women who lived under it. Further, the writings of Eliza Haywood suggest that whilst women undoubtedly suffered discrimination within marriage, there may have been pockets of agency which could still be exploited by them. Marriage may have been a hierarchy in which women were subordinate but this did not mean that husbands could do as they pleased. Through her writing, which questioned and subverted the power coverture gave to husbands, Haywood left a literary legacy which those who came after her would build upon – and none more so than the subject of Chapter Three: Mary Wollstonecraft.

Chapter Three

Mary Wollstonecraft (1759-1797) may only have been married for a few short months at the end of her life but marriage and coverture – its pitfalls, shortcomings and inequalities – formed a central part of both her philosophy and her life. At the heart of this, though, lay an impasse: Wollstonecraft, whilst keenly aware of the lack of legal and economic autonomy available to women once they entered marriage, ultimately did not use her fiction in order to construct an alternative model for the institution. Instead, whilst she explored its oppressions there remained a void: fashioned variously as despair, death and the scattered notes of an unfinished work. This absence of a new model for marriage – and, importantly, coverture – in her fiction is highly significant and, I argue, speaks to the difficulty of reform without an accompanying shift in society's view of women.

This chapter will explore Wollstonecraft's interrogation of late eighteenth-century coverture, together with the wider issue of marriage, in her two novels *Mary: A Fiction* (1788) and *Maria: Or, the Wrongs of Woman* (1798). It will also examine her quasi-marriage to Gilbert Imlay and contrast both the fictions and Wollstonecraft's lived reality with the case of Jane Addison, the first woman to obtain a full parliamentary divorce in 1801.

That Wollstonecraft wished to expose gendered inequalities through her fiction is an uncontroversial observation. By doing this, she engaged with assumptions inherent within coverture as well as issues relating to marriage more generally. Importantly, the cultural understanding of coverture had altered since Eliza Haywood's lifetime. Following the publication of Blackstone's *Commentaries* (1765), the underlying jurisprudential reasoning for coverture had shifted from the hierarchical model discussed in the preceding chapters, to one which focussed on the idea of a 'unity of persons'. This did not, however, mean that husbands ceased to be the dominant partners. Indeed if anything, it served to elevate the husband's importance by rendering the wife – theoretically at least – a legal and economic non-entity.²⁷⁰ As was discussed in the introduction to this thesis, Blackstone also chose to foreground the contractual (as opposed to sacramental) nature of marriage and emphasised the importance of consent. These two additional factors served to support the 'unity of persons' ideology in two ways: firstly, they validated the disappearance of wives' legal and economic autonomy by suggesting that women both had freedom of choice and equality of bargaining power when entering marriage – neither of which was the case. They also softened the

²⁷⁰ Please see notes 14-17 in the introduction.

appearance of the financial transactions inherent within eighteenth-century marriage: rather than the reality, where husbands benefitted from the property their wives brought to the marriage, these were instead presented instead as a fair exchange of rights and burdens. The inequalities that existed between wives and husbands were even more pronounced if the relationship ran into difficulties. As was seen in Chapter Two women did not enjoy the same rights as men to terminate the marriage, even in cases of extreme cruelty or adultery. Jane Addison was only granted hers because the adultery committed by her husband contained the aggravating factor of incest. In other countries, less inequitable models of marriage did exist. These included England's former American colonies and France. It may have been the case that Wollstonecraft was influenced by either or both of these and this possibility is explored below.

It is probably as misleading to talk of 'the eighteenth-century marriage' as it is 'the eighteenth-century novel'. To quote Conor McCarthy, it is perhaps best to view it as a 'debate rather than [a] consensus'.²⁷¹ A debate, moreover, which had been ongoing through law, literature, society and between innumerable married couples for hundreds of years before Wollstonecraft chose to enter it. Further, marriage was – and is – not a homogenous concept. Instead, it comprised a number of rituals, beliefs and legal relationships, some of which were undergoing a profound process of change and adaptation. Coverture was one of these but Wollstonecraft also explored the growing importance of love and affection (including sexual attraction) within long-term relationships.²⁷²

It was within this energetic and long-running discourse that Wollstonecraft placed her two novels. Whilst they touch upon a number of issues relating to marriage, they both

²⁷¹ *Marriage in Medieval England: Law, Literature and Practice* (Cambridge: Cambridge University Press, 2004) p.164.

²⁷² The rise in importance of love and affection in the choice of marriage partners is hotly debated amongst historians of the long eighteenth century and I am not alone in being somewhat wary of the conclusions of Lawrence Stone in this area. In this context, whilst locating normative emotional responses in the historical record is a difficult exercise, but companionate marriage may not have been a new phenomenon. For example, during the later medieval period freedom of choice of marriage partner seems to have been the norm for 'ordinary' people at least. Jeremy Goldberg states: 'Active parental involvement in the initiation of courtship or matrimony seem to have been comparatively rare except among wealthier peasant families and the landed aristocracy.' *Women, Work, and Life Cycle in a Medieval Economy* (Oxford: Oxford University Press, 1992) p.274.

foreground the oppression inherent within an institution which sought to commodify women and reduce the marital relationship to a commercial transaction. In many respects Wollstonecraft builds on Haywood's legacy in *Betsy Thoughtless*. However, Wollstonecraft appears to have been more interested in exposing injustice than providing her readers with information on how they could best negotiate marital difficulties. Her method instead is provide her heroines with an ideological justification for rejecting their transactional marriages but then, rather than offer solutions, focus on how limited their options were. In *Mary* this is done through the medium of the Christian religion, which Wollstonecraft uses to challenge the 'unity of persons' theory which lay at the heart of Blackstonian coverture. She achieves this via the plot but also by invoking age-old literary tropes relating to female mystics. In *Maria*, Wollstonecraft explores the need to centre mutual respect, consideration and affection within marriage. Ultimately, neither approach provided her with a definitive new model for marriage. However, she did formulate a coherent and impassioned rejection of coverture as a brutal, male-orchestrated institution which enabled and legitimised female oppression.

Mary is a short fiction of some forty-nine pages. It concerns the eponymous heroine, who grows up as a neglected and unrecognised genius in a dysfunctional family. Her ailing mother sinks into indolence thanks to a combination of sofas, popular novels and lap dogs (a prototype Lady Bertram, perhaps). Elsewhere, violence and fear lurk close to the surface: her father, who 'was very tyrannical and passionate', left Mary 'continually in dread that he should frighten her mother to death'.²⁷³ In the course of the book, Mary experiences two intense relationships. The first is with her friend Ann, the daughter of a family living nearby in straightened circumstances and the second with Henry, an invalid she meets in Portugal and with whom she develops a deep spiritual and emotional connection. As well as nursing Ann and Henry (both of whom subsequently die) Mary also seeks meaning and fulfilment in charitable works. Significantly, one person with whom she does not connect emotionally is her husband: Charles, a 'boy she seldom took any notice of' prior to their marriage.²⁷⁴ He is fifteen, two years younger than Mary, and the child of a friend of her father. Their marriage is determined according to the transactional model of marital property transfer: they barely

²⁷³ Mary Wollstonecraft, *Mary: A Novel* and *Maria: Or, the Wrongs of Woman* Janet Todd (ed.) Revised Edition (London: Penguin, 2004) pp.7-8. All quotations are from this edition unless specified otherwise.

²⁷⁴ *Mary*, p.15.

know one each other but are married in order to resolve a long-running dispute over their fathers' respective estates. Mary spends the greater part of the novel apart from Charles. Their marriage is not consummated until the penultimate page of the book when, with much physical revulsion on Mary's part, she temporarily submits to his request to live as man and wife. The novel finishes with Mary sensing that she is near death and about to enter a place where '*...there is neither marrying, nor giving in marriage.*'²⁷⁵ The end of her mortal life will, the novel insists, deliver her from her husband and reunite her again – spiritually – with Ann and Henry.

Wollstonecraft's overt intention when writing *Mary* was not to focus on the subjugation of women within marriage, as she was to do later with *Maria*. Instead, as per the 'Advertisement' at the start of the book, she hoped to render into print a female protagonist 'who ha[d] thinking powers'. This, the notice informed her readers, would mean reshaping the concept of the novel rather than following the 'beaten track' and 'prescribed rules' of mainstream fiction. Her heroine would not be 'a Clarissa, a Lady G–, nor a Sophie' but would instead 'speak for [herself] and not...be an echo.'²⁷⁶ However, by choosing to create a married protagonist Wollstonecraft – whatever might be her intentions in the advertisement – entered the long-running discourse about marriage and coverture.

That Mary is not an ordinary heroine – or, indeed, an ordinary girl – is, however, clear from the outset. In addition to reading 'with avidity every book that came her way' she also 'considered everything that came under her inspection, and learned to think.'²⁷⁷ One of the earliest manifestations of this power of thought came through a childish exploration of theology:

She had heard of a separate state, and that angels sometimes visited the earth. She would sit in a thick wood in the park, and talk to them; make little songs addressed to them, and sing them to tunes of her own composing.²⁷⁸

Mary's instinctive pull towards religion lies at the very heart of the novel. It functions not simply as a showcase for her powers of intellect but also, I would argue, allows her access to

²⁷⁵ *Mary*, p.53. Wollstonecraft's italics.

²⁷⁶ *Mary*, p.4.

²⁷⁷ *Mary*, p.7.

²⁷⁸ *Mary*, p.7.

an alternative power structure – a divine one – which transfers her duty away from her family and her husband. This justifies her refusal to adhere to social norms, particularly the gendered expectations within marriage. Importantly, it also allows her to challenge the notion that marriage is, in any way, a unity of persons.

That Wollstonecraft had a religious faith which influenced her work is often downplayed by modern commentators. As Barbara Taylor puts it:

Most studies do no more than gesture towards it, and then dismiss it as ideological baggage foisted on her by her times, with no positive implications for her views on women.²⁷⁹

It was also minimised by her husband William Godwin. Writing after her death, he described:

Her religion...in reality [as being] little allied to any system of forms; and...founded in taste rather than niceties of polemical discussion...[and was] almost entirely of her own creation.²⁸⁰

Taylor finds at least fifty references to religion within *A Vindication of the Rights of Woman* (a text written only four years after the publication of *Mary*) and cites this particular example as the very foundation upon which Wollstonecraft's feminism rested:

Thanks to the Being who impressed...on my soul, and gave me sufficient strength of mind to dare to exert my own reason, till, becoming dependent only on him for the support of my virtue, I view, with indignation, the mistaken notions that enslave my sex.²⁸¹

This sentiment could have been written by the fictional Mary herself.

²⁷⁹ 'The religious foundations of Mary Wollstonecraft's feminism' in Claudia L. Johnson, (ed.) *The Cambridge Companion to Mary Wollstonecraft* (Cambridge: Cambridge University Press, 2002)

²⁸⁰ Godwin *Memoirs*, p.215. Although Barbara Taylor (above) suggests that Godwin's own views on religion may have affected his understanding of Wollstonecraft's (p.101).

²⁸¹ *A Vindication of the Rights of Woman* Miriam Brody (ed.) revised edition (London: Penguin, 2004) p.49. All quotations are from this edition unless otherwise specified.

Recognising that Christianity lies at the philosophical heart of Wollstonecraft's first novel has a profound effect on one's reading of it. If religion is used as the primary filter through which to view the novel, a number of apparently contradictory elements within the text begin to shift into focus. It also serves to showcase Mary's exceptionalism, validates her refusal to conform to particular roles within society and allows her to reject what would otherwise be her biological destiny as a sexual and reproductive body. It also enables Wollstonecraft to challenge a number of the legal fictions that underpinned Blackstonian coverture: that women should not to be treated as being synonymous with their portion, that female consent to marriage was not always free and – perhaps most powerfully of all – that women did not disappear into the shadow of their husband's protection during matrimony.

Although it has undoubtedly been a repressive ideology in a number of respects, Christianity has also provided powerful models and literary precedents for women seeking to subvert or transcend patriarchal structures of power. At the time Wollstonecraft wrote *Mary*, spiritual equality of the sexes had long been an acknowledged – although not unchallenged – tenet of Christian theology. Indeed 'puritan sects in particular...had provided generations of female believers with a language of self-assertion.'²⁸² By ascribing to an ultimate authority located in the Divine, a woman could escape the power earthly society had over her and, to a certain extent, transcend her gender – or at least the social destiny which that gender dictated. The attraction of this for women seeking to avoid the patriarchal authority inherent within marriage and coverture (or an author seeking the same for her protagonist) is obvious. Wollstonecraft, however, does not simply substitute divine authority for secular power structures. Instead, she goes further and embeds within the novel echoes of a centuries-old narrative structure that remained alive into the eighteenth century: that of the saints' life or *vita*.

Even a cursory examination of *vitae* tropes shows striking similarities between this ancient narrative form and *Mary*. The arc of a *vita* is essentially one where the subject rejects the ways of the world and instead embraces the ways of God, using the authority inherent within the Divine to justify their refusal to submit to secular power. The subject of a typical *vita* usually has their holy calling revealed in childhood, often through an instinctive adoption of devout behaviour. This frequently includes the renunciation or suppression of bodily needs.

²⁸² Taylor, p.103. The origin of this theology lies in the New Testament, specifically St Paul's Letter to the Galatians 3:28: 'There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female: for ye are all one in Christ Jesus.' (KJB)

The subject signals their holiness through carrying out good works and will often face a moment of crisis when faced with the prospect of marriage or another form of sexual relationship. The narrative resolves itself upon the subject's death, which can occur as the result of martyrdom or self-imposed bodily deprivation. Additionally, the *vita* subject is given divine equivalents of secular experiences, almost as like-for-like swaps. So, for example, instead of taking an earthly husband, female subjects might become the Bride of Christ in a so-called 'mystical marriage'.²⁸³

Mary's instinctive acceptance of the divine order begins in childhood. After singing to the angels (quoted above), she also manifests a 'tenderness' towards her ailing mother which 'exercised her compassion so continually, that it...was the governing propensity of her heart through life.'²⁸⁴ She becomes conscious of her own shortcomings and seeks forgiveness. Through this combination of penance, self-sacrifice and empathetic suffering, she is granted a spiritual awakening:

Sublime ideas filled her young mind...extemporary effusions of gratitude, and rhapsodies of praise would burst from her.²⁸⁵

As she grows older, her religious impulses move outside her family circle and she yearns to relieve the poor:

Her benevolence, indeed, knew no bounds; the distress of others carried her out of herself; and she rested not till she had received or comforted them.²⁸⁶

²⁸³ For a concise summary of narrative patterns in medieval female hagiography please see Caroline Walker Bynum *Holy Feast and Holy Fast: The Religious Significance of Food to Medieval Women* (Berkeley: University of California Press, 1987) pp.24-26. For a brief description of Catherine of Siena's life, including her mystical marriage see Carolyn Meussig 'Introduction' in *A Companion to Catherine of Siena* Carolyn Meussig, George Ferzoco, Beverly Mayne Kienzle (eds) Brill's Companions to the Christian Tradition Vol. 32 (Leiden: Brill, 2012) pp.1-10.

²⁸⁴ *Mary*, p.8.

²⁸⁵ *Mary*, p.8. Note the sense that this is not something over which she has control – these are things which are happening *to* her; they are involuntary.

²⁸⁶ *Mary*, p.11.

This devotion and fervour finally culminates in the celebration of her first Eucharist, an experience which engulfs her emotionally and physically as well as spiritually:

She was indeed so much affected when she joined in the prayer for her eternal preservation, that she could hardly conceal her violent emotions; and the recollection never failed to wake her dormant piety when earthly passions made it grow languid.²⁸⁷

It is significant that immediately after the transcendent experience of her first Eucharist – the moment when she is confirmed into her religious faith – Mary has to start negotiating the challenges of her adult life. However, because she has so ardently embraced the rule of God during her girlhood Wollstonecraft, just like the author of a *vita*, is able to use this to legitimise Mary's rejection of marriage.

Whilst Wollstonecraft was, of course, not seeking to replicate the extreme asceticism of Catherine of Sienna or Christina of Markyate in her depiction of Mary, there was an active strand of eighteenth-century nonconformist women's writing which echoed these medieval stories.²⁸⁸ Many of the themes present in the *vitae* would have been understood eighteenth-century readers, including ecstatic religious experiences, the suppression of bodily desires and the privileging of divine authority over human societal expectations. One of the ways in which mystics signalled their piety was through bodily denial, typically a rejection of food, sleep or clothing. Erotically-charged encounters with the divine (just as occurred in some medieval *vitae*) were also recorded.²⁸⁹ Food, however, was often a central pre-occupation. One seventeenth-century woman, Sarah Wight, suffered a religious crisis and took to her bed, fasting for seventy-five days. She was reportedly kept alive by eating manna sent from heaven

²⁸⁷ *Mary*, p.12.

²⁸⁸ Some medieval *vitae* continued to circulate during and after the Reformation: see Jennifer N. Brown *Fruit of the Orchard: Reading Catherine of Siena in Late Medieval and Early Modern England* (Toronto: University of Toronto Press, 2019) pp.172-3.

²⁸⁹ For example, Anne Bathurst 'whose erotic transference was expressed in recorded incidents such as Christ seeming "to kiss [her] with the kisses of his mouth"' Anthony Fletcher *Gender, Sex and Subordination in England 1500-1800* (New Haven: Yale University Press, 1995) p.357.

which, I would suggest, was a culturally acceptable reimagining of the medieval Catholic host for a modern protestant readership.²⁹⁰

Such examples continue into the eighteenth century. Hester Ann Rogers, the Methodist figurehead, used control of her body, specifically depriving herself of food or sleep, to ‘defend herself from charges of possessing an unruly and unstable female self’.²⁹¹ There were also examples of nonconformist women self-designating as brides of Christ in order to stay single.²⁹² How far Wollstonecraft was aware of Rogers’ writing is unknown but there is a correlation between Rogers’ bodily mortifications (themselves echoes of the *vitae* tradition) and those imposed by the protagonist upon herself.

Religious mysticism also had important advantages for women seeking to avoid marriage and, more especially, coverture. By remaining unmarried, English women retained control of their property, their bodies and themselves as autonomous individuals in the eyes of the law. There were also more subtle advantages which could flow from bodily asceticism. This involved the control of an otherwise ‘unstable’ female body which, in turn, allowed the subject to move beyond their innate, physical femininity. This did not mean that subjects believed they ceased to be women; rather that they could occupy a liminal space where the perceived disadvantages of femininity would be mitigated. This is most visible in the food-related imagery within *Mary*, where the lack of nourishment correlates with a sense of bodily control – even transcendence. Thus, when the reader learns that the heroine

was miserable when beggars were driven from the gate without being relieved; if she could do it unperceived, she would give them her own breakfast

²⁹⁰ Mary E. Fissel, *Vernacular Bodies The Politics of Reproduction in Early Modern England* (Oxford: Oxford University Press, 2006) pp.120-134.

²⁹¹ Andrew O. Winckles, ‘Drawn Out In Love: Religious Experience, The Public Sphere, And Evangelical Lay Women’s Writing In Eighteenth Century England’ *Wayne State University* (2013) P.72 <https://digitalcommons.wayne.edu/oa_dissertations/810> [accessed 17th August 2020].

Although John Wesley, founder of the Methodist movement, never advocated bodily asceticism it was nonetheless adopted by some of his female followers, who used it explicitly for the purposes of sexual politics.

²⁹² Winckles, pp.66-67.

it is significant that Wollstonecraft feels the needs to add that her protagonist would ‘feel gratified, when, in consequence of it, she was pinched by hunger’.²⁹³ Likewise, and indicating the pre-eminence of her spiritual existence over her bodily needs, Mary

practised the most rigid oeconomy, and had such power over her appetites and whims, that without any great effort she conquered them so entirely, that when her understanding or affections had an object, she almost forgot she had a body which required nourishment.²⁹⁴

The ‘forgetting’ of her body her also prefigures the rejection of feminine sexual and reproductive roles which will occur later in the novel. It is also significant that the effect Charles has on her is adversely linked to her digestion:

when her husband would take her hand, or mention anything like love, she would instantly feel a sickness...and wish...that the ground would open and swallow her.²⁹⁵

By including examples of the renunciation of food in her novel, Wollstonecraft is not merely making a thematic link between *Mary* and other written examples of women’s religious self-expression. For women, food (and thus the renunciation of nourishment) has a particularly strong cultural and metaphorical significance. Caroline Walker Bynum argues that it was not self-deprivation *per se* that encouraged late medieval holy women to starve themselves. Instead, because food was the single resource controlled primarily by women they could manipulate their environment by regulating their relationship with it.²⁹⁶ In order to explain this desire for control, Walker Bynum draws a picture of the economic and demographic conditions surrounding late medieval marriage – conditions which feel familiar to anyone studying the subject in the eighteenth century:

²⁹³ *Mary*, p.9.

²⁹⁴ *Mary*, p.12.

²⁹⁵ *Mary*, p.53.

²⁹⁶ Walker Bynum, p.218.

After 1200, women's life expectancies outran men's. Women became a surplus in the population...The dowry – now the daughter's only claim on family property, as patrilineal principles triumphed – inflated wildly.²⁹⁷

Dowry inflation, a surplus of marriageable women, a privileging of patrilineal property transfers – these were all features of the eighteenth-century marriage market as well as the fifteenth. Indeed, these were factors openly and vociferously abhorred by Wollstonecraft. Walker Bynum continues:

It seems reasonable to suspect that daughters resented the pressure, feeling guilty about the strain their dowries put on family resources and yet angry that this one payment bought off their parents' obligation to them...Thus women's food practices were effective ways of shaping their lives, of rejecting roles they did not desire, of criticising and redirecting the values of husbands and parents.²⁹⁸

Even outside a medieval religious context (which placed special emphasis on feasts, fasts and the symbolic 'meal' embedded within the Mass) this link between food and control is apparent in *Mary*: giving her food away allows her to manipulate the little property she has control over. Bodily control is also present: hunger's 'pinch' makes her 'feel gratified' and positively re-enforces her instinctive impulse to donate her breakfast to the needy.²⁹⁹ Additionally, the nauseous reaction she has towards her husband's advances further extends this metaphor of control-by-way-of-food and it becomes a primal, bodily rejection of the marriage which has been forced upon her.³⁰⁰

²⁹⁷ Walker Bynum, pp.225-6.

²⁹⁸ Walker Bynum, pp.226-7.

²⁹⁹ Just as relieving the 'necessities' of the poor fisher families makes her heart 'dance with joy'. *Mary*, p.11.

³⁰⁰ This link with physical sickness, too, is a trope found in the *vitae*. Francesca Romana d'Ponziani vomited when she had sex with her husband (Walker Bynum p.215). Alternatively, for some holy women, vomiting or gagging on the Host was an indication that it had not been properly consecrated. This in turn and might reflect badly on the priest's credentials. Walker Bynum p.228-229.

Although the focus on nutritional deprivation wanes once Mary reaches adulthood, the practice of self-denial continues in other areas of her life. Even though this is not as overt as the food-related incidents – and its impact within the novel is further diminished by the foregrounding of Mary’s relationships with Ann and Henry – it continues to signpost Wollstonecraft’s privileging of spiritual values over secular ones. So, for example, rather than choosing the existence of a worldly, indolent, novel-reading wife as modelled by her mother, Mary devotes herself instead to relieving the poor; nursing the sick (including Ann and Henry) and, rather than cohabit with her husband and enjoy the benefits of her inheritance (although coverture of course decrees that her husband controls it) she cries out that she would rather work for her bread.³⁰¹ Of course, good works would have been expected from a woman of Mary’s social standing. The good works here, however, are not the charitable ministrations of a wealthy wife carried out in fulfilment of her gendered role in society. Instead, Mary’s motivation is genuine piety: the same piety which also allows her to locate herself physically and metaphorically beyond her husband’s control and legitimises her refusal to play the part of a loving, attentive wife.

Chastity too is an important signifier. It was, of course, culturally associated with religious purity and bodily denial. It also represented Wollstonecraft’s ideal of matrimony as articulated in *A Vindication of the Rights of Women* (1792). Indeed, she specifically links intellectual endeavour with a disinclination to fixate on sexual love:

The woman who has dedicated a considerable portion of her time to pursuits purely intellectual...must have more purity of mind...than the ignorant beings whose time and thoughts have been occupied by...schemes to conquer hearts.³⁰²

This has important implications not simply for Mary’s marriage to Charles but for the relationships she has with Henry and Ann. Whilst both these relationships have amatory potential – and indeed, both work as foils for her barren and loveless relationship with Charles – Wollstonecraft uses religious imagery to ensure they are contained within strictly platonic boundaries. For example, in an action which invokes echoes of the dying Christ, Henry

³⁰¹ Wollstonecraft appears to be ignoring the fact that Charles would control his wife’s wages in the same way he controls her other assets.

³⁰² Wollstonecraft, *A Vindication of the Rights of Woman* (London, Penguin: 2004) Revised edition pp.153-154. All quotations are from this edition unless stated otherwise.

commends Mary to his mother as her daughter. Although this appears to indicate he sees the relationship between Mary and himself as one of siblings, this reading is potentially complicated by the interchangeable usage of kinship terminologies current during the period and could indicate that Mary is to be seen as his mother's *daughter-in-law*, thus underscoring the sexual potential of their relationship.³⁰³ Given the strong parallels with the scene from St John's gospel and the emphasis placed upon Mary's piety, I would suggest that Wollstonecraft is exploiting this terminological ambiguity: Mary is Henry's soul-mate and should (in a just world) have been his wife. However, her own marriage, Henry's illness and her own religious calling mean that she instead will be a daughter in spirit: fulfilling the role, although without the normal ties of kinship. Ultimately, it is not Mary's attraction to Henry which is important within the text, rather it is her rejection of him as a lover – a denial of her own needs – which signals both her exceptionality and her status as a pious individual. Thus it is important that both the potential for that relationship and Mary's rejection of it are signalled here.

The issue of Mary's relationship with Ann is arguably more complex than that which she experiences with Henry. Here, Wollstonecraft appears to have been drawing on the concept of 'romantic friendship' in the deep, emotional connection between the two young women.³⁰⁴ This, too, has implications for Wollstonecraft's rejection of marriage and coverture as romantic friendships could be vehicles for young women of the time to escape marriage.³⁰⁵

³⁰³ John 19:25-27. Naomi Tadmor argues for a degree of interchangeability for terms such as 'daughter' and 'daughter-in-law' during the period, signifying the union of husband wife as one person. She also makes the case for familial signifiers being used to conjure up ideas associated with that relationship – for example, the king as father of the nation: *Family and Friends in Eighteenth-Century England: Household, Kinship and Patronage* (Cambridge: Cambridge University Press, 2001) <https://ebookcentral.proquest.com/lib/soton-ebooks/detail.action?docID=201915> ProQuest Ebook Central pp.133-134 and pp158-159.

³⁰⁴ Sophie Slater provides an overview of the literature on this topic in her dissertation: 'Deviant Desires: Gender Resistance in Romantic Friendships Between Women during the Late-Eighteenth and Early-Nineteenth Centuries in Britain' *Theses, Dissertations, and Other Capstone Projects* Paper 129 (2012) <<https://cornerstone.lib.mnsu.edu/cgi/viewcontent.cgi?article=1128&context=etds>> [accessed 17th August 2020].

³⁰⁵ Slater, p.3.

As well as overtly religious allusions, Wollstonecraft also uses blurred gender boundaries and expectations to challenge conventional views of marriage and coverture. Mary's own transcendence of gender roles is recognised by a man she meets towards the end of the novel:

In Mary's company he doubted whether heaven was peopled with spirits masculine; and almost forgot that he had called [women] 'the pretty play things which render life tolerable.'³⁰⁶

Other critics have also noted Wollstonecraft's use of blurred gender boundaries. However, these are generally explained in secular, not religious, terms. Andrew Elfenbein, for example, argues that by creating a heroine who exhibits the very masculine trait of genius:

Wollstonecraft is not simply making a point about the oppressiveness of marriage. She is entering into the familiar eighteenth-century insistence that marriage enchains genius.³⁰⁷

Helen Thompson does likewise in her book *Ingenuous Subjection: Compliance and Power in the Eighteenth-Century Domestic Novel*. She explores the evolution of Mary's intellectual powers, interpreting them as the result of childhood neglect. Instead of disadvantaging her, however, Thompson argues this allowed Mary to develop 'a mind and body...unencumbered by the rules of sexed propriety' so that she could rely on her natural instincts to decide between right and wrong.³⁰⁸ For Thompson, this sense of a free and active will is the result of a coming together of the Lockean educational principles which transform 'boys into freely acting citizens' and the physical activity suggested by Mary Astell's 'indelibly bodily "Joys of Vertue".'³⁰⁹ Thus, because Mary has not been constrained by

³⁰⁶ *Mary*, p.43.

³⁰⁷ Andrew Elfenbein, 'Mary Wollstonecraft and the sexuality of genius' *The Cambridge Companion* p. 237.

³⁰⁸ Helen Thompson, *Ingenuous Subjection: Compliance and Power in the Eighteenth-Century Domestic Novel* (Philadelphia: University of Pennsylvania Press, 2005)

<<https://www.jstor.org/stable/j.ctt3fj1f7>> [accessed 17th August 2020] p.202.

³⁰⁹ Thompson, pp.200-203.

education into the subordinate role reserved for women, she is able to view herself as a 'citizen': a free and equal member of society, rather than occupying the subordinate status reserved for women.

Both Elfenbein and Thompson's analyses, however, only provide a partial explanation. Contrary to Thompson's assertions, Mary is not free: she unhappily acquiesces to both her father's wish for her to marry and her husband's desire that she consummates their marriage – giving the lie to the Blackstonian fiction of consent that underpinned and validated coverture.³¹⁰ If, however, one centres Christianity and the literary heritage of the *vitae* within the text, all these disparate elements begin to pull together in the same direction: a direction, moreover, which disrupts and challenges contemporary expectations for women within marriage.

Wollstonecraft did succeed in her ambition of creating a heroine who did not follow the 'beaten path' of her novelistic predecessors and whose 'thinking powers' were fully evident. However, her use of an unflinchingly religious model also means that *Mary* must conform to the traditional ending of the *vitae*. This involved the death of subject and the realisation of her rightful (divine) inheritance in the Kingdom of God where '*there is neither marrying, nor giving in marriage*'.³¹¹ This narrative requirement to return the protagonist to her heavenly home also has important implications for Wollstonecraft's critique of coverture. Just as wives disappeared as autonomous legal and economic individuals upon entering matrimony, so Mary is ultimately 'covered' by death and disappears from the earth, relieved at last of the burdens and expectations of her earthly marriage. The irony is, however, that this option is open to her only because Mary followed her true calling and eschewed her worldly status as a *feme covert*. The advantage of embracing heavenly 'coverture' is that she will

³¹⁰ Indeed, Thompson finds unwilling acquiescence to be a key feature of virtuous eighteenth-century heroines. She suggests that '...searching for openly or indirectly resistant women might preclude our recovery of the critical intelligibility of feminine compliance in the novel...' (p.17).

³¹¹ *Mary*, p.53. Wollstonecraft's italics. This phrase is echoed in *A Vindication of the Rights of Women* where Wollstonecraft says: '[h]ow women are to exist in a state where there is to be no marrying or giving in marriage, we are not told.' (p.45). It is interesting to speculate on the effect this aspect of *Mary* may have had on literary heroines who came after her, including George Eliot's Maggie Tulliver. Whilst there is no direct evidence that Eliot read Wollstonecraft's fiction the possibility that Mary was a fictional antecedent of Maggie (or that Eliot was accessing the same set of cultural signifiers as Wollstonecraft) is a tantalising possibility.

finally lose her physical form with its accompanying gendered expectations and be reunited forever with Ann and Henry, the two people whom she loved most completely on earth. It is only through death, Wollstonecraft suggests, that women can truly escape the oppressions of matrimony.

If *Mary* attempts to resolve the problems of the loveless transactional marriage by taking women out of the patriarchal power structure that supports it and placing them within a divine order, then Wollstonecraft's relationship with Gilbert Imlay sought to do something similar by substituting bonds of fidelity and affection for the legal ties of conventional matrimony. Further, because it was not a marriage, but rather something which looked a little like one, it also meant the rules of coverture would not bite (assuming the couple had moved to a jurisdiction where this applied). It was a bold experiment but one ultimately doomed to failure. This was not because Wollstonecraft's new model was inherently unworkable but because the man she chose as her partner proved unreliable and exploitative. However, the relationship – and the ideas she encountered around this time relating to marriage and divorce – were to prove foundational for her final novel, *Maria*.

Wollstonecraft met Imlay, an American citizen, in Paris in April 1793. Imlay was promoting a scheme selling plots of land in Kentucky. This may or may not have been a bona fide business venture but, as he was in France to avoid various lawsuits in his homeland, it is likely to have been the latter.³¹² The pair became lovers and, as the political situation in Paris worsened, Imlay registered Wollstonecraft at the American embassy as his wife and she began to use his surname. They did not, however, undergo a ceremony of marriage. When they met, she was financially independent, enjoyed a degree of fame following the success of the *Vindications* and, most significantly, had undergone a sea-change in her views on sexual relationships. Rather than the chaste, spiritual connections explored in *Mary*, she was ready to embark upon a passionate affair. Janet Todd in *Mary Wollstonecraft: A Revolutionary Life* puts this down to a change in outlook where, not only did Wollstonecraft meet a man unlike those who had previously dominated her life, '[s]he was no longer thinking of this life *primarily* as a preparation for the next.'³¹³ Instead she found herself in a new morality where

³¹² Certainly, such schemes existed. Coleridge and Robert Southey intended to join a pantisocratic operation in Susquehanna, Pennsylvania but initially considered Imlay's scheme in Kentucky. *A Revolutionary Life* p.234.

³¹³ P.236. Author's italics. This, of course, is the purpose of earthly life in *Mary*.

‘chastity consisted in fidelity and...unchastity was an association with two people at the same time.’³¹⁴

There may, however, have been other influences at work. Emma Clery in her article ‘Mary Wollstonecraft: A Feminist Exile in Paris’ suggests that Wollstonecraft extended her stay in the French capital – and thus met Imlay – not just because of her Jacobin sympathies but because of the introduction in France of a no-fault divorce process, available on equal terms to women and men.³¹⁵ The effect of this was to secularise marriage and to give power to the parties themselves ‘to determine when the marriage bond was irretrievably broken and when to dissolve the civil contract of marriage.’³¹⁶ In one letter, Wollstonecraft suggested to a friend that she might even embrace matrimony because of the changes in French law.³¹⁷

Whether Wollstonecraft was, in Todd’s view, simply ready for love or whether, in Clery’s, she was willing to consider a serious relationship because she now had an exit strategy, her letters to Imlay reveal the hopes Wollstonecraft had for their relationship, as well as the form she saw it taking:

You can scarcely imagine with what pleasure I anticipate the day, when we are to begin almost to live together; and you would smile to hear how many plans of employment I have in my head, now that I am confident my heart has found peace in your bosom. – Cherish me with that dignified tenderness, which I have only found in you... Yes I will be *good* that I may deserve to be happy; and whilst you love me, I

³¹⁴ Clark W. Durant (ed.), ‘A Supplement to the Memoirs’ *Memoirs of Mary Wollstonecraft* (London: Constable and Co., 1927) p.247 quoted by Janet Todd *A Revolutionary Life* p.236.

³¹⁵ ‘Mary Wollstonecraft: A feminist Exile in Paris’ *Litteraria Pragensis* ‘Exiles, Émigrés and Expatriates in Romantic-Era Paris and London’ David Duff and Marc Porée (eds) 29.57 (2019) 29-46 <<http://litteraria-pragensia.ff.cuni.cz/front.issue/detail/59>> [accessed 17th August 2020] pp. 41 and 37 respectively.

³¹⁶ Theresa McBride, ‘Public Authority and Private Lives: Divorce after the French Revolution’ *French Historical Studies* 17.3 (1992) 747-768 < <https://www.jstor.org/stable/286570> > [accessed 17th August 2020] p.749.

³¹⁷ Clery, p.37.

cannot again fall into the miserable state which rendered life a buttern almost too heavy to be borne.³¹⁸

Wollstonecraft was keen that she and Imlay should cohabit as a permanent domestic unit and there seems to have been an understanding (at least on Wollstonecraft's part) that this would involve a move to America where they would run a farm. Within this context, her assuming Imlay's name and being registered as his wife takes on more significance than political expediency – or Wollstonecraft's safety. However, it is also clear she saw their life together not simply as involving geographical proximity but as an emotional and psychological refuge for herself:

When we are settled in the country together, more duties will open before me, and my heart, which now, trembling into peace, is agitated by every emotion that awakens the remembrance of old griefs, will learn to rest on yours, with what dignity your character, not to talk of my own, demands.³¹⁹

This emphasis on emotional intimacy as a validating factor for extra-marital sexual relationships may, like divorce, have had its genesis in the changes in French family law – something again suggested by Clery.³²⁰ Drawing on Suzanne Desan's research, Clery argues that not only were legal changes (specifically relating to divorce and illegitimacy) altering the structures of French family life but attitudes surrounding pre-marital sexual relationships were also evolving. This centred round a concept known as 'amitié' which was seen as validating physical intimacy between courting couples. To quote Desan:

signs of fondness and attachment blend[ed] with sexual acts, naturalizing and justifying [the] relationship and revealing [an] assumption that sex and sentiment,

³¹⁸ August 1793. Janet Todd, (ed.) *The Collected Letters of Mary Wollstonecraft* (London: Allen Lane, 2003) p.228. All quotations are from this edition unless stated otherwise.

³¹⁹ Todd, *Collected Letters* P.232.

³²⁰ Clery, p.44.

responsibility and companionship went hand-in-hand for a couple en route to marriage.³²¹

The possibility that this may have influenced Wollstonecraft's relationship with Imlay is intriguing.

The domestic and emotional idyll that Wollstonecraft craved, however, never materialised. From the start, Imlay was frequently away on business for long periods of time and it is clear that Wollstonecraft did not find these absences easy:

when I am absent from those I love, my imagination is as lively, as if my senses had never been gratified by their presence – I was going to say caresses – and why should I not?...Of late we are always separating. – Crack! – Crack! – and away you go. – This joke wears the sallow cast of thought; for, though I began to write cheerfully, some melancholy tears have found their way into my eyes, that linger there, whilst a glow of tenderness at my heart whispers that you are one of the best creatures in the world.³²²

Their relationship appears to have been turbulent, Wollstonecraft's letters both containing, and referring to, quarrels and angry words and seeking Imlay's forgiveness:

I have just received your kind and rational letter, and would fain hide my face, glowing with shame for my folly. – I would hide it in your bosom, if you would again open it to me, and nestle closely till you bade my fluttering heart be still, by saying that you forgave me. With eyes overflowing with tears, and in the humblest attitude, I intreat you. – Do not turn from me, for indeed I love you fondly, and have been very wretched, since the night I was so cruelly hurt by thinking that you had no confidence in me –³²³

In her letters, Wollstonecraft appears to be envisioning a quasi-marriage; one where she and Imlay would live permanently together, like a husband and wife, although she would

³²¹ Suzanne Desan, *The Family on Trial in Revolutionary France* (London: University of California Press, 2004) <<https://hdl.handle.net/2027/heb.04360>> [accessed 21st July 2020] p.197.

³²² Paris. September 1793. *Collected Letters* p.231.

³²³ January 6th 1794 *Collected Letters* pp.239-240.

retain the economic and legal status of a working single woman. Things changed during the winter of 1793. Wollstonecraft found out that she was pregnant and the pull towards a marriage-in-all-but-name on her part began in earnest. Although we do not have copies of Imlay's letters to Wollstonecraft, it is clear from some of the references in hers to him that he was aiding and abetting her visions of a stable family unit:

What a picture you have sketched of our fire-side! Yes, my love, my fancy was instantly at work, and I found my head on your shoulder, whilst my eyes were fixed on the little creatures that were clinging about your knees. I did not absolutely determine that there should be six – if you have not set your heart on this round number.³²⁴

Whether Imlay genuinely desired this cosy domestic scene, or whether it was instead a manipulative ploy, is unclear. Imlay valued his independence (sexual as well as geographical) whereas her letters indicate that Wollstonecraft yearned for a stable, monogamous and affectionate partnership – and envisioned the day when Imlay would be welcomed into her natal family:

I think that you would hail him [her brother Charles] as a brother, with one of your tender looks...that he would meet with a glow half made up of bashfulness, and a desire to please the — where shall I find a word to express the relationship which subsists between us? ...how much he would be inclined to love the man loved by his sister. I have been fancying my-self sitting between you, ever since I began to write, and my heart has leapt at the thought.³²⁵

Wollstonecraft never truly understood or respected Imlay's business ventures ('this you will say is trifling – shall I talk about alum or soap?')³²⁶ and on a number of occasions even drew a comparison between his 'money-getting' or commercial 'face' and how he looked when he

³²⁴ January 11th 1794 *Collected Letters* p.243.

³²⁵ December 30th 1793 *Collected Letters* p.236.

³²⁶ September 22nd 1794 *Collected Letters* p.263. These are items which Imlay appears to have been trading in.

was focussed on her.³²⁷ It was not riches she sought from him, she wrote, but his companionship:

If you can make any of your plans answer – it is well, I do not think a *little* money inconvenient; but, should they fail, we will struggle cheerfully together – drawn closer by the pinching blasts of poverty.³²⁸

In any event, perhaps because of genuine commercial pressures or possibly to escape Wollstonecraft's craving for emotional intimacy, Imlay appears to have spent more and more time away from her. He refused to accede to her increasingly desperate pleas for him to return home and obfuscated when she tried to make him commit to their life together. The result was that Wollstonecraft was drawn down into a spiral of despair and angry disillusionment. At the beginning of 1794, she had started threatening to end the relationship:

My head aches, and my heart is heavy. The world appears 'an unweeded garden' where things 'rank and vile' flourish best. If you do not return soon – or, which is no such mighty matter, talk of it – I will throw your slippers out at a window, and be off – nobody knows where.³²⁹

These threats were light-hearted at first but became more impassioned as the year progressed:

Stay, my friend, whilst it is *absolutely* necessary. – I will give you no tenderer name, though it glows at my heart, unless you come the moment the settling the present objects permit. – *I do not consent* to your taking any other journey – or the little woman and I will be off, the Lord knows where.³³⁰

The use of the word 'consent' is significant here. Wollstonecraft is invoking her right as an equal partner in the relationship to prevent Imlay from leaving. This is not the consent of Blackstonian coverture, which obscured the removal of a woman's legal and economic

³²⁷ See for example Friday, December 1793 *Collected Letters* p.234.

³²⁸ January 12th 1794 *Collected Letters* p.244-245. Wollstonecraft's italics.

³²⁹ January 1st 1794 *Collected Letters* p.238.

³³⁰ December 28th 1794 *Collected Letters* p.273, Wollstonecraft's italics.

autonomy with the fiction that she freely chose that outcome: instead it was one which sought to locate the power of self-determination equally within the relationship. That Imlay did not understand this (or did, but chose to ignore it) is indicative that he did not agree. Again, in January 1795, Wollstonecraft wrote:

Still, as you talk of your return, even in February, doubtingly, I have determined, the moment the weather changes, to wean my child...[and] we will go and seek our fortune together. This is not caprice of the moment...I do not chuse to be a secondary object. – If your feelings were in unison with mine, you would not sacrifice so much to visionary prospects of future advantage.³³¹

Her threats, however, fell upon deaf ears. Imlay did not heed her warnings. Rather than follow through and leave him she chose to remain in the relationship but continued to throw barbs in his direction: asserting her wish to be independent whilst simultaneously trying to reel him back in:

When I determined to live with you, I was governed only by affection. – I would share poverty with you...I know what I look for to found my happiness on. – It is not money. – With you I wished for sufficient to procure the comforts of life – as it is, less will do. – I can still exert myself to procure the necessaries of life for my child, and she does not want more at present. – I have two or three plans in my head to earn our subsistence; for do not suppose, neglected by you, I will lie under obligations of a pecuniary kind to you! – No; I would sooner submit to menial service. I wanted the support of your affection – that is gone, all is over...Perhaps this is the last letter you will ever receive from me.³³²

There many such painful ‘last’ letters.

Although her anguish is starkly evident, Wollstonecraft repeatedly emphasised her belief that love, respect and mutual commitment should be the basis for a binding, long-term romantic partnership. She continued to remind Imlay of the arrangement they had agreed

³³¹ January 9th 1795 *Collected Letters* p.278.

³³² February 9th 1795 *Collected Letters* p.281. Despite her protestations, Wollstonecraft’s next letter to Imlay is dated the 10th February.

upon: raising their family of six children in a stable, domestic context. However, by talking of ‘schemes’, ‘plans’, ‘work’ and threatening to leave and support herself, she is also asserting that this arrangement was not to be based on the eighteenth-century understanding of marriage and coverture which rendered the woman an inferior, dependant non-person. She is instead arguing for the continuation of herself as an agentic, economically-active individual with the freedom to end a relationship which no longer served her.

This is not to say, however, that Wollstonecraft’s alternative was entirely gender-blind. Whilst she saw raising Fanny, their baby, as a job for both herself and Imlay (‘I grow sad very often when I am playing with her, that you are not here, to observe with me how her mind unfolds and her heart becomes attached’) at other times, the picture was much more ambivalent.³³³ There were occasions where Wollstonecraft deliberately invoked a gendered hierarchy of tasks, placing herself in a subordinate role. For example:

The books sent to me are such as we may read together; so I shall not look into them until you return; when you shall read, whilst I mend my stockings.³³⁴

This vision of Imlay reading whilst Wollstonecraft darns their socks is one at which modern feminism might well balk but Wollstonecraft deploys it without comment: sewing is women’s work and she is a woman. On another occasion, Wollstonecraft writes tearfully of taking ‘up the large knife to carve for herself’ at a meal – a sharp reminder to Imlay both of his absence and his status as head of the household, which assigned to him the carving the dinner joint.

Additionally, despite her talk of economic independence, the letters from the winter following Fanny’s birth suggest that she was financially dependent on Imlay – and that she was struggling to make ends meet. Nursing a baby, running a household at a time of severe shortages and ill with a cold and cough that she could not shake off, Wollstonecraft was unable to work. Without her own income, she must have felt doubly uneasy about the deterioration of their relationship: the reality of her situation meant that she had inadvertently brought upon herself a misery of dependence as great as that in any lawful marriage – and maybe worse, because she must have known Imlay was under no legal obligation to support her.

³³³ Quotation from letter dated December 29th 1794 *Collected Letters* p.275.

³³⁴ December 31st 1793 *Collected Letters* p.237.

Things did not improve. Wollstonecraft's downward spiral into depression accelerated over the difficult winter months. By February 1785, less than two years after their first meeting, Wollstonecraft was speaking of death and verging on the suicidal:

I conceive myself in a galloping consumption, and the continual anxiety I feel at the thought of leaving my child, feeds the fever that nightly devours me...I wish one moment that I had never heard of the cruelties that have been practised [in Paris], and the next envy the mothers who have been killed with their children.³³⁵

Eventually, at Imlay's suggestion, Wollstonecraft moved back to London in April 1795.³³⁶ Although she still had hopes of them settling down as a family, Imlay's invitation almost certainly flowed from alternative, rather cynical, motives. He had probably decided that their relationship was over and, *per* Janet Todd:

He realised he could not support her for ever and knew she had a better chance of earning money in London – and perhaps of obtaining some calmness among old friends.³³⁷

The consequences were very nearly fatal for Wollstonecraft. Godwin tells us that:

Mr Imlay had already formed another connection; as it is said, with a young actress from a strolling company of players. His attentions to Mary were therefore formal and constrained.³³⁸

This was the last straw for Wollstonecraft and '[s]he formed a desperate purpose to die.'³³⁹ Although her suicide attempt was not successful, her emotional dependence on Imlay, fuelled

³³⁵ February 10th 1795 *Collected Letters* pp.282-283.

³³⁶ Again it is interesting to locate her reluctance to do so at least partly in her belief that she and her daughter were better off in France, as suggested by Clery, p.45.

³³⁷ Todd, *A Revolutionary Life* p.283.

³³⁸ *Memoirs*, p.248.

³³⁹ *Memoirs*, p.248.

by his continued equivocation, meant that Wollstonecraft's hopes struggled on until the spring of 1796 when she herself finally decided to walk away.

The fact that Wollstonecraft *could* end their relationship was probably the most fundamental difference between her experimental relationship with Imlay and that of conventional marriage – certainly in England. Rather than the legal ties of matrimony, the Wollstonecraftian quasi-marriage placed fidelity, affection and respect at the core of the relationship: without these, it ceased to exist. As Wollstonecraft herself explained in one of her letters to Imlay:

I consider fidelity and constancy as two distinct things; yet the former is necessary, to give life to the other – and such a degree of respect do I think due to myself, that, if only probity, which is a good thing in its place, brings you back, never return!³⁴⁰

Of key importance to her relationship with Imlay was the fact that there was no gendered privilege inherent within it. Despite being a woman, Wollstonecraft entered the partnership, existed within it and could exit it on the same terms as Imlay.

Imlay's American nationality may also have impacted on Wollstonecraft's views of marriage. Like French family law discussed above, divorce law in some areas of America provided an arguably more progressive model to that available in England. It may also have influenced her in favour of conceptualising relationships as fair and equitable contracts: an arrangement through which both parties retained a level of agency and a right of termination. Nancy Cott points to the importance of Puritan thinking in forming understandings of both matrimony and divorce:

Opposing canon law, Puritan divorce theory held that marriage was a civil contract which could and should be dissolved for such breaches as adultery, long absence, or irremediable cruelty.³⁴¹

Certainly, the idea that long-term sexual relationships involved mutual rights, obligations and expectations formed the basis of Wollstonecraft's quasi-matrimonial model. She also believed that failure by one party to deliver on those preconditions should justify the termination of the

³⁴⁰ December 30th 1794 *Collected Letters* p.276.

³⁴¹ 'Divorce and the Changing Status of Women', p.589.

partnership: this was not just evidenced in her relationship with Imlay but would also be explored in her final novel, *Maria*.

Importantly, this equality of rights, duties and remedies can be seen as another challenge by Wollstonecraft to the Blackstonian understanding of coverture. Although Blackstone chose to foreground the contractual basis of marriage, the ‘contract’ enshrined in his vision was not one where the parties enjoyed an equality of bargaining power, benefits or redress. Instead, as has been mentioned earlier the notion of a contract functioned as a convenient sleight-of-hand to conceal the overwhelming levels of control handed to the husband by the common law. Unlike her solution in *Mary*, which allowed her heroine to step outside worldly expectations, Wollstonecraft’s new model handed power to the (quasi) wife whilst remaining *within* the marital partnership. It was also a rejection of that other staple of late eighteenth-century coverture – the unity of persons. Instead of the disappearance or ‘covering’ of the wife, Wollstonecraft envisaged there should be an ongoing, valuable contribution to the relationship from both parties. This is again explored in *Maria*.

Ultimately, her experiment in constructing a ‘marriage-outside-marriage’ with Imlay was a personal disaster that nearly cost Wollstonecraft her life. It failed, however, not because of any inherent flaw in her model (although there were ambiguities and conflicts) but because of the fundamental incompatibility of the individuals involved. The fact that it was not a legal marriage also enabled her – once she had returned to England – to make the final decision to leave Imlay behind and, eventually, start a new relationship with the man who would become her husband in law: William Godwin.³⁴²

The lack of an exit route in England for women from dysfunctional marriages dominated Wollstonecraft’s last major piece of writing, *Maria, or The Wrongs of Woman*. Just as in *Mary*, she intended to create a heroine of superior qualities, although these were to

³⁴² There is not the space within this essay to discuss the model of marriage she negotiated with Godwin. Essentially, though, whilst the arrangement with Imlay looked from the outside like a marriage but wasn’t, she attempted the opposite with Godwin. They were married but lived separate lives in separate apartments, pursuing separate careers. That they were legally now ‘one person’ despite these deliberate attempts to retain their independence was a source of amusement. In a letter dated two days after their marriage Wollstonecraft writes: ‘Pray send me, by Mary, for my luncheon, a part of the supper you announced to me last night – as I am to be a partaker of your worldly goods – you know! (31st March 1797 *Collected Letters* p.405).

be ‘sensibility...[and] an improving mind’ rather than genius.³⁴³ This time, however, those superior qualities would be even more sorely tested: Wollstonecraft’s eponymous heroine experienced ‘matrimonial despotism of heart and conduct’ at levels which risked ‘degrading the mind’.³⁴⁴ The novel was never finished and instead, its final pages consist of a series of notes, some of which propose contradictory endings. Nonetheless, as a piece of writing which tackles head-on the inhumanity Wollstonecraft believed was located at the heart of English marriage, it is powerful indeed.

The story opens in *media res* with Maria incarcerated in a lunatic asylum – a none-too-subtle metaphor for the abusive marriage in which she is also trapped. Through a written memoir, we learn that Maria married as part of a financially-motivated exchange: her husband (Venables) receiving five thousand pounds in return for her hand. He reveals himself to be morally bankrupt as well as financially inept and, in addition to a louche lifestyle, attempts to procure relief from a creditor by offering the use of Maria’s body as collateral for a debt. Maria escapes from the matrimonial home but is discovered by Venables in rented lodgings. Buying him off with money left to their daughter, Maria believes she has secured her freedom to live on the continent. However, he kidnaps her on her way to Dover, removes their child from her care and, finally, imprisons her.

In the asylum she meets a man, Darnford, also wrongly incarcerated. They become lovers. Together with a servant, Jemima, who also narrates a tale of abuse and abject misery, the pair escape. Darnford is accused by Venables of criminal conversation with Maria. Maria composes a letter in his defence which is read to the court, whereby she admits the adultery but denies he seduced her. Beyond this point, however, only a few scattered notes survive to indicate the conclusion. There are a number of possibilities but it seems likely that Darnford was to prove unfaithful and Maria, like Wollstonecraft herself, would attempt suicide by overdosing on laudanum. This does not prove fatal, however, and she is reunited with her baby daughter and (probably) sets up an all-female household with Jemima as her housekeeper.

It is notable that just as *Mary* and Wollstonecraft’s own quasi-marital experiment did not provide a definitive, workable alternative to conventional matrimony, neither does *Maria*. The obvious solution to Maria’s physically, morally and emotionally destructive marriage is that she should enjoy a fulfilling permanent relationship with Darnford. This, however, does

³⁴³ *Maria*, p.59.

³⁴⁴ *Maria*, p.59.

not materialise in the notes. Instead, it appears from the fragments that Maria suffers humiliation and public disgrace on Darnford's behalf, only for him ultimately to prove unreliable.

Wollstonecraft was not alone in struggling to find an acceptable literary resolution for the dysfunctional marriage. A sub-genre of novels appeared during the fifty years or so following the publication of *Maria* which also included divorce as a major theme. Anne Humpherys locates their appearance within a wider debate about divorce leading up to the passing of the Matrimonial Causes Act 1857.³⁴⁵ She argues that they came into existence because '[t]he debates about divorce reform... established a context in which women's concerns about their disadvantaged position in marriage could be narrated.'³⁴⁶ If this is true, it suggests that Wollstonecraft's lack of a satisfactory alternative to late eighteenth-century marriage and coverture could be the result of a wider cultural milieu in which such things were simply not discussed. However, as Wollstonecraft experimented with alternatives to conventional marriage in her own life and explicitly addressed the issue of divorce in *Maria*, this cannot be the case – even before one takes into account the debates concerning the more liberal laws relating to marriage and divorce in other countries. Instead, as I argue below, the thrust of *Maria* is a twin attack on the oppression caused by coverture and the lack of options for divorce: Wollstonecraft is seeking to give a voice to voiceless women, not neatly resolve a love plot.³⁴⁷

Further, it is important to point out that *Maria* does not exist as an anomalous proto-story for the Victorian divorce novel, or indeed as an ill-formed literary experiment ahead of its time. The long eighteenth century, both before and after Wollstonecraft, produced novels in which unhappy marriages – and the suffering visited upon wives unable to leave them – were foregrounded. One which has already been discussed is Eliza Haywood's *Betsy*

³⁴⁵ 'Breaking apart, the early Victorian divorce novel' in Nicola Diane Thompson, (ed.) *Victorian Women Writers and the Woman Question* (Cambridge: Cambridge University Press, 1999) <<https://doi.org/10.1017/CBO9780511659348>> [accessed 17th August 2020] pp.42-59 (p.42).

³⁴⁶ Humpherys, p.43.

³⁴⁷ This can also be seen in Jemima's storyline where a woman marginalised through class is allowed to voice her history of abuse and repression.

Thoughtless.³⁴⁸ Indeed, *Betsy Thoughtless* aligns almost perfectly with Humpherys' analysis of the Victorian divorce novel (below). This suggests that stable narrative format for 'the divorce novel' was in existence up to a century before the books in Humpherys' study came to be written. Thus, instead of the Victorian novels forming a unique, chronologically-specific group, it is perhaps more helpful to see them as part of a genre-specific continuum of concerns about marital breakdown stretching back through the eighteenth century. That Wollstonecraft chose to take *Maria* in a different direction speaks to her alternative – and much more radical – priorities.

Despite this, it is still helpful to use Humpherys' analysis in order to establish the commonality between the Victorian novels and those which preceded them. Essentially, Humpherys locates two major plot types. The first, which she calls the 'Caroline Norton Plot', sees a brutal or adulterous husband repeatedly forgiven by an exemplary wife until either he dies (*Wildfell Hall*) or she runs away. The second type has the husband, rather than the wife, as the abused party (the 'Jane Eyre Plot'). All novels within the sub-genre, however, have at their core the same two issues: how to extricate the 'good' spouse from the marriage without losing the reader's sympathy and the (even thornier) issue of whether or not the 'good' spouse should be allowed to remarry. Of particular significance is Humpherys' location of the issue of remarriage within a discourse of public uncertainty over whether divorce was a sacrament or a contract: a contract being ideologically easier to terminate than a sacrament.

All of the 'divorce' novels, including *Maria* and *Betsy Thoughtless*, run a love plot as an integral part of the wider divorce theme. Thus, in *Jane Eyre* the focus of the narrative is the romantic relationship between Eyre and Rochester, just as in *Betsy Thoughtless* it is the ultimate resolution of the love plot between Betsy and Truworth. In *Maria* the equivalent plot is the Maria-Darnford storyline. Immediately, the difference is obvious: Eyre refuses to enter into any sort of relationship with Rochester whilst his wife lives; whereas Maria willingly and freely consents to an adulterous liaison with Darnford. However, it is not merely a matter of competing moralities: it is an issue of narrative priorities. By placing the consummation of the Maria-Darnford relationship in the middle of the book, Wollstonecraft moves attention away from whether or not they will be united to what will happen as a *consequence* of that union.

³⁴⁸ One could also suggest Sarah Scott's *Millenium Hall* (1762), *The Mysteries of Udolpho* (1794) or those where the abusive marriage is located in the background to the main narrative such as *Sense and Sensibility* (1811).

It is this question of consequences that marks out *Maria* as something unique. Humpherys identified three potential endings in her ‘divorce novel’ sub-genre: the deaths of either of the spouses, divorce/separation and actual or attempted bigamy. The first two of these are also, of course, present in *Betsy Thoughtless*. Wollstonecraft, however, is not interested in avoiding the controversy that would attach to an adulterous wife – indeed, to do so would have robbed her of the chance to describe the levels of shame and ignominy heaped upon women who had already suffered so much within marriage. Instead, she is clear that wives as well as husbands should be free to leave a loveless or unhappy union and begin afresh with a new partner. They should also be able to do so on grounds other than adultery, the only permitted route at the time she was writing:³⁴⁹

for a woman to live with a man, for whom she can cherish neither affection nor esteem, or even be of any use to him, excepting in the light of a house-keeper, is an abjectness of condition, the enduring of which no concurrence of circumstances can ever make a duty in the sight of God or just men.³⁵⁰

This marks a development from Wollstonecraft’s position in *Mary*, where the heroine’s choices when finding herself in a loveless union are either to avoid her husband as much as possible or to die.

Further, Wollstonecraft grounds Maria’s claim for a dissolution of their marriage not on Venables’ adultery but on his repeated mistreatment of her. Possibly drawing on French or Massachusetts’ divorce law, Wollstonecraft is asserting a contractual, rather than sacramental, interpretation of marriage: Maria’s husband has failed to perform his side of the agreement (‘violated every moral obligation’) and, as a result, she should be free to leave their union and start afresh with someone else. This again has echoes of Wollstonecraft’s hopes for her relationship with Gilbert Imlay: two equal partners consenting to a life of mutual fidelity and respect, in the absence of which the relationship could (and should) be terminated. It is also, of course, a rejection of the type of unequal, faux ‘contract’ outlined by Blackstone in his *Commentaries*.

³⁴⁹ Although one could see it the other way round: Wollstonecraft believing that feeling, affection and respect are the basis for any long-term relationship, marriage included.

³⁵⁰ *Maria*, p.117.

The second difference between *Maria* and the other ‘divorce’ novels is that Wollstonecraft examines the process of divorce in detail and demonstrates how the system fails the very women it ought to be protecting. I suggest that in this, Wollstonecraft goes further than Eliza Haywood and provides an explicit and vociferous condemnation of both the letter of the law and its accompanying processes. Like Haywood, she achieves this by showing the flaws in the system from the point of view of the wife. However, unlike her predecessor Wollstonecraft is not in the business of advising her readers how to extricate themselves from such a situation. Instead she rewrites reality and allows her heroine an active role in the trial process.

As was set out in chapter two, three different types of proceedings (*mensa et thoro*, crim. con. and parliamentary divorce) formed the legal basis for a dissolution of a marriage under English law. The body of *Maria* contains a re-imagining of a crim. con. trial and the notes left by Wollstonecraft on her death twice mention ‘Separation from bed and board’ (i.e. a divorce *a mensa et thoro*) together with the more ambiguous ‘[d]ivorced by her husband’. The latter could well indicate that she was intending to include a parliamentary divorce in the narrative.³⁵¹ It is therefore tempting to argue that Wollstonecraft intended Maria to negotiate the entire system of eighteenth-century divorce law.³⁵² The only part of this process which women could initiate themselves was the divorce *a mensa et thoro* and, in the absence of anything to the contrary in Wollstonecraft’s notes, there is even the intriguing possibility that Maria might have made that application herself.³⁵³ Whether or not that would have been the

³⁵¹ Added by Godwin to the first edition of *Maria* and found at pp.146-147 in the Penguin edition.

³⁵² Wolfram argues that crim. con. was not initially a requirement for divorce by way of Act of Parliament but became so as the century progressed (p.160)

³⁵³ Would she have been successful? Joanne Bailey and Loreen Giese undertook a meta-study into the meaning of cruelty in English law from the early modern period into the Victorian era (also incorporating medieval data) ‘Marital Cruelty: reconsidering lay attitudes in England, c.1580-1850’ *The History of the Family* 18.3 (2013) 289-385 < <https://doi.org/10.1080/1081602X.2013.779292> > [accessed 17th August 2020]. From their conclusions, and given the evidence within the novel, it would appear that Maria would not have been able to bring a case in the church courts against Venables for cruelty: until Maria leaves him, Wollstonecraft cleverly keeps his grotesque behaviour on the right side of the law. His adultery is also implied within the text – although the explicit example of the servant girl by whom he has a child occurs before his marriage and thus was not adulterous. A possible plot-line could therefore have been that Maria attempted to apply for a

case, Wollstonecraft saw the system as ripe for reform and used her heroine's experiences as a call to arms.

Although a crim. con. trial had, by definition, to feature a wife (and, indeed, would probably be instrumental in destroying her reputation), she was not one of the parties to the action and had no opportunity present evidence, or even speak in court. As was explained in chapter two, a crim. con. case was essentially a private prosecution which allowed a husband to sue the man he suspected of having an adulterous affair with his wife. If the husband won, he was entitled to damages, the amount of which would be decided by a jury. However, it was not merely an exercise in financial redress. Sybil Wolfram argues that, as well as a successful result in a crim. con. trial generally being considered a necessary prerequisite for a parliamentary divorce, the damages from the crim. con. hearing probably also bank-rolled both it and the *mensa et thoro* application.³⁵⁴ The procedure for a crim. con. trial ran thus:

The marriage was established; the plaintiff provided evidence of the affair, the defense [sic] pleaded mitigating circumstances, such as an unhappy or coerced marriage, or the infidelity of the husband himself. Witnesses for both sides included acquaintances, family members, and most often lower-class servants...who had access to the parties' most intimate moments. The parties themselves were forbidden to testify.³⁵⁵

Wollstonecraft, though, allows Maria to present evidence to the court. This subversion of the legal process has the dual effect of highlighting the cultural norm of the oppressed, silent woman whilst simultaneously providing a model which gives her a voice. This would

divorce a *mensa et thoro* but the court found Venables' actions not cruel enough – and he then succeeded on a cross-application for her adultery.

³⁵⁴ Wolfram, p.160. Her analysis negates the arguments of other scholars that divorce was only for the aristocracy or economic elite.

³⁵⁵Adam Komisaruk, 'The Privatisation of Pleasure "Crim. con." in Wollstonecraft's *Maria*' *Law and Literature* 16.1 (2004) 33-63 <<https://www.tandfonline.com/doi/abs/10.1525/lal.2004.16.1.33>> [accessd 17th August 2020] p.37. Although Elaine Jordan states that the wife could ask the defence lawyer to put interrogatories to the witnesses: 'Criminal Conversation: Mary Wollstonecraft's *The Wrongs of Woman*' *Women's Writing* 4.2 (1997) 221-234 <<https://www.tandfonline.com/doi/pdf/10.1080/09699089700200012?needAccess=true>> [accessed 17th August 2020] p.224.

be radical enough by itself but Wollstonecraft chooses to invest Maria with an even greater degree of agency. She is not simply defending herself. She takes full control of Darnford's case and issues instructions to his lawyers:

Maria took the task of conducting Darnford's defence upon herself. She instructed his counsel to plead guilty to the charge of adultery; but to deny that of seduction.³⁵⁶

This does not simply give a voice to a voiceless wife. Wollstonecraft allows Maria to inhabit a role that the eighteenth-century legal process reserved exclusively for men – and she does so competently, demonstrating considerable rhetorical and case management skills, coupled with a strategic understanding of how crim. con. cases operated. In her written address, she recounts examples of her husband's marital cruelty. This allows her to speak out against the injustices faced by women such as herself and also (potentially) reduce the damages payable by Darnford by proving that she was, effectively, driven by Venables into his arms: her skills thus have a quantifiable monetary value.³⁵⁷

Various are the cases, in which a woman ought to separate herself from her husband; and mine...comes under the description of the most aggravated...If I am unfortunately united to an unprincipled man, am I for ever to be shut out from fulfilling the duties of a wife and mother? – I wish my country to approve of my conduct; but, if laws exist, made by the strong to oppress the weak, I appeal to my own sense of justice, and declare that I will not live with the individual, who has violated every moral obligation which binds man to man.

³⁵⁶ *Maria*, p.142. Both Komisaruk and Jordan discuss Wollstonecraft's familiarity with actual crim. con. cases. Jordan adds that *Trials for Adultery or the History of Divorce* printed for S. Bladen in 1779 and which contained details of some crim. con. actions 'by popular request' was in William Godwin's library.

³⁵⁷ This was good law: if it could be proven that a husband had ill-treated his wife, or the marriage was unhappy, the damages would be reduced.

Maria then delivers her *coup de grâce*: 'I claim then a divorce and the liberty of enjoying, free from molestation, the fortune left to me by a relation'.³⁵⁸

Maria not only demonstrates that she has same intelligence and professional skills as a man of her own class but she also claims the rights that come with those abilities: to sue for divorce and to enjoy full control of her own property.³⁵⁹ Alongside these, she also wishes to enjoy 'the duties of a wife and mother'.³⁶⁰ Those few words are highly significant.

Wollstonecraft is not merely replacing a failed female model with the existing male one.

Instead, she is arguing that Maria is entitled to a combination of the two: women must be free to be wives and mothers *whilst at the same time* exercising the rights enjoyed by men.³⁶¹

Maria – just like Mary before her – claims her place as a being free from the gendered constraints of eighteenth-century marriage. Maria, however, does not want to wait until she is dead to enjoy this status; she demands it whilst still on earth.

Maria's defence is, though, a 'fantastic impossibility'.³⁶² The judge, himself a symbol of the oppression inherent in the legal system, is contemptuous of Maria's submission. In his summing up he speaks of 'the fallacy of letting women plead their feelings', falling back on

³⁵⁸ *Maria*, pp.143-144. Janet Todd, in her introduction to the Penguin edition of *Maria* states that the heroine's assertion of Venables 'infidelities' is irrelevant in a crim. con. action. This is not the case and, if successful, would have reduced the damages received by a husband: Jordan, p.225 and Komisaruk, p.40.

³⁵⁹ Interestingly, and with reference to Bailey's use of proprietorial pronouns in chapter two, Maria does not style the fortune as 'hers', relying instead on its route of transmission (inheritance) and, perhaps, that it came from her birth family as validations for her claim.

³⁶⁰ This argument – that of allowing a woman a second chance of a fulfilling domestic role – is the argument made by Mr Adams, counsel for Jane Campbell (below). He stated that, if the divorce was not granted, Campbell would be 'condemned to a life of perpetual celibacy whilst her unworthy husband would be entitled to claim any property that might devolve on her.' Report in the *Salisbury and Winchester Journal* 6th April 1801.

³⁶¹ Wollstonecraft further bolsters Maria's claims by asserting her competence as an adult capable of making reasoned and well-thought out decisions: 'I was six-and-twenty when I left Mr Venables' roof; if ever I am to be supposed to arrive at an age to direct my own actions, I must by that time have arrived at it. – I acted with deliberation.' *Maria* p.144.

³⁶² Jordan, p.224.

the stereotype of the over-emotional, irrational female. He asserts that it is the duty of a 'virtuous woman' to 'love and obey the man chosen by her friends and relations' and that:

[t]oo many restrictions could not be thrown in the way of divorces...to maintain the sanctity of marriage; and, though [this] might bear a little hard on a few, very few individuals, it was evidently for the good of the whole.

Marriage is a sacred – but only when it suits the men with power to deem it so. Finally, the judge endorses Venables' incarceration of his wife by commenting that Maria's conduct – presumably including the contents of her statement – does 'not appear that of a person of sane mind.'³⁶³ Whatever Maria's abilities are and whatever cruelties she has suffered, as a wife her role is to submit to the men who surround her.

It can be argued, therefore, that Wollstonecraft, had different priorities to other authors, both before and after her, who also wrote about divorce. Where they focussed on the love plot and keeping their heroines on the right side of social convention, Wollstonecraft examined Maria's experiences of an unhappy marriage and its consequences. Where others looked for a happy resolution, Wollstonecraft was more concerned with the process of marital separation. Indeed, if Wollstonecraft had allowed Maria to find happiness with Darnford, it might have softened the edges of the damning portrait she was attempting to paint. Instead, the resolution suggested by the notes is that women will find peace only in an all-female household – although whether as a refuge of last resort or a community of choice, is left unclear.

If *Maria*, then, is an outlier within a continuum of English divorce novels, where does it sit in terms of *Mary* and Wollstonecraft's own experiences with Imlay? Firstly, whilst the rejection of sexual relationships is not endorsed in *Maria*, as it is in *Mary*, Wollstonecraft still invokes a spiritual, rather than man-made, hierarchy to justify her protagonist's actions. Maria asserts that, due to her husband's treatment of her she considered herself to have 'shaken off the fetters which bound [her] to Mr Venables...and believed [herself], *in the sight of heaven, free*' (my italics).³⁶⁴ However, in a development which may or may not be a result of Wollstonecraft's relationship with Imlay – or indeed her understanding of divorce law in

³⁶³ *Maria*, p.145.

³⁶⁴ *Maria*, pp.144-145.

other jurisdictions – this does not constitute a complete rejection of earthly marriage: Maria still:

wished to avow her affection for Darnford, by becoming his wife...though her conduct would be just the same without the ceremony as with it, and her expectations no less firm.³⁶⁵

The novel also expands upon the financial side of eighteenth-century marriage touched on by *Mary*, depicting the misery that ensues when economic exchange lies at the heart of the marital relationship. Beginning with the secret dowry payment by her uncle and ending with the crim. con. action for damages, Maria is little more than a financial commodity exploited by her husband for his own ends. It is important to add that Wollstonecraft was not against property ownership *per se*; rather, she was against the control of a wife's property by a husband, a point made by Komisaruk.³⁶⁶ She is clear that one of the main benefits of allowing Maria to dissolve her ties to Venables would be the opportunity to exercise control over her inheritance – something she can currently do only in her role as her daughter's guardian. Within this context, Wollstonecraft's use of a crim. con. trial is particularly significant. Crim. con. was, essentially, a male-to-male exchange of property which commodified women. It echoed the male-to-male property exchange that takes place between her uncle and Venables to bring about Maria's marriage and the attempted exchange by Venables of Maria's body as security for one of his debts. Wollstonecraft, however, is not arguing that wives should be able to sue other women for having affairs with their husbands. Instead, she is seeking a paradigm change.³⁶⁷ When Maria says 'I claim then a divorce, and

³⁶⁵ *Maria*, p.141. Also, before they consummate their relationship, an exchange of intentions occurs which could be read as being analogous to the exchange of vows at a marriage ceremony 'As her husband she now received him, and he solemnly pledged himself as her protector – and eternal friend' (p.138).

³⁶⁶ Komisaruk, pp.40-42.

³⁶⁷ '...the chief problem is not women's ability to sue one another but their financial and legal dependency on men...' Komisaruk, p.42.

the liberty of enjoying, free from molestation, the fortune left to me by a relative' she does not want money, she is arguing for a legal dissolution of an unsatisfactory marriage contract.³⁶⁸

As well as addressing issues within marriage, both *Mary* and *Maria* can also be read as rejections of the narrower issue of coverture, as articulated by William Blackstone. The novels' protagonists continue as autonomous individuals beyond their wedding days and, as in doing so, demonstrate intelligence, resourcefulness and courage. Both women of feeling and sensibility, Wollstonecraft depicts the misery and loneliness inflicted by loveless, commercially-driven marital arrangements. She also shines a light on the gendered inequality that lay within the eighteenth-century marriage contract: a legal fiction which located all the economic, legal and social authority with one party.

Wollstonecraft could not have known it but, at the time she was writing *Maria*, the extra-marital affair that would result in the first parliamentary dissolution of a marriage granted to a woman was taking place. Three years after the posthumous publication of *Maria*, in December 1801, Jane Addison became the first woman in England to obtain a full divorce by act of Parliament. However, in direct contrast to Wollstonecraft's novels which place agentic, vocal women at the centre of the text, Addison's voice was entirely absent from the proceedings. This silence at the centre of her own narrative allowed the men in control of the case, as well as the print media, to construct an artificial persona in the absence of a real, flesh-and-blood petitioner. Indeed, her silence may have been a deliberate strategy on the part of her legal team.³⁶⁹ In contrast to Wollstonecraft's heroines, Addison did not seek to subvert the patriarchal structures inherent within marriage (indeed, an attempt to do so could well

³⁶⁸ Whilst private property appears to be acceptable to her in principle, it is worth noting that Wollstonecraft had a deep dislike of commerce and acquisitive capitalism. Elaine Jordan also notes that 'commerce' could also mean "intercourse of the sexes, especially in a bad sense" (note 2 p.232).

³⁶⁹ How female litigants were (and should) conduct themselves in court has a long and complex history. Tim Stretton, for example, argues that appearing in court was not necessarily considered 'unfeminine' in the early modern period but that women and their lawyers '[manipulated] images of womanhood...to advantage'. *Women Waging Law in Elizabethan England* (Cambridge: Cambridge University Press, 2009) <<https://doi.org/10.1017/CBO9780511583124>> [accessed 17th August 2020] p.227. For an analysis of how lawyers mediate and construct their clients' legal person see Joanne Bailey 'Voices in Court: Lawyers or Litigants' *Historical Research* 74.186 (2001) 392-408 <<https://doi.org/10.1111/1468-2281.00134>> [accessed 17th August 2020].

have worked to her detriment). Instead, she arguably embraced Blackstone's ideal of a *feme covert* and, as much as was possible, vanished from the pleadings of her own divorce application. However, through this disappearance she achieved that which Wollstonecraft could only dream of: she changed the law.

The facts of the case were these: the parties married under licence on the 29th April 1788 and resided in London. There were three children of the marriage of which, at the time of the divorce proceedings, two (a boy and girl) were still living. The husband, Edward Addison, was alleged to have committed adultery on a number of occasions and in various locations (including a number of inns in Scotland and rented premises in London) between 1794 and July 1796 with his wife's sister, Jessy. Due to their close legal relationship (brother and sister-in-law) this was not merely adultery *simpliciter* but had an incestuous overtone, meaning it qualified as aggravated adultery. Jessy's husband (Addison's brother-in-law) had already completed an action for crim. con. in the Court of the King's Bench and had been awarded five thousand pounds in damages, plus his costs. He too was seeking a dissolution of his marriage by way of act of Parliament, and his application proceeded more or less concurrently with Addison's. Jane Addison was awarded a divorce *a mensa et thoro* in the Consistory Court of the Bishop of London on 23rd June 1800 and thereafter applied to Parliament for a full dissolution. Edward, meanwhile, had absconded to Hamburg and was thought to be living abroad in poverty, his business having collapsed. As has already been mentioned, Jane Addison supplied no direct evidence (either written or oral) either as part of the parliamentary procedure, or in the divorce *a mensa et thoro* that supported her application.³⁷⁰ Instead, it fell to servants (as so often in crim. con. cases) to testify to the adulterous acts.

Mrs Addison was represented throughout by her counsel, Mr Adam.³⁷¹ Her silence, however, was not by any means an automatic or accepted part of the process. Indeed, there

³⁷⁰ Doreen M. Slatter asserts that personal appearances were uncommon in the ecclesiastical courts, cases instead being conducted via proctors and advocates on behalf of the parties 'The Records of the Court of Arches' *The Journal of Ecclesiastical History* 4.2 (1953) pp.139-153 <<https://doi.10.1017/S0022046900063582>> [accessed 17th August 2020]. However, in contrast, there appears to have been an expectation that litigants should give evidence in Parliamentary divorces, implicit in the debate in the House of Lords as to whether or not Addison should do so.

³⁷¹ Mr Addison was not represented and did not appear in person, although care was taken to ensure good service of the divorce papers so that he could have defended the action if he had wished.

was a debate in the House of Lords as to whether or not she should attend in order to be examined in person. The Duke of Norfolk was concerned that if she did not, it would constitute a possible ground for objection by her husband, whereas Lord Loughborough opposed it because appearing would be a ‘hardship’ for her.³⁷² In the end, however, the only direct evidence of her reaction to her husband’s adultery was contained in the testimony of her brother-in-law. He told their lordships that he had handed her a letter from her father informing her that ‘a suit was commenced against [her husband], in the Court of King’s Bench, for adultery with her sister.’³⁷³ He had delayed giving her this, he said, because he felt he ‘ought to avoid communicating it as long as possible, a fact so atrocious and unqualified in vice.’³⁷⁴ Her initial reaction was disbelief, although she quickly determined to leave her husband and moved back to her father’s house in Scotland. This is reiterated in the petition which states that Addison:

withdrew herself from the House and Society of the said Edward Addison...as soon as she conceived it possible and was satisfied that a connection of so atrocious a nature...had taken place...and from that time...hath lived apart from her said husband and hath not since cohabited or had any intercourse or conversation with him but hath been ever since and still is under the Protection of...[her] father.³⁷⁵

Her silence, however, should not necessarily be interpreted as the silence of oppression which Wollstonecraft set out to address in *Maria*. In 1801, adultery was the only option available for a parliamentary divorce that would end a previously valid marriage. However, as no wife had been granted a parliamentary divorce before, Addison needed not only to demonstrate that the adultery had occurred (which would be enough to allow a man to divorce his wife) but that the adultery was of such an abhorrent, aggravated nature that she should not be expected to resume cohabitation with her husband: indeed, that doing so would place her and her children in moral danger. The incestuous nature of her husband’s relations with her sister provided this. However, it was still tactically important that she should present

³⁷² *London Courier and Evening Gazette* 15th April 1801. Individual digital links for each article are given in the bibliography.

³⁷³ *Journals of the House of Lords* (41 Geo III) p.103.

³⁷⁴ *Journals of the House of Lords* p.103.

³⁷⁵ Parliamentary Archives HL/PO/JO/10/8/15

herself as both blameless and vulnerable. By not testifying, Addison invited a construction of herself as a meek, passive victim in need of the protection of the legislature. This is in complete contrast to Wollstonecraft's depiction of her eponymous heroine in *Maria*. Indeed, I would argue that, together with the supporting testimony of Addison's brother-in-law, the picture Addison and her legal advisors painted echoes views of the trial judge in *Maria*, when he describes the ideal wife as a 'virtuous woman' who follows the guidance of her friends and family. Certainly, her exemplary conduct was cited as one of the reasons why the Attorney General felt he could add his weight to supporting her application:

It was of greatest interest to the morality of the country, that females should know, by conducting themselves with propriety under great sufferings, they should always be sure of redress.³⁷⁶

Two issues dominated the parliamentary debates and the committee hearings. The first of these was whether or not a woman could apply for a dissolution of her marriage and the second, also pertinent to the storyline in *Maria*, was what should happen to her children if she were to succeed.³⁷⁷ Addison had already been granted a divorce *a mensa et thoro* and her brother-in-law, James Campbell, had obtained a crim. con. conviction against her husband.³⁷⁸ There was concern amongst some members of the House of Lords, however, that granting Addison a divorce would open the floodgates to a surge of wronged wives. The Duke of Clarence thought that women divorcing their husbands was a 'mischief' which would

³⁷⁶ *London Courier and Evening Gazette* 23rd May 1801.

³⁷⁷ Children were considered the property of the father and invariably resided with him following separation or divorce. Mothers, by contrast, had no right even to see their children. It was not until 1839 that mothers could sue their husbands over matters relating to children and, even then, this did not shift the presumption that children were the property of their fathers: it merely established the possibility that they might do so. The Custody of Infants Act 1839 (2 & 3 Vict., c.54)

³⁷⁸ There was much debate as to whether or not Dr Campbell's crim. con. conviction could or should stand in lieu of Addison obtaining one herself. It was finally determined that a crim. con. conviction was not an absolute requirement but, instead, a customary one (see note 73 *supra*) and that Addison as a *feme covert* was not in a legal position to sue anyone. Lord Eldon argued that the Campbell crim. con. conviction would strengthen the Addison proceedings as being the next best evidence of its kind. *The Morning Post* 25th April 1801.

encourage ‘collaboration’ and that the ‘morals of society’ would suffer.³⁷⁹ Lord Clare stated that the ‘...adultery of a husband was not considered in the same disgraceful light among men as the adultery of a wife’. He also voiced concern that a divorce would have an adverse effect on the children of the marriage by ‘depriving [them] of a virtuous mother and leav[ing] them totally to a father who was guilty of so infamous a crime.’³⁸⁰ These arguments were countered by Addison’s supporters, including Lord Auckland who asserted that to refuse Addison the relief she sought would be tantamount to saying:

We, Lords of Creation, have a remedy within our power, which we are ready to grant to one another in cases of adultery; but as to you, poor, weak, defenceless, women, if you come and complain of your husbands having committed adultery of the most depraved and flagrant kind...we will compel you to remain the wives of such profligate husbands and dismiss you from our door without relief.³⁸¹

In the end, it was the highly aggravated nature of the adultery which won the day. Distinguishing the case on these grounds was a tactical measure by the legislature to limit the number of women who could subsequently seek to apply for dissolutions. It also worked to convince the more sceptical members of both houses that Addison had suffered a serious wrong at the hands of her husband which demanded redress. The pleadings themselves made it clear that: Addison ‘would consider herself morally guilty of the Crime of Incest, should she have any Intercourse or Connection with the said *Edward Addison*.’³⁸² The legal truth of this assertion was upheld during a debate on the technicalities of the divorce in the House of Lords when Lord Thurlow stated that:

³⁷⁹ *Morning Chronicle* 21st May 1801. It should be noted that the noble duke fathered at least ten illegitimate children.

³⁸⁰ *Morning Post* 25th April 1801.

³⁸¹ *Morning Chronicle* 21st May 1801. Auckland went on to argue that there should be ‘a tribunal purely judicial...either formed out of the existing Courts, or a Tribunal specially constituted for the purpose [of divorce]’ because, as things stood, the ‘heavy expense’ put the remedy ‘within reach of the affluent only.’

³⁸² Divorce petition HL/PO/JO/10/8/15

it was a crime which, if committed [before the Addison's had been married] would have tainted the legitimacy, and affected the competency of that marriage.³⁸³

Any subsequent marriage between Edward Addison and Jessy Campbell would also be voidable on the grounds of consanguinity.

There was also the issue of property to consider. Interestingly, the angle taken by Addison's counsel was to suggest that Mr Addison's crimes were so grievous that they should rob him of the economic benefits due under coverture. Mr Adam submitted that unless a divorce was granted 'her unworthy husband would be entitled to claim any property that might devolve on her.'³⁸⁴ Lord Loughborough concurred that this was indeed a concern, stating that 'her property and every future property to which she might become intitled [sic], would be at his disposal, as would also the education of her children.' He suggested that Addison should also be granted 'some claims on [her husband's] fortune towards [her children's] maintenance and her own.'³⁸⁵

It is of huge significance that Edward Addison lost his control over the children of the marriage. That this legal right was considered to vest in the father was affirmed during the debates.³⁸⁶ It even prompted some members to speak against the divorce, as they feared the loss of the mother's influence on her children:

and from all authority and over them [and]...by depriving her children of a virtuous mother, leave them totally to a father who was guilty of so infamous a crime.³⁸⁷

A solution was found by awarding the care and custody of her daughter (her son was already placed in a 'professional situation') to Addison and making both children wards of court during their minorities.

Unlike Maria, who did not have the option to apply for a divorce, Addison won hers. The experience does not seem to have disinclined her towards matrimony and she was

³⁸³ *London Courier and Evening Gazette* 21st May 1801.

³⁸⁴ *Salisbury and Winchester Journal* 6th April 1801.

³⁸⁵ *Morning Post* 14th May 1801.

³⁸⁶ 'By the law of England, all children were under the authority and power of their father, unless a special legislative provision took them out of his power.' Eldon LC *Morning Chronicle* 21st May 1801.

³⁸⁷ Lord Clare *Morning Post* 25th April 1801.

remarried less than a year later to a Roger Pocklington, having a number of children by him. She died aged eighty and was buried alongside her second husband.

Although Addison remained a silent witness throughout her two divorce applications (parliamentary and *mensa et thoro*) that silence had a powerful effect upon her case. It created an image of a shocked and appalled – but still dignified and respectable – woman; exactly the sort of wife upon whom Parliament should treat with compassion. She was variously portrayed in the debates as ‘suffering’ and ‘innocent’ and ‘in need of protection’ and, ultimately, this influenced both houses in her favour. Whilst Wollstonecraft might not have approved of her silence *per se*, she would (one suspects) have appreciated the tactic for what it was and applauded the end result. Her sadness, however, would have lain in the fact that it would take more than a hundred years after Addison’s case for women to be able to sue for divorce on the grounds of simple adultery, and achieve legal parity with men. The 1857 Matrimonial Causes Act did permit women to petition on the grounds of cruelty, something she would undoubtedly have welcomed.

It is important to appreciate that Addison obtained her divorce not by transgressing culturally gendered norms within marriage – as do Mary and Maria – but by allowing her absence within her own legal proceedings to stand as an ideal of contemporary femininity. This says much about the impact of Blackstone’s theory of ‘unity of persons’ and the fact that the wife was represented by her husband and argues strongly for its assimilation into cultural ideas of wifehood. However, absence was also not without its own power – something which Wollstonecraft did not acknowledge – and it enabled Addison to succeed in that most patriarchal of spaces, the Houses of Parliament. Wollstonecraft, by contrast, saw the loss of the female self inherent in Blackstonian coverture as purely negative. Her response in *Maria* was to reject the theory of the unity of persons and assert women’s right to experience marriage as agentic, autonomous, vocal partners. In the real world, however, this was not a practical solution. In the end, Addison’s silence spoke louder than Maria’s submissions and it was she, not Wollstonecraft, who created the legal precedent for women escaping the oppression of dysfunctional marriage.

Chapter Four

Historically, working women have been hidden: hidden because their prevalence in low-status, low-paid roles has meant they are deemed economically unimportant; hidden by cultural assumptions that women were not supposed to work and hidden because the technicalities of coverture have caused them to be airbrushed from parts of the historical record. Despite their comparative invisibility, however, women have always been part of the workforce and the late eighteenth and early nineteenth centuries were no exception.

Obviously, this is not to say that they had unfettered access to any career they wished, or that they did not face social, legal or economic discrimination; but women have always formed part of the workforce. The challenge for the scholar is, firstly, to locate them in the sources and then reconstruct a coherent picture of their involvement from the scattered fragments of evidence.

One woman who worked during this period was Frances Burney (1752-1840). The author of four popular (although not always critically-acclaimed) novels, she negotiated the literary marketplace not just as an author but also, later in her career, as her own agent and publisher. As well as the intellectual property inherent in her writing, she was able to build up and exploit non-financial forms of capital to her advantage including her extensive social network, her fame and her previous commercial success. After marrying at forty-one she was the breadwinner for her family, supporting herself, her son and her husband whilst pursuing an agentic business strategy which placed her at the centre of the publishing process for her last two books, *Camilla* (1796) and *The Wanderer* (1814). This agency (and her own family history) puts her very much at odds with the depictions of those in trade within her novels, none more so than the heroine of *The Wanderer*, Juliet – also a *feme covert* – for whom the necessity of paid employment is nothing more than powerless, miserable exploitation.

This chapter examines a two-fold gap between reality and fiction: the first which married women traders were able to carve out between the rules of coverture and their lived reality and the second which Burney created between these real-life experiences and her depiction of Juliet. The reason for this, I argue, is in part because in *The Wanderer* Burney using the Blackstonian model of coverture, particularly the image of the wife who loses her legal and economic personality, as a metaphor for the wider oppression of women within society. This goes beyond the disruption of the legal fiction of coverture seen in Wollstonecraft's *Maria* and speaks to a wider cultural understanding of coverture as a liminal space which allowed women to exist only as extensions of their husbands.

This chapter is divided into three parts. The first analyses the secondary historical sources relating to the legal and economic position of wives in trade. The second examines the trade directories of Winchester and Salisbury over a fifty-year period (1784-1833) and compare the results against similar studies from other parts of the country. It also explores in detail the career of Mrs Langridge, a Salisbury stay-maker through her newspaper advertisements. Finally, the historical picture will be set against the portrayal of female labour and coverture in Frances Burney's 1814 novel *The Wanderer*.

The working women of Britain have been the object of historical investigation for over a century. However, the narratives which have grown up around the historiography of working women (and the wider issue of women's legal and economic position relative to men) refuse to coalesce into any single, definitive model. Instead, they fall into three broad categories of 'decline', 'continuity' and 'progress'.³⁸⁸ The 'decline' narrative has perhaps the longest pedigree. Incorporating the work of scholars such as Alice Clark, Ivy Pinchbeck and Davidoff and Hall, this speaks of a sustained deterioration in women's social, legal and economic agency.³⁸⁹ It is often explained by invoking a 'golden age', usually located at some chronological point prior to the period of study, after which the conditions and opportunities open to women become progressively less favourable. Vickery argues strongly against this 'decline' narrative, particularly as articulated in *Family Fortunes*. She points out that the alignment of women with family and domestic issues – and men with public institutions – could be applied across virtually all cultures and at all times.³⁹⁰ She also rejects the narrative that female economic marginalisation occurred because of industrialisation. Vickery instead asserts that this has its roots in the social theory of writers such as Engels, who believed that capitalism systemically oppressed women and limited their economic freedom: the image of

³⁸⁸ This three-way debate has been explored by a number of scholars, including Amanda Vickery, Judith M Bennett, Pamela Sharpe, Hannah Barker, Maxine Berg and many others. It is included here because in many ways the interpretation of data surrounding working women of the past feels bound up with its historiography.

³⁸⁹ See, for example, Vickery, 'Golden Age to Separate Spheres? A Review of the Categories and Chronology of English Women's History' *The Historical Journal* 36.2 (1993) 383-414 <<https://www.jstor.org/stable/2639654>> [accessed 3rd June 2020] p.402. Davidoff and Hall's *Family Fortunes: Men and Women of the English Middle Class 1780-1850* (Chicago: University of Chicago Press, 1987) is discussed at length pp.393-401.

³⁹⁰ Vickery, p.413.

the ‘wholesome’ family-as-economic-unit, together with the value it accorded to women and children, never actually existed.³⁹¹

Pushing against the ‘change’ model, particularly in regard to an implied or actual ‘golden age’, is the ‘continuity’ hypothesis. Persuasively argued by Judith M. Bennett, this proposes that whilst there may be moments of change in women’s legal and economic status, these must be viewed through the long-lens of ongoing subordination to patriarchal structures and institutions.³⁹² Whatever the wider economic trends might be, women remain for the most part in low-status, low-skilled (and low-paid) roles. Significantly, neither Nicola Phillips, Pamela Sharpe nor Hannah Barker (the secondary scholarship used in this chapter) are convinced by the ‘continuity’ model any more than they ascribe to ‘change’. Both theories, these scholars argue, negate the flexibility and agency available to women within specific historical situations. To quote Sharpe:

Both [models] tend to suggest women’s impotency to deal with their situation; continuity implying that the forces of subordination are too powerful to be overturned, whereas change is unilinear—the position of women is seen as worsening as a result of industrialization, for example.³⁹³

Bennett, however, is clear that she is not denying that change occurs. Instead, she argues, when seeking to identify ‘transformational’ alternations in women’s underlying status, they cannot be found.³⁹⁴ This may well be the case. The problem is that it is impossible to prove or deny the continuity theory given the patchiness of the existing data.³⁹⁵ The view of this chapter is (quite simply) that not enough scholarship exists yet to provide empirical

³⁹¹ Vickery, p.403.

³⁹² *History Matters: Patriarchy and the Challenge of Feminism* (Philadelphia: Penn State University Press,2006)

<<https://doi.org/10.9783/9780812200553>> [accessed 17th August 2020] and ‘Confronting Continuity’ cited in Introduction note 39. Vickery cites Bennett at p.403.

³⁹³ Pamela Sharpe, ‘Continuity and Change: Women’s History and Economic History in Britain’ *Economic History Review* 48.2 (1995) 353-369 <<https://www.jstor.org/stable/2598407>> [accessed 17th August 2020] p.355.

³⁹⁴ Bennett, ‘Confronting Continuity’ p.74.

³⁹⁵ ‘[L]acunae’ in the data is a point also made by Sharpe at p.356.

justification for Bennett's analysis across the sweep of history. Cross-chronological meta-analyses, such as the one conducted for numbers of landowning women by Briony McDonagh in her book *Elite Women and the Agricultural Landscape 1700-1830*, are needed before any long-term trends – and therefore continuity – can be located with any confidence.

Finally, there is the school of thought which concludes that women's status as economic and legal agents sits on a trajectory of improvement. The over-arching story of whiggish progress is deeply imbedded in western culture, encouraging even the well-intentioned researcher into a blind alley of confirmation bias. As Judith Bennett points out, the psychological desire to construct a story of progression towards equality is very real for female scholars.³⁹⁶ One recent adherent to this school is Allison Tait. Her essay 'The Beginning of the End of Coverture: A Reappraisal of the Married Woman's Separate Estate' argues that the development of separate estate through the eighteenth and into the nineteenth centuries helped fracture the legal ideology that husband and wife were one person and thus struck at the heart of coverture.³⁹⁷ These developments, she argues, were particularly useful to female traders and businesswomen and were the basis for the provisions in the Married Women's Property Acts at the end of the nineteenth century.³⁹⁸

Whilst there is much merit in this analysis, it fails to address the longevity of separate estate as a vehicle used by women to maintain control over their property. How far back can one truly say its fracturing of coverture began? The eighteenth century, as Tait argues, or perhaps the seventeenth century, where scholars such as Bailey and Erickson sees it being used by elite and non-elite wives alike to demarcate their property from that of their husbands?³⁹⁹ If the seventeenth century, then why not the Tudor period when such cases were first routinely reported – or even the fifteenth century when separate estate was first documented?⁴⁰⁰ Further, with specific reference to working wives, married female traders

³⁹⁶ 'Confronting Continuity' p.80. Bennett gives two reasons for this. The first is that change is more interesting to teach than continuity. The second is that on a personal level, female scholars wish to see conditions improving for women in their own lives – historiographies that claim to show change are deeply seductive.

³⁹⁷ *Yale Journal of Law and Feminism* 26.2 (2014) 166-216 <<http://dx.doi.org/10.2139/ssrn.2007144>> [accessed 17th August 2020].

³⁹⁸ Tait, p.213.

³⁹⁹ See Bailey's data in Chapter Two and Erickson *Women and Property* pp.136-147.

⁴⁰⁰ Erickson, note 21 Introduction.

have been a fixture of English commercial life since coverture was first introduced. Medieval wives needed mechanisms which allowed them to navigate the restrictions relating to debt, credit and contractual obligation in the same way that their eighteenth-century descendants did.⁴⁰¹ Could we not locate the fracturing of coverture in the City of London provisions to grant *feme sole* status to *covert* traders in the fifteenth century?

An historiographical consensus as to whether the legal and economic position of women improved, declined or remained the same has not yet been achieved. As has already been mentioned, one reason for this relates to the difficulty in locating enough primary source material. Records of women's lives are scattered through a variety of records, none of which necessarily yield comparable data, particularly across long periods of time.⁴⁰² Married women as a sub-group are even less likely to be visible in the historical record as they – whether as employers, occupiers of business premises, payers of taxes and so on – are represented in official documentation by their husbands.⁴⁰³

Some regional studies do exist for late eighteenth and early nineteenth century England, though. Hannah Barker, in her book *The Business of Women: Female Enterprise and Urban Development in Northern England 1760-1830*, examined trade directories and newspaper advertisements in order to understand in which sectors women worked, how they perceived themselves as working women and how they marketed their businesses to the public.⁴⁰⁴ Barker concludes that the 'typical' working wife of the period was seen as a helpmeet (rather than a financial dependent) and that she occupied an unequivocally 'feminine' space within contemporary society.⁴⁰⁵

⁴⁰¹ See, for example, P.J.P. Goldberg's study of women working in late medieval York in *Women, Work and Life Cycle*; or Barbara Hanawalt, *The Wealth of Wives: Women, Law and Economy in Late Medieval London* (Oxford: Oxford University Press, 1997).

⁴⁰² Pamela Sharpe highlights this issue citing, amongst others, C. Miller 'The hidden workforce: female field workers in Gloucestershire, 1870-1901' *Southern History* 6 (1984). See also Bennett 'Continuity and Change' p.354.

⁴⁰³ See Chapter Two, note 4.

⁴⁰⁴ *The Business of Women: Female Enterprise and Urban Development in Northern England 1760-1830* (Oxford: Oxford University Press, 2003)

<<https://doi.10.1093/acprof:oso/9780199299713.001.0001>>[accessed 18th August 2020] Oxford Scholarship Online EBook.

⁴⁰⁵ Barker, pp.6-10.

Barker's study covered the rapidly-expanding northern towns of Leeds, Sheffield and Manchester which, she argues, would have afforded greater opportunities for women traders than less dynamic urban areas, such as Oxford.⁴⁰⁶ Her data show an increase in women traders in these towns over her chosen period and, she believes, challenge both the decline model and the 'continuity' model of female subordination.⁴⁰⁷ This growth continued for the sixty years of the study. In every town, Barker noted an overall increase in women's entries in trade directories between 1770 and 1830.⁴⁰⁸ Overall, women constituted between 4.3 and 8.9 per cent of all trade directory listings and, from the 1820s, each town showed a percentage increase in the women listed compared to the decade before.⁴⁰⁹ This increase cannot, she concludes, be explained away by simple demographics as the rise in female entries is significantly higher than the growth of the population as a whole. However, the increase of women's listings is broadly in line with the growth of men's listings over the same period. So, although more women are entering the market place, it is the overall growth of the 'middling' strata of society which is, at least in part, responsible for the increase.⁴¹⁰

Just as the number of women involved in trade increased, so did their range of occupations. These rose in each town and for each decade and, between 1773 and 1828, Barker identified over six hundred different occupations.⁴¹¹ However, within this display of divergence Barker also found clear evidence of a concentration of female labour within trades such as bakery, confectionary, grocery, butchery, millinery, dress making and stay making. Within these, there was a further clustering of women into three main sectors: clothing, food and drink and shop-keeping. These accounted for between 61 and 77 per cent of all women listed and, if nursing/medicine, teaching and accommodation provision were added, the percentage of women rose to between 70 and 80 per cent.⁴¹²

However, there were some complications to this seemingly straightforward picture. Manchester and Leeds showed a decline in women of the 'middling' sort working in these occupational areas between the late eighteenth and early nineteenth centuries. In Manchester

⁴⁰⁶ Barker, pp.7-8.

⁴⁰⁷ Barker, p.168.

⁴⁰⁸ Barker, p.55.

⁴⁰⁹ Barker, p.56.

⁴¹⁰ Barker, p.55.

⁴¹¹ Barker, pp. 57-60.

⁴¹² Barker, p.62.

and Leeds this was due to a fall in the number of women involved in the food and drink sector. However, this fall was compensated for by a rise in the number of teachers (Manchester) and women making a living from providing accommodation (Leeds).⁴¹³ Whilst it appears from Barker's data that women focussed their business endeavours within particular sectors, it may have been that there were simply more opportunities available to them there (a 'virtuous circle' effect).⁴¹⁴ Barker also notes that women in Sheffield found consistently high levels of employment in the manufacturing sector, although this declined after 1828.⁴¹⁵ Advertising by women in local newspapers also grew over the period, with 'a fourfold increase in Manchester between 1773 and 1828, a threefold increase in Sheffield from 1787 to 1828 and virtually the same in Leeds between 1797 and 1826'.⁴¹⁶

Barker finds no evidence to suggest that working women of this period felt their labour should be hidden or confined to the 'private sphere' of the home. Whilst there may well have been a degree of gendered specialisation within particular industries or sectors, she argues that a significant proportion of women of the 'middling sort' were engaged in paid labour of one sort or another.⁴¹⁷ This, she concludes, is not merely a feature of life in northern industrialised towns: other studies focussing on London and the Midlands have also failed to show a shift of women into the home.⁴¹⁸ Barker, however, is careful not to suggest that her research reflects a national pattern and cites evidence of restrictions in older market towns such as Oxford.⁴¹⁹ In doing this, she echoes the conclusions of Maxine Berg and Pat Hudson in their article 'Rehabilitating the Industrial Revolution', which argues against a 'gradualisation' model of industrialisation.⁴²⁰

In order to provide a contrast with the economic centres of the industrial north, this project will analyse businesswomen working in two provincial cathedral cities: Salisbury and

⁴¹³ Barker, pp.64-65.

⁴¹⁴ Barker, p.70.

⁴¹⁵ Barker, p.65.

⁴¹⁶ Barker, p.60.

⁴¹⁷ Barker, p.56.

⁴¹⁸ Barker, p.70.

⁴¹⁹ Barker, p.70. For example, male-dominated trade guilds and apprentice systems.

⁴²⁰ Maxine Berg and Pat Hudson, 'Rehabilitating the Industrial Revolution' *Economic History Review* 45.1 (1992) 24-50 <<https://www.jstor.org/stable/2598327>> [accessed 18th August 2020]. They do not focus on trade, however.

Winchester.⁴²¹ These were ancient, established cities in the south of England with well-developed markets and shops. They both functioned as urban economic hubs for a rural catchment area and stand in sharp contrast to the newly-industrialised towns of the north and the west Midlands. Both were relatively prosperous, although Winchester more so than Salisbury. By the start of the eighteenth century, Salisbury's main industry of cloth production was in decline. There was a revival, however, from the second half of the eighteenth century when a new type of luxury textile (marble cloth) began to be manufactured in Salisbury and Wilton. Other areas of trade included lace making, cutlery and leather but none were as significant as cloth-making for the city.⁴²² Census returns for the city and its borough show that the population of Salisbury did increase between 1801 and 1841 but this was hardly the runaway expansion experienced by the burgeoning industrial towns in Barker's study. The census for Salisbury provides population estimates of 7,668 in 1801; 8,234 in 1811; 8,763 in 1821; 9,876 in 1831 and 10,086 in 1841, an increase of just over twenty-five per cent in forty years.⁴²³ Winchester, by contrast, was much more populous. The census returns place the population at 26,542 in 1801; 28,592 in 1811; 33,146 in 1821; 36,017 in 1831 and 40,460 in 1841.⁴²⁴ This represents an increase of approximately fifty two per cent (a doubling) of the population across the same time period. Like Salisbury, Winchester had experienced a decline in its main industry of cloth production. However, it was able to reinvent itself as a fashionable social centre with a thriving goods and services sector.

⁴²¹ These two cities were chosen because they provide a rural, southern, cathedral city contrast to Barker's industrialised northern towns. Additionally, their proximity to Southampton allowed for ease of archival access. The rural south of England – specifically the area in and around Salisbury and the New Forest – is also the setting for some of the action in *The Wanderer*.

⁴²² Victoria Country History Wiltshire Volume 6 <<https://www.british-history.ac.uk/vch/wilts/vol6/>> [accessed 18th August 2020] pp.129-132.

⁴²³ *Victoria County History, Wiltshire Volume 4* <<https://www.british-history.ac.uk/vch/wilts/vol4/pp315-361>> [accessed 20th August 2020] pp.316-61.

⁴²⁴ University of Portsmouth, 'Winchester District through time: Population Statistics: Total Population' *A Vision of Britain through Time* <http://www.visionofbritain.org.uk/unit/10168200/cube/TOT_POP> [accessed 20th August 2020].

Winchester, like Salisbury, had a cathedral and was also the administrative and legal hub of the county.⁴²⁵

The sources used here to paint a picture of women traders in the two cities come from entries made by businesswomen in trade directories during the period 1792 to 1830 and advertisements placed by female traders in the *Salisbury and Winchester Journal*.⁴²⁶ This enables comparisons to be made with the conclusions drawn by Barker's study and those of Nicola Phillips in her book *Women in Business 1700-1850*.

The trade directories used for this study were as follows: Salisbury: *W. Bailey, Western and Midland Directory 1783*; *P. Barfoot and J. Wilkes Universal British Directory 1793-1789*; *J. Pigot Commercial Directory 1822* and *J. Pigot Commercial Directory 1830*. Winchester: the Hampshire extracts for *Sadler's Hampshire Directory 1784*; the *Universal British Directory 1792-98* and *Pigot's Directory of Hampshire 1828*.⁴²⁷ In order to facilitate a straightforward analysis of the numbers of female as opposed to male traders, only unambiguous entries featuring women were included. Any entries where the sex of the trader could not be identified – for example, traders who used initials instead of a Christian name or gendered honorific (Mrs, Miss) were excluded. Additionally, I have excluded a number of

⁴²⁵ J.M. Cooper, 'Leisure and Society in Georgian Winchester' Proceedings of the Hampshire Field Club Archaeological Society *Hampshire Studies* 127-45 (1999)
<<https://www.hantsfieldclub.org.uk/publications/hampshirstudies/digital/1990s/vol54/Cooper.pdf>> [accessed 20th August 2020]

⁴²⁶ The Salisbury trade directories were accessed via an online edition of a Wiltshire Record Society publication from 1991 <http://www.wiltshirerecordsociety.org.uk/pdfs/wrs_v47.pdf> [accessed 18th August 2020] and the Winchester directories via the University of Leicester Special Collections online <<http://specialcollections.le.ac.uk/digital/collection/p16445coll4>> [accessed 18th August 2020]. Newspaper advertisements were accessed via the British Newspaper Archive held by the British Library.

⁴²⁷ This study also looked at the *W. Holden Triennial Directory* of 1805. However it contained no unequivocal entries by women and listed traders by surname alone. As it was impossible to distinguish between men and women in its entries, it has not been included in these figures. Also, the *Western and Midland* directory of 1783 listed only two unambiguously identifiable women out of a total of 117 entries: Ann Davis and Joan Wilkins. Both directories appear to be anomalies – both in terms of the other trade directories in this study and the findings in Barker's research – and have therefore not been included in this study.

categories within the directories which would not have contained women in any event. These were: entries relating to local government, the gentry (by definition not 'trade'), the clergy and the professions of law, medicine (MDs, physicians and surgeons), bankers and surveyors. Apothecaries were also excluded, although druggists and chemists were not. Teaching, an occupation popular with both sexes, was included. However, those working in 'public buildings' such as gaols, asylums and other such institutions were excluded as these people could not be said to be engaged in a trade or business.⁴²⁸

The *Universal British Directory 1793-1798* is the oldest Salisbury directory included in the study. Out of a total of 431 entries, 31 were unambiguously listed as women. This amounts to a total of 7.66 per cent of the entries. The percentage of female traders increases in the next directory, *Pigot* in 1822. This gives a total number of 303 listings of which women account for 27, i.e. 8.91 per cent of the total. The final Salisbury directory is the 1830 edition of *Pigot* with a total number of listings of 736. Of these, 86 are women, making 11.68 per cent of the total of listings.

It is clear from the census returns that Winchester had a much larger population and grew at a faster rate than its Wiltshire neighbour during the period of this study. The number of tradespeople of both sexes is, accordingly, greater. The earliest directory, *Sadler's Hampshire Directory 1784*, had 266 trade listings. Of these, 22 (amounting to 8.66 per cent) were women. The next in time, the *Universal Directory 1792-98*, contained a total of 346 tradespeople, of whom 49 were women. This amounted to 14.16 per cent of all entries – the highest in any of the directories in this study. The final directory in this study was the 1828 edition of *Pigot's Directory of Hampshire*. This provided a total of 292 trade entries with 27 of these being women. In percentages terms, this means 9.25 were women.

In quantitative terms there are a number of conclusions that can be drawn from these (admittedly rather bald) figures.⁴²⁹ The first is that all six directories show a substantial proportion of women working as traders in both cities. In Salisbury, this proportion increases steadily across the decades, rising from 7.19 per cent in the *Universal* (the last decade of the eighteenth century) to 11.68 per cent in the 1830 *Pigot*. Winchester, however, does not enjoy

⁴²⁸ This approach is not identical to Barker's as she does not limit her data to those in 'trade'. She also excludes approximately one third of the women in her directories because they are listed without occupation (see Barker pp.54-55). However, I have adopted a different approach as it will give a more direct comparison between men and women in equivalent occupations.

⁴²⁹ Please see Appendix A for these data in tabular form.

such a straightforward trajectory. The percentage of women traders rises from 8.27 in 1784 to 14.16 in 1792-98, before dipping back down again to 9.25 in 1828. Despite these fluctuations, though, the overall mean figures for both Salisbury and Winchester are roughly equivalent with 9.26 of all trade entries in the Salisbury directories and 10.55 in the Winchester directories being women. These results are slightly above the upper level of Barker's women traders (between 4.3 and 8.9 per cent) but correlate with R.J. Morris' trade directory statistics for Leeds (1832-1834) which place women at 11 per cent of total entries.⁴³⁰

As a source of statistical data the trade directories provide valuable insights into women in trade during the late eighteenth and early nineteenth centuries. They are not, however, an infallible or fool-proof method of quantifying the number of working women.⁴³¹ To begin with, the method of compilation varied from trade directory to trade directory: some were compiled by individuals or organisations seeking to provide information on local commercial activity. Other directories were commercial enterprises in their own right, with those who wished to feature in a directory sending their details – and a fee – to the compiler.⁴³² In both Salisbury and Winchester there were traders who did not appear in the directories but were active in business and advertising in the local press. In part, this discrepancy may be due to gaps in the number of directories that have survived. However, there will also have been traders who were either not included by a compiler or who chose not to 'opt in' to the directory listings. Barker cites the example of Elizabeth Raffald who herself compiled a trade directory for Manchester in 1773 yet failed to include her own shop within it, even though she was trading (and advertising in the local press) at the time.⁴³³

Secondly, many women were working hard within family businesses but their labour is not visible in sources such as the directories. Christine Wiskin makes a strong case for a

⁴³⁰ *Men, Women and Property in England, 1780-1870* (Cambridge: Cambridge University Press, 2005) p.72. However Morris sees these women as being located in lower status groups, such as dressmakers, general shopkeepers and straw bonnet manufacturers. Whilst they were a 'working' as opposed to 'leisured' class, some of these women would have been financially very successful, employed a number of workers and managed thriving, busy business empires.

⁴³¹ For a more detailed discussion, please see Barker, pp.47-53.

⁴³² See Barker (ibid) also University of Leicester Special Collections Online <<http://specialcollections.le.ac.uk/digital/collection/p16445coll4/custom/background>>[accessed 18th August 2020].

⁴³³ Barker, p.47.

tradition of female accounting and bookkeeping for family firms. This would have been a valuable contribution to thousands of family business across the country but leaves no documentary trace other than scattered survivals in family papers.⁴³⁴ Other labour, such as childcare, cooking and cleaning, provided by wives and other female relatives is likewise also invisible.

What is clear, however, is that it was acceptable for women to feature in the directories. As has been stated above, some women may have chosen to be identified by their initials rather than their first names but overall (even in the excluded *Western and Midland* directory) this amounts to a small minority of entries. The majority of women are identifiable either by their name or an honorific such as ‘Miss’ or ‘Mrs’.

The range of trades undertaken by women also needs to be considered. Across the Salisbury and Winchester directories, a total of 48 different trades and sectors are represented.⁴³⁵ Some occupations rise or fall depending on historical trends – mantua makers are more likely to appear earlier than later in the period, for example, whereas the number of straw hat makers increases into the nineteenth century. Between the two cities, Winchester has the greatest range of occupations undertaken by women, particularly those which are not usually considered a ‘feminine’ trade. These include bricklaying, plumbing/glazing, carpentry, coopering and blacksmithing. There is also a female tailor (as opposed to a dressmaker or clothier) and one woman listed as a ‘retailer of British wines’. Salisbury, by contrast, had Mary Lane a plasterer in 1830 and Martha Hunt, a watchmaker, in 1822 but was generally more limited in the range of work being undertaken by women.

However, despite this diversity of occupations, the majority of women’s entries are clustered together in dressmaking and millinery; grocery and bakery; teaching and the hospitality trade. This reflects Barker’s findings, which showed women proliferating in clothing, food/drink and shop-keeping/dealing.⁴³⁶ What is perhaps more significant, though, is that the clustering of women within certain occupations (particularly trades linked to

⁴³⁴ ‘Accounting for Business Financial Management in the Eighteenth Century’ in Anne Laurence, Josephine Maltby, Janette Rutterford *Women and Their Money 1700-1950: Essays on Women and Finance* (Abingdon: Taylor and Francis, 2008) pp.73-85.

⁴³⁵ In order to more accurately compare working patterns, I have grouped similar trades together so, for example, schoolmistresses, teachers and those running schools were counted together as were keepers of inns, taverns and ‘victuallers’.

⁴³⁶ Barker, p.62.

textiles/clothing and victualling) has been identified as far back as the medieval poll tax returns. P.J.P. Goldberg carried out a detailed analysis of women's occupations as revealed by the returns for 1379 to 1371 from Southwark, Oxford and other urban areas (including York, Canterbury and Shrewsbury) and found the majority of female workers concentrated in these three areas.⁴³⁷ Goldberg argues that women tended to be concentrated in lower-status occupations, evidenced in part by the fact that these were jobs which did not require any specialist training and were unlikely to employ servants.⁴³⁸ Whilst there is always a danger in comparing one set of statistics against another (especially data which were never designed to be thus compared) it is informative to note that women clustering in specific trades was still a feature of English commercial life five hundred years before the time period of this study. Further, it is perhaps significant that these trades embody the traditional female duties of providing sustenance and clothing – although on a larger and more public scale than domestic provision for their families.

The next question to consider is whether or not any of the women in the trade directories were married at the time that they were working. If the 'separate spheres' model exists, it must surely be married women who are most strongly affected by its gravitational pull. Sadly, the majority of the women's listing in the trade directories are not amenable to this level of analysis and it is not possible to work out if individuals are married, single or widowed. Most are listed only by name and, even where a title is used, the honorific 'Mrs' was still applied as a courtesy term rather than being reserved solely for married women. Further, entries in more than one directory are rare.⁴³⁹ This could mean that women traded only when they were single or, alternatively, continued to work but under their new, married names and were thus untraceable between directories. It is also possible that women could have conducted their own businesses in the shadow of their husband's, sharing his premises and business assets (such as warehouse space) to off-set cost. This certainly occurred but it is

⁴³⁷ Goldberg, *Women, Work and Lifecycle* pp.93-98. Although women did not seem to be shopkeepers – unlike their eighteenth-century descendants – they did feature as market stallholders and hucksters.

⁴³⁸ Goldberg, p.99.

⁴³⁹ There are examples to the contrary of course: Ann Davis, a Salisbury wool draper, appears in the *Western and Midland* and the *Universal*. A drapers' company called 'Loder, Son and Davis' then appears in the 1822 and 1830 editions of *Pigot* – however, whether Ann was still trading at this point is unknowable.

difficult to prove from trade directories alone and will be discussed more fully below in the section on advertising.

Having established that women formed a significant subset of traders within the economies of Salisbury and Winchester, I shall now turn to a more qualitative assessment of their activities by examining some of the advertisements placed by them in the local newspaper. Both Barker and Nicola Phillips included analyses of women traders' newspaper advertisements in their studies of business women of the period. Phillips' research focussed on London and she used advertisements from the *Daily Advertiser* between 1731 and 1775.⁴⁴⁰ She concludes that these show the supposedly binary categories of 'public' and 'private' bleeding into each other. Thus, whilst the market has traditionally been viewed as a public 'male' space, she found that female traders were not only visible within a physical market place (i.e. they kept shops and interacted with the public) but they also created a virtual public space for themselves via the (again, public) medium of print culture.⁴⁴¹ However, Phillips argues, the real balance female traders strove to maintain was not between the two 'spheres' but between 'polite and vulgar practice'. This meant women adopted linguistic strategies that combined genteel manners with commercial practice.⁴⁴² Phillips also argues strongly for a cultural link between business and personal credit which, for female traders, included personal respectability. Indeed, the women most anxious to stress the strength of their character and reputation were those whose occupation placed them in danger of being accused of sexual or moral impropriety, such as milliners and midwives.⁴⁴³

Barker also finds that the women in her study chose a discernible style of polite deference when presenting themselves to the public through advertisements.⁴⁴⁴ However, she sees little difference between this and the language used by male traders.⁴⁴⁵ Instead, she argues that this 'degree of servility' in the discourse of the advertisements was potentially more problematic for male traders as it could conflict with traditional masculine gender identity.⁴⁴⁶ Barker stresses that the women in her study would have considered gender to have

⁴⁴⁰ *Women in Business* (Woodbridge: Boydell and Brewer, 2006).

⁴⁴¹ Phillips, pp.203-204.

⁴⁴² Phillips, p.229.

⁴⁴³ Phillips, p.216.

⁴⁴⁴ Barker, p.81.

⁴⁴⁵ Barker, p.82.

⁴⁴⁶ Barker, p.82.

been a defining aspect of their identity, although she does not detect a conflict between a woman's femininity and her role in the local business community.⁴⁴⁷ She also found no evidence that female gender identities amongst the subjects of her research conformed to the 'separate spheres' ideal of wife and mother.⁴⁴⁸ Businesswomen, she concludes, were able to use newspaper advertisements to create a feminine, respectable niche for themselves within the market place.

Women traders in Salisbury also embraced the possibilities offered by advertising. The *Salisbury and Winchester Journal* provides numerous examples of female traders who wished to promote their businesses, engage staff and build rapport with their customers. In line with the findings of Barker and Phillips, these advertisements were couched in highly deferential – even subservient – terms but nevertheless had a clear commercial objective:

NEW AND ELEGANT MILLINERY &c

S. DARBY begs leave most respectfully to inform the Ladies of Salisbury, its vicinity, and the public in general, that her principal assistant is just returned from London, with a genteel and select assortment of MILLINERY &c. comprising caps, hats and bonnets of the newest and most approved patterns. Also a great variety of lace veils, dress handkerchiefs, gloves, lace, feathers, flowers and other choice fancy articles. Straw and chip hats made to any shape.

*High-Street, Salisbury, Aug. 18th 1804*⁴⁴⁹

This example is typical of the tone of the advertisements: polite, strategically conscious of the deference due to paying customers and, by its own admission 'respect[ful]' and 'genteel'. However, it is also unmistakable as a piece of commercial discourse: Darby's wares are listed together with an overt 'hook' at the heart of the piece: the new London fashions which were available at her establishment. There are other messages, too, encoded within this short piece of prose. One of these relates to status. Whilst Darby's language might

⁴⁴⁷ Barker, pp.72-73.

⁴⁴⁸ Barker, p.88.

⁴⁴⁹ *Salisbury and Winchester Journal* August 18th 1804. The link for each advertisement is given in the bibliography.

be polite to the point of subservience – and defer to the ‘ladies’ who comprise her customer base – she is also signalling her own position within the social hierarchy: she is not merely the proprietor of a business but an employer too. Note it is her ‘principal assistant’ who has visited London – the implication being that she has others who have remained behind to work in the shop. Darby also presents herself and her business as financially sound: she has the wherewithal to underwrite the expense of the trip to London and has access to the credit and professional networks necessary to acquire the latest fashions. Finally, the advertisement speaks to the product knowledge, creative eye and professional skill of Darby and her assistants – attributes which take time and application to acquire.

Such signalling of experience, skill and professional knowledge was common across many advertisements placed by women in the *Journal*. They did not present themselves as amateurs or, perhaps, gentlewomen indulging in trade as a hobby or side-line. That such evidence of professional acumen was so widespread suggests that it must have been considered as a valuable commercial attribute in its own right. In the same way, references to the length of time a trader has been in business, or the mention of connections with other successful local business are also popular. M. Langridge, for example, is keen to mention her ‘Old Established Warehouse’ and expresses thanks to ‘those Ladies who have honoured her with their support for so many years past.’⁴⁵⁰ Elizabeth Botley’s first advertisement in the *Journal* announces that she has taken over the shop, stock and – hopefully – goodwill of the Misses Lakes, formerly haberdashers and milliners in Silver Street.⁴⁵¹ This reliance on knowledge and experience is not gendered. Mr. R. Langridge, stay-maker, for example, takes pains to point out that because he has ‘had fifteen years [sic] experience in the most fashionable houses in London, ladies may depend on having their orders executed in the neatest and most genteel style.’⁴⁵²

Darby is also astute in recognising and addressing her customer base: the ‘public’ in general are not her top priority, rather it is the ‘Ladies of Salisbury, and its vicinity’ who take precedence. Other traders are also careful to target their advertisements appropriately. M. Langridge styled one of her advertisements ‘A Card to the Ladies’, referencing the genteel practice of calling cards, as well as business cards.⁴⁵³ Jane Botley, on the other hand, a long-

⁴⁵⁰ *Salisbury and Winchester Journal* 27th October 1817.

⁴⁵¹ *Salisbury and Winchester Journal* 22nd May 1809.

⁴⁵² *Salisbury and Winchester Journal* 4th July 1803.

⁴⁵³ *Salisbury and Winchester Journal* 13th November 1826.

standing cutler in her own right and member of a family well-established in that trade, addressed her audience as ‘the Nobility, Gentry and Public of Salisbury and its Vicinity’.⁴⁵⁴ Hers was not a trade considered essentially ‘feminine’ and, as such, her customer base was not necessarily female. It was therefore in her interests to address men as well as women – and she quite freely did this. Any gendered considerations about her status as a female cutler appear subservient to her commercial interests.

What, however, can be learned about married women’s participation in trade from such advertisements? The first conclusion is that women are more easily identifiable than in the trade directories. Further, women who are working in the family business alongside their husbands sometimes become visible. This can be seen in the *Journal*, for example, by the Langridge women who start their careers assisting their husbands in the family stay-making and retailing business.

In 1803, the first advertisement from R. Langridge appeared, publicizing his stay-making business at 6 Silver Street, Salisbury.⁴⁵⁵ In 1807, mention is made of a Mrs Langridge when her husband informs the stay-buying public of Salisbury that ‘Ladies [will be] waited on by Mrs Langridge.’⁴⁵⁶ In 1814, an M. Langridge, ‘fashionable long stay and corset maker’ places an advertisement for ‘*her* fashionable Repository’, also in Silver Street (my italics).⁴⁵⁷ This is, one presumes, ‘Mrs Langridge’ setting up her own business on the same premises as her husband’s. M. Langridge advertises again on 9th October 1815 and 27th October 1817. On 4th May 1818, a two-piece advertisement is taken out in the *Journal*. The top half is for ‘Mrs Langridge long and short stay and corset manufacturer’ and the bottom half is for ‘M. and E. Langridge’ who ‘beg to inform the Ladies of Salisbury and its vicinity, that they have selected a handsome and fashionable assortment of millinery, lace and child-bed linen.’ Both establishments were operating from 6 Silver Street.⁴⁵⁸

⁴⁵⁴ *Salisbury and Winchester Journal* 17th October 1846. Also ‘Nobility, Gentry, Clergy, Yeomanry and Public’ *Salisbury and Winchester Journal* 6th December 1845;

⁴⁵⁵ *Salisbury and Winchester Journal* 4th July 1803.

⁴⁵⁶ *Salisbury and Winchester Journal* 17th August 1807.

⁴⁵⁷ *Salisbury and Winchester Journal* 21st March 1814.

⁴⁵⁸ It is possible that ‘E’ Langridge is the wife of Mr. G. Langridge who ran a rival stay-making business in Catherine Street. However, a more likely explanation is that it was Mrs M. Langridge’s daughter Elizabeth.

On 20th October 1828, Mrs M. Langridge took out an advertisement in the *Journal* to say that she was passing her business on to her son John (who placed his own advertisement directly below hers). His first solo advertisement was 22nd June 1829 when he, like the original R. Langridge before him, announced that ‘ladies’ would be ‘waited upon and fitted by Mrs Langridge’. By 26th March 1832, however, this second Mrs Langridge (Mrs J. Langridge) was also placing her own advertisements.⁴⁵⁹ In her first, placed directly below an advertisement for her husband, she styled herself ‘French and English stay-maker, Milliner, Dress-Maker &c’. Both her and her husband’s businesses were located at the same address: 6 Silver Street. In addition to her own business, Mrs J. Langridge was still apparently available for house calls to the local nobility and gentry on behalf of her *husband’s business*. So, not only was Mrs J. Langridge operating as a trader in her own right, she was still providing labour of commercial value to her husband.

Then, something extraordinary occurred: Mrs J. Langridge took her business on the road. The 8th October 1832 edition of the *Journal* informed her customers that

in order that every Lady within fifty miles of Salisbury...may have an opportunity of being suited [with her stays and corsets]...Mrs L. intends visiting, for a few days, with an Assistant of first-rate talent, every Town of consequence within the above-stated distance (of which due notice will be given by circulars).

She then expanded her empire further: her advertisement of 7th January 1833, gave her business addresses as being at the original Silver Street shop in Salisbury and also at 83 St Mary Street Weymouth. The language used in the advertisements also changed. Instead of the deferential nod to ‘the Ladies of Salisbury’ Mrs J. Langridge described herself as being ‘Under the most eminent patronage of the faculty’ and addressed her advertisement to the ‘Nobility and Gentry’ – interestingly no longer a gender-specific reference to a female customer-base. She also stated that she was ‘from London’ – which may well have been her birthplace – rather than Salisbury. Again, one must assume this was intended to confer status and prestige upon her and her business.

Back in Salisbury, however, things did not look quite so rosy. On 17th June 1833 the *Journal* carried a notice advertising the sale of all the stock-in trade (and household furniture) belonging to Mr J. Langridge of Silver Street. Whether or not the Langridge stay-making

⁴⁵⁹ For samples of Mrs J. Langridge’s advertisements, please see Appendix B.

empire had collapsed is impossible to say: there is no evidence from either the newspaper or in the local record office explaining why the stock was sold and the premises in Silver Street vacated. However, it seems that the Langridges left Salisbury at this point.

Mrs Langridge, though, makes one final appearance in the *Journal*. On 27th April 1835, Mrs Langridge – who was now ‘under the patronage of her Majesty’s Court of St James’ – placed an advertisement to inform the ‘Nobility and Gentry’ that she would be returning to Salisbury ‘for a short time’ and asked that her former clientele will grant ‘a return of that patronage so liberally bestowed on her when a regular resident’. She has, she says, ‘just returned from London and Paris’ and will be visiting ‘Blandford, Dorchester, Weymouth, Lyme, Charmouth, Sidmouth and Exeter.’ Rather than a failure of the business, this suggests a strategic business move to London (or just possibly Bristol) for the Langridges – and one which seems to have turned out extremely well for Mrs Langridge.⁴⁶⁰

The trail left by the Langridges through the pages of the *Salisbury and Winchester Journal* makes it clear that married women could work both as a valuable (and skilled) addition to the main family business and as independent traders in their own right. Indeed, Mrs J. Langridge not only succeeded in obtaining royal recognition, but was able to operate a permanent business from more than one location (shops in Salisbury and Weymouth) and enjoy transient trade in a range of towns outside the immediate commercial reach of Salisbury. The Langridge advertisements also suggest that, although she may have begun work in the family firm by supporting her husband’s business, Mrs J. Langridge’s success eventually eclipsed his. This is supported by Mr Wristbridge, who took over the Langridge premises in Silver Street, advertising that his establishment was at the former premises of *Mrs* rather than *Mr* Langridge.⁴⁶¹ Even though it had originally been Mr Langridge’s stay-making business – inherited from his parents – it was his wife who loomed large in the public imagination.

Mrs J. Langridge’s career trajectory speaks powerfully against the ‘separate spheres’ narrative. It tells the story of a wife not only running her own business – indeed one which may have eclipsed her husband’s – but a wife who sought to expand that business through bold, commercial innovations. This is diametrically opposed to any school of thought which asserts women became progressively more enclosed within the four walls of the family home

⁴⁶⁰ There was a stay manufactory owned by Langridges near Bristol which suggests family connections.

⁴⁶¹ 10th February 1834.

as the nineteenth century progressed. Of course, this is only one family business and the conclusions which can be drawn from it must necessarily be limited. However, the language of the advertisements and Mrs J. Langridge's chosen mode of addressing her client base (changing from 'ladies' to the 'nobility and gentry' and finally show-casing her royal patronage) suggests that this in no way affected her standing.

This unapologetic construction of herself as a successful businesswoman correlates with Barker's conclusions that tradeswomen embraced their professional status and used it to build socially-acceptable identities for themselves.⁴⁶² Whilst the language used in the *Journal* is unerringly deferential, it is not qualitatively different from the language being used by men.⁴⁶³ Further, whilst it may be possible to construe tradeswomen as wishing to emphasise their relatively high social rank (the use of words like 'genteel' for example) they do not appear to do this by negating or down-playing their commercial aspirations.'⁴⁶⁴

Moving beyond ideas of linguistic discourse one comes to the matter of the law. Were married women traders at a disadvantage because of their *covert* status? And, if so, was this disadvantage cultural or embedded within the law itself? The model for working wives within the artisanal/trade classes has traditionally been one where they were viewed as second best. They may have helped their husbands and, if widowed, would perhaps have taken over the reins of the family business until the oldest son could step into his father's shoes. However, there is a body of evidence which shows this may not have been the case. Barker, whilst acknowledging that the role of women within family firms is an area which requires more research, speculates that the 'smooth manner' in which women assumed control of the family business on the deaths of their husbands indicates that they had been involved at an earlier stage. Further, there are many examples of women who continued to run the family businesses even after the eldest son came of age.⁴⁶⁵ Indeed, in Salisbury Jane Botley appears

⁴⁶² Barker, pp. 86-88.

⁴⁶³ Although Phillips also sees the language used by all traders as creating a virtual commercial community pp.208-213.

⁴⁶⁴ Phillips, p.206. It should, however, be noted that Phillips sample of newspaper advertisements is from a period earlier than those examined for this study and ends in 1775.

⁴⁶⁵ Barker, p.170.

to have taken over her husband's business on the death of her husband, even possibly trading alongside her daughter in direct competition with her son Henry.⁴⁶⁶

What, however, did this mean in strict legal terms? How did coverture affect business women? The greatest practical obstacle for married women traders was the common law rule that prevented them from making debts or entering contracts. Also, under coverture any stock or profits relating to the business belonged by law to their husbands.

There were, however, ways in which the effects of coverture could be negated. One was through the provision for so-called *feme sole traders*, where a married woman could operate as a single woman for commercial purposes. However, this was very narrowly defined and heavily dependent on the interaction of common law with customary borough law.⁴⁶⁷ This, therefore, would only ever have been an option for a minority of women. There were, however, other possibilities. R.S. Donnison Roper, the author of an influential digest on the law of husband and wife (1820) suggested a number of solutions.⁴⁶⁸ The first was that a wife could trade on her own account after having been expressly permitted to do so by her husband. Ideally, this permission should be granted before the marriage, although a post-marital agreement would suffice. The arrangement should also have been evidenced in writing, although a verbal agreement was still good in law.⁴⁶⁹ In legal terms, such an agreement between husband and wife would create a contract (the marriage itself acting as consideration) which would bind both the husband and his creditors. If the agreement was made subsequent to the marriage, however, it could bind only the husband.⁴⁷⁰

A second option was for the wife to finance her business using assets that were part of her separate estate. As has already been discussed above, if a wife traded using her separate estate (especially if the trustees did not include the husband) she could use it to contract debts. Further, she would only be liable for those debts to the *extent of* that separate property. Again,

⁴⁶⁶ See *Salisbury and Winchester Journal*: 1st September 1828; 25th April 1831; 20th August 1832; 15th November 1845; 29th June 1850. Also the 1841 census.

⁴⁶⁷ Phillips, pp.23-40 and also Chapter Three 'A Customary Privilege? Common law, borough custom and the *feme sole trader*.'

⁴⁶⁸ *A Treatise of the Law of Property Arising from the Relations Between Husband and Wife* (London, 1820) as cited in Phillips *Women in Business* pp.41-46.

⁴⁶⁹ Roper, p.167, cited by Phillips p.42.

⁴⁷⁰ Roper, p.167, cited Phillips p.42.

as has already been mentioned above, this created an early form of limited liability.⁴⁷¹ The attraction of such an arrangement is obvious. The wife would have been able to trade without her husband's interference and he would not have been answerable for any of her debts. If one spouse went bankrupt or was forced to close their business, the other spouse could legitimately continue to trade. Because the trading risk was spread across both spouses, the family finances were more secure than if the husband and wife were operating commercially as 'one person'.

The evidence, however, suggests that the rules relating to coverture were not followed in any strict or regular manner. This in itself opens up the possibility of a gap between the letter of the law and the practical ways in which women traders could conduct their business. Phillips argues that most businesswomen would not have behaved (or been treated) differently depending on their marital status.⁴⁷² She speculates that marriage may well have been viewed as 'merely an interruption to long-standing credit arrangements with other traders' and other factors such as trustworthiness and reputation were considered more important when a third party decided whether or not to make a contract with a *feme covert*. This echoes Joanne Bailey's research mentioned in Chapter Two. She found that wives acting as their husbands' agents broadly followed the same purchasing patterns when *covert* as they had done when *sole*. Effectively, they saw themselves and their economic autonomy unchanged by marriage despite the theoretical restrictions of coverture.⁴⁷³

Even during litigation, the distinction between women trading *sole* or *covert* could become blurred. According to Phillips, a businesswoman might be presented as being *covert* or *sole* depending on the strength either status gave to the litigant's case. She has even found an example of *covert* and *sole* being pleaded in the alternative in the same case by the same litigant.⁴⁷⁴ It would appear that the rules were not clear cut and, indeed, it could be argued that the wheels of commerce were best served by keeping them opaque and allowing businesswomen to exploit the ensuing legal uncertainty.

So, businesswomen were a visible and active part of English commercial life during the late eighteenth and early nineteenth centuries. They were present in the 'public' spheres of the market and print culture and, as evidenced by women such as the Mrs Langridges, do not

⁴⁷¹ Phillips, p.45.

⁴⁷² Phillips, p.90.

⁴⁷³ Joanne Bailey, 'Favoured or Oppressed?' pp.357-8.

⁴⁷⁴ PRO C6/380/51 *Benney v Long* (1700). Cited in Phillips p.80.

seem to have felt a need to retreat inside the ‘private’ sphere of the home. They appear to have constructed acceptable femininities for themselves which incorporated not merely politeness and deference but an acknowledgement of their professional skills and business acumen. Mrs Langridges and Mrs Botleys would have been a feature of every high street of every town in the country. The next question therefore is – where are these women in the female-authored novels of the period and what light does this shed on cultural understandings of coverture?

The dearth of working women, particularly those who are married, within the pages of late eighteenth and early nineteenth century novels has been well-rehearsed. However, it is not simply a case of work not being a genteel-enough subject for literature. Jennie Batchelor contends that ‘the debate about women’s work in which later eighteenth-century women writers participated was ...inseparable from...the status of women writers’ and that some focussed upon work precisely *because* they wished to draw attention to it.⁴⁷⁵ However, Edward Copeland (cited by Batchelor) contends that, in general, female authors feared readers’ reaction to their own authorial labour. He argues that whilst there were some authors who used the inclusion of paid labour in their fiction to create a ‘safe space’ in which women could explore the ‘economic reality’ of working for a living, this came with a social cost attached.⁴⁷⁶ As he articulates it, paid employment meant the (inevitably middle-class) heroine had to betray ‘her own class and its urgent aspirations for station’.⁴⁷⁷ For a heroine to undertake paid labour was thus a source of personal shame, presaging both social precarity and inner turmoil.

Readings of female-authored fiction of the period have traditionally supported Copeland. In *Emma* (1816), Jane Fairfax’s putative career as a governess is intended to be viewed by the reader with pity and a modicum of horror. The dilemma of ‘gentility versus work’ could even place impoverished women in moral danger. For example, the two sisters at the centre of the *Lady’s Magazine* serial ‘Harriet Vernon’ (1807-1809) are vulnerable to sexual predators because of their economic precarity. Here, the libertine Beaumont attempts to trick the eponymous heroine into a bigamous marriage. His rationale is that, faced with marriage, poverty or employment, a young gentlewoman would be forced to accept her first

⁴⁷⁵Jennie Batchelor, *Women’s Work, Labour, Gender, Authorship, 1750-1830* (Manchester: Manchester University Press, 2010) pp.21-22.

⁴⁷⁶ Edward Copeland, *Women Writing About Money: Women’s Fiction in England 1790-1820* (Cambridge: Cambridge University Press, 1995) p.161.

⁴⁷⁷ Copeland, p.161.

offer of matrimony and not ask too many questions of the suitor.⁴⁷⁸ Of course, this being fiction, a love-match with a fine, upstanding gentleman of means is usually the way of resolving the dilemma: Jane Fairfax marries Frank Churchill and the Vernon sisters, too, marry the men of their choice. However, the way in which these choices are handled by many female authors of the period is stark: working may be preferable to being seduced but it is by no means an empowering (or indeed, empowered) choice. In fiction, therefore, women's paid labour generally lies at the heart of a number of competing and ultimately irreconcilable claims. These include class, gender, power relationships and money. This, however, was not always the experience of working women, as the historical evidence already seen in this chapter suggests.

One author of the period who would have known what life as a successful businesswoman was like, was Frances Burney. Although Copeland places Burney in his 'genteel' category of authors, recent research has confirmed that Burney herself was not from that particular social stratum. Thanks to the research of Amy Louise Erickson, we now know that Burney's mother, Esther Sleepe was a fan maker with a shop in Cheapside in the City of London. Although she died when Burney was ten years old – and indeed had given up her business before that, when the family moved to Norfolk – Burney continued to spend time with her maternal family, particularly her grandmother. Burney's mother, grandmother and two of her aunts were all traders. Moreover, they were not part of a downtrodden precariat but were highly successful businesswomen.⁴⁷⁹ Indeed, Erickson suggests that the title 'fan maker' is, in some respects misleading as it is unlikely that Esther Sleepe ever made one herself. Instead, she ran a manufacturing, wholesale and retail business catering for both the domestic

⁴⁷⁸ 'Harriet Vernon' January 1807 – March 1809. The Beaumont episode: December 1807 pp.181-189. Originally accessed online via the Hathi Trust. This link via Google Books: <https://books.google.co.uk/books?id=ZYMVAwAAQBAJ&pg=PA175-IA2&lpg=PA175-IA2&dq=ladys+magazine+harriet+vernon+1807&source=bl&ots=hAhBVOWLg1&sig=ACfU3U3WfoethDywRuNrhsmqxyGZNOWUeA&hl=en&sa=X&ved=2ahUKewj4nMKi86TrAhXCUMAKHW3zBdEQ6AEWanoECAEQAQ#v=onepage&q=ladys%20magazine%20harriet%20vernon%201807&f=false> [accessed 18th August 2020].

⁴⁷⁹ Esther and her sister were also members of the Company of Musicians, one of the livery companies in the City of London and both were admitted to the Freedom of the City. Erickson, 'Esther Sleepe, Fan Maker, and her Family', p.16.

and colonial markets.⁴⁸⁰ Although Sleepe, once she was married to Charles Burney, operated her business under his Freedom of the City, evidence suggests that it was she and not her husband, who supported the family at the start of their life together: whilst he earned the sum of thirty pounds per annum as an organist, Esther may have been paying that amount to each of the journeywomen employed in her business.⁴⁸¹

Burney was not only descended from a dynasty of successful businesswomen, she was one herself. Indeed, her female antecedents aside, there is an argument to be made that the Burney family under the direction of her father, Charles, operated as a quasi-business in their determined acquisition of social and cultural capital. Catherine Gallagher's description of their strategic amassing of contacts and opportunities as 'contributing to a...corporate fame' suggests the activities of an industrious family firm.⁴⁸²

Burney's first two novels were published to critical acclaim and when, at the age of forty-one she married a man with no fortune, she took on the role of family breadwinner, writing two more books – this time financially successful ones. The publication of the first, *Camilla* (1796), provided Burney, her husband and son not only with much-needed income but enough to build a family home, *Camilla Cottage*.⁴⁸³

Although a *feme covert*, Burney was instrumental in the publication process of *Camilla*, taking a great deal of responsibility for the project herself, rather than (as might perhaps have been expected) leaving the business arrangements to her husband. Although she sometimes couched her commercial activities in the more socially-acceptable terms of a

⁴⁸⁰ Erickson, 'Esther Sleepe' p.17.

⁴⁸¹ Erickson, pp.21-22.

⁴⁸² Gallagher, *Nobody's Story: The Vanishing Acts of Women Writers in the Marketplace 1670-1820* (Berkeley: University of California Press, 1995) <<https://hdl.handle.net/2027/heb.09127>> [accessed 18th August 2020] Fulcrum Ebook pp.216-217. See also Sophie Coulombeau 'Introduction' *Eighteenth-Century Life* 42.2 (2018) 1–11 <<https://doi.org/10.1215/00982601-4384487>> [accessed 18th August 2020] pp.2-3. Although Coulombeau argues that Burney strove for authorial recognition independent from the pull of the wider Burney family: "'A philosophical Gossip": Science and Sociability in Frances Burney's *Cecilia*' *Eighteenth-Century Life* 4.2 (2018) 73-93 <<https://doi.org/10.1215/00982601-4384553>> [accessed 18th August 2020] p.88.

⁴⁸³ *Diary and Letters of Madame D'Arblay* Vol. 6 Charlotte Barrett (ed.) (Cambridge: Cambridge University Press, 2013) <<https://doi.org/10.1017/CBO9781139644754.001>> [accessed 20th August 2020] Cambridge Core Ebook pp.65-66.

mother providing for her child ('it may be a little portion to our Bambino') she assumed multiple professional roles in the process, working on the project as 'artist, agent and publisher'.⁴⁸⁴

Burney also appears to have regarded the fruits of her labours as (at least in part) vesting in her, rather than as the law of coverture dictated, in her husband. Her use of personal pronouns when describing her work and its financial benefits is illuminating: she uses either the first person plural ('we', 'us' or the possessive 'our') or the first person singular ('I'). This indicates that she saw herself either as the owner ('my work'; 'I am to receive merely 500 pounds upon the delivery of the MS') or as the joint owner ('our income'; 'our house').⁴⁸⁵

Burney also knew the drawbacks of paid labour. In a now-famous letter to her mentor Samuel Crisp (who had exhorted her to 'leave *Fagging*, and Labour' to other writers) she reminded him 'that those who can niether [sic] pay *milliners*, nor keep '*servants*' must either toil for themselves or go *Capless* and Dinnerless.'⁴⁸⁶ Her time at court as Keeper of the Robes to Queen Charlotte was also unhappy and she understood from personal experience the

⁴⁸⁴ Emma E. Pink 'Frances Burney's *Camilla*: "To Print My Grand Work ... by Subscription"' *Eighteenth-Century Studies* Vol. 40.1 (2006) 51-68 <<https://www.jstor.org/stable/30053491>> [accessed 3rd August]. 'Bambino' quotation is from a letter dated June 15th 1795 *Diary and Letters of Madame D'Arblay* Vol. 6 p.88. However, it is the case that Burney's male relatives also played a pivotal role in *Camilla*'s publication, including advising her on marketing and negotiating with booksellers. See, for example, Gallagher *Nobody's Story* pp.253-255 or George Justice 'Burney and the literary marketplace' in *The Cambridge Companion to Frances Burney* Peter Sabor (ed.) (Cambridge: Cambridge University Press, 2007) <<https://doi-org.libproxy.ucl.ac.uk/10.1017/CCOL0521850347.010>> accessed 24th January 2021 Cambridge Companions Online pp.157-158, where her brother Charles is described as brokering her publishing deal.

⁴⁸⁵ Letter to Dr Burney October 12th 1813 *Diary and Letters* Charlotte Barrett (ed.) Vol. 7 p.11 <<https://doi.org/10.1017/CBO9781139644761>> [accessed 20th August 2020]; Letter to Mrs Phillips 12th January 1798 *Diary and Letters Volume 4* <<https://doi.org/10.1017/CBO9781139644754.004>> [accessed 20th August] p.138.

⁴⁸⁶ Letter to Samuel Crisp 22nd January 1780 *The Early Journals and Letters of Frances Burney. Volume IV The Streatham Years: Part II 1780-1781* Betty Rizzo (ed.) (Oxford: Oxford University Press, 2003) p.7. Cited in Batchelor *Women's Work* at p.1.

exchange of personal freedom for paid employment which was to become a feature of her final novel, *The Wanderer*.

Work, particularly trade, did feature in her novels. However, those engaged in paid labour – or from the social classes associated with it – are not drawn positively. Instead, they are portrayed as crass figures of fun (*Evelina*, 1778); objects of charity (*Cecilia*, 1782), victims of exploitation and those responsible for that exploitation (*The Wanderer*): depictions which reflect neither her experience as a working woman nor her family heritage. Equally, however, it is also not the case that those of higher social rank are drawn without blemish, particularly in *The Wanderer*. Indeed, many of the gentry in that novel are greedy, abusive and morally-bankrupt: eagerly consuming goods and services but refusing to pay for them.

The Wanderer chooses to address the issue of women's paid labour directly. It devotes a large amount of text to the attempts by Juliet (the heroine) to support herself through her own efforts. Fleeing in disguise from France and a forced marriage at the height of the Terror, Juliet – whose name is not revealed until later in the book – loses her purse in the sea. Without financial support, and consequently under suspicion from those around her because of her *incognita* status, she works in a number of different jobs before fleeing into the wilds of the countryside to evade the agent of her French husband who has been sent to find her. Although she ultimately fails to escape him, her husband is shipped back to France without her – and executed. This allows Juliet to assume her rightful status as the orphaned heiress daughter of a wealthy aristocrat and marry Albert Harleigh, the man she has fallen in love with.

Assuming that her French marriage is valid (discussed below), Juliet is a *feme covert* as well as a penniless refugee. *The Wanderer* is not, however, an examination of the specific legal inequalities suffered by *femes coverts* as per Wollstonecraft's *Maria*.⁴⁸⁷ Instead, I would like to suggest that Burney uses the legal fiction of Blackstonian coverture as a powerful metaphor to underpin the narrative; in particular, the way in which the 'unity of persons' theory causes the wife to disappear as a legal and economic entity in her own right. By deploying the legal fiction of coverture in the text in a melodramatic and highly emotive manner, Burney – like Haywood and Wollstonecraft before her – is drawing attention to its oppressive potential. The symbolism of the vanished wife is then set against the economic

⁴⁸⁷ Although the link between Wollstonecraft's novel and *The Wanderer* has been made elsewhere: Tara Ghoshal Wallace 'Rewriting Radicalism: Wollstonecraft in Burney's *The Wanderer*' *Eighteenth-Century Fiction* 12 (2012 <<https://muse.jhu.edu/article/470214/pdf>> [accessed 18th August 2020]).

precarity narrative contained within the labour plotline and these two examples of powerlessness work to amplify one another, producing a heroine who for most of the novel has neither property, economic security, identifiable social status, or even her own name. Further, by using Juliet's eventual love-match with Harleigh to confirm her heroine's worth as an individual in her own right (i.e. not for her wealth or social status) I would also argue that Burney is asserting that wives do not and should not vanish as agentic individuals upon marriage. Instead, I would suggest that the message from *The Wanderer* is that the value they bring as unique individuals to the marital relationship is what makes a marriage truly meaningful.

It is important to note that *The Wanderer* is a flawed text. It raises a number of themes and ideas and then fails to reconcile them satisfactorily. The intersection between economic oppression and the oppression inherent within Blackstonian coverture is no exception. However, I would argue that the nexus between the two is made in three important – and by now, rather familiar – ways. The first is as a simple plot device: by having a heroine who is already married, Burney cuts off the possibility of an early resolution of both the love plot between Juliet and Harleigh and the labour plot, as Harleigh as her husband would be bound to support and provide for her. Secondly, it establishes a link between the commercial marketplace (where a person's worth is measured by the value of their labour) and the marriage market (where the worth of the wife is equated to the value of her portion). Finally, like *Maria* and *Betsy Thoughtless*, the novel amplifies the particular vulnerability of married women seeking to escape an abusive or loveless marriage.

The Wanderer was not the first time that Burney had made the intellectual link between the loss of freedom for women in both marriage and paid labour. Using matrimony as a metaphor she wrote to her sister about her place at court:

I am married my dearest Susan – I look upon it in that light – I was adverse to forming the union, and I endeavoured to escape it; but my friends interfered – they prevailed – and the knot is tied. What then now remain but to make the best wife in my power? I am bound to it in duty and I will strain every nerve to succeed.⁴⁸⁸

⁴⁸⁸ *The Early Diary of Frances Burney, 1768-1778* Volume 2 Annie Raine Ellis (ed.) (London: George Bell and Sons, 1889) p.382. Cited in Edward Copeland 'Money in the Novels of Fanny Burney' *Studies in the Novel* 8.1 (1976) 24-37 <<https://www.jstor.org/stable/29531765>> [accessed 22nd July2020] p.31.

Employment, like loveless marriage, is nothing more than a duty into which one is bound. The central metaphor within this letter was to be given greater reign many years later in *The Wanderer*.

I shall begin, however, by addressing the issue of work. Because she is penniless, Juliet is forced to adopt three different modes of survival. Each of them, however, mean that she is economically dependent on other people.⁴⁸⁹ The first is that of houseguest: given a roof over her head through the magnanimity of the owners. The second is earning her own living and, finally, desperate to avoid being returned to her French husband, Juliet ekes out an itinerant existence in a wild and inhospitable landscape. Each of these represent not just a descent into greater and greater economic precarity but also reflect a steady decline in social status. This decline is also reflected in the type of work she undertakes in the labour plot: beginning in the relatively comfortable role of a self-employed music teacher and ending up at the beck and call of Mrs. Ireton in the dreaded capacity of ‘toad eater’.

That Burney used *The Wanderer* to explore women’s paid labour in a new and unconventional manner has long been recognised. In one of the earliest scholarly readings of the text, Margaret Doody argues that Burney’s treatment of work within the text represents a significant departure from the contemporary understanding of labour as something for which the lower classes should be grateful.⁴⁹⁰ Other scholars have explored the intersection of ideas relating to commerce, credit and reputation in the novel. Nicola Philips, for example, dissects the idea of ‘credit’ as both a reputational and financial signifier. She argues that, initially, Juliet appears to be preferable to Gabriella as a lodger for Miss Matson because Juliet’s high-status acquaintance indicate that she has reserves of social, reputational and financial credit. However, as soon as Juliet’s impecuniosity becomes known, her credit (of all three types) is withdrawn.⁴⁹¹ Miranda Burgess too focuses on the mutable issue of personal and financial credit.⁴⁹² She argues that, whilst *The Wanderer* attempts to reassert the power of the private

⁴⁸⁹ Capital which could, of course, have been placed into trust and protected from a financially predatory husband.

⁴⁹⁰ *The Life in the Works* (Cambridge: Cambridge University Press, 1988) p.355.

⁴⁹¹ Phillips, *Women in Business* pp.215-216.

⁴⁹² Miranda J. Burgess, ‘Courting Ruin: The Economic Romances of Frances Burney’ *NOVEL: A Forum on Fiction* 28.2 131-153 (1995) <<https://www.jstor.org/stable/pdf/1345508.pdf>> [accessed 18th August 2020].

family against the forces of commercialism, this is not a 'private sphere' domestic ideology that would be recognised by authors later in the nineteenth century. Instead, she argues that Burney's heroines, including Juliet are placed at risk because a 'fashion system of consumption has supplanted landed wealth and ancient name.'⁴⁹³ This in turn renders them 'unstable and fluctuating' commodities within the marriage market.⁴⁹⁴ Burgess' analysis, however, still serves to locate a woman's value *outside* herself – i.e. in the price for her agreed between the woman's suitor and her father. Within the context of the book, this would make Juliet's marriage to Harleigh (which we are undoubtedly intended to see as a love match) as transactional as the purely commercial arrangement made between Lord Denmeath and the commissary. This cannot be the case.

When linked with the idea of Blackstonian coverture, however, the economic and social precarity experienced by Juliet takes a darker turn. That we are being asked to read *The Wanderer* (at least in part) as a novel about coverture is, I suggest, in no doubt. There are an abundance of marriages – or putative marriages – within the text. These include that of Juliet to the commissary; the marriage-to-be agreed between Juliet and Harleigh; the secret marriage between Juliet's parents; the marriage between Juliet's father and his second wife; Elinor's wished-for marriage with Harleigh; the broken engagement between herself and Harleigh's brother and Gabrielle's unhappy union. As coverture was an inescapable part of matrimony for women, the plethora of marriages in the text inevitably raises the issue of what it meant for women of the time.

The link between the exploitative economics of the workplace and the economically exploitative form of coverture embedded within of late eighteenth-century marriage re-enforces this. Indeed, the symbolic nexus between a woman's portion and her value as a wife is made as explicitly in *The Wanderer* as it is in either *Betsy Thoughtless* or Wollstonecraft's two novels – perhaps even more so: in *The Wanderer*, Juliet's portion is little more than a bribe from Lord Denmeath to have her taken off his hands. In both the commercial marketplace and the marriage market, her value is understood in solely monetary terms.⁴⁹⁵ However, Burney is not merely making the same link between paid work and marriage that

⁴⁹³ Burgess, 'Courting Ruin' p.144.

⁴⁹⁴ Burgess, 'Courting Ruin' p.143.

⁴⁹⁵ Others have noted this, see the quote from Miranda Burgess at note 106 below for example. However, I suggest the answer to Burney's somewhat contradictory response to the 'value' of women can be located in coverture.

she did in the letter to her sister. Instead, she goes further. By making Juliet live as an itinerant *incognita* for most of the novel, Burney's heroine also disappears as a person in her own right. Burney removes from her the signifiers used to identify and locate people within society: family, money, rank, marital status – even her name. Without these – and, more precisely, without the male relatives through whom she would acquire most of these signifiers – her true genteel status is missed by those around her. Effectively, she ceases to exist as an individual in her own right.

However, if we are being invited to read Juliet as a wife, she is a wife who is missing that vital component: a husband. This has financial as well as social implications. As has been discussed elsewhere in this thesis, the husband had a duty to support his wife and received in exchange (in the absence of any agreement for separate property) ownership of her personal property, including wages, business profits and stock-in-trade.⁴⁹⁶ The only exceptions to this were if the husband was transported or in exile; if he was an 'alien enemy'; or if he had deserted the wife and she was subsequently provided with the means to set up a business by her friends – in which case he was not entitled to return at a later date and claim the business assets for himself.⁴⁹⁷ In *The Wanderer*, however, it is the *wife's* disappearance which takes centre stage. To re-enforce this point, the novel gives three separate examples of wifely disappearance, occurring at three different points in time. The first occurs in the present: Juliet's flight from France and her subsequent existence in England *incognita*. Although it is her decision to escape France, she does so as a direct consequence of her marriage to the commissary. Further, in order for her to avoid recapture, it is necessary that she disguises her identity. This causes her true status – and intrinsic worth as a human being – to remain hidden from those around her. The second disappearance is one located in the future, the disappearance which will occur if she submits to the French marriage: Lord Denmeath's plan to purge her from her blood family. If he succeeds, Juliet will effectively cease to exist as a person within her own lineage, vanishing entirely into her married state – just as the six-thousand pound portion with which she is synonymous will vanish into her husband's control. The third and final disappearance is located in the distant past: that of Juliet's mother. Her

⁴⁹⁶ There is, of course, the complication that as Juliet has run away from her husband this invalidates any obligation he has to support her - unless her actions in leaving him are reasonable. However, I would argue that this too speaks to the iniquity of coverture as Juliet's marriage is clearly depicted as a brutal abuse of power.

⁴⁹⁷ Phillips, *Women in Business* p.41 and p.44.

experience of marriage – albeit on French soil and strictly beyond the jurisdictional reach of English coverture – was also to vanish: firstly through her husband’s failure to acknowledge their marriage to his family and then, finally, through death. By escaping to England, Juliet is not only attempting to avoid her own, personal disappearance into coverture but is seeking also to prevent her erasure from her own family history and to rescue the memory of her mother from oblivion.

As well as pushing against Blackstonian coverture by demonstrating the abuses that can occur by ‘vanishing’ women into marriage, Burney also uses Juliet’s fight against her own disappearance to demonstrate that vanishing did not need to be an inevitable consequence of matrimony. Through this, Burney is symbolically disrupting the central tenet of Blackstonian coverture which stated that the husband and wife were one person, represented by the husband. Although Juliet faces challenges and difficulties, she is still able to work, perform, think, reason, emote, manage her finances, travel and conduct relationships with others just if she were single. What she is lacking is a defined and recognisable social status. As a woman living in the 1790s, this would normally be conferred upon her either through her husband or her father – both connections which, for the purposes of survival, she is anxious to conceal. However, her intrinsic nature – which is not located in a connection to a male relative – is accomplished, graceful, courteous, hard-working, dignified and honest. It is also clearly visible to those who value such things. It is thus no accident that Harleigh recognises (and falls in love with) Juliet’s true nature: he does not need the external trappings of wealth or social rank to gauge her worth. Further – and importantly – the contribution he seeks from her in marriage is solely that which she brings as a unique, valuable individual. Although there will be a marriage settlement and the match between them is sanctioned by her male relatives, this is not why he marries her. The coverture Juliet will experience in her marriage to Harleigh, will not be one where she disappears. Instead, it will be one where she will continue to exist – and indeed contribute to the marriage – because of who she is, not how much she is worth.

The exploration of marriage in *The Wanderer* has attracted a great deal of critical interest. However, much of this has focussed on the nature of Revolutionary feminist debate within the text and whether Burney is supporting or challenging the gendered structures inherent in English marriage – essentially whether she takes a radical (Wollstonecraftian) or a

more conservative approach.⁴⁹⁸ If, however, one unpicks themes and references to coverture from those which concern marriage more widely, some of the scholarly differences apparent in the secondary literature can be reconciled. The debate – in the words of Melissa Ganz – divides broadly into those who ‘underestimate the novel’s challenge to patriarchal culture’ and those who ‘overstate [its] radical sympathies’.⁴⁹⁹ If it is accepted – as is the contention of this thesis – that coverture should be considered as an unavoidable part of the eighteenth-century English female marital experience, it is possible for Burney to accept the provisions relating to marriage in England (Ganz is particularly concerned with the Marriage Act of 1753) but reject those surrounding coverture. Logically, she can be conservative in her approach to one and radical in her approach to the other. This allows her to occupy a seemingly contradictory ideological space where she can both reject the oppression inherent in Juliet’s French marriage but accept a traditional (conservative, English) marriage to Harleigh. Much of the difference between the two, I would argue, lies in Juliet’s experience of coverture: she is symbolically extinguished as an individual in the former but will continue to exist as a contributor of value in the latter. In Miranda Burgess’ words, Burney’s ideal was a:

world in which a woman’s recognized value corresponds with her moral and financial worth and marriage is a private act between a woman’s father and the suitor he approves.⁵⁰⁰

⁴⁹⁸ The scholarship is summarised by Melissa J. Ganz, ‘Freedom and Fetters: Nuptial Law in Burney’s *The Wanderer*’ English Faculty Research and Publications 371

<https://epublications.marquette.edu/english_fac/371> [accessed 18th August 2020] pp.67-8.

My analysis is based on Ganz’ arguments as well as Miranda J. Burgess ‘Courting Ruin’, Claudia Johnson *Equivocal Beings: Politics, Gender and Sentimentality in the 1790s Wollstonecraft, Radcliffe, Burney, Austen* (London: University of Chicago Press, 1995); Tara Ghoshal Wallace ‘Rewriting Radicalism.

⁴⁹⁹ Ganz, ‘Freedom and Fetters’ p.68.

⁵⁰⁰ Burgess, ‘Courting Ruin’ p.147. Melissa Ganz also suggests that Burney disapproved of marriage as a male-to-male exchange: ‘Clandestine Schemes: Burney’s *Cecilia* and the Marriage Act’ *The Eighteenth Century* 54.1 25-51 (2013) <<https://www.jstor.org/stable/23365024>> [accessed 18th August 2020] p.27.

The key here is that the woman's value is located internally – her innate worth as an individual – not externally in her marriage portion. The former will continue to exist during the marriage whereas the latter becomes the sole property of her husband. It is perhaps a subtle, but nonetheless important, distinction which seeks to disrupt the notion in Blackstonian coverture that the wife disappears after marriage.

Finally, there are legal ambiguities presented by the text, including those arising from issues of jurisdiction. The uncertainty surrounding these is another manifestation of the flawed nature of the novel as a whole. From the start, the text creates uncertainty and confusion, setting up a number of binary possibilities which are at once true but contradict each other: Juliet is both aristocratic and of commercial stock; she works for a living but is repulsed by payment; she is a refugee but has the manners of a gentlewoman. She is also married but not married, a sort of Schrödinger's Wife. On a strict legal level, this is of course nonsense: one cannot be a 'little bit married' – one either is, or one is not.⁵⁰¹ The issue of whether or not she can marry Harleigh is finally resolved by the execution of the commissary not through any clarification of the legal issues surrounding her 'first' marriage. Distasteful and brutal though Juliet's French wedding might have been, Burney – just like Haywood and the authors of the Victorian divorce novels which came after her – shrinks from pronouncing it null and void. On the evidence within the text, though, it does not appear to be legally binding. Further, it goes against the spirit of Revolutionary marriage which was intended to be a replication of 'the social contract in miniature...integrating individual liberty and free choice with a profound commitment to society as a whole.'⁵⁰² However, the possibility that it was binding remains open within the texts and the characters discuss the possibilities. Harleigh, for example, focusses his scepticism on the civil nature of the ceremony:

since...you have escaped; – since...you have are released; – since...no church ritual has ever sanctioned that sacrilegious violence – ⁵⁰³

⁵⁰¹ This ambiguity is also mentioned by Melissa Ganz 'Freedom and Fetters' at p.74.

⁵⁰² Desan p.16. The issue of consent in particular is key. The Revolutionary marriage contract was to be, in Desan's words, 'voluntarily agreed upon by two individuals acting freely' (p.49). This is not Juliet's experience.

⁵⁰³ *The Wanderer* (London: Pandora Press, 1988) P.746. All quotations are from this edition unless otherwise specified. Juliet herself echoes this in her musings on p.810 where she counts 'the

Even Juliet herself does not unequivocally accept that she has been married in law. However, like much else in the novel, this is expressed in ambiguous terms. On the one hand, she feels obliged to return to France and her ‘husband’ (albeit to ensure the Bishop’s safety) and on the other, she rejects the possibility that she is legally married.

till the iniquity of my chains may be proved and my restoration to my violated freedom may be legalized...little as I feel I belong to the person in question, I cannot consider myself to be my own. ’Tis a tie which, whether or not it binds me to him, excludes me, while thus circumstanced, from all others.⁵⁰⁴

There is also the issue of whether coverture should technically apply given that Juliet’s marriage – and that of her mother – occurred in France. Although Burney appears to have been familiar with English marriage law (the 1753 Hardwicke Act, as mentioned above) she would not have been the first author to use English law in a foreign setting for artistic purposes. Ann Radcliffe, for example, uses the rules of coverture relating to the transfer of real property to explain the ill-treatment of Madame Cheron by Montoni in *The Mysteries of Udolpho* (1794). However, by focussing on the legal intricacies, one may be missing a wider point: coverture impacted upon all women, married or not. As Stretton and Kesselring argue in their introduction to *Married Women and the Law*, it loomed far beyond marriage to shape the choices available to all women.⁵⁰⁵ The answer, according to Burney, is not unlimited freedom for women to behave as they wish (a point of view embodied by Elinor) but the recognition of their innate worth – a valuable commodity in its own right and which exists whether a woman is *sole* or *covert*. The ambiguity of Juliet’s married state – and the symbolic disappearances which invoke coverture – speak to this.

Although *The Wanderer* is a flawed and in some ways inconclusive novel, by reading it as a text about coverture the seemingly separate discourses concerning marriage and economics can, to a certain extent, be brought together. These discourses can be better

omission of every religious form;- no priest, no church’ as reasons why her marriage to the commissary cannot be valid.

⁵⁰⁴ p. 747

⁵⁰⁵ See Note 6 in the Introduction.

understood by being viewed in relation to one another. *The Wanderer* explores issues relating to the worth of women – their credit, reputation and their value as a commodity – both in the commercial marketplace and the marriage market. In order to achieve this, Burney chose not to depict paid labour according to the agentic lived experiences of either herself or other *feme covert* businesswomen of the period. Instead, she used two fictions: the literary convention which aligned paid labour with a betrayal of aspirational middle-class values – and the legal fiction of Blackstonian coverture, in which the wife ceased to exist as a distinct legal and economic personality. This in itself speaks to the symbolic force of Blackstonian coverture. Whilst the disappearing wife contained within it may not have been the reality for women in trade, she was certainly a powerful cultural symbol, one which novelists were able to deploy to great effect.

That Burney chose to embed a legal fiction into her own fiction-writing should not be a surprise. It is not the job of authors to reflect historical reality. Instead, it is for the scholar reading their work to peer behind the text and discern the gaps and tensions it conceals. Because it is within the gaps – between history and fiction, between perception and reality, between the law and lived experience – that we find the truth. Or at least, something which one may argue is akin to it.

Conclusion

In the same way as Fisk and Gordon asked scholars to imagine ‘law as...’ rather than ‘law and’, so this thesis has invited a similar collapsing of disciplinary boundaries.⁵⁰⁶ The evidence from the historical and literary sources considered here supports the contention that the law of coverture was questioned and subverted by the women who lived under it. The thesis also argues that this questioning and subversion did not only occur in ‘real life’ (for example, through the use of trusts or the activities of *feme covert* traders) but also within the fictions created by female authors. These challenged and remodelled ideas of what coverture did – and should – mean for women. This conclusion will summarise these findings and suggest ways in which they feed into and augment the picture drawn by existing scholarship. However, it will also move beyond the scope of this thesis and make some suggestions about female-authored marriage and courtship fiction more generally – essentially, that standard readings of these should be re-examined in order to place an understanding of coverture at their core. Coverture lay at the heart of the female experience of marriage and, in order to truly understand texts which deal with courtship and matrimony, this interconnectedness has to be acknowledged. I also argue that – because of this – marriage and courtship novels are not merely entertaining texts which discuss matrimony, love or other issues commonly designated (and then dismissed) as ‘feminine’. If, as this thesis has argued, the law exists not only in statutes, judgements, counsels’ speeches and law manuals but in the way in which it is lived and experienced, these female-authored fictions become far more than stories – even stories which may contain a serious message: they become legal and economic texts in their own right.

Although the overarching aim of this thesis has been to explore the interdependences between law, lived experience and literature, this is not to negate the value of each as a rich area of study in its own right. In order to collapse disciplinary boundaries, one must first be aware of where those boundaries lie. Only then can one move beyond them and examine the picture as it emerges in its entirety. The first point to make, therefore, is that this thesis – in general – supports and expands upon the findings of previous historical studies. This is important not least because available data on wives is patchy and scattered. As Joanne Bailey points out, quantitative studies focussing on married women (of the sort carried out by Pamela Sharpe in Colyton) are rare – not least because the records through which such women can be

⁵⁰⁶ See Introduction.

identified are also scarce.⁵⁰⁷ Because of this lack of quantitative evidence, the scholar is necessarily more reliant on qualitative approaches and isolated case-studies. The qualitative data provide useful insights but, equally, make building a representative picture more challenging. The fact, therefore, that the findings of this thesis broadly align with the existing secondary literature is encouraging not merely for a validation of the scholarship within this project, but for the field in general. It provides important pieces of fresh evidence that slot into gaps in the puzzle and which also allow wider conclusions to be drawn with more confidence. The findings in Chapter Four, for example, link in well with existing patterns identified by scholars such as Barker and Phillips. They also expand the geographical and chronological boundaries of the existing data, meaning that conclusions reached by previous studies can be better contextualised. As well as supporting existing research, the thesis also provides examples of women who did not conform to normative gendered expectations: for example the Elizabeths, Knight and Freke. These have value in the way in which they challenge the existing secondary research and allow for a more nuanced picture to be drawn. Overall, the primary historical evidence in this thesis paints a picture of women who attempted to assert control over the direction of their lives, despite the restrictions of coverture. For some this would have been a choice, for others a necessity. For yet others – such as the women noted by Joanne Bailey who continued with the same purchasing habits whether in or out of wedlock – it was simply a case of business as usual.⁵⁰⁸ This is not to say that coverture was not a factor in women's lives or that they were able to manoeuvre round it with ease – rather, coverture *as it was experienced by some* allowed for a degree of elasticity.

If the historical research contained in this thesis sits broadly within the established norms of existing scholarship, the evidence provided by the novels and other fictions is perhaps less conventional. The idea that the female authors in this study incorporated coverture into their writing is, I suggest, beyond doubt (and this has been noted by other scholars). However, I would suggest that the importance of coverture to female-authored fictions has not been universally acknowledged. During the eighteenth century (and indeed at any point in time between the Middle Ages and the nineteenth century) coverture and marriage were so interconnected that consideration of one automatically invoked the other. Thus, any English novel discussing marriage is, by default, also discussing coverture. The two cannot be disconnected: all women in England became *covert* upon marriage and therefore,

⁵⁰⁷ Chapter Two, note 18.

⁵⁰⁸ Bailey, 'Favoured or Oppressed?' pp.357-8.

coverture was the inevitable and inextricable result of getting married. Further, I contend that women writing about coverture from a female perspective was an almost unavoidably subversive action. The male and female experiences of coverture were irreconcilably different: it empowered and enriched men and oppressed and subjugated women. Therefore, when female novelists wrote about it from a female point of view, their depiction differed from the (normative) male perspective. This is not to suggest that men could not appreciate the female perspective or that women never chose to represent the male view – as I have suggested was the case in Chapter One. However, where the text is angled to take account of realities of the female perspective, it will – in general – push against the male norm.

So, how did female authors address coverture in their fictions? Or, more specifically, by centring coverture within marriage fictions, what new insights can be gained? The evidence from this thesis – at least for the fictions examined in Chapter Two and beyond – suggests that female authors, just like women in the real world, exploited the gap between legal theory and lived experience. This gap became a disruptive textual space within which authors could criticise the status quo, make observations or suggestions and even advise their readers. There were, of course, many ways in which individual authors achieved this, some overtly, some covertly. Wollstonecraft's *Maria* belongs to the former group, as does *Betsy Thoughtless*. *The Wanderer* chooses to invoke themes associated with coverture in a more symbolic way. How the power imbalance that existed between husbands and wives was expressed within the novels varied from author to author. *Betsy Thoughtless* issues wives with a moral imperative to leave abusive marriages. It also provides them with practical steps in how to go about this and warns them of the dangers. *Maria* focusses on the misery caused by exploitative, abusive marriages and the limited options open to women trapped within them. *The Wanderer* draws a damning portrait of the powerlessness and near-invisibility of wives compared to the networks of men who could conspire to control them.

However, just as women did not experience coverture according to the letter of the law, so they did not always write about it in simple, straightforward terms either. In Chapter Three, for example, I argued that Wollstonecraft chose to challenge the concept of the transactional marriage – where a woman was sold to her husband for the value of her dowry – by invoking a centuries-old narrative structure present in medieval saints' *vitae*. This does not mean that Wollstonecraft believed marriage in late eighteenth-century England was identical to that in the late Middle Ages. Rather, she was accessing a narrative form which included specific, culturally-acknowledged signifiers that allowed her to portray a divine cosmological order triumphing over secular patriarchal society. The images she used were so culturally

embedded that even if her audience (or indeed Wollstonecraft herself) were unaware of the *vitae*, their resonances still informed and flavoured the text. Just as Wollstonecraft did not need to explain these cultural nuances to her readership, so she would not have had to make the links between matrimony and coverture in her fiction explicit.

Because of this unavoidable interconnection between marriage and coverture, I would also like to advocate a re-reading of female-authored fiction beyond the scope of the novels in this thesis to include those which have courtship plots. The same logic has to apply here: if the inevitable consequence of a successful courtship is marriage, then considerations of coverture automatically become part of the discourse within those novels, even if it is not mentioned explicitly within the text. If this is done, one begins to view female-authored courtship novels in a different light, especially those from the middle of the eighteenth century onwards. Rather than the reader concentrating solely on the resolution of the love plot, centring coverture within the discourse means that some of the focus inevitably shifts to life *after* marriage – whether or not the reader is permitted to progress beyond the church doors in the book itself. One of the issues implied within the text then becomes how the female protagonist can ensure she has a positive experience of coverture. This is not to negate or displace the love plot. Rather, it is an acknowledgement that coverture is inevitably bound up in the resolution of the love plot: in order for the marriage to be genuinely happy and fulfilling, the heroine's experience of coverture must be so too.

How then might coverture, in particular, resistance to it, be encoded into novels about marriage and courtship? I would like to discuss two possibilities which are also present in the novels in this thesis. These are not universal and will not apply to all marriage courtship novels, however, they form a suggested starting point for rethinking such fictions in a way which includes coverture. The first of these is the creation of a continuous 'self' for the female protagonist. This ran from spinsterhood, into matrimony and beyond. It echoed not just the lived experience of many women whose economic 'selves' continued into marriage but also psychological reality: despite what Butler's medieval jurists may have thought, women did not become different people when they married.⁵⁰⁹ For some female novelists, use of this 'continuous self' allowed them to disrupt the assertion that women should be absorbed into their husbands upon marriage – or, in Haywood's pre-Blackstonian case, should obey him completely. Instead, they were able to depict their heroines as complex, autonomous individuals whether *sole* or *covert*. I would suggest that the later novelists in this study take

⁵⁰⁹ See Introduction, note 11.

this idea of the continuous self one stage further. Wollstonecraft and Burney were pushing against Blackstonian coverture and its legal fiction of the ‘unity of persons’. Therefore, as well as creating agentic, autonomous married women who act independently of their husbands, these novels also offer an alternative ‘unity’ of husband and wife. There is still a coming together of a man and woman but it is a union where the worth of the heroine is measured by the value she will bring to the partnership as a unique individual. Indeed, the idea that the wife should be erased, represented or controlled by her husband is seen as dangerous: the men who believe this are cast as oppressive brutes.

Secondly, the novels from Haywood onwards also reject the idea of marriage as a financial transaction, particularly one where the wife is seen as being synonymous with her portion. Instead of the wife agreeing to place herself and her property in her husband’s control, the ideal relationship becomes one where the protagonists *mutually* consent to be bound by reciprocal ties of affection and respect. This does not negate sex-based roles and duties within marriage entirely but it locates a considerable degree of agency with the wife. If these reciprocal ties are absent, the fictional marriage will not be a happy one. These fictional re-imaginings are brought together within the texts (and indeed overlap) to curate an ideal of marriage where the husband and wife freely consent to live in a mutually-respectful partnership, where each is valued as the individual they are.

The Continuous Self

As has been demonstrated in the historical sections of this thesis, some women’s experience of coverture was less constrained than the legal strict position might suggest. This, I would argue, is reflected in the fictions in this study which depict the female protagonist continuing into marriage as the same person she was when she was *sole*: symbolically re-imagining the economic and legal continuum seen in the historical record. This is important. Firstly, because it can be viewed as a rejection of the basic premise of coverture: that the rights and freedoms women enjoyed when they were *sole* should be taken from them and located in their husbands after marriage. The later fictions in this study certainly depict women functioning as autonomous individuals after marriage. It is also the case within some of the early fictions. For example, in *The Prude* Emilia effectively continues as *sole* after her secret marriage and, in *The Fair Adult’ress*, despite its message that wives should not have financial independence, its protagonist continues as the same headstrong, self-serving woman beyond her wedding vows. Indeed, that novel tells us, that is precisely the problem. For many of the early novels in this study, an autonomous wife is clearly not the ideal – it is preferable that a woman and her

money are safely under the control of a husband. However, that it was present at all is significant. When viewed alongside the theoretical backdrop of coverture, it is a potentially disruptive position to adopt: women either are or are not capable of functioning as autonomous individuals after marriage – and if they are, the whole rationale behind coverture begins to collapse.

After Blackstone foregrounded the ‘unity of persons’ theory later in the century, this idea of the continuous self became arguably even more subversive. This was now not merely a reflection of the fact that some women were able to navigate round the rules of coverture but may have become a symbolic rejection of the idea that women should vanish into their husband’s protection. Rather than a relationship where the wife needed to be controlled by her husband, the ideal fictional marriage became one to which the heroine brought value because of who she was as an individual. She also retained a degree of power within the relationship because the emotional happiness of the union depended as much upon her input as on her husband’s. This continuation of the self from singleton to married woman (*sole* to *covert*) can be seen in the later novels in this study. Beyond the fictions considered in this thesis, I would suggest that it is also present in female-authored courtship novels more generally, particularly those written towards the end of the long eighteenth-century. These often include an arc of change and development for the female protagonist. The self that emerges as a result of this process is, essentially, the heroine’s full adult incarnation. Having reached maturity, she is then able to progress into matrimony almost as a rite of passage. This symbolises the truth that women do not disappear or diminish on matrimony. Instead, the full, adult, female self is required to make the marriage a success.

Against this, one might argue that the self which progresses from *sole* to *covert* in a courtship novel is not the same self that existed at the start of the book; even that the heroine who emerges from the process at the end of the novel is specifically fashioned to meet the demands of matrimony. In some ways, this is correct. In order to marry, the putative wife must undergo a transformational process in order to be worthy of the hero. However, the point of the courtship novel is not to make the female protagonist fodder for any man who offers himself – otherwise there would be no problem with Elizabeth Bennet marrying Wickham or Cecilia becoming the wife of Mr Monkton. The rules of the courtship novel dictate that the hero and heroine have to marry each other – and no one else. This is amplified by the fact that many male protagonists also undergo an analogous (although admittedly less rigorous) processes of change, growth and realisation, turning them into the ideal mate for the heroine.

The question then arises – who is the beneficiary of this transformation? The heroine herself? Her future husband? Society at large? And, flowing on from this, *whose* values is the heroine embodying as she changes? Julie Shaffer in her essay ‘Not Subordinate: Empowering Women in the Marriage-Plot – The Novels of Frances Burney, Maria Edgeworth, and Jane Austen’ addresses these issues. Shaffer identifies a ‘love mentor’ plot, where the heroine is tutored by the hero and learns to conform to acceptable feminine behaviours. Using Lennox’s *Female Quixote* and Davy’s *The Reform’d Coquet* as her examples, Shaffer argues that ‘these novels clearly posit *male* behaviour, *male* attitudes as providing the standard for *female* morality’ (Shaffer’s italics).⁵¹⁰ She adds, however, that ‘love mentor’ plots, together with those that feature a ‘perfect heroine’ (such as *Pamela*) do not advocate female subservience within marriage but instead reflect women’s moral worth. This gives the heroine an authority within marriage beyond mere domestic influence. Whilst I agree that both the ‘love mentor’ and ‘perfect heroine’ models demonstrate the importance of women’s contribution to marriage, I would go further: if these models are considered not just as courtship plots but also as coverture narratives, they align with the argument articulated here for a continuity of self. They also create a vision of marriage where the woman is not ‘covered’ by her husband but is instead an essential part of the matrimonial partnership. This may feel like a nice distinction but, when viewed against the ideologies which underpinned coverture, is potentially subversive.

Further, the heroine’s ‘development’ arc means that the focus of the story shifts from one where the heroine is groomed to conform to a male ideal of womanhood (Shaffer’s ‘love mentor’ plot) to one where the heroine matures in order to become the best possible version of herself – one which will benefit both her and wider society. This is a process which places women, not men’s requirements of them, at the centre of the narrative. It is also highly significant the heroine reaches this stage *before* she gets married i.e. whilst still *sole*. This indicates that, although her marriage can arguably be seen as a reward for achieving maturity, she does not become mature as a consequence of her marriage (and her husband’s control of her). Instead this happens as the result of her own endeavours. This is not necessarily a feature only of novels later in the long eighteenth century, either. Haywood gives us an interesting variation on this in *Betsy Thoughtless*: when Betsy marries Mr Munden, it is her marriage which becomes the crucible for her development and maturation. Once she has reached full psychological and emotional adulthood – a process which includes a recognition of her own

⁵¹⁰ Shaffer, ‘Not Subordinate: Empowering Women in the Marriage-Plot’ p. 55.

needs as well as an understanding of what a good marriage should entail – she is able to progress on to her ‘real’ marriage to Mr Trueworth. There are also some later novels which appear to conform to Shaffer’s ‘love mentor’ plot. *Northanger Abbey* and *Emma* are two such texts in the Austen canon. However, the ‘continuous self’ hypothesis still holds true for these – both Emma and Catherine Morland reach maturity before marriage. Further, their maturity is not merely a pre-requisite for their marriages. Their mature selves are necessary for their own well-being and that of those around them: Emma needs to learn to fulfil her role as a responsible member of Highbury society, not simply to marry Mr Knightly.

This idea of the continuous self is, of course, not confined wholly to female-authored fictions. Neither is it specifically restricted to the novel. Equally, as has been pointed out, there are female-authored fictions in this study and beyond where it is not considered a boon that women retain their autonomy following marriage. However, in the scenarios where this is used, I suggest that they may well reflect the continuous self of the wife seen in the historical sources.

The Transactional Marriage and the Fiction of Consent

As well as evolving an ideal of marriage as a partnership in which the heroine is valued for her intrinsic, mature self, a number of texts in this study also reject the notion that an exchange of property should lie at the heart of matrimony. The later novels examined here, from *Betsy Thoughtless* onwards, link the husband’s desire to possess and control the wife with his desire to possess and control her portion: the woman becoming a metaphor for her fortune and vice versa. Such marriages are unerringly depicted as unhealthy. There are variations within these general rules, however. *Betsy Thoughtless* – along with *The Wanderer* – does not entirely reject the idea that property transfers should occur on marriage. However, both are firmly against the idea that the wife should be seen as being interchangeable with her dowry. This is even more apparent in Wollstonecraft’s novels, which root the misery of her heroines firmly in their marriages, both of which are founded on money not affection. Moving beyond the fictions examined in this thesis, there are numerous examples of authors seeking to uncouple the link between a marriageable woman and her fortune. In many novels, from Radcliffe to Austen to Smith, the notion that a woman’s worth was synonymous with her portion was countered in many different ways: some heroines were impecunious, others lost their inheritances (and in many cases their blood lineage as well), whilst others combined both of these – the ‘secret baby’ plot.

For some female characters, wealth was not only irrelevant to their ability to attract an eligible suitor, it could prove extremely dangerous. This is the case for both earlier and later fictions of the eighteenth-century, although it is depicted differently depending when in the century the text was written. In earlier novels, wealth appears to open up the heroine to attacks and seductions from men who wish to gain control of it – and her. *The Reform'd Coquet* is a prime example of this, where the heroine, Amoranda, is required to fight off a steady stream of would-be seducers and abductors. The message here is that the female protagonist and her money will be safe once they are both under the control of a husband. In later novels, though, the message shifts. Instead of justifying a marital hierarchy which rightly gives husbands control of their wives (and their wives' portions), these can place wealthy women in danger as a *result of* their marriages. The First Eliza in *Sense and Sensibility* (1811) would not have suffered exploitation and abuse at the hands of the Brandon family had she not been rich. Even Burney's Cecilia loses the final part of her fortune (significantly her land – the one element she would not have had to surrender up to her husband) once her marriage has been discovered. These, along with tales of lost or vanished fortunes, potentially disrupt the narrative of coverture which said that husbands were the worthy recipients of their wives' fortunes. Of course, it could be argued that such tales have been around for ever: for example, in the plots of fairy-tales where a penniless young woman (although, like the heroines of these novels, usually of noble or genteel birth) marries a handsome prince. However, whilst these may have provided fertile cultural ground in which this anti-coverture narrative could take root, once coverture is understood to lie at the heart of marriage and courtship fiction, the inclusion of these plotlines takes on a rather disruptive appearance.

Ruth Perry examines this disconnection between marriageability and women's fortunes in her essay 'All in the Family: Consanguinity, Marriage, and Property'.⁵¹¹ She notes that an '[i]ndifference to money in marriage' was a stable theme in sentimental novels and suggested that it even offered 'proof of noble moral status.' She goes so far as to assert that 'eighteenth-century fictional protagonists are impractical to a fault; they never act to

⁵¹¹ In *The Oxford History of the Novel in English Volume 2* pp.407-423. See also Ruth Perry *Novel Relations: The Transformation of Kinship in English Literature and Culture 1748-1818* (Cambridge: Cambridge University Press, 2004) < <https://doi.org/10.1017/CBO9780511484438> > [accessed 18th August 2022] Cambridge Core Ebook and 'Brotherly Love in Eighteenth Century Literature' *Persuasions* 30.1 (2009) < <http://jasna.org/persuasions/on-line/vol30no1/perry.html?>> [accessed 18th August 2020].

maximise their material well-being.⁵¹² Her rationalisation for this, however, is not coverture and a rejection of the transactional marriage. Instead, she views the phenomenon as a reaction against capitalism – albeit a reaction she feels is confined to novels and not reflected in society as a whole.⁵¹³ Perry goes on to link the financial ‘indifference’ to women’s wealth within fiction with shifting kinship priorities in the real world. Here, she argues, the primacy of the bonds between members of birth families was being superseded by the ties of the matrimonial family: the overlap between fiction and reality being located in fathers who effectively ‘bred’ their daughters for marriage.⁵¹⁴

Whilst marriage was certainly a means through which property was transferred from parents to children, this was not a phenomenon unique to the eighteenth century. Further, in a number of novels from the later eighteenth century, particularly those authored by women, the protagonists are all too aware of financial realities. Indeed, in the fictions of Austen and Burney (to name but two) money, debt, purchase power, and economic status are central to many of their plots. Instead, I would contend that what Perry interprets as a rejection of capitalism is rather a rejection of the transactional marriage: a means of property transfer which predates capitalism by many hundreds of years. If one instead places the idea of achieving a positive experience of coverture at the centre of courtship and marriage fiction, Perry’s theory of a change in kinship priorities from the natal family to the matrimonial unit still stands. The difference is it becomes part of a scenario where the focus is on mutual respect and affection, not property: the worth of the heroine as an individual outweighs any financial value she will bring to the marriage. This is not to suggest, of course, that wealthy female characters never marry, or even that all heroines had to suffer some sort of financial misfortune before marriage. Rather, as money declined in importance as a prerequisite for fictional marriages, mutual compatibility was in the ascendant. Indeed, it was not merely mutual compatibility which was important but the creation of a type of relationship in which this could be properly valued: one where mutual affection and respect replace the Blackstonian exchange of economic and legal agency for protection.

Linked to this rejection of marriage as a conduit for male-to-male property transfers is the concept of consent central to Blackstonian coverture. By asserting that women freely consented to entering coverture and that coverture was a fair exchange of rights and

⁵¹² Perry, ‘All in the Family’ pp.407-408.

⁵¹³ Perry, p.409.

⁵¹⁴ Perry, p.411.

responsibilities, Blackstone created an illusion of free and fair exchange where they could strike marital bargains on equal terms with men. This was not the case in real life and does not appear to have been accepted by the female authors in this study. Apart from the very early (pre-Blackstone) novels, which indicated that women need to be under the governance of either a husband or a father, the gendered inequality of bargaining power is laid bare. This is particularly the case in Wollstonecraft's novels and *The Wanderer* which feature women effectively sold into marriage by male relatives. It can also be seen in novels outside the ambit of this thesis, including those with a 'secret marriage' plot (for example, *Marchmont* (1796) or *Cecilia*). These depict the effects within marriage where the heroine has to endure the disadvantages of wifehood without any of the protections which Blackstone claimed marriage should afford her.

As well as illustrating the injustices which could occur if a wife was not given the opportunity to choose her marriage partner, authors also chose to refashion the idea of consent in a way which again located power and agency with women. This was done by making fully-informed consent to marriage a precondition of a happy marriage (and thus positive experience of coverture). Conversely, characters who do not freely consent – or do not understand what they are consenting to – usually do not have good experiences of marriage and/or coverture. As was discussed above, because the marital bond was predicated on falling in love with the 'true self' of one's partner, fictional spouses needed to be open and honest with one another. This matters because, as well as having the theoretical freedom to consent, one must be able to understand what one is consenting *to*. In this context, the 'consent' given by Juliet in *The Wanderer* to her French marriage is not actually consent at all; rather, it is not an outright refusal. In *Betsy Thoughtless*, Betsy does not fully appreciate what marriage to Munden will entail and her consent can therefore be considered doubtful. Likewise, in *Mary* and *Maria* the protagonists are placed in situations where it is very hard for them to refuse to marry. The *Female Spectator* also discusses the importance of full knowledge of what one is entering into. On more than one occasion, Eliza Haywood urges her female readers to find out as much as possible about the man they are about to marry – and make sure that, just in case, their money is placed safely beyond his reach.

If one expands this hypothesis beyond the novels in this thesis to include female-authored courtship fiction more generally, consent remains an important factor in the decision to marry. The key issue appears to be that one must understand who one's marital partner really is. This does not need to be years of intimate acquaintance but one has to know – and fall in love with – their true self. Conversely, if consent to marriage without this information

is given, the result is likely to be disastrous. This can be seen in *Pride and Prejudice* where both Elizabeth and Darcy have to come to know – and then reveal to each other – their true selves. Whilst it could be argued that property (represented by Pemberley and ten thousand-a-year) is still central to their union, it is Elizabeth's worth as an individual, not the financial value she will bring to their marriage, which attracts Darcy. All the preconditions for a 'good' coverture have been met: full knowledge of each other and an understanding that marriage involves reciprocal duties of trust, respect and affection. Against this ideal, Austen casts the marriage of Lydia and Wickham. Whilst one might initially view Lydia as consenting to her marriage, she is not actually agreeing to marry Wickham so much as embracing the idea of marriage in general. She also does not know her husband-to-be as Elizabeth knows Darcy (and she does not care that she does not). Wickham, for his part, may have a good idea of who Lydia really is (indeed, that is probably why he singles her out for seduction) but he does not consent willingly to marriage. The financial settlement arranged by Darcy is of more interest to him than Lydia is as a partner. It is also worth noting that in the case of Lydia and Wickham, Austen is using the old trope of the transactional, monetary marriage (albeit in a slightly different format) to illustrate the inappropriateness of their union.

The Early Eighteenth-Century Novel

One of the findings of this thesis is that there appears to be a qualitatively different approach to coverture in early fictions compared to those which were written later. If, as Stretton and Kesselring suggest, the central tenet of coverture during this earlier period was not the 'unity of persons' but a hierarchical model, two questions emerge. The first, already partly answered in Chapter One, asks whether this model can be seen in the early female-authored fictions of this thesis. The second, linked to this, involves Haywood's writings. These do not appear to fit with the other 'early' fictions but are also not entirely aligned with the later novels either. Are there therefore any specific conclusions relating to coverture which can therefore be drawn from them?

As was discussed in Chapter One, the evidence from the very early fictions does appear to suggest that the early modern model of coverture is present within the texts. The ideal marital arrangement in these novels is for women to pass from one hierarchy (parent and child) to another (matrimonial) whilst maintaining a subordinate position in both. If one of those hierarchical structures is absent or defective (for example, where the heroine is an orphan) then she becomes vulnerable, even more so if she is wealthy. In this exposed state, she will be assailed either by her own immoral impulses – in the case of Elisinda from *The*

Prude – or by repeated attempts to seduce and/or abduct her – as with Amoranda from *The Reform'd Coquet*. This model also condones the exchange of property as a central part of the marital process. This occurs by showing the dangers that ensue when a woman and her fortune are not under the control of either a husband or a father. Both points are illustrated vividly by the role played by Formator in *The Reform'd Coquet* who both stands in *loco parentis* for Amoranda's guardian and, at the same time, is her future husband in disguise.

With regard to Haywood's fictions, however, the picture becomes more complex. Although she was writing before the publication of William Blackstone's *Commentaries*, there are elements of her writing which align with the later novels in this study. However, aspects of it also link to the earlier hierarchical model discussed above. Haywood allows a number of apparent contradictions to co-exist within her writing: she outwardly acknowledges the hierarchical structure of marriage whilst at the same time providing examples of how women can subvert, avoid or sabotage this. The *Female Spectator* is keen to remind women of their subordinate place within the marital relationship but, equally, also warns to its female readers to take appropriate steps to ensure their emotional and economic well-being after marriage. The publication also contains a number of stories advising women how to outwit their husbands whilst maintaining a façade of wifely obedience, such as the tale of Endosia and Severis. Similarly, Betsy Thoughtless is initially advised to submit to her husband before being counselled to leave her marriage entirely. It is also telling that Betsy laments her fate in terms of Egyptian slavery – an unmistakable reference to hierarchy. However, in writing Betsy, Haywood also created an agentic, autonomous woman who refuses to be defined in terms her marriage portion. She also marries Mr Truworth because she is valued for who she is, not what she will bring to the union. In this sense, she is the fictional model not only for Mary and Maria but for a host of other heroines who would appear in the nineteenth century 'divorce' novel, as defined by Humpherys.

As was discussed in Chapter Two, Haywood had a history of critiquing male exploitation of women dating from her earlier writing. She also had a history of creating agentic female protagonists. It might simply be the case, therefore, that the anomalies within *Betsy Thoughtless* and the *Female Spectator* are extensions of this. However, another possibility suggests itself, namely that the dissonance within her work – particularly its lack of alignment with the early fictions in this study – may instead point towards an unstable or fluctuating expression of coverture (and marriage) within wider society. The change from a hierarchal model of coverture to that articulated by Blackstone would not have been a seamless transition. It is possible that Haywood articulated some of these instabilities within

her writing. Whichever is the case – and a more detailed study of Haywood’s writing alongside the various discourses surrounding marriage – Haywood remains a pragmatist who sought to expose injustices as she perceived them and advised her readers to act accordingly. Even if she was not reflecting a wider cultural instability in the perception of coverture, she still used her writing to object to some of its restrictions and to offer her female readers alternative models of wifehood.

Might Coverture Have Influenced the Development of the Eighteenth-Century Novel?

Finally, the issue arises of whether women novelists’ depictions of coverture may have been responsible for the way in which the novel itself developed. Like all literary forms, the novel developed in a self-reflexive manner. As Clifford Siskin, citing Ralph Cohen, puts it: ‘genre is composed of texts that accrue’.⁵¹⁵ Thus the novel and its various sub-genres became recognisable because they gradually developed stylistic and structural traits which allowed readers to identify them as belonging to a particular class of literary text. Therefore, if women (particularly later in the eighteenth century) tended to write novels concerned with marriage – and novels concerned with marriage were inextricably concerned with coverture – it might also be the case that the female experience of coverture itself became codified within particular literary conventions or devices. Then, as coverture started to disappear from women’s lives and the law in the late nineteenth-century, some of these conventions remained behind, fossilised within the genre. Jane Spencer identifies an ongoing link between the ‘romance’ of eighteenth-century women’s fiction and today’s ‘romantic fiction’. This, she says, is not the ‘romance’ of de Scudéry et al.⁵¹⁶ Instead ‘it is the name for a certain attitude to women, embodied in a good deal of the feminocentric fiction of the eighteenth century...particularly [that]...developed by women writers’ which went on to become the predecessor of what is called ‘romantic fiction’ today.⁵¹⁷ It is an intriguing possibility that

⁵¹⁵ Clifford Siskin, ‘The Rise of the Rise of the Novel’ in Peter Garside and Karen O’Brien (eds.) *The Oxford History of the Novel in English* Vol.2 p.52.

⁵¹⁶ Spencer is not the only critic to suggest that French romances should not be looked upon as unproblematic ancestors of the eighteenth-century English novel. Pat Rogers, for example, argues that ‘something really did change just after 1700’ and these were ‘regarded as passé by self-consciously fashionable people around the metropolis.’ ‘Cross Sections 1716-1720’ in Peter Garside and Karen O’Brien (eds.) *The Oxford History of the Novel in English* Vol.2 p.90.

⁵¹⁷ Spencer, ‘Women Writers’ pp.213-214.

some of the literary conventions developed in order to articulate the eighteenth-century female experience of love and marriage – which inevitably included coverture – may still be present in today’s mass market women’s fiction. The maturation arc, as discussed above, is one of these.

These texts, however, were more than love stories, or even heart-felt tales of suffering and redemption. Whether it embraced the status quo or forcibly rejected the oppressions inherent within it, the ‘coverture’ novel was not merely an artistic sentiment. Rather, it enabled women to be part of a public discourse which shaped the cultural perception of coverture and what it meant for wives living under its rules. Some authors, particularly those later in this study, chose to carve out a disruptive space within the public sphere of the print market. This meant that they could not only critique coverture but also reflect back to society their own visions of what marriage should be. In doing so, they drew not merely on literary conventions but the society in which they lived, including its legal and economic systems.

That women used fiction in order to articulate such weighty matters should come as no surprise. Jane Spencer’s essay ‘Not Being a Historian’ argues for a gender-orientated disconnect which emerged between history (‘history = based on reliable documentary evidence = true = masculine’) and fiction (‘unreliable imagination or romance sources = false = feminine’).⁵¹⁸ She asserts that when women ‘tell tales...they are doing so as strategies for gaining some measure of power within a social structure that denies them power’.⁵¹⁹ She goes on to say that by the end of the eighteenth century, women writers had ‘remade the novel into a feminized public space in which contemporary political issues could be discussed.’⁵²⁰ In Spencer’s parlance, that ‘space’ is ‘unstable’: the boundaries between the real and the imagined – the actual and the wished-for – are not fixed.

The position of this thesis is that the collapsing of disciplinary boundaries identified by Spencer can be pushed still further. By examining coverture and the role it played within women’s fiction of the eighteenth-century, novels concerning courtship, marriage and love cease to be simply feminine expressions of domestic love and instead become legal, economic and political texts in their own right. These novels reclaimed ownership of coverture for those who were most affected by it: women. Although coverture benefitted men, it did not belong to them. It was not the sole possession of the jurists and philosophers like Blackstone, Locke, or

⁵¹⁸ Spencer, p. 319.

⁵¹⁹ Spencer, ‘Not Being a Historian’ pp.319-320.

⁵²⁰ Spencer, ‘Women writers and the eighteenth-century novel’ p.226.

Coke who formulated it. Nor was it contained solely within the speeches of lawyers, law reports or the judgements of the great Lord Chancellors such as Mansfield or Thurlow. Instead, it belonged equally to the women who lived it, wrote about it and pushed against it. The ‘coverture’ novel made this explicit. It also performed another highly valuable function. By depicting the ‘suffering, privation, inequality and oppression’ caused by coverture, women authors could reveal the workings of the law for what they were.⁵²¹ These were not the actions of an objective, timeless and just institution but one which actively favoured certain sectors of society over others.

Virginia Woolf, writing in *A Room of One’s Own* forty-seven years after the Married Women’s Property Act of 1882, locates coverture as one of the forces ranged against female authors and scholars.⁵²² She is also adamant that female authors require ‘mothers to look back through’:

For masterpieces are not single and solitary births; they are the outcome of many years of thinking in common, of thinking by the body of the people, so that the experience of the mass is behind the single voice.⁵²³

This also applies to movements for economic and social change. By modelling female characters who continued as agentic, autonomous individuals within marriage, who brought value to the matrimonial partnership and who deserved better than rapacious uncaring husbands, female-authored fiction of the long eighteenth century supported the wider cultural discourses which would eventually lead to the dismantling of coverture. This dismantling was not inevitable. It was also not perfect and much work still remains to be done.⁵²⁴ It required changes not only to the law but also to the economic and social power-structures which benefitted from and supported it. Re-centring the importance of coverture within the

⁵²¹ Fisk and Gordon, p.541.

⁵²² For example, pp.24-28.

⁵²³ p.72.

⁵²⁴ See Danaya C. Wright, ‘Well-Behaved Women Seldom Make History: Rethinking English Family, Law and History’ 19.2 *Wisconsin Women’s Law Journal* 211 (2004) 212-318 <<http://dx.doi.org/10.2139/ssrn.1618603>> [accessed 14th August 2020].

eighteenth-century female experience of marriage is not simply an exercise in literary criticism or historical research. It is important to acknowledge the impact it had on the mothers we look back through because, otherwise, we will be unable to recognise the effects it continues to have on our present.

The End

Appendix A: Table of Women Traders in Salisbury and Winchester 1784-1830

	Salisbury			Winchester		
	Total	Women	%	Total	Women	%
Sadler's Hampshire Directory 1784				266	22	8.27
Universal British Directory (Salisbury 1793-1798) (Winchester 1792-1798)	431	31	7.19	346	49	14.16
Pigot (Salisbury) 1822	303	27	8.91			
Pigot (Winchester) 1828				292	27	9.25
Pigot (Salisbury) 1830	736	86	11.68			
Average	490	48	9.26	301.33	32.66	10.55

Appendix B: Examples of Mrs J Langridge's Advertisements.

MRS. J. LANGRIDGE'S Royal, Elastic, and Full-boned GRECIAN CORSETS are pronounced by the most eminent of the Faculty, and Ladies of the highest distinction, the only Corsets that ought to be worn by those who value an elegant figure, combined with ease, support, and health. And in order that every Lady within fifty miles of SALISBURY, which is where her Manufactory is situated, may have an opportunity of being suited with them, Mrs. L. intends visiting, for a few days, with an Assistant of first-rate talent, every Town of consequence within the above-stated distance (of which due notice will be given by circulars), taking with her the most splendid assortment of every Pattern Corset now worn in English and Parisian Costumes.

Mrs. Langridge has devoted the last three years of her time entirely to the manufacturing department, and, by unremitting exertions, has now brought her Patterns to perfection, and is proud to say they stand unrivalled, having excited the notice, patronage, and recommendation of every Lady who has honoured Mrs. L. with a call, for which they have her most heartfelt gratitude.

For Mrs. L. has always Young Women, of first-rate abilities, to wait on Ladies at their Residences, and to attend in the Shop at Salisbury; Ladies, therefore, will ever find the most prompt attention paid to their orders, and Patterns of every description are kept in a private room for their accommodation. [7547]

•• A splendid assortment of BABY-LINEN.

8 October 1832

SILVER-STREET, SALISBURY. AND 83, ST. MARY-STREET, WEYMOUTH.

Under the Patronage of the most eminent of the Faculty

MRS J. LANGRIDGE (from London)

Mrs. L. has the honour to inform the Nobility and Gentry, that she has at her Establishments, entirely new Patterns of PARISIAN and ENGLISH CORSETS, extremely elegant in shape, for the present style of English and Parisian Costume.

Mrs. L. submits to the notice of Ladies her much-improved Parisian Corset and fashionable full-boned Stay, so exceedingly easy, that the most delicate constitution may wear them with great advantage, being a general support, without particular pressure in any part. She likewise begs to call the attention of Ladies to her newly-invented Washing Elastic Stay, expressly to prevent pressure at the Chest, so destructive to the health of growing Children, and young Ladies whose Figures are forming. These Stays are particularly recommended by Mrs. PETER GEORGE to Ladies practising the Grecian Exercises, being calculated to assist in producing that ease and elegance for which her pupils are so distinguished; they are extremely beneficial for all Pulmonary Complaints, and are highly recommended by the most eminent of the Faculty.—SPINAL SUPPORTING STAYS and Elastic Bands, of every description.

A splendid Assortment of every kind of BABY LINEN. SALISBURY, Jan. 5, 1833. [122]

7 January 1833

UNDER THE PATRONAGE OF HER MAJESTY'S COURT OF ST. JAMES'S, *And Medical Men of the highest eminence.*

MRS. J. LANGRIDGE, PARISIAN AND ENGLISH CORSET-MAKER, has the honour to inform the Nobility and Gentry of SALISBURY the CLOSE, and County of Wilts generally, that she has opened Rooms, for a short time, at Mrs. Nicklen's milliner, High-street, Salisbury, with entire NEW PATTERNS in CORSETS, in Foreign and English Material, and respectfully solicits a return of that patronage so liberally bestowed on her when a regular resident.

Mrs. L.'s Terms are moderate—her Fit elegant and correct. The Durability and superior Workmanship of her Stays are too well known to need comment; suffice it to say, that they stand unrivalled. Mrs. L. is just returned from LONDON, and recently from PARIS, therefore her Patterns are quite new, and her Style altogether very different to English Stay-Makers generally.

Mrs. L. will visit Blandford, Dorchester, Weymouth, Lyme, Charmouth, Sidmouth, and Exeter, in the course of the Summer. Due notice of her arrival and Residence in each Town will be given by Advertisements and Circulars.

ELASTIC BANDS, SPINAL SUPPORTING STAYS &c., made to order, in the French style. [1420]

27 April 1835

Glossary

Baron and Feme	Norman-French terms for husband and wife, still used in the eighteenth century in relation to coverture.
Beneficial Ownership	Right to enjoy the benefit of a designated piece of property (e.g. use it or enjoy its profits) under a trust.
Chancery	A court of Equity with its origins in the Middle Ages. It developed to provide remedies not available at common law. Presided over by the Lord Chancellor, the court dealt (inter alia) with trust law and therefore had jurisdiction over issues relating to wives' sole and separate estate.
Common Law	A jurisdiction of English law dependent upon judicial precedent. Later exported to the North American colonies.
Criminal Conversation	An action by a cuckolded husband for damages against his wife's lover, usually conducted in the King's Bench courts. Wives could not give evidence in these cases.
Coverture	A doctrine of common law governing the subordinate position of wives to their husbands following marriage.
Divorce <i>a mensa et thoro</i>	Form of divorce available from the church courts. It did not dissolve the marriage but removed marital obligations of the parties towards each other, allowing them to live apart. Court orders relating to the financial rights and obligations of the parties and could also be made.
Dower	Provision of the common law by which widows were entitled to a life interest in one-third of all the freehold land owned by their late husband at any point during the marriage. The equivalent for widowers was 'curtesy' and entitled men to one-half of their late wives' freehold land.
Entail	Cross-generational settlement of land, usually ensuring that male heirs inherited ('fee tail male').

Equity	Jurisdiction of English law developed outside the common law. Concerned with fairness and justice, it originally allowed litigants to appeal directly to the person of the monarch as represented by the Lord Chancellor. Administered in the court of Chancery.
Fee	An estate in land.
Feme Covert	Norman-French: wife or married woman.
Feme Sole	Norman-French. Either a single woman or a married female trader using borough law to trade as though she were a single woman.
Freehold	All land ultimately belongs to the Crown but 'freehold land' allows an owner to use and occupy the property to the exclusion of all other parties. This right is not limited by time (as a life interest would be) and the owner is free to do with it as s/he chooses – lease, mortgage, sell, bequeath it etc.
Jointure	Succeeded dower as the favoured provision for widows. By the eighteenth century, jointure could be formed out of money, investments or rental income. Originally, it referred to a 'joint tenancy' where a piece of land was jointly owned by two people, the survivor of the pair inheriting on the death of the other.
Legal Ownership	Owning the legal title to property.
Paraphernalia	Moveable goods to which a woman became entitled on her husband's death, typically clothes, jewels and certain items of furniture.
Parliamentary Divorce	Divorce by way of a private member's bill passed by both houses of Parliament. Afforded complete dissolution of the marriage and enabled the parties to remarry.
Personal Property	Money, goods and moveable property, also known as 'Chattels personal'.

Pin-money	A regular allowance, usually agreed as part of a marriage settlement, given by a husband to his wife. Counted as sole and separate estate.
Portion	The money or goods brought by a wife to her marriage. Also referred to as a 'fortune'.
Primogeniture	A common law doctrine governing the inheritance of land. Unless other arrangements had been made, land descended to the oldest son of the owner. However, if there were no sons, daughters inherited in preference to collateral male relatives.
Sole and Separate Estate	A type of trust arrangement through which wives could continue to control property after marriage.
Trust	Developed from the medieval 'use', a trust splits the legal ownership and beneficial ownership of property. Although both legal and beneficial ownership can reside with the same person, legal ownership is more commonly located with trustees who hold the property for the benefit of the beneficiaries. Beneficial ownership is located in equity and is therefore exempt from rules which apply to the common law.

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