

## Coverture and the Debtors' Prison in the Long Eighteenth Century

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**Abstract:** Until the late nineteenth century, the activities of English women were curtailed by the common law doctrine of coverture. While previous scholarship has documented how wives were able to subvert coverture to trade independently of husbands, little has been observed on how third parties similarly minimised common law. Through debt imprisonment – a largely extrajudicial process – this article reveals how creditors could force property ownership on married women against their will. That imprisoned wives struggled to assert their coverture further reveals the inferiority of contemporary rigid interpretations of coverture compared with the pressing needs of commercial interests.

**Keywords:** coverture, debt, prison, credit, commerce

In 1735, Sarah Chapone anonymously published her *Hardships of the English Laws in Relation to Wives*, setting out to expose the significant oppression meted out against 'Free-born Subjects of England' by the common law doctrine of coverture through which 'wives have no Property, neither in their own Persons, Children, or Fortune', Chapone asserting that 'the Estate of Wives is more disadvantageous than Slavery'.<sup>1</sup> Coverture, as the jurist William Blackstone expounded in 1765, legally eradicated the personhood of married women: 'the husband and wife are one person in law; that is, the very being or legal existence of the woman is suspended [...] and consolidated into that of the husband: under whose wing, protection, and cover, she preforms everything'.<sup>2</sup> Not all commentators were, according to Chapone, convinced of coverture's oppressiveness, even claiming that it might prove beneficial to the activities of women as 'amends is made' for the defect of coverture 'by Women's Exemption from Imprisonment' for debt. This 'exemption' drew ire principally because it frustrated the commercial activities of men. In 1781, the historian and magistrate William Hutton complained 'common justice directs that she who has done the wrong should make reparation' but as 'the laws [...] consider the husband accountable [...] though she is the sole actress, [...] the plaintiff is wronged without a remedy'.<sup>3</sup> Chapone also attacked the 'exemption'. She did not deny its existence nor that it might be seen 'as a Favour to [wives]' (although it 'was never intended' as one). Instead, she asserted that even if it 'sometimes accidentally becomes' favourable, immunity was not a commensurate 'recompence [...] for divesting [women] of all Property' as, she reasoned, no man would make the same exchange. It would be 'just such a Privilege in his Civil Capacity, as it would be in his Natural one, to divest him of all Pleasure and in Return to decree that he should feel no Pain. As such Exemption from Pleasure and Pain would, in Effect, strike him out of *Being* as a *Man*, so such [...] Exemption from Payment of *Debts*, is, in Effect, to cut him off from being a Member of *Civil Society*'.<sup>4</sup> This represented a largely unique though crucially insightful argument concerning imprisonment for debt in the eighteenth century: vulnerability to it was an important marker of civil status as it represented an ability to fully participate in civil life, an opportunity from which married women were excluded.

Coverture was, until the late nineteenth century, the most significant legal restriction on the activities of English women, preventing wives from owning property, contracting independently or even retaining their own surnames.<sup>5</sup> Although it technically only affected women who were currently married, its impact (especially in terms of the degradation of the status of women within civic life) might be general. Chapone herself was not immune to this generalisation, referring to 'Women's Exemption from Imprisonment' rather than a wifely exemption. In terms of eighteenth-century commerce, perhaps its most significant limitation was the inability of wives to own debt (a form of property) as well as the inability of third parties to sue them, lacking as they did a separate legal identity from their husband.<sup>6</sup> The English economy was, throughout this period, reliant on the use of credit due to unreliable and insufficient coinage as well as cultural preferences for extended trading. The inability to become indebted (whether due to impoverishment or coverture) barred one from economic participation at any reasonable scale as credit was necessary for all manners of purchasing from everyday luxuries to trade supplies, Daniel Defoe describing creditability as 'the foundation, the life and soul of business'.<sup>7</sup> Wives were usually the individuals making physical purchases for the household, but, as Joanne Bailey has suggested, this was theoretically only possible 'by pledging her husband's credit', he being accountable for all her purchases.<sup>8</sup> Though they selected the goods and haggled over price, that wives were not deemed accountable for a transaction even of bread emphasises their lack of role as independent economic actors, functioning merely as a living talisman of an actor.

This was the legal theory of coverture throughout the early modern period. However, in practice, as recent scholarship has stressed, coverture was anything but absolute. Its many exceptions and flexibilities, which have been described as 'confusing and contradictory, yet not irrational', allowed married women some freedom.<sup>9</sup> Amy Erickson emphasises that coverture only 'lasted as long as it did because there were legal ways around it' such as private premarital contracts which preserved a portion of a wife's property for her independent use.<sup>10</sup> A number of boroughs (notably London) allowed married women to operate as *feme sole* traders, dealing independently from their husbands as if they remained unmarried. Even where this was not permitted, it is clear married women regularly subverted the diktats of coverture to operate businesses separately from spouses, mostly with their consent.<sup>11</sup> Deborah Simonton has even argued that 'marital status made no substantial difference to the fact that [women] were engaged in business'.<sup>12</sup> Similarly, in practice, many married women were integrated into the informal credit market in their own right principally as providers, selling goods on credit or lending funds from property protected by premarital contracts in a fashion similar to spinster lenders.<sup>13</sup> Alexandra Shepard's investigation of the credit negotiations of two married early-eighteenth century female pawnbrokers demonstrates the 'very selective' applications of coverture upon their trading life as providers of credit, powerfully arguing that 'there was a good deal more at work here than coverture'.<sup>14</sup>

This literature forces us to recognise that some married women were, in practice, economic actors in their own right.<sup>15</sup> However, the majority of discussion about coverture's flexibility is rooted in the activities of women who claimed the right to contract independently. This arguably provides only a narrow view of society's willingness to subvert coverture, excluding those with whom *feme sole* women dealt (male and female). For example, while their function as providers of credit who held others to account is acknowledged, the extent to which wives could themselves be held to account as takers of credit is essentially unexamined. Principally, this arises from the assumption of the law's role in debt enforcement. Suing a married woman for non-payment of debt would be blocked by the

court, potentially dismissing the case entirely to the plaintiff's loss.<sup>16</sup> Almost no women went bankrupt in the eighteenth century in part for this reason, each case being decided by the Lord Chancellor.<sup>17</sup> However, debt imprisonment, which remained the primary mechanism of enforcing delinquent payment into the nineteenth century, was a far more informal process, one in which courts had little direct role. Almost all debtors were imprisoned through the use of a writ of *capias ad respondendum* (an arrest to respond) acquired without trial by a creditor swearing to the defendant's indebtedness. Theoretically, this was a pretrial mechanism to ensure a debtor could not flee. However, there was little to compel a creditor to actually proceed to trial, and less than a fifth of debtors ever saw the inside of a courtroom. This provided creditors with almost unlimited powers of coercion to persuade debtors to raise capital by whatever means necessary.<sup>18</sup> This absence of trial also created a loophole through which married women could theoretically be confined without courts having an opportunity to intercede, a loophole previously suggested by Nicola Phillips: 'City wives could therefore trade alone [...] acting as if single. The consequences of this agency, should they fall into debt, was imprisonment'.<sup>19</sup>

This article investigates this loophole, examining the extent to which coverture proved flexible beyond women claiming the right to deal independently of their husbands. Through the mechanism of pretrial debt imprisonment, it is shown that third parties were occasionally able to force property ownership (in the form of debt) upon married women against their will. As well as an exploration of the experience of married women within debtors' prison, this article represents a discussion of social (though not legal) hierarchies of urgency, specifically whether the integrity of common law coverture or the needs of immediate commerce were deemed within society to be of greater importance. Having first demonstrated there existed a significant difference between married women who were present and those who were confined in debtors' prison, coverture's contribution is assessed through the experiences of three married prisoners. The lives of Elizabeth Villa-Real Gooch, Mary Wells and Hannah Robertson – despite each leaving substantial memoirs – have received little scholarly attention particularly in terms of their relationship with debt imprisonment.<sup>20</sup> None of these women due to their wealth, fame and relationships (with the arguable exception of Robertson) could be said to be typical examples of wives within the period. However, their experience of confinement provides a unique window into the attitudes of creditors both when a wife's marital status was clear and when it was nebulous. Additionally, their attempts to have coverture asserted provide a view on the limitations of both the ability to formally subvert common law and the practical impact of court orders. Finally, through an examination of surviving administrative records from two London debtors' prisons – the Wood Street Compter and Fleet Prison – the commitment of married women either alongside or instead of their husbands suggests that the creditors of Gooch, Wells and Robertson who deemed such women to be full members of 'Civil Society' were not anomalies.

### I. Married Women in Debtors' Prisons

A married woman within an eighteenth-century debtors' prison was far from an unheard of or unusual being, surviving commentary on the gaols depicting wives with surprising regularity. That widows were occasionally able to succeed to prison keeperships – such as at Worcester Castle where in 1777 the keeper was recorded as 'William Crane, now his widow' – suggests wives were participating in running gaols during the lifetime of their husband.<sup>21</sup> Married women were also regularly involved in operating prison alehouses

(‘taprooms’) where they kept thirsts slaked, maintained prison profitability and, as William Pitt the keeper of London’s Newgate in 1728 made clear, contributed to the orderly management of the gaol: ‘The Three Tapps of Newgate are Kept by the Turn Keyes wives [...] as Escapes are often contriving [...] the Turn Keys wives being constantly there do often prevent their villainous designs by giving timely Notice to their Husbands’.<sup>22</sup> By far, the largest group of married women within gaols were those who resided alongside imprisoned husbands. Prison reformer John Howard, on his visit to the Wood Street Compter in London *circa* 1777, found only seven of the 39 debtors on the Common Side ‘had their wives and children’ with them. However, at the larger King’s Bench, he observed 279 wives and 725 children alongside 395 prisoners, estimating on the national level ‘an average two dependants [...] to each man in prison’. Howard did not believe all women claiming to be wives were genuine, writing ‘lewd women’ were ‘admitted under the name of wives’ and, when counting women at London’s Fleet Prison, listed ‘243 [...] wives (including women of an appellation not so honourable)’.<sup>23</sup> Howard’s claim was probably untrue though it was a repeated one, the Fleet Prison being described in 1814 as ‘the largest brothel in the metropolis’.<sup>24</sup> His view that there was ‘little probability [...] of an industrious woman being of much service to her family in a prison’ was certainly flawed.<sup>25</sup> Prisoners regularly engaged in active work within gaols, and non-imprisoned resident women could easily work both within and – as they could leave each day – without the prison.<sup>26</sup> Separately, wives engaged in unpaid labour such as cooking for husbands or mending clothing, saving expenditure and allowing men more time to engage in procuring capital.<sup>27</sup> Wives also represented key elements of the prison economy’s supply chain, particularly as importers of contraband despite keeper attempts to restrict them. In 1709, the prisoners of Newgate petitioned against their keeper for obstructing the bringing in of their own alcohol, remarking that ‘in particular one Cobnor’s Wife had her Bottles broken’ as she attempted to bring them through the gate.<sup>28</sup> When taprooms were closed in 1786, the wives of prisoners proved essential in maintaining supplies for personal use and sale. Newgate’s keeper complained to the city that the closure had increased smuggling: the previous Sunday alone he had ‘detected two Women, one with a Bladder of Gin & another with a Bottle of Gin’ trying to supply the prison black market.<sup>29</sup>

It is important, however, to distinguish between married women *present* within debtors’ prisons and those *imprisoned* therein. The wives of prisoners cannot be construed as contained as they were free to leave, the doctrine of coverture never being implicated. The actress Mary Robinson certainly considered herself to be imprisoned while resident in the Fleet with her husband (1775–1776). She refused to ‘pass the threshold of our dreary habitation’ for nine months, instead spending her ‘tedious captivity’ caring for her infant daughter and husband. Mary did eventually, and only at the ‘earnest request of Mr Robinson’, depart occasionally to visit the duchess of Devonshire who was promoting her poetry which might raise money for the couple. Otherwise, she did not leave her husband ‘for half an hour’ as the ‘partner of his captivity’. When Mr Robinson finally ‘obtained his liberty’, Mary revelled in her ‘first moments of emancipation’. In truth, however, she had been emancipated from nothing, having been detained not by the law but by her own will.<sup>30</sup>

Debtors’ prisons did regularly contain women who were imprisoned for debt in their own right. While Chapone casually referred to ‘Women’s Exemption from Imprisonment’, there were no restrictions on the arrest of unmarried women. Female presence in the prison population was highly variable across the period and between institutions, tending to be higher in urban centres in the first half of the period. It peaked in London in the 1720s when women constituted around thirty per cent of imprisoned debtors across the city, a

figure in stark contrast to the three per cent observed among Lancaster Castle prisoners 1793-1796.<sup>31</sup> While there may have been small rural gaols which never saw a female debtor, the existence of female debtors was contemporaneously unremarkable, and prisons were designed with clearly delineated female quarters, the Borough Compter in Southwark providing women not only with an exclusive ward but a private terrace to walk upon.<sup>32</sup>

While almost all female prisoners were obviously unmarried – either never married or widowed – there was a subset of women whose marital status proved to be more obscure. In 1761, when Elizabeth Lascelles (née Southwick) applied under her marital name for the benefit of an Insolvency Act (parliamentary amnesties which were passed irregularly across the period), she described herself as ‘the divorced wife of Daniel Lascelles’. Despite having been legally separated since 1751, the fact of her marriage retained a crucial role in how Elizabeth conceived of her own social identity.<sup>33</sup> In the eyes of the law concerning property ownership, it was, by contrast, entirely irrelevant. There were though a group of English women in the period who, due to marital breakdown, possessed a far more nebulous marital status with which their unfortunate creditors were forced to deal. Because of the embarrassment and difficulty of procuring it, even being denied in cases of obvious adultery, divorce remained rare in this period.<sup>34</sup> Some couples instead drafted private (and thus legally obscure) arrangements by which they agreed to exist and contract separately, husbands paying an agreed annuity in return for protection from a wife’s debts. The extent to which such agreements were taken up across the period is unclear, though Susan Staves details annuities ranging from £12 to £3,000 a year, suggesting their use was not limited exclusively to the landed elite as well as the existence of less formal arrangements which did not require the involvement of a lawyer.<sup>35</sup>

Such agreements remained out of the reach of many acrimonious couples due to costs but also the requirement that they retain enough civility to be prepared to enter into such a mutually beneficial arrangement. However, their use and spread created an important subset of married women whose husbands – unlike *feme sole* traders – were physically absent and pointedly unwilling to aid them. In theory, as Karen Pearlston details, ‘if creditors sued a married woman with a private separation [...] she could be seen as representing the fund and consequently as a substitute for her husband (who, absent a separation agreement, would have been liable for his wife’s debts)’.<sup>36</sup> However, while a divorcée had no legal claim to protection, such wives had only privately agreed to surrender their right to cite coverture, without the law actually removing it. Contracts struggled in court principally because, as Lloyd Kenyon (Lord Chief Justice of the King’s Bench 1788-1802) stated, it was ‘made between two parties, who [...] being in law but one person, are on that account unable to contract with each other’.<sup>37</sup> Occasionally, justices did uphold such agreements. During Lord Mansfield’s long tenure as Chief Justice (1756-1788), he strove to modify common law so it kept ‘up with [...] commercial and mercantile change’.<sup>38</sup> Through a series of cases in the 1780s, he set precedent for treating separated women as single under the law, it being appropriate ‘in modern days’.<sup>39</sup> However, the designation of the ‘wife as an autonomous economic actor [...] responsible for her own debts’ was largely disrupted by Mansfield’s successor, Kenyon, declaring that ‘no new fashion of the times could alter the law of the land’.<sup>40</sup> Furthermore, for the matter to come to the Chief Justice suggests parties not representative of the wider population.<sup>41</sup> Lower-level common law judges shared Kenyon’s sentiments under Mansfield and continued siding with coverture.<sup>42</sup> In the majority of cases, coverture, though figures like Kenyon felt the need to defend it, was seen to apply. Creditors were either awarded charges against husbands or went unsatisfied, the court admonishing them for foolishly lending to a married woman.<sup>43</sup>

However, as imprisonment for debt regularly sidestepped the courtroom, separation agreements could stand. This is not to say creditors were aware of the particularities of individual agreements, but that when wives appeared and presented themselves as *sole*, plaintiffs pursued the individual with whom they had dealt even where possessing knowledge of an absent husband. While spouses created the potential for coverture to be disrupted (placing the woman in a situation where she was both inside and outside coverture), it was the responsibility of a third-party creditor willing to participate in this subversion for property ownership to be forced upon wives. The actions of creditors when confronting women with ambiguous independence demonstrate their primary concern was repayment and their personal financial need with coverture being a theoretical irrelevance, a pattern which they may similarly have applied to non-separated *feme soles*.

## II. Creditor Preference and the Struggle to Assert Coverture

Elizabeth Sarah Villa-Real was born into wealth and leisure, marrying into the gentry in 1775 at nineteen. Following the collapse of her marriage to William Gooch which, according to William, was the result of infidelity with her Italian singing teacher – a claim Elizabeth denied – she was taken to Lille where ‘Mr Gooch gave me thirty guineas, and left me forever’ in 1778.<sup>44</sup> The Goochs did attempt to divorce, Elizabeth consenting to having a ‘quilt thrown over Mons Du Baq [a lover she had taken in France] and myself before [...] witnesses, who, having completed their directions, returned to England’.<sup>45</sup> However, when the divorce bill finally came to the House of Lords in 1781, collusion was suspected as ‘during the first eighteen months Mrs Gooch lived separate, there had not been the least charge or supposition of her infidelity’; the Lords rejected the divorce fourteen to thirteen in committee.<sup>46</sup> William, finding himself trapped in his marriage, consented to Elizabeth’s return to England upon which his lawyer drafted a separation agreement by which she ‘was to receive in future two hundred pounds per annum [...] to be paid quarterly’, agreeing to account for her own debts.<sup>47</sup> Her inability to live within this sum, the money she made in a brief theatrical career or the allowances and gifts from various lovers was invariably portrayed in her memoir *The Life of Mrs Gooch* (1792) and the earlier *Appeal to the Public on the Conduct of Mrs Gooch* (1788) as entirely the fault of others, particularly those who (she claimed) cheated or stole from her.<sup>48</sup> Due to her disinclination to pay rent and repeated purchases of luxury goods on credit such as a £55 harpsichord, she was eventually imprisoned by her creditors in November 1787. According to her memoir, the arrest was the result of a £50 note she had generously given to help a lover’s son. The Fleet commitment register, however, records five creditors with demands totalling £210 including the note cited at £100, suggesting Gooch attempted to publicly downplay her indebtedness.<sup>49</sup> Despite being bailed in March 1788 by her family, she was soon arrested again in June, refusing to take any ‘step that might tend towards deliverance’, content ‘that, if to die in a prison was yet to be my lot, it was best to submit’. Her debts were eventually paid by a benefactor she claimed not to know (presumably a former lover), and Elizabeth was finally liberated in September.<sup>50</sup>

Cited in the various writs against her as ‘Elizabeth Gooch’, ‘Elizabeth Sarah Gooch’ or ‘Elizabeth Sarah Villa-Real Gooch’, her marital status was continually omitted.<sup>51</sup> She had, in accordance with her agreement, contracted under her own name, subverting coverture rather than citing her husband’s credit which she technically was still able to do legally. At no point in *The Life* (written four years after her experience) was there any indication of turning to her husband, even claiming to ‘forgive Mr Gooch those

unprecedented evils of which he has been, unthinkingly, the cause'.<sup>52</sup> Conversely, in the *Appeal*, which was published during her first imprisonment as a tool of securing her release, Elizabeth ended her account claiming 'oppressed by Mr Gooch, forsaken by my family, and destitute of friends, I am ignorant whether he is not answerable for my debts'.<sup>53</sup> The public statement within this text of her marriage, her cruel treatment at his hands and the question of his accountability represented a direct public appeal to coverture. However, while Elizabeth appears to have rated coverture as her most potent tool (focusing primarily on her marital status), she was indiscriminate, pressuring a variety of potential saviours such as slyly threatening to expose her 'friends' whose mistress she had been. Ultimately, her genteel family – despite ignoring Elizabeth for several years – rescued their daughter, motivated by fear of public embarrassment rather than compassion. While the *Appeal* was successful in procuring her release, her appeal to coverture proved hollow. William appears to have been able to comfortably ignore her, nor did this assertion of her married state prevent a second confinement. Creditors were in pursuit of the individual they dealt with and taking the simplest possible route to satisfaction, marital status only becoming relevant to their campaign if it procured a benefactor. They knew where she was to be found and the extent of her transacting while her husband, who may not necessarily have been in London at the time, was a stranger to them. Her short imprisonments (lasting 128 and 89 days, respectively) indicate targeting Elizabeth was a sensible strategy.

Gooch's appeals to coverture were untargeted and vague, possibly because she had transacted in her own right and had privately suspended coverture. Not all separated women made such an agreement, allowing them to make more direct public appeals to coverture rights though not preventing their initial imprisonment. The actress Mary Wells was a habitual resident of London's debtors' prisons although it would be difficult – particularly after 1797 – to suggest that creditors were unaware of her marital status. In 1796, during one of her several confinements in the Fleet, she became enamoured with Joseph Sumbel, a Jewish envoy of the Moroccan Emperor held for contempt of court. Despite Mary being released by an Insolvency Act in 1797, she remained in prison with Sumbel, agreeing to marry him.<sup>54</sup> This marriage attracted significant public attention not least because the phenomenon of a wedding within a debtors' prison was an intriguing curiosity. Wells herself, an often scandalous figure of the London stage, was no stranger to newspapers, and her activities were frequently documented by the popular press. However, perhaps most worthy of note to the content hungry journalists, Wells was actually already married, her first husband having absconded a few months after their wedding in 1778.<sup>55</sup> This union had not prevented her being imprisoned twice already, partially from £240 in fees accrued sending her wastrel brother-in-law to India, but also, as her debts of £939 reveal, her own dealings.<sup>56</sup> As she 'had reason to suppose [Mr Wells] was still living, although I had neither seen nor heard from him for upwards of twenty years', she resolved, as was widely reported, to 'become a *Hebrew*' and changed her name to Leah, believing this would avoid a charge of bigamy after the 'Extraordinary [...] Marriage Ceremony in the *Jewish stile* [...] performed in the Fleet'.<sup>57</sup>

The marriage was neither happy nor long. After his release, Sumbel quickly dropped his pleasant façade to reveal one of jealousy, pomposity and cruelty.<sup>58</sup> Eventually, in 1798, Mary fled from him after he 'threatened to murder her'.<sup>59</sup> In December, Joseph published a 'Caution' that as his wife had absconded, 'I will not pay any debt or debts [...] which may be contracted by her'; this was a relatively common practice, though one carrying little legal weight, with the primary intention of deterring vendors from lending in the first place.<sup>60</sup> Joseph's action did though reflect the model that if a wife left her husband

without his permission, he was not required to provide for her.<sup>61</sup> There was no divorce, nor was a separation agreement drafted, leaving Mary in a position which the majority of separated wives laboured under. Unlike most women, Wells was in a position to attempt to reassert her coverture in the public mindset. In response 'to an Advertisement in the Post of yesterday, signed J. Sumbel, cautioning the public from giving me credit', she published she had suffered 'from his wicked and inhuman treatment' and 'have been obliged to swear the peace against him'.<sup>62</sup> This was not merely a public defence of her name as in cases where wives left without permission due to cruelty, husbands were expected to maintain them and were accountable for debts.<sup>63</sup> Sumbel was wealthy and, by publishing this statement, Mary communicated to creditors that they could continue to deal with her and sue Sumbel despite his protests. She followed this a day later with a satirical announcement that since 'Mr Sumbel had gone to the Office of the said Paper, and denied his Marriage', she offered a reward of five guineas to apprehend 'the little, dirty, mean looking fellow, who has [impersonated] the said Joseph Sumbel' as her husband and had 'shut up his Wife for months, beat her, and left her to starve on Two Guineas and a Half'. She headed this advert with a Shylock quotation from *The Merchant of Venice*: 'Till thou can'st rail the Seal from off the Bond, Thou but offend'st thy Lungs to talk so loud'.<sup>64</sup> By emphasising Sumbel's Judaism and his similarity to a character associated with greed and cruelty, she furthered her self-depiction as a wronged woman deserving of sympathy (and financial support). Additionally, the quotation mocked his attempts to not account for debts before removing 'the Seal from off the Bond' by obtaining divorce. While she remained married to him by law, she publicly claimed the right to continue exploiting his wealth through coverture by citing his credit. The newspaper battle between the two continued through the end of December, Sumbel frequently denying he had ever been married to her 'on Mosaic ground' claiming she had 'broken the Sabbath' and eaten 'forbidden fruit', a charge Mary regularly returned.<sup>65</sup> Though the public interest in their printed conflict focused on the salacious details, Wells employed this voyeurism for her own benefit, allowing it to carry her coverture claims parasitically.

This attempt to convince creditors not to pursue her seems to have had limited success. In January 1799, under the name of 'Mrs Sumbel', Mary returned to acting, performing her famous 'Imitations' and holding readings, suggesting she was in need of income.<sup>66</sup> While her state of coverture was never in any legal doubt, her attempts to express it proved limited when, despite trading on his name, she was imprisoned in the Fleet under the name of 'Leah Sombell' for £10 in February, a sum she quickly paid, being released two days later.<sup>67</sup> She did not abandon her attempts to assert her coverture, printing a faux missing person's report for Joseph in April seeking any information about 'where he may be found' as she had letters 'from Persia' which were 'left with me on the supposition that a Wife is the most likely to be acquainted with the retreat; or most proper to be entrusted with the affairs of her Husband' and thus, by implication, his credit.<sup>68</sup> Her appeal to coverture was not entirely unsuccessful. In June, a Mr Hobgood sued Joseph Sumbel in the court of King's Bench 'to recover £26 for lodging, and for some other articles, which he had furnished to Mr and Mrs Sumbell, late Mrs Wells'. Joseph denied his liability, declaring that there 'was not the least pretence to say there was a marriage between him and Mrs Wells'. Lord Chief Justice Kenyon disagreed, stating that 'they lived there together, she went by his name, and she probably obtained credit under the idea of being his wife, and that he was [therefore] liable to pay her debts'. Sumbel rose to say 'he had never been married to this woman' but was quickly dismissed by Kenyon who declared 'this case is as clear as the sun', finding for Hobgood in full.<sup>69</sup> That Kenyon upheld coverture is not surprising even only on the basis of appearing married, but this was a clear, public and

emphatic finding that Sumbel was, until he could properly divorce her under English law, accountable for Mary's debts and a declaration of the supremacy of coverture even in a bigamous relationship. Such a judgement could not be achieved by the majority of separated women, though it did provide a widely reported public reiteration of the position of the law which potentially could have been used by indebted wives or instructed the behaviour of creditors. However, for Mary and for women more widely, this legal judgement had no practical bearing beyond Hobgood's individual claim. Two months later, she was imprisoned for debt again while 'her lawful husband' was 'revelling in wealth', returning to the Fleet for over a year in 1801 owing £137.<sup>70</sup>

Sumbel vs. Sumbel was a public battle over the supremacy of coverture in which Mary tried to convince creditors they would be able to sue her husband's fortune, while Joseph attempted to prevent future claims by distancing himself from Wells before such transactions were made. It was a battle Mary won in court but not in the minds of tradespeople who, despite citing her husband's credit when transacting, seized the person with whom they had dealt, seeking a swift and uncomplicated mechanism of enforcing payment. Creditors were happy and able to ignore the doctrine of coverture even when asserted publicly by the Lord Chancellor. Allison Tait, having celebrated the power of courts to allow women to shift their debt responsibilities, admitted that 'the main problem with this remedy, from the wife's perspective, was the difficulty finding a sympathetic merchant who was willing to go to the trouble of bringing a lawsuit in order to recover his profit'.<sup>71</sup> This acknowledgement emphasises that, in disputes over debt, the integrity of coverture was in the hands not of the law or of the woman who originally subverted it, but the creditor who held power over her. If even Wells was unable to secure coverture, then one must assume the majority of separated wives (whether they were abandoned or had fled and whether they had separation agreements or not) were liable to arrest. Those prisoners were free, if they felt wronged, to try and implicate another such as an absent husband like Gooch, though creditors were not inclined to assist them by bringing additional suits.

The difficulty of asserting coverture and creditor preference for low-effort solutions to delinquency suggests that they may also have been likely to pursue happily married *feme sole* debtors with whom they had dealt rather than an anonymous husband already minimised by the failure to cite his credit. This husband could address the issue by replacing his wife after her arrest or chose to remain free and raise capital to pay for her release – creditors were presumably happy with either choice as long as they were paid. This situation is not entirely hypothetical as *The Life of Mrs Robertson* (1791) demonstrates. Hannah Robertson enjoyed a relatively happy marriage in Perth during the middle of the century, though it was marked by depression following the death of her infant son in 1756. Following illness in 1762, Mr Robertson's business collapsed, and he was swiftly imprisoned. Hannah, with his permission, opened a tavern in Aberdeen; the business boomed, allowing her to pay his debts and release him. After the tavern's accidental destruction, she opened a school; however, this endeavour proved unsuccessful, and Hannah was herself 'cast into prison for a small debt' despite her husband's presence even at the time of arrest: 'my husband and myself were sitting peaceably at our frugal supper, when the ruffians rudely entered, and seized me. I had then an infant which I could not leave so, taking the child in my arms [...] I boldly promised to follow them'.<sup>72</sup> This example is not entirely applicable to England due to the greater degree of separation between spouses in Scottish law, for although wives could not be sued or sue independently from their husband, they could 'be named in debt cases'.<sup>73</sup> However, it still indicates the preference of a creditor who chose to name Hannah rather than her husband, recent

scholarship suggesting a parity of behaviour on both sides of the border among commercial people.<sup>74</sup>

### III. *Imprisoned Wives in Commitment Registers*

Hannah Robertson, as the administrative records of debtors' prisons suggest, was not a unique example. The surviving commitment registers of the Wood Street Compter (1741-1815) and the Fleet Prison (1733-1747 and 1778-1795) record 894 (nine per cent) and 484 (six per cent) women, respectively.<sup>75</sup> Very few of these entries (as with Gooch and Wells) included an explicit marital status – twenty-six at Wood Street and eighty in the Fleet – and even where wives are evident, they remained a minority of a minority. However, that any were explicitly present at all testifies to the limitations of the absolute nature of coverture as well as the willingness of creditors to ignore it. Other married women certainly linger among the majority for whom marital status is unclear, the truth of their status only becoming apparent when stated by the creditor, when an attempt was made to assert coverture or when women applied for release under an Insolvency Act. Around four per cent of the almost 3000 female Insolvency Act applicants listed in the *London Gazette* 1720-1811 declared themselves to be married (e.g. 'the wife of') though the validity of their claim is difficult to test without the corresponding commitment register and it is certainly possible some referred to a deceased husband.<sup>76</sup>

Not all married women were, like Gooch, Wells and Robertson, committed alone. Nine Fleet and seven Wood Street women were committed alongside their husbands under the pattern of 'Nathaniel Knowles & Elizabeth his Wife [...] committed to his Majesty's Prison of the Fleet'.<sup>77</sup> Additionally, 'Joseph Heale and Ann Heale' were committed together to the Fleet in 1733; though Ann was never explicitly described as Joseph's wife and could theoretically have thus been a sister, cousin, aunt, mother or daughter, it seems probable they were married.<sup>78</sup> Being committed secondarily does not diminish their culpability for debt. If they were merely resident with their husbands as described above, they should not have been formally entered into the register and they certainly should not have been cited in the writ which led to their arrest, as procured by individual creditors. While the taciturn Wood Street registers do not detail the legal processes of the *capias ad respondendum*, the clerks at the Fleet regularly copied out the details of arresting writs. In all six Fleet commitments of '& his Wife' where the writ's text was stated, both spouses were charged. Following the issuing of a writ for 'George Day late of London Silversmith and Dorothy his Wife', Dorothy was imprisoned on 11 June 1787 with George not arriving until 13 June – both remained until 16 September 1788 when they were 'discharged by the plaintiff's attorney'. The inclusion of both names on the writ would seem to indicate that their creditor, Elizabeth Winyeates, felt that they were equally responsible for the debt of £49 owed 'by the said George and Dorothy'.<sup>79</sup> These wives were therefore confined in the same process as business co-partners were, such as 'Evan Davies Brian and William Allen' jointly committed for £447 2s in August 1792. These creditors were not ignoring coverture entirely, but they were also deeming the wife to be accountable for her own economic activities, treating the couple as a singular commercial unit rather than individual humans.

Not all imprisoned women described as wives were jointly arrested though it might be argued such women were actually widows. Hannah Sinclair was committed in 1742 to the Fleet by multiple creditors. While some writs named her alone, others targeted 'John Sinclair & Hannah his wife', creating the possibility that John was dead, Hannah inheriting his debts and contracting her own subsequently.<sup>80</sup> The writ of Judith Willis,

imprisoned in 1741, was similarly against 'Thomas Willis & Judith his Wife', but only Judith was ever committed, which might imply his deceased status. It is notable, however, that the writ was 'to satisfie Edmund Rush [...] thirty seven pounds seven shillings & 7d [...] Edward recovered against *them*'.<sup>81</sup> In both cases, evidence of widowhood remains only suggestive, and it is reasonable to trust the marital status described in the writ. Other solely confined spouses were committed under the moniker 'the wife of', which constitutes a qualitatively different entry from those where marital status only appeared in the pre-existing writs as it suggests it was how prisoners described themselves to the clerk. While these could still be widows, the clerks regularly recorded women who declared themselves to be widows accordingly in the registers. 'Margery the Wife of William Prudence' was committed to Wood Street on 7 June 1763 owing £46. Notably, she was also a creditor of Henry Bailey, committed five days earlier 'to Answer William Prudence & Margery his Wife lately called Margery Thompson 99s', suggesting William was almost certainly alive as they had only recently married.<sup>82</sup> Alise Newman committed in 1792 had an 'NB' written under her commitment for £40 15s stating 'this writ is against Richard Newman Husband to the above Alise Newman', suggesting that, despite not being named in the writ, she was still arrested under it. It is possible this was the mechanism for arresting *feme sole* traders when their individuality was not legally recognised or that, upon Richard's possible death, she had inherited the writ as well as his debt.<sup>83</sup> In 1745, '**Hannah** the wife of John Peckover alias **Hussey**' (the words between her name written in a lighter, smaller font) was committed alone to the Fleet under both her married and maiden name.<sup>84</sup> It is notable that emphasis was placed by the clerk on Hussey rather than Peckover as was standard in other commitments such as for 'Hannah Sinclair otherwise Devereux' for whom the last two words were written in a smaller font, almost as an incidental detail.<sup>85</sup> While the second of the two actions which detained Hussey charged her alone, the first was specifically against Hannah Hussey 'and one John Peckover', who was not confined at the Fleet, suggesting Hannah was acting as a *feme sole* trader.

The clearest evidence of the susceptibility of wives to imprisonment appears in cases where both husband and wife were confined at the same prison but in separate entries. Almost all were held at Wood Street, which is unsurprising considering that the Fleet (a superior court gaol) held a higher class of prisoner and had a closer relationship with court processes. On 5 June 1769, 'Jane the Wife of Zebulon Swingewood' was arrested by herself and charged with £6 3s 4d. Two days later, Zebulon himself was committed, his entry reading only '*vide* Jane the Wife of Zebulon Swingewood's Commitment'. Frustratingly, while both were 'discharged', indicating the creditor was satisfied, no release date was recorded for either spouse, making it impossible to determine whether Zebulon was replacing or joining his wife.<sup>86</sup> In 1780, William and Elizabeth Baskerville were committed in separate consecutive entries on the same day with no indication of their relationship. They had entirely identical entries of 'By execution out of the Court of Requests for 26:10 Debt due to Joel Webber & for his Costs 2:10 – 29:8' and were also both released at the same time. As his total demand exceeded the 40s debt limit allowed by the Court of Requests (even before standard costs were applied), Webber may have halved a debt of £2 13s 8d between the two.<sup>87</sup> Their joint responsibility for debt may have lain in Elizabeth contracting it and William being legally liable under coverture. Either individual's commitment satisfied the creditor or, in this case, both individuals.<sup>88</sup> Finally, in 1794, Sarah Clarke was committed to the compters in the same entry as her husband as 'James Clarke [...] Sarah his Wife'. However, she was committed on 8 January, four days *after* James. While they were recorded together, the process of her arrest and imprisonment were separate and subsequent, removing any suggestion that the prison was unaware of

her currently married status.<sup>89</sup> In each of these cases, if they were indeed married with a living husband and charged with individual responsibility for the debt as their commitment suggests, the legal doctrine of coverture had been breached even if husbands had also been arrested. This did not mean the court had overruled coverture as probably none of these debtors (male or female) were tried prior to their commitment. Rather, it further indicates the societally accepted flexibility of coverture as creditors (and presumably the bailiffs, prison administrators and various other law officers involved in the process of arrest) were willing to overlook it in favour of the needs of capital, particularly in Sarah Clarke's case where she declared herself to the clerk to be married to a man already within their care.

Where marriages were recent and creditors unaware, the breach of coverture may have been accidental. Committed alone to the Fleet in April 1746, Mary Gardner was entered as 'the wife of John Gardner formerly called Mary Lawford Widow'. John had been committed seven days earlier for the same debt of £100 owed to Caleb Lawford (possibly a former relative), having become responsible for Mary's property upon their marriage ten months prior.<sup>90</sup> Mary was released after just seventeen days in prison having been granted a writ of *supersedeas* (a stop of the action) by the court presumably on an application of breach of coverture.<sup>91</sup> Gardner, a woman of some wealth based on the size of her debt, however, stands out from other recently married women. 'Carolina Danks, (late Carolina Sparrow) [...] Widow and Baker but now the wife of Francis Danks' was freed (alongside Francis) from Worcester Gaol under the 1801 Insolvency Act.<sup>92</sup> It is possible Carolina had deliberately married in prison to shift her debt responsibilities. The marriage may not necessarily have even been genuine, Henry Gally claiming in 1750 'there are men [...] who have each of them within the Compass of a Year, married several Women for this wicked Purpose'.<sup>93</sup> Whether genuine or sham, this marriage failed to liberate Danks, being forced instead to take the benefit of the Act. Other recently married women at both London prisons similarly found the intervention of coverture was not automatic such as in the case of 'William Hawkins and Hannah his wife lately called Hannah Card, Spinster' committed to the compter in June 1774 or Edward and Eleanor Gilbert's 1739 Fleet commitment which described her as 'his wife lately called Eleana Smethagale'.<sup>94</sup> Even if creditors had not deliberately flouted coverture due to a marriage being recent (or even after the arrest), the release that these women were theoretically entitled to was only open to those such as Gardner who had sufficient capital to sue the court for relief.

It was possible to make less direct, cheaper appeals to coverture. Through a legal peculiarity, debtors could procure a writ of habeas corpus which removed them from any prison in the country to the more comfortable and liberal superior court prisons of Fleet and King's Bench.<sup>95</sup> As the writ was approved by a judge, it could also be used by imprisoned wives in the hopes that coverture would be asserted. Hannah Hussey, not described as a wife in the arresting writ, may have been the one to include the phrase 'wife of John Peckover' when she acquired habeas corpus to take her to the Fleet though the judge failed to release her. The Hamlens, imprisoned in Wood Street in 1794, procured such a writ with more success. Thomas Theodosius and Catherine were committed in separate non-identical entries on the same day, 24 November 1794. While both were committed owing separate £200 debts to Thomas Baddeley, Thomas Hamlen also owed £111 11s to Thomas Nannock, a further £200 to Baddeley in a separate claim and £53 to James Thistlethaitte. Catherine was discharged on 3 March 1795 though Thomas was not released, removing the next day to the Fleet Prison where he died later that year.<sup>96</sup> In his Fleet commitment entry, Thomas was recorded as owing £600 to Baddeley, suggesting

his wife's debt had been added to his own existing £400. While coverture was eventually enforced, Baddeley had determined Catherine was independently responsible for one of the debts he was owed and had been able to force property responsibility upon a woman everyone seemed to be aware was married for several months without the law intervening. Most imprisoned wives do not seem to have sought habeas corpus release. It was quicker and cheaper (as a family unit) simply to submit to the imposition of property ownership and pay the amount a creditor demanded.

#### IV. Conclusion

Coverture was always a debilitating factor in the lives of women, and its oppressive potential to bring suffering should not be underestimated. However, society in general was not as insistent on the rigid application of common law as courts were, particularly when it impeded commercial interests. It has previously been shown that women, and to some extent their husbands, subverted coverture to enhance their economic capability. This discussion furthers the concept of flexible coverture by demonstrating that, within the female prison population, there were occasional examples of currently married women. This does not necessarily indicate a sense that coverture itself was irrelevant but that third parties ranked it lower than their own financial needs. Creditors were content for couples to organise among themselves who was responsible for debts; instead of engaging in a lengthy and possibly expensive legal process of determination, they arrested the most available individual. However, if the application of common law offered a higher and swifter chance of repayment, then creditors – as in the case of Hobgood suing the wealthy Sumbel rather than the recently imprisoned Wells – were equally willing to insist on a rigid interpretation of coverture. Outside of Kenyon's court, coverture bent to serve the needs of commerce, and it appears it was socially acceptable to completely ignore it if necessary though we should still not describe this behaviour as common. While Chapone's reading of the law dismissed the possibility of a married women being a true member of 'Civil Society' (along with the benefits and consequences this status conferred), the actions of creditors occasionally forced them to be against their will. This attitude furthers the contextualisation of coverture and suggests that additional research into those dealing with third parties in extrajudicial situations can reveal a diversity of ways in which common law proved flexible.

Amy Erickson has emphatically asserted that 'coverture sounds, and certainly could be, draconian. But in practice many, perhaps most, English families found perfectly legal ways to get around it'.<sup>97</sup> In the light of the evidence from debtors' prisons, it seems viable to say similarly: for tradespeople, coverture certainly could be a frustration. But in practice many, perhaps most, English traders found loopholes through which to ignore it.

#### NOTES

1. Sarah Chapone, *The Hardships of the English Laws in Relation to Wives*, ed. Susan Paterson Glover (Abingdon: Routledge, 2018), p.11-4.

2. William Blackstone, *Commentaries on the Laws of England* (Oxford, 1765), vol. I.430; see Tim Stretton and Krista J. Kesselring (eds), *Married Women and the Law: Coverture in England and the Common Law World* (Montreal: McGill-Queen's University Press, 2013).

3. William Hutton, *Courts of Requests: Their Nature, Utility, and Powers Described* (Birmingham, 1787), p.299-302.
4. Chapone, *Hardships*, p.40-2.
5. Amy Erickson, 'Coverture and Capitalism', *History Workshop Journal* 59:1 (2005), p.4.
6. Joanne Bailey, 'Favoured or Oppressed? Married Women, Property and "Coverture" in England, 1660-1800', *Continuity and Change* 17:3 (2002), p.355; Nicola Phillips, *Women in Business, 1700-1850* (Woodbridge: Boydell & Brewer, 2006), p.25.
7. Daniel Defoe, *Complete English Tradesman in Familiar Letters* (London, 1726), p.408-23. See Craig Muldrew, *The Economy of Obligation – The Culture of Credit and Social Relations in Early Modern England* (Basingstoke: Macmillan, 1998); Tawny Paul, *Poverty of Disaster – Debt and Insecurity in Eighteenth-Century Britain* (Cambridge: Cambridge University Press, 2019); Natasha Glaisyer, 'Calculating Credibility: Print Culture, Trust, and Economic Figures in Early Eighteenth-Century England', *Economic History Review* 60:4 (2007), p.685-711.
8. Bailey, 'Favoured', p.353.
9. Karen Pearlston, 'Married Women Bankrupts in the Age of Coverture', *Law & Social Inquiry* 34:2 (2006), p.293; Hilda L. Smith, "'Free and Willing to Remit": Women's Petitions to the Court of Alderman, 1670-1750', in Kim Kippen and Lori Woods (eds), *Worth and Repute: Valuing Gender in Late Medieval and Early Modern* (Toronto: University of Toronto, 2011), p.297; Phillips, *Women in Business*, p.49; Mary Prior, 'Women and the Urban Economy: Oxford 1500-1800', in Mary Prior (ed.), *Women in English Society 1500-1800* (London: Methuen, 1985), p.103; Amy Erickson, 'Married Women's Occupations in Eighteenth Century London', *Continuity and Change* 23:2 (2008), p.287.
10. Erickson, 'Coverture', p.5.
11. Amy Erickson, *Women and Property in Early Modern England* (London: Routledge, 1993), p.30; Hannah Barker, *The Business of Women: Female Enterprise and Urban Development in Northern England 1760-1830* (Oxford: Oxford University Press, 2006), p.69-70. See Hannah Barker, 'Women, Work and the Industrial Revolution: Female Involvement in the English Printing Trades, c.1700-1840', in Hannah Barker and Elaine Chalus (eds), *Gender in Eighteenth-Century England – Roles, Representations and Responsibilities* (London: Longman, 1997), p.84; Deborah Simonton, 'Claiming Their Place in the Corporate Community: Women's Identity in Eighteenth-Century Towns', in Isabelle Baudino, Jacques Carre and Cecile Revauger (eds), *The Invisible Woman – Aspects of Women's Work in Eighteenth-Century Britain* (Aldershot: Ashgate, 2005), p.105; Pamela Sharpe, 'Literally Spinsters: A New Interpretation of Local Economy and Demography in Colyton in the Seventeenth and Eighteenth Centuries', *Economic History Review* 44:1 (1991), p.55; Jennine Hurl-Eamon, 'The Fiction of Female Dependence and the Makeshift Economy of Soldiers, Sailors, and Their Wives in Eighteenth-Century London', *Labour History* 49:4 (2008), p.491-3.
12. Deborah Simonton, 'Widows and Wenches: Single Women in Eighteenth-Century Urban Economies', in Deborah Simonton and Anne Montenach (eds), *Female Agency in the Urban Economy – Gender in European Towns, 1640-1830* (London: Routledge, 2013), p.93.
13. See Robert Tittler, 'Money Lending in the West Midlands: The Activities of Joyce Jeffereis, 1638-49', *Historical Research* 67:164 (1994), p.249-63; Judith M. Spicksley, "'Fly with a Duck in Thy Mouth": Single Women as Sources of Credit in Seventeenth-Century England', *Social History* 32:2 (2007), p.187-207; Judith M. Spicksley, 'Women, "Usury", and Credit in Early Modern England: The Case of the Maiden Investor', *Gender & History* 27:2 (2015), p.263-92; Matthew Stevens, 'London's Married Women, Debt Litigation and Coverture in the Court of Common Pleas', in Cordelia Beattie and Matthew Frank Stephens (eds), *Married Women and the Law in Premodern Northwest Europe* (Woodbridge: Boydell Press, 2013), p.117; Craig Muldrew, "'A Mutual Assent of Her Mind"? Women, Debt, Litigation and Contract in Early Modern England', *History Workshop Journal* 55 (2003), p.47-71.

14. Alexandra Shepard, 'Minding Their Own Business: Married Women and Credit in Early Eighteenth-Century London', *Transactions of the Royal Historical Society* 25 (2015), p.72.
15. Amy Erickson, 'Afterword', in Amanda Capern, Briony McDonagh and Jenifer Aston (eds), *Women and the Land 1500-1900* (Woodbridge: Boydell Press, 2019), p.274.
16. Margot Finn, 'Women, Consumption, and Coverture in England, c.1760-1860', *The Historical Journal* 39:3 (1996), p.706-8; Margot Finn, *The Character of Credit – Personal Debt in English Culture, 1740-1914* (Cambridge: Cambridge University Press, 2003), p.132.
17. Pearlston, 'Bankrupts'.
18. Alexander Wakelam, *Credit and Debt in Eighteenth-Century England: An Economic History of Debtors' Prisons* (Abingdon: Routledge, 2020), p.31-41, 76-7.
19. Phillips, *Women in Business*, p.54.
20. See Julie Steenson, 'Life Lessons: Self-Defence and Social Didacticism in Elizabeth Gooch's Life-Writing and the Contrast', *Women's Writing* 18:3 (2011), p.405-22; Lynda M. Thompson, *The 'Scandalous Memoirists' – Constantia Phillips, Laetitia Pilkington, & the Shame of 'Publick Fame'* (Manchester: Manchester University Press, 2000); Claire Knowles, 'The Woman Behind the Man Behind the World: Mary Wells and the Feminisation of the Late Eighteenth-Century Newspaper', in Jennie Batchelor and Manushag Powell (eds), *Women's Periodicals and Print Culture in Britain, 1690-1820s* (Edinburgh: Edinburgh University Press, 2018), p.393-406.
21. John Howard, *The State of the Prisons in England and Wales* (London, 1777), p.321; Finn, *Character*, p.134.
22. 'Answer of the Keeper to the Articles Exhibited Against Him [...] by the Prisoners Confined for Debt', 1728/1729, Newgate Prison: Administration, London Metropolitan Archives, London (LMA), CLA/035/02/024(i), p.7.
23. Howard, *Prisons*, p.34, 36, 160, 174-5, 198.
24. Anon, *The Monthly Magazine, or British Register* (London, 1815), vol. XL, 341 (part II); Roger Lee Brown, *A History of the Fleet Prison, London – The Anatomy of the Fleet* (Lampeter: Edwin Mellen Press, 1996), p.162.
25. Howard, *Prisons*, p.34.
26. Wakelam, *Credit*, p.127-33; Erickson, 'Occupations'.
27. Finn, *Character*, p.132.
28. 'A Book of the Proceedings of Committees of the Court of Aldermen and Common Council', 1709, Court of Common Council: Committees – Minutes and Papers, LMA, COL/CC/MIN/01/115, p.6-7.
29. 'Rough Minutes of Committee to Examine the Allegations of the Petitions of the Keepers of Newgate, Ludgate, and the Two Compters as to the Act for Taking Away Liquor Taps in the Prisons', 1787, LMA, COL/CA/PCA/01/003, 1v.
30. M. J. Levy (ed.), *Perdita – The Memoirs of Mrs Robinson* (London: Peter Owen, 1994), p.78-84.
31. Wakelam, *Credit*, p.69; 'Lancaster Gaol Register of Debtors and Plaintiffs', 1793-1796, Home Office and Prison Commission Records: Prison Records Series 1, The National Archives, London (TNA), PCOM 2/440.
32. See 'Corporation of London: Plans of Prisons Vol.1', Surveyor's Department Plans, LMA, COL/SVD/PL/08.
33. *London Gazette*, 26-30 May 1761, no.10108, p.6; Simon Smith, *Slavery, Family, and Gentry Capitalism in the British Atlantic – The World of the Lascelles, 1648-1834* (Cambridge: Cambridge University Press, 2006), p.185. On Insolvency Acts, see A. Wakelam, *Credit*, p.139-55.
34. Bridget Hill, *Women, Work, and Sexual Politics in Eighteenth-Century England* (Oxford: Blackwell, 1989), p.210-11.
35. Susan Staves, *Married Women's Separate Property in England, 1660-1833* (Cambridge, MA: Harvard University Press, 1990), p.163-7, 170.

36. Pearlston, 'Bankrupts', p.267.
37. James Oldham, 'Creditors and the Feme Covert', in Matthew Dyson and David Ibbetson (eds), *Law and Legal Process – Substantive Law and Procedure in English Legal History* (Cambridge: Cambridge University Press, 2013), p.226.
38. Allan C. Hutchinson, *Laughing at the Gods – Great Judges and How They Made the Common Law* (Cambridge: Cambridge University Press, 2012), p.30, see p.21–50.
39. Staves, *Separate*, p.179, see p.170–94; Allison Tait, 'The Beginning of the End of Coverture: A Reappraisal of the Married Woman's Separate Estate', *Yale Journal of Law & Feminism* 26:2 (2014), p.166–216; Oldham, 'Creditors', p.217–22.
40. Tait, 'Beginning', p.194; Oldham, 'Creditors', p.229.
41. Hill, *Women*, p.201.
42. Oldham, 'Creditors', p.242.
43. Oldham, 'Creditors', p.233–45.
44. Elizabeth Gooch, *An Appeal to the Public, on the Conduct of Mrs Gooch, the Wife of William Gooch Esq.* (London, 1788), p.21.
45. Elizabeth Gooch, *The Life of Mrs Gooch. Written by Herself. Dedicated to the Public*, 3 vols (London, 1792), vol. I.186.
46. William Cobbett, *The Parliamentary History of England, from the Earliest Period to the Year 1803. Comprising the Period from the Eleventh of February 1780, to the Twenty-Fifth of March 1781* (London, 1814), vol. XXI.1211–22.
47. Gooch, *Life*, vol. II.7.
48. For shifting of blame by scandalous memoirists, see Thompson, *Scandalous*, p.4, 14, 20, 112, 141.
49. 'Fleet 1786–1790', PRIS 1/13, 92–4.
50. Gooch, *Life*, vol. III.52, 59–81.
51. 'Fleet 1786–1790', PRIS 1/13, 88, 92, 93–4, 145 (she was entered more than once during the same imprisonment as her subsequent writs would not fit into the small space under her first commitment).
52. Gooch, *Life*, vol. III.130.
53. Gooch, *Appeal*, p.66.
54. *London Gazette*, 29 July–1 August 1797, no.14032, p.15.
55. K. A. Crouch, 'Wells [née Davies; Other Married Name Sumbel], Mary Stephens (1762–1829)', *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004).
56. Mary Wells, *Memoirs of the Life of Mrs Sumbel, Late Wells; of the Theatres-Royal, Drury-Lane, Covent-Garden, and Haymarket. Written by Herself*, 3 vols (London, 1811), vol. I.105, 112–3, 121, 172–8, 180–9; 'Fleet Commitment Book 1795–1796', TNA, PRIS 1/16, 303.
57. Wells, *Memoirs*, vol. I.198; *Craftsman or Say's Weekly Journal*, 22 October 1797, no.1668, p.1; *London Evening Post*, 14–17 October 1797, no.11585, p.3; on bigamy and remarriage see Hill, *Women*, p.213–5.
58. Wells, *Memoirs*, vol. I.201–39; see Wells, *Memoirs*, vol. II; Laura Engel, *Fashioning Celebrity – Eighteenth-Century British Actresses and Strategies for Image Making* (Columbus, OH: The Ohio State University Press, 2011), p.128–9.
59. *Whitehall Evening Post*, 1–4 December 1798, no.8013, p.2.
60. *Morning Post and Gazetteer*, 14 December 1798, no.9341, p.1; Bailey, 'Favoured', p.356; Tait, 'Beginning', p.179–80.
61. Bailey, 'Favoured', p.356.
62. *Bell's Weekly Messenger*, 16 December 1798, no.138, p.397.
63. Bailey, 'Favoured', p.356.
64. *Morning Post and Gazetteer*, 17 December 1798, no.9343, p.2.

65. *Morning Post and Gazetteer*, 19 December 1798, no.9345, p.1; *True Briton*, 19 December 1798, no.1866, p.1; *London Packet or New Lloyd's Evening Post*, 24-6 December 1798, no.4532, p.4; *Morning Post and Gazetteer*, 26 December 1798, no.9351, p.2; *Morning Post and Gazetteer*, 29 December 1798, no.9354, p.2.
66. *Morning Herald*, 16 January 1799, no.5719, p.1; *True Briton*, 22 January 1799, no.1898, p.1; *Whitehall Evening Post*, 16-9 February 1799, no.8046, p.3; *Morning Herald*, 21 February 1799, no.5750, p.1; *Morning Post and Gazetteer*, 16 March 1799, no.9420, p.1; *Morning Herald*, 18 March 1799, no.5771, p.1; *The Times*, 18 March 1799, no.4435, p.1; *Whitehall Evening Post*, 28-30 March 1799, no.8063, p.3; *Morning Post and Gazetteer*, 30 March 1799, no.9432, p.1.
67. 'Fleet Commitment Book 1799-1801', TNA, PRIS 1/18, 13.
68. *The Times*, 27 April 1799, no.4470, p.1.
69. *London Packet, or New Lloyd's Evening Post*, 12-4 June 1799, no.4610, p.3.
70. *True Briton*, 29 August 1799, no.2086, p.2; 'Fleet Commitment Book 1801-1802', TNA, PRIS 1/19, 54.
71. Tait, 'Beginning', p.179.
72. Hannah Robertson, *The Life of Mrs Robertson (A Tale of Truth as well as of Sorrow)* (Derby, 1791), p.17-24.
73. Cathryn Spence, "'For His Interest?" Women, Debt and Coverture in Early Modern Scotland', in Cordelia Beattie and Matthew Frank Stephens (eds), *Married Women and the Law in Premodern Northwest Europe* (Woodbridge: Boydell Press, 2013), p.178.
74. Paul, *Poverty*.
75. 'List of Prisoners Handed Over by the Sheriffs to Their Successors on 28 Sept Annually, with Notes of Occurrences during the Subsequent Year', 1741-1815, LMA, CLA/028/01/001-040; 'Fleet Prison Commitment Books', 1733-1795, LMA PRIS 1/5-1/15.
76. Alexander Wakelam, *Imprisonment for Debt and Female Financial Failure in the Long Eighteenth Century* (unpublished PhD thesis, University of Cambridge, 2019), p.272.
77. 'Fleet Commitment Book 1735-1737', TNA, PRIS 1/6, 123.
78. 'Fleet Commitment Book 1733-1735', TNA, PRIS 1/5, 105.
79. 'Fleet Commitment Book 1786-1790', TNA, PRIS 1/13, 75. I am very grateful to the late Prof Lajeane Chaffin for her notes she shared with me on the Days and her unique insight into the Goldsmiths Company, particularly the involvement of women. May she rest in peace.
80. 'Fleet Commitment Book 1741-1745', TNA, PRIS 1/9, 235.
81. 'Fleet Commitment Book 1739-1741', TNA, PRIS 1/8, 246.
82. 'List of Prisoners', 1761-1763, Wood Street Compter, LMA, CLA/028/01/009, 14r.
83. 'List of Prisoners', 1792-1793, Wood Street Compter, LMA, CLA/028/01/028, 14.
84. 'Fleet 1745-1748', PRIS 1/10, 34.
85. 'Fleet 1741-1745', PRIS 1/9, 235.
86. 'List of Prisoners', 1768-1769, Wood Street Compter, LMA, CLA/028/01/014 24v-25r. Zebulon returned alone in 1781: 'List of Prisoners', 1780-1782, Wood Street Compter, LMA, CLA/028/01/023, 3v.
87. Hutton, *Courts*.
88. 'List of Prisoners', 1780-1782, CLA/028/01/023, 6v.
89. 'List of Prisoners', 1793-1795, Giltspur Street Compter, LMA, CLA/028/01/029, 11v.
90. 'John Gardner and Mary Lawford, 2<sup>nd</sup> May 1745, St Dionis Backchurch, London', Family Search – England Marriages, 1538-1973, FHL microfilm 535722, 535723, 942 B4HA V. 3, <https://www.familysearch.org/ark:/61903/1:1:V52H-RKQ> [accessed 12 September 2019].
91. 'Fleet 1745-1748', PRIS 1/10, 145.
92. *London Gazette*, 4-7 July 1801, no.15382, p.760.

93. Henry Galley, *Some Considerations upon Clandestine Marriages* (London, 1750), p.16; Roger Lee Brown, 'The Rise and Fall of the Fleet Marriages', in R.B. Outhwaite (ed.), *Marriage and Society – Studies in the Social History of Marriage* (London: Europa Publications Ltd, 1981), p.132.

94. 'List of Prisoners', 1773, Wood Street Compter, LMA, CLA/028/01/019, 28; 'Fleet 1737-1739', PRIS 1/7, 357.

95. Wakelam, *Credit*, p.58-62.

96. 'List of Prisoners', 1793-1795, CLA/028/01/029, 80r; 'Fleet Commitment Book 1793-1795', TNA, PRIS 1/15, 288.

97. Erickson, 'Capitalism', p.13.

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