**This is the pre-print version of an essay published in *Female Transgression and Discipline in Early Modern Britain,* ed. Richard Hillman and Pauline Ruberry-Blanc. Ashgate, 2014. Pp. 191-212.

Coverture and Criminal Forfeiture in English Law[*]

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'Why is the property of the woman who commits Murder, and the property of the woman who commits Matrimony, dealt with alike by your law?' Frances Power Cobbe had a hypothetical visitor from another world pose this question in her famous 1868 article, 'Criminals, Idiots, Women and Minors'.[1] In the nineteenth-century debates that surrounded married women's property law, reformers frequently drew comparisons between the legal effects of crime and those of marriage. At common law, a convicted felon forfeited all possessions real and personal. All too similarly, these reformers pointed out, a woman who married lost ownership or at least control of all her possessions because of the common law fiction that a husband's legal identity 'covered' that of his wife. One reformer offered the sardonic observation that

> the confiscation of a man's property is associated in our minds with felony or high treason; the confiscation of a woman's property with marriage. Of course I mean that is the idea of the more thoughtful among us, for the ugly fact that a woman's marriage is punished as a felony is concealed from the young under a bridal veil and orange blossoms.[2]

Upon occasion, reformers also noted the unhappy effects when these two legal practices coincided. One story told of a woman cruelly abused by her husband. When she finally succeeded in having him criminally convicted, she lost not just the abusive husband but also the legacy left her by her father. According to the dictates of coverture, upon her marriage it had become her husband's property, and thus upon his conviction, it became the property of the crown.[3]

Polemical comparisons of the effects of coverture and criminal convictions were new to nineteenth-century debates, but the convergence of these two legal devices for the wives of felons had a long history. This paper examines the conjunction of coverture and criminal forfeiture, with a special

[*] The author wishes to thank the participants in the 'Women and Crime' conference for their useful feedback on the first version of this paper, and Tim Stretton for commenting on an early draft. He and Paul Cavill also provided useful references. The author wishes, too, to thank the Social Sciences and Humanities Research Council of Canada for funding the research from which this paper derives. Please note that the spelling in all quotations from primary sources has been modernized.

[1] Frances Power Cobbe, 'Criminals, Idiots, Women and Minors', *Fraser's Magazine,* December 1868, 5.

[2] *Married Women's Property Committee Report of the Proceedings of the Annual Meeting, 1876* (Manchester, 1876), 21.

[3] Cited in Lee Holcombe, *Wives and Property: Reform of the Married Women's Property Law in Nineteenth-Century England* (Toronto: University of Toronto Press, 1983), 66; see also 149.

focus on the early modern period. Given that most convicted felons were men, and that a good many of them were married, one must ask what effects criminal forfeiture had on the wives whose legal identity was 'covered' by that of their criminal partners. This paper, then, deals only indirectly with female transgressors, instead focusing on the relationship between legal fiction and social fact when married women who were at least discursively imagined as innocent suffered for the transgressions of their husbands. Justifications of coverture often referred to the wife's protection and maintenance; paeans to the law also highlighted a wife's diminished legal responsibility for her own minor misdeeds as a valuable consideration.[4] But while some married women may have escaped punishment for their own transgressions, others became liable to punishment for their husbands' crimes, stripped of much, if not all, of the familial property. One might then ask how, in turn, these effects on wives shaped the understanding and practice of criminal forfeiture. As suggested here, the consequences of forfeiture for the wives of the condemned came to serve as the basis for both the key criticisms and the chief defences of forfeiture. For some observers, these effects offered sure evidence that forfeiture constituted an unjust punishment that penalized the innocent rather than the guilty; for others, it was precisely the effects on the innocent that allowed a practice founded in feudalism to be reformulated as a valuable deterrent. The paper first offers an overview of both coverture and criminal forfeiture. It then turns to concrete examples and rhetorical constructions of their conjunction, demonstrating ways in which the gendered structure of property law – and the legal fiction of coverture at its heart – shaped English criminal law and its sanctions.

The forfeiture of property by married women and by felons had long histories, embedded in the very origins of the common law. The rationale for coverture shifted over time, from the wife being under the *dominium* of her husband to husband and wife being one person at law.[5] In its latter guise, which insisted upon the 'unity of person' of husband and wife, coverture proved one of the longer lasting of English legal fictions, an 'imaginative projection' that very much impinged upon socio-historical realities. Whatever the rationale, the immediate effects remained much the same. Upon marriage, a woman lost to her husband ownership of all her goods and chattels – that is, personal property – and lost control of any

[4] See, for example, William Blackstone, *Commentaries on the Laws of England*, 4 vols (Oxford, 1765–69), vol. 1, 432–33. See, too, Marisha Caswell's essay in this volume.
[5] See, for example, Maeve Doggett, *Marriage, Wife-Beating, and the Law in Victorian England* (Columbia: University of South Carolina Press, 1993); Frances Dolan, *Marriage and Violence: The Early Modern Legacy* (Philadelphia: University of Pennsylvania Press, 2008); and Tim Stretton, 'Coverture and Unity of Person in Blackstone's Commentaries', in *Blackstone and His Commentaries: Biography, Law, History*, ed. Wilfrid Robertson Prest (Oxford: Hart, 2009), 111–28.

real property. Anything in the intermediate category of 'chattels real', such as leases on land, became her husband's during marriage but reverted to her ownership should both she and the property in question outlast him. Some exceptions existed, thanks in large part to equity courts. The twelfth-century development of the joint fee tail, or jointure, allowed property to be specifically settled upon a woman at marriage.[6] By the late sixteenth century, and increasingly over the years that followed, equity developed more mechanisms to protect the separate property interests of women who could afford its use.[7] For most women, however, the common law principles of coverture set the parameters of property ownership until the late nineteenth century. The first statutory moderation came with the Married Women's Property Act of 1870, and others followed in succeeding decades.[8]

Like coverture, criminal forfeiture had early roots. With parallels if not origins under the Anglo-Saxons, the practice of seizing an offender's possessions survived in altered guise throughout the Norman and Angevin reforms. The word 'felony' initially denoted disloyalty between lord and vassal, or a violation of the feudal bond, for which a vassal forfeited his lands to his lord.[9] Over time, 'felony' took on a new meaning, designating particularly heinous wrongs more generally. By the late 1100s, the standard formula held that felons lost all goods and chattels to the king and their real property to their lord, after the king had taken those lands for a year and a day.[10] The king might in turn use these forfeitures as a source of patronage, granting the rights to collect them to favoured individuals. Whether the seizures went

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[6] Joseph Biancalana, *The Fee Tail and the Common Recovery in Medieval England, 1176–1502*, Cambridge Studies in English Legal History (Cambridge: Cambridge University Press, 2001), esp. 9, 13, 39, 141–45, 180.

[7] See Maria Cioni, *Women and Law in Elizabethan England, with Particular Reference to the Court of Chancery* (New York: Garland, 1985), *passim*, and for developments thereafter, see Susan Staves, *Married Women's Separate Property in England, 1660–1833* (Cambridge, MA: Harvard University Press, 1990). On the costs of marriage settlements, see Holcombe, *Wives and Property*, 46; on the costs in Chancery, estimated at a minimum of £50 per suit even in the late sixteenth century, see W.J. Jones, *The Elizabethan Court of Chancery* (Oxford: Clarendon Press, 1967), 309. Amy Erickson has argued that many couples of moderate means devised marriage settlements through common bonds; such bonds, however, would have been subject to felony forfeiture like other debts. See Amy Louise Erickson, 'Common Law versus Common Practice: The Use of Marriage Settlements in Early Modern England', *Economic History Review*, 2nd ser., 43 (1990): 21–39.

[8] Holcombe, *Wives and Property*, 175ff.

[9] Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, vol. 1: *Legislation and Its Limits* (Oxford: Blackwell, 2000), 19, 144–49.

[10] See, for example, *The Treatise on the Laws and Customs of the Realm of England commonly called Glanvill*, ed. G.D.G. Hall (London, 1965; repr. Holmes Beach, FL: W.W. Graunt, 1983), 90–91. Note that technically, land 'escheated' for lack of an heir while personal possessions and the year, day and waste of the land were 'forfeit'. A final caveat about terminology: recently a number of governments have revived forfeiture provisions, but this now tends to be civil rather than criminal forfeiture – *in rem* versus *in personam*, based more on the tradition of the deodand than on the criminal forfeiture provisions discussed here. See, for example, Leonard Levy, *A License to Steal: The Forfeiture of Property* (Chapel Hill: University of North Carolina Press, 1996), for an overview of the development of modern forfeiture law. Also pertinent to the topic of this paper is Amy D. Ronner, 'Husband and Wife Are One – Him: *Bennis v. Michigan* as the Resurrection of Coverture', *Michigan Journal of Gender and Law* 4 (1996): 129–69, which argues that a 1996 case in which a wife lost her claim to an automobile seized for her husband's 'gross indecency' resurrects and fuses both coverture and civil forfeiture provisions. (My thanks to Tim Stretton for this reference.)

to the landlord, the king, or the king's grantee, however, the immediate effects on the felon remained much the same: the loss of all land, goods and chattels. As with coverture, over time, those with the resources to do so found a variety of mechanisms to moderate the effects of forfeiture, particularly for real property. Devices such as entails, uses and trusts all served primarily to allow landholders increased flexibility in long-term estate planning, but also served to obstruct the forfeiture of estates.[11] While forfeiture of real property became increasingly rare over time, the forfeiture of goods and chattels continued right up until abolished by statute in 1870.[12] Like coverture, criminal forfeiture survived in both theory and practice well into the nineteenth century.

The effects of coverture and criminal forfeiture thus shared a number of similarities.[13] What happened when they coincided? An unmarried woman who committed a felony was treated the same as a man: all possessions both real and personal were forfeit. A married female felon had already lost most of her property to her husband, and thus had less to lose. The personal property and chattels real she had owned before marriage were then her husband's and thus safe from seizure for her own offence; her real property was forfeit, but by the custom known as 'the curtesy of England' her husband could continue to use it until his own death if the couple had had children. In contrast, if a woman's husband committed felony, only whatever separate property she may have had remained safe from forfeiture; if she had had real property, it reverted to her upon her husband's execution. If she had had a jointure prepared for her upon marriage, it remained immune from seizure.[14] Until the mid-sixteenth century, however, everything else was forfeit.[15]

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[11] For entails, see Biancalana, *Fee Tail*; for uses, see J.M.W. Bean, *The Decline of English Feudalism, 1215–1540* (Manchester: Manchester University Press, 1968); for the device of using trustees to preserve contingent remainders and its emergence in the Interregnum, see John Habakkuk, *Marriage, Debt and the Estates System: English Landownership, 1650–1950* (Oxford: Clarendon Press, 1994). All three argue that a desire to frustrate the law's forfeiture provisions played a part in the development of these devices. On their immunity from forfeiture for treason and/or for felony, see also C.D. Ross, 'Forfeiture for Treason in the Reign of Richard II', *English Historical Review* 71 (1956): 560–75; J.R. Lander, 'Attainder and Forfeiture, 1453 –1509', *Historical Journal* 4 (1961): 119–51; and John G. Bellamy, *The Law of Treason in England in the Later Middle Ages*, Cambridge Studies in English Legal History (Cambridge: Cambridge University Press 1970), 192–97.

[12] For more on the mechanics of forfeiture and its longevity, see K.J. Kesselring, 'Felony Forfeiture, c. 1170–1870', *Journal of Legal History* 30 (2009): 201–26; 'Felons' Effects and the Effects of Felony in Nineteenth–Century England', *Law and History Review* 28 (2010): 111–39; and 'Felony Forfeiture and the Profits of Crime in Early Modern England', *Historical Journal* 53 (2010): 271–88.

[13] Indeed, it is striking that the rights of the Crown and those of the widow followed a similar trajectory. The same devices that kept land safe from forfeiture for felony also made it immune to dower claims.

[14] See Biancalana, *Fee Tail*, and C.D. Ross, 'Forfeiture'. At least from the 1285 statute *De Donis Conditionalibus* both entails and jointures were generally held to be immune to forfeiture.

[15] See, for example, Ferdinando Pulton, *De Pace Regis et Regni* (London, 1609), fols 229^{r}, 230^{v}, 231^{v}, 233$^{r–v}$, 237^{v}–38^{r}; T.E., *The Lawes Resolutions of Womens Rights* (London, 1632), 152–54; Edward Coke, *The First Part of the Institutes of the Laws of England, or a Commentary upon Littleton*, ed. Francis Hargrave and Charles Butler, 19th edn, 2 vols (London, 1832), vol. 2, 351a, 392b; Matthew Hale, *Historia Placitorum Coronae*, ed. Sollom Emlyn, 2

Throughout the Middle Ages, this included dower and any of the usual provisions for widowhood from the husband's movable goods. Common law typically entitled a widow to a dower of a life estate in one-third of the freehold lands that her husband had possessed during the marriage.[16] The entitlement for the widow of a copyholder, frequently known as freebench, varied significantly from one manor to another, but was commonly an interest in at least one-third of the lands of which her husband died seized, at least during widowhood if not for life.[17] A widow's allotment from the personal property also varied. Throughout much of the Middle Ages, she could expect 'reasonable parts': one-third if the couple had children, more if they did not. By the fourteenth century, men in much of the southern province of Canterbury gained the testamentary freedom to bequeath their personal property as they wished; between 1692 and 1725 statutes gave men throughout the country the same liberty. In cases of intestacy, however, the courts typically continued to bestow upon the widow one-third or more of her husband's personal property.[18] All of this – dower and the allotment of personal property, and depending upon local custom, freebench – disappeared if the husband was attainted of felony. Legally, the widow's entitlement began only at her husband's death, not at marriage; if he was found a felon before he died, he had no heir and no property against which his widow could claim.

This loss of the widow's entitlements prompted some criticism. Medieval petitions to have dower offer the same protections as jointure produced no positive result, however. A petition put before the 1327 parliament, for example, had insisted that the right to dower ought to accrue to women through their marriages and not be forfeit for their husbands' misdeeds. The women were, after all, 'married at the

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vols (Philadelphia, 1847), vol. 1, 253, 358; *A Treatise of Feme Coverts: Or, The Lady's Law* (London, 1732), 59, 59–60, 67–68, 75; Blackstone, *Commentaries*, vol. 2, 130–31, 139, 433–35.

[16] See, however, the variety of dower claims made on different types of tenures in Sue Sheridan Walker, 'Litigation as Personal Quest: Suing for Dower in the Royal Courts, circa 1271–1350', in *Wife and Widow in Medieval England*, ed. Sue Sheridan Walker (Ann Arbor: University of Michigan Press, 1993), 82–83. See also her brief discussion of denials of dower based on accusations of felony, 91. See, too, Janet Senderowitz Loengard, '"Of the Gift of Her Husband": English Dower and Its Consequences in the Year 1200', in *Women of the Medieval World*, ed. Julius Kirshner and Suzanne F. Wemple (Oxford: Blackwell, 1985), 220, 220, n. 10, for the observation that by the early fifteenth century, 'judges were declaring confidently that English law had never permitted dower in chattels.'

[17] On freebench, see, for example, Barbara Todd, 'Freebench and Free Enterprise: Widows and Their Property in Two Berkshire Villages', in *English Rural Society, 1500–1800*: *Essays in Honour of Joan Thirsk*, ed. John Chartres and David Hey (Cambridge: Cambridge University Press, 1990), 175–200. Note that some manorial customs preserved the freebench even of the widows of felons. See, for example, the successful claim of Jenet Haworth to a fourth part of her executed husband's message in 1543: *The Court Rolls of the Honor of Clitheroe*, ed. William Farrer, 3 vols (Edinburgh, 1913), vol. 3, 124. (My thanks to Paul Cavill for this reference.)

[18] Amy Louise Erickson, *Women and Property in Early Modern England* (London: Routledge 1993), 28, 187–80.

great expense of their kinsmen'. But to this and to similar petitions throughout the Middle Ages, the various kings so addressed had always answered that the law ought to remain as it was.[19]

This did change in 1547, however, and by statute rather than by creative legal self-help. The councillors of the young King Edward VI introduced to his first parliament a bill with a striking proviso: that the wife of any man convicted of any act of treason or any felony whatsoever would thenceforth be entitled to her dower.[20] What prompted this measure at this time is unclear, given the paucity of relevant parliamentary sources. Men of the sort who sat in parliament may well have become concerned about the security of their property after the contested passage of the recent Statute of Uses (1536), one provision of which held that land put to use no longer be protected from forfeiture for any crime, following the Henrician treason legislation that sought to ensure that entails and uses not bar forfeiture in such cases.[21] Given the political climate of the time, and recent history, criminal convictions of even the greatest men in the nation, and the deprivation of their families, loomed as possibilities.[22] MPs might also have intended the measure to put dower on a more even footing with the increasingly common jointure; the concurrent protections for the inheritance of heirs suggests, however, that a broader concern about the effects of forfeiture played a role beyond any simple desire to ensure consistent treatment of widows expecting dowers and those promised jointures.[23] A few years later, members of another of King Edward's parliaments decided against preserving the dower of the wives of traitors; but for the wives of felons, this protection remained.[24]

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[19] *The Parliament Rolls of Medieval England*, ed. C. Given-Wilson et al. (Leicester: Digital Scholarly Editions, 2004), 1327 January, 1:13, 1:14. See also 1399 October Part I, 6:130. It is sometimes erroneously claimed that 11 Richard II c. 5 (1388) protected the dower of the wives of traitors, but it protected only their 'heritage or jointure with their husbands'. See C.D. Ross, 'Forfeiture', 561.

[20] 1 Edward VI c. 12. On the passage and broader significance of this act, see A.F. Pollard, *England under Protector Somerset* (1900; repr. New York: Russell and Russell, 1966), 59–68.

[21] 27 Henry VIII c. 10. See also 26 Henry VIII c. 1 and 33 Henry VIII c. 20.

[22] There had been one particularly high profile case in recent years: Thomas, Lord Dacre of the South, had been executed for murder in 1541, and his wife Mary had had no jointure. In the circumstances, the king's councillors authorized an emergency payment and Parliament passed a special act allowing her dower. See *Proceedings and Ordinances of the Privy Council*, ed. Harris Nichols, 7 vols (London, 1834–37), vol. 7, 207, and the act 33 Henry VIII c. 44 (Parliamentary Archives, HL/PO/PB/1541/33H8n44). See also Barbara J. Harris, *English Aristocratic Women, 1450–1550: Marriage and Family, Property and Careers* (Oxford: Oxford University Press, 2002), 139–43, and Anne Crawford, 'Victims of Attainder: The Howard and de Vere Women in the Late Fifteenth Century', *Reading Medieval Studies* 15 (1989): 59–74.

[23] Jointure acquired new prominence after the Statute of Uses, which barred women who had jointures prepared before marriage from also claiming dower. See Eileen Spring, *Law, Land, and Family: Aristocratic Inheritance in England, 1300–1800* (Chapel Hill: University of North Carolina Press, 1993), 43–58, and Staves, *Separate Property*, 29–30 and ch. 4. Strikingly, after Protector Somerset's own execution in 1552 on felony charges, his widow tried claiming her dower based on the 1547 statute but found that the Statute of Uses barred her from claiming both jointure and dower (73 *English Reports* 212–13 [1 Dyer 97a], and see also 73 *English Reports* 584 [3 Dyer 263b]).

[24] Five & 6 Edward VI c. 11.

Thus, from the 1547 statute forward, both dower and jointure were protected from forfeiture for a husband's felonies. This was a significant development, and presumably a boon to many a widow. Its significance should not be overestimated, however, for all personal property remained forfeit. And the significance of personal property should not be underestimated. Leases and copyholds on land were considered chattels.[25] Indeed, the bulk of the population held the bulk of their wealth in such chattels and movable goods. As Amy Erickson has noted, the value of much movable property is evident in the care with which each pot, sheet and cow is listed in wills and post-mortem inventories.[26] For women in particular, personal property had an especial importance. Erickson has shown that early modern daughters inherited 'on a remarkably equitable basis with their brothers', but that the sons usually received the real property, while the daughters took their shares from the chattels. In one sample she found that wives usually brought to their marriages more than 50% of the total personal wealth of which their spouses died possessed.[27] Furthermore, any goods and chattels widows received from their husbands' estates, unlike dower or jointure, generally became theirs absolutely, not merely for widowhood or for life, and could in turn be willed by them to others. Thus, for the landless majority of the population and for women in particular, the forfeiture of personal property had the potential to pose significant hardship.

Many a wife presumably deemed it a rank injustice, too. The forfeiture of their husbands' goods and chattels did not just deny women necessary support, but denied them goods they may well have believed rightfully theirs. Margaret Hunt and others have shown that despite the dictates of coverture, women in the seventeenth and eighteenth centuries, at least, had a sense of ownership of the family's possessions and retained a particularly strong sense of personal ownership over whatever goods and chattels they had brought with them to the marital union. Their understanding of property rights differed from legal definitions of those rights. Women in the court cases examined by Hunt, for example, demonstrated a particular attachment to gifts from kin and to property obtained through their own work. They believed that in the event of marital collapse they were entitled to a sum equivalent to their

[25] The degree to which chattels real such as leases were subject to forfeiture seems to have differed over time, but for sixteenth-century practice, see, for example, the Elizabethan coroner's formulary, which specifically identified leases, copyholds and other chattels real as items to be forfeited by felons (Nottinghamshire Archives, DDE 67/1).
[26] Erickson, *Women and Property*, 64–65.
[27] Erickson, *Women and Property*, 19–20, 182.

contribution to the marriage.[28] Presumably, some such women believed they suffered a wrong when their husbands' offences resulted in the forfeiture of their property.

Certainly, in moving away from the generalizations and hypotheses derived from statutes and descriptive legal texts to concrete examples of women who faced the conjoined effects of coverture and criminal forfeiture, one finds much evidence of a sense of hardship and sometimes of injustice. The wives and widows of felons tried in various ways to avoid the loss of the familial possessions, sometimes themselves transgressing legal boundaries to do so. Some petitioned. Alice Peete, for example, first petitioned for the life of her husband Francis, condemned for homicide, but when that failed, she begged for his forfeited goods. With four small children and a fifth on the way, she wrote that they were 'like to perish' unless relieved by the king's mercy.[29] Ellen Ewer thought she had secured a promise from the man who obtained her felonious husband's forfeited property that he would, in pity, give much of it back to her. When he failed to deliver, she implored the king's chief minister, Thomas Cromwell, for assistance. Ewer described herself as 'having by reason of her husband's late misfortune neither money nor goods wherewith to help herself and her said poor young children, but utterly is expelled and put from all comfort unless the great charity and goodness of your Lordship be unto her showed'.[30] Agnes Silkby combined similar invocations of poverty, maternal burdens and lordly clemency with an insistence upon her own innocence. Silkby petitioned the king to secure an estate valued at 6s, 4d per annum that her husband Robert had endeavoured to protect by putting it to use, as well as movable goods valued at 40s. Robert's execution for heretical, 'damnable opinions' left Agnes 'in great extreme poverty', even though she had 'never consented nor was privy to any of the said Robert's offences and hath three poor young children on her hand and hath not to sustain their living withal but only of charity and alms'.[31]

Instead of petitioning, Alice Avery turned to the courts. She based her 1547 Star Chamber suit against the undersheriff who seized 'her' goods on a rather distinctive claim: she maintained that she had

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[28] Margaret Hunt, 'Wives and Marital "Rights" in the Court of Exchequer in the Early Eighteenth Century', in *Londinopolis: Essays in the Cultural and Social History of Early Modern London*, ed. Paul Griffiths and Mark S.R. Jenner (Manchester: Manchester University Press, 2000), 107–29. See also Joanne Bailey, 'Married Women, Property, and "Coverture" in England, 1660–1800', *Continuity and Change* 17 (2002): 351–72, and Amy Louise Erickson, 'Possession—and the Other One-tenth of the Law: Assessing Women's Ownership and Economic Roles in Early Modern England', *Women's History Review* 16 (2007): 370. Janet Loengard focuses on husbands, but suggests that in the sixteenth century, even they often demonstrated a sense that their wives retained a special claim to the goods they brought with them to the union ('"Plate, Good Stuff, and Household Things": Husbands, Wives, and Chattels in England at the End of the Middle Ages', *Ricardian* 13 [2003]: 328–40).

[29] The National Archives: Public Record Office (hereafter TNA: PRO) SP 29/57, no. 8.

[30] TNA: PRO SP 1/162, fo. 112.

[31] TNA: PRO C 82/530/369. My thanks to Paul Cavill for this reference, and for sharing the draft of his forthcoming paper on heresy forfeitures.

never actually married her felonious partner and produced witnesses in an attempt to prove that she had lived in sin rather than lose her property. She described in great detail her household furniture, her red leather harness for her horse, her new velvet robe edged with parchment lace of gold and many other belongings that she insisted were hers alone. She and Thomas Kemmys had jointly kept an inn and victualling house in London until his execution for felony left her with nothing. A set of former customers deposed that Avery had kept a house very well furnished with items they believed to be hers, as Kemmys reportedly had a wife back in Wales. One said that he was 'very certain that the said Kemmys before he met with the said Alice had nothing more than he went in'. Others, however, reported that Avery and Kemmys 'was taken there amongst their neighbours as man and wife'. Indeed, witnesses said, when previously challenged about the 'evil rule' he kept with Avery, Kemmys angrily insisted that he had legitimately married her after divorcing the 'old forward woman' he had left in Wales.[32] Unfortunately, the outcome of the case is unknown, but divorce with remarriage being illegal at this time,[33] Avery may well have won.

While few proved quite so bold as Avery, other women who sought to protect 'their' possessions showed a significant degree of agency, assertiveness and legal knowledge. But they very often needed and found help from family and friends, too. This broad base of support itself suggests a degree of opposition to forfeiture's effects on the dependants of felons. When the constables of Cardiff came to seize the goods of a man convicted of manslaughter, his wife raised the hue and cry and a serious melee seems to have followed.[34] When Anne Myles's husband committed murder in 1601, she immediately began distributing household items to friends and neighbours to keep them from being inventoried by the undersheriff: the vicar stored corn malt and other household stuff, and one Widow Malbye hid a brass pot. Once her husband was convicted, Anne and her father made suit to the man who had the right to

[32] TNA: PRO STAC 3/3/59. Of course, such court records cannot be trusted to reveal the facts of any particular case, with charges and depositions representing narratives designed to suit a litigant's best interests. Nor, in many cases, do the records reveal even what the court decided upon as the true course of events. Nonetheless, such records demonstrate the range of possible actions and believable claims open to the litigants in question.

[33] For a discussion of the 'blurriness' between singleness and marriage, see Cordelia Beattie, '"Living as a Single Person": Marital Status, Performance and the Law in Late Medieval England', *Women's History Review* 17 (2008): 327–40; for self-divorce, see Tim Stretton, 'Marriage, Separation and the Common Law in England, 1540–1660', in *The Family in Early Modern England*, ed. Helen Berry and Elizabeth A. Foyster (Cambridge: Cambridge University Press, 2007), 18–39.

[34] TNA: PRO E 134/23 & 24 Chas I/Hil 2.

forfeitures in their area that he would be good to her and her child, and grant her the goods she had not already managed to hide from him.[35]

When John Baynbrick committed an unspecified felony, it seems that the lease on his property was burned and a new one written up in the name of another individual in order to prevent its forfeiture, with money from the dubious sale paid to John's wife, Margaret.[36] Jane Shelley, the widow of a convict, went to court in 1606 claiming that some of the land seized from her husband had in fact been part of her jointure. The court awarded her some of the land, but not all. Shelley seems to have then cut her losses, selling her claim to the disputed parcels to another man, who then continued to fight the case in the courts.[37] In the same year, Margaret Ansley tried keeping £100 from the property of her husband Richard, executed for murder, by insisting that it had been intended long before the crime for her relief. She also maintained that there had been an error in her husband's indictment; having it overturned would be too late to save him, but might still save the money. Apparently, neither claim worked, but her brother-in-law then appeared in court with documentation which proved to the court's satisfaction that the £100 was his, pledged to him two months before the commission of the crime. One suspects that this was a ruse to keep the money for Margaret.[38]

Some such attempts proved particularly complex and cunning. John Honeywell was hanged for manslaughter in Essex in 1614 after unsuccessfully pleading benefit of clergy. Before his trial and execution, however, he and his wife, Alice, performed a jail-yard property conveyance. Thomas Tucker, an old family friend and a relative of John's, acquired the property in return for agreeing to pay off various small debts of John's amounting to £10, and a 'debt' of £110 to Alice's unmarried sister Mary Symonds. The agreement had the suspicious proviso that if Alice subsequently paid Thomas £120, she could secure the return of all the property in question.[39] One assumes that sister Mary – unwed and hence in full control of any assets that came to her – was simply to give Alice the money with which to repurchase the estate once Alice was safely a widow.

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[35] TNA: PRO, E 134/44 & 45 Eliz/Mich 39.
[36] TNA: PRO, E 134/17 Eliz/Trin 4.
[37] TNA: PRO, E 124/1, fol. 10d.
[38] TNA: PRO, E 124/1, fol. 255d.
[39] TNA: PRO, E 134/17 Jas 1/Mich 38. This case in particular suggests another possible indication of opposition to the law's forfeiture provisions, seen indirectly in the statutes against fraudulent conveyances, most notably 13 Elizabeth c. 5 (1571). See Charles Ross, *Elizabethan Literature and the Law of Fraudulent Conveyance: Sidney, Spenser, and Shakespeare* (Aldershot: Ashgate 2003), 29–31, 101–11; Pauncefoot's Case, 76 *English Reports*, 816–17 (3 Co. Rep. 82b); and *Shaw v. Bran*, 171 *English Reports*, 485 (1 Stark. 319).

Evidence of such evasions is scattered throughout the records of various courts, as the grant holders to whom the forfeitures were due launched suits when they believed themselves to have been cheated. Such evidence is easiest to find in respect to suicides, in part, perhaps, because of distinctive attitudes to self-slaying that made forfeiture for such a crime more contentious, but also because it is simply more easily located. As the King's Almoner typically had the right to collect the forfeitures of suicides, searching Star Chamber files for suits launched by the Almoner readily results in a trove of claims that widows, families, neighbours and coroners somehow obstructed forfeitures. A felony for much of its legal history, suicide occasioned the loss of only goods and chattels, not the real property, as the offender had not been formally attainted.[40] Yet even so, many a person risked the wrath of the Almoner by attempting to hide goods or to have a suicide falsely labelled a non-felonious death.

When husbandman Thomas Pink hanged himself in his cart house in 1608, for example, the coroner reportedly took a cow and £6 from the widow in return for his jury's verdict that Pink died a natural death. He thus saved her from the loss of all the family's personal possessions and made himself a sum well in excess of the usual fee for a felonious death.[41] Similarly, when William Ponder of Dodford killed himself in 1560, neighbour Thomas Baylie helped select and sway the coroner's jury to protect Ponder's widow. Baylie reportedly assured her that 'I have been abroad and laboured of them of the inquest that dwell abroad out of Dodford … be merry, for thou hast no cause to the contrary, for that thine own neighbours will be thy friends.' The jury found a verdict of accidental death, allowing the widow to keep her goods.[42] After Howell David killed himself, a bailiff inventoried and locked away his assets. Some 40 men subsequently broke in to liberate the goods. Whether truthfully or not, they later tried arguing that they had done so because they were 'near neighbours to the said poor distressed widow, came to comfort her in her heaviness'.[43] Michael Macdonald and Terence Murphy have studied thousands of records of coroners' inquests and Star Chamber suits and found that in addition to mislabelling deaths as non-felonious, juries often undervalued or failed to report goods for forfeiture.[44] Such cases reflect a variety of competing interests and admit a variety of interpretations. While one need not see all these

[40] See, for instance, Hale, *Historia*, vol. 1, 412–13.
[41] TNA: PRO, STAC 3/2/77.
[42] TNA: PRO, STAC 5/A10/20.
[43] TNA: PRO, STAC 8/24/10.
[44] Michael MacDonald and Terence R. Murphy, *Sleepless Souls: Suicide in Early Modern England* (Oxford: Clarendon Press, 1990), 78. For the earlier history of jury discretion in respect to suicides, see Sara M. Butler, 'Degrees of Culpability: Suicide Verdicts, Mercy and the Jury in Medieval England', *Journal of Medieval and Early Modern Studies* 36 (2006): 263–90.

people as 'principled defenders of family and locality', some of their actions and justifications suggest opposition to forfeiture, or at least a sense that the bereaved family had the greatest need of and entitlement to the goods in question in a given instance.[45]

Those with the legal rights to felons' forfeitures sometimes showed discretionary 'generosity', returning some of the possessions to the widow or allowing her to buy them back at a favourable rate. While such gifts do not demonstrate opposition to forfeiture as such, they do suggest the tensions that sometimes surrounded the deprivation of the wife of a felon of her husband's personal estate and a sense that whatever the law, the widow might merit some recompense. When Henry Rookeby killed himself in Newcastle in 1617, for example, the town agreed to take only £40 from his widow, despite the estate being valued at some £500.[46] The audit books for the town of Great Yarmouth record a few such compositions for more modest estates, noting the receipt 'from the widow of Samuel Feake, her husband being executed this year, 5s' and from the wife of another felon, 'for the like, 5s'.[47]

The Crown occasionally gave pensions to the widows and children of executed traitors or returned to them some fraction of the seized property; the wives and widows of felons sometimes received royal bounty, too.[48] Anthony Horseman, a yeoman of Great Wolford, Warwick, fled after murdering a man in 1587. Queen Elizabeth granted the £33 worth of forfeited property to one of her gentlemen-at-arms, expressly for the relief of Horseman's wife and family. According to the text of the grant, 'being credibly informed of the poverty and great misery of the wife of the said Horseman and seven poor comfortless children, and taking thereupon great pity and compassion toward the said wife and children', the Queen granted the forfeiture to her servant, 'to the only end and intent that he … shall dispose the same to the use, relief, and maintenance of the said wife and children as by him and them

[45] Cf. R.A. Houston, *Punishing the Dead? Suicide, Lordship, and Community in Britain, 1500–1830* (Oxford: Oxford University Press, 2010), quotation at 112. Macdonald and Murphy, *Sleepless Souls*, had used such cases of evasion primarily as evidence for the effective decriminalization of self-slaying, only secondarily as evidence of opposition to forfeiture. In responding to their argument about a growing sympathy for suicides, Houston has also inverted their depiction of the almoners and their opponents: Houston sees the almoner as bringing 'love, charity or Christian amity' (111) into tense situations, and those who opposed his efforts to seize the property of suicides as self-interested people with a narrow sense of community who sought to deny creditors their just claims. (Houston privileges the claims of creditors over those of widows and heirs, but neither had a legal 'right' to the goods in question.) While he prefers to see forfeiture as 'a means of enforcing trust and community among survivors through the mechanism of lordship', he does now allow that it was at least partly punitive (2). Yet, he claims that complaints about resulting familial hardship were (and are) unfounded (131). He seems to mistake the complaint that 'forfeiture should not affect the guiltless survivors' for an established principle, and later or localized evidence of exceptions for general practice.

[46] TNA: PRO, STAC 8/29/15.

[47] Norfolk Record Office, Great Yarmouth Audit Books, Y/C 27/1, fol. 283.

[48] For examples of such grants to the families of traitors, see, for example, K.J. Kesselring, *The Northern Rebellion of 1569* (Basingstoke: Palgrave Macmillan, 2007), 136–41.

shall be thought most meet and convenient'.[49] Interestingly, these discretionary gifts sometimes amounted to one-third of the personal possessions of the felon, echoing the allotment of dower and 'reasonable parts'. When the Bishop of Peterborough acquired the forfeitures of convict John Browne in 1549, for example, he bestowed two parts on one of his servants but returned the third part to Browne's wife, Alice.[50]

Such gifts were just that, however – gifts. They were discretionary and by no means guaranteed. As with discretionary acts of grace more generally, they had the potential to lessen the sense of a disjunction between justice and legality and thus to secure support for the norm even while making an exception. (And sometimes, too, the gifts may have constituted bribes for compliant behaviour: when investigating Philip Witherick's involvement in a murder, for example, the bailiff told Witherick's wife that he would secure the return of all the forfeited goods if she cooperated, urging her to 'help herself as much as she could'.[51]) Nor did recipients necessarily see the return of only a fraction of the family goods – goods the women may well have seen as their own – as generosity. Even when the grant-holder did return a portion of the property, the widow may well have felt robbed. Despite receiving a third of her husband's forfeiture, Alice Brown still complained to William Cecil about the seizure of the other two-thirds and about the way in which the goods had been divided, noting among other things that she had lost her best down bed.[52] Yet these gifts, such as they were, along with the obstructions and evasions by women and their friends and family, may indicate a sense among some that the wives of felons retained a moral claim to the familial property at odds with the fiction of marital unity.

Certainly, the most common and enduring complaints about forfeiture throughout its history centred on its effects on family members imagined as innocent. Medieval petitioners lamented abuses, such as false convictions to secure the property of innocent men; nineteenth-century MPs drew on Benthamite principles to argue that it was an irrational, disproportionate punishment that 'produced pain without any corresponding advantage'.[53] The most frequent complaint, however, was that the punishment applied not only or even primarily to the offender, but to his or her innocent family members as well. The

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[49] TNA: PRO, C 66/1320, mm. 11–12.
[50] TNA: PRO, SP 10/8, no. 49.
[51] John G. Bellamy, *Strange, Inhuman Deaths: Murder in Tudor England* (Sutton: Stroud, 2005), 95–96, citing TNA: PRO, SP 1/131, fols 208^{v}–9^{v}.
[52] TNA: PRO, SP 10/8, no. 49.
[53] For such medieval complaints, see *Parliament Rolls*, 1343 April (3:38, 3:42); 1354 April (262:51); 1365 January (2:14); 1372 November (3:22); 1376 April (10:71). For examples of nineteenth-century complaints, see Kesselring, 'Felons' Effects'.

sons must not suffer for the sins of the father, nor the wife for those of the husband, these critics insisted. In the early 1540s, Protestant reformer and social critic Henry Brinkelow reserved a prominent place for forfeiture in his pamphlet, *The Complaint of Roderyck Mors ... unto the Parlament House of Ingland ... for the Redresse of Certeyn Wycked Lawes*. He exclaimed, 'O merciful God, what a cruel law is this? ... that when a traitor, a murderer, a felon or an heretic is condemned and put to death, his wife and children and his servants and all they whom he is debtor unto should be robbed for his offence, and brought to extreme poverty ... Alas what can the poor wife, the children, the kinsman or creditor do withal, being not culpable in the crime; if any of them be faulty, then let them have also the law, that is death, which recompenseth the crime.'[54] Similarly, William Tomlinson, a would-be law reformer of the Civil War era, complained in his attack on forfeiture that 'It is not enough that the wife hath lost her husband and the children their father, but to increase their misery, their livelihood must go with his life.'[55] When Englishmen abroad in the colonies had the chance to create law codes to their own liking, they sometimes abolished or restricted forfeiture. The Rhode Island law code of 1647, for example, explicitly declared the colonists' intent in getting rid of forfeiture that 'the wives and children ought not to bear the iniquities of the Husbands and Parents.'[56]

A variety of sources, then, suggest many people believed the conflated effects of coverture and criminal forfeiture represented an unwarranted hardship or active injustice against the wife and family of a felon. From the statutes protecting jointure and dower, the obstructionist tactics of women and their confederates, through to the literature of complaint, evidence mounts that some contemporaries viewed the combined effects of forfeiture and coverture as a problem. Yet, it was precisely the effects of forfeiture on the wives and families of offenders that came to serve as the main defence of the practice. The deterrent value of the impoverishment of the felon's family came to justify the retention of a practice that had outlived the feudal context of its birth.

Sixteenth-century legal writers extolled the admonitory value of forfeiture. Ferdinando Pulton opined of a potential offender that 'if concern for his own life could not stay him from the committing of felony, or treason, yet the love which he did bear to his wife and children should restrain him thereof,

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[54] Henry Brinkelow, *The Complaint of Roderyck Mors ... unto the Parlament House of Ingland ... for the Redresse of Certeyn Wycked Lawes, etc.* (London, 1548), sig. C3^{r-v}.
[55] William Tomlinson, *Seven Particulars* (London, 1657), 18.
[56] *Records of the Colony of Rhode Island and Providence Plantations*, ed. John Russell Bartlett, 10 vols (Providence, RI, 1856–65), vol. 1, 162.

whom he was assured by that wicked act to undo and utterly to deprive them of all livelihood wherewith to maintain them'.[57] William Staunford offered a similar argument, and in a bit of dubious legal history noted that this had been the 'intent' of forfeiture from its inception.[58] The author of the late sixteenth-century *The Lawes Resolutions of Womens Rights* observed that 'The first Solons of the English Law belike thought that tender regard of a wife's estate should restrain a husband from all enormous transgression.' He recognized the error in this assumption – 'would God it might', he observed – but could do no more than quote Staunford's assertion that 'men will now eschew those capital crimes when they shall see those persons who in nature and affection are nearest and dearest unto them, and most to be beloved, shall be punished with themselves, yet they should the rather refrain for the love of their wife and children upon whom they bring so perpetual loss and punishment.'[59]

This insistence upon the deterrent value of forfeiture as a punishment, this embracing of the deleterious effects on wives and children as a rationale for the retention of the practice, may have been new to the early modern period. The late thirteenth-century legal text known as *Britton* opined that the loss of dower was just insofar as a wife 'may be fairly supposed to know of the felony of her husband'.[60] A wife might have diminished responsibility for her own petty crimes thanks to the effects of coverture, but could also justly be expected to share the responsibility for her husband's offences. Early medieval law codes assumed notions of collective guilt and responsibility that only slowly waned.[61] The justification being offered by early modern writers was not an assertion of shared guilt, however; Pulton, Staunford and the rest made no mention of implied consent or even 'unity of person', otherwise so frequently invoked to explain the deleterious effects of marriage. Instead, they assumed the wife's innocence and the injustice done to her by her husband's actions.

Whether new to the early modern period or not, this emphasis on the ruining of a family as a valuable deterrent continued to be offered as a primary justification for forfeiture for many years. William

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[57] Ferdinando Pulton, *De Pace Regis et Regni* (London, 1609), 237d–238.
[58] William Staunford, *Les Plees del Coron* (London, 1560), 194d.
[59] T.E., *The Lawes Resolutions of Womens Rights* (London, 1632), 152.
[60] *Britton: The French Text Carefully Revised, with an English Translation, Introduction and Notes*, ed. and trans. Francis Morgan Nichols, 2 vols (Oxford, 1865; repr. Holmes Beach, FL: W.W. Graunt, 1983), vol. 2, 279–80. Bracton, however, had simply treated the loss of dower as a technical consequence of the felon dying without an heir against which the widow could claim (Henry Bracton, *On the Laws and Customs of England*, trans. S.E. Thorne, 4 vols [Cambridge, MA: Harvard University Press and the Selden Society, 1968–77], vol. 3, 360; see also vol. 2, 428). A widow's dower was, at various points, conditional on her being sexually available to her husband and to no others. See Paul Brand, '"Deserving" and "Undeserving" Wives: Earning and Forfeiting Dower in Medieval England', *Legal History* 22 (2001): 1–20.
[61] Lawrence Stone, *The Family, Sex and Marriage in England, 1500–1800* (New York: Harper and Row, 1977), 126.

Eden, for example, had somewhat contradictory views on the subject but of a sort that made his final endorsement of felony forfeiture all the more striking. In his influential tome on the *Principles of Penal Law*, first published in 1771, he expressed his belief that the forfeiture of the goods of suicides was 'ineffectual and absurd'. An individual who had no concern for his or her immortal soul presumably had no care for family. 'It is cruel also', he wrote, 'and unjust thus to heap sufferings on the head of innocence by punishing the child for the loss of its parent, or aggravating the distress of the widow, because she hath been deserted by her husband.' But he argued that forfeiture for other felonies and for treason served important functions. 'The mere execution of the criminal is a fleeing example; but the forfeiture of lands leaves a permanent impression. It is indeed one of our best constitutional safe-guards, when applied with discretion to the preservation of moral conduct and used without violence to the correction of guilt.' He acknowledged that 'on a superficial glance', it might seem harsh to 'involve a whole family in the punishment of one criminal'. Ultimately, though, he concluded that 'it is neither unjust nor unwise to convert human partialities to the promotion of human happiness.'[62]

One nineteenth-century attorney general, however, expressed some doubts about the effectiveness of this deterrent. Reporting to the 1819 Select Committee on Criminal Laws, he observed that a felon's forfeiture of property 'is attended with a visitation of poverty on the family, and proceeds upon a principle which I am afraid has little operation upon the depraved minds of felons, which is the well-being and comfort of their families. … It is too refined a principle to be acted upon by such persons.'[63] And indeed, over the 1800s, opposition to felony forfeiture – and to the effects of coverture – mounted from a number of fronts. Over the preceding centuries, families generously endowed with land had found ways to protect it, through strict settlements and a variety of other equitable devices. But personal property remained prone to seizure, and as personal property came to acquire greater significance for more significant components of the population, calls to do away with its forfeiture grew louder.[64] Finally, in 1870 – the same year as the first Married Women's Property Act – Parliament abolished felony forfeiture.[65]

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[62] William Eden, *Principles of Penal Law*, 3rd edn (Dublin, 1772), 37–38, 48, 249–50. Eden drew much of his argument from Charles Yorke, *Considerations on the Law of Forfeiture for High Treason* (London, 1745).
[63] *Select Committee on Criminal Laws Relating to Capital Punishment in Felonies. Report, Minutes of Evidence*. (London, 1819), 49.
[64] See, for example, Theodore Barlow, *The Justice of the Peace* (London, 1745), 215.
[65] See Kesselring, 'Felons' Effects', for the broader context of forfeiture's demise.

Throughout much of their histories, the conjunction of the effects of coverture and of criminal forfeiture had, and was seen to have, unfortunate effects on the wives or widows of felons. But rather than being merely a regrettable side effect of the punishment, this impoverishment of the wife and family came to be one of its chief justifications. The patriarchal structure of property law impinged upon the criminal law in ways that posed hardship for many an individual woman; moderated by the equitable protections for the well-to-do, it also helped perpetuate the ancient sanction of criminal forfeiture through the years in which private property became sanctified. As Amy Erickson has argued in other contexts, 'the shape of marital property law had multiple and far reaching ramifications ... well beyond issues of possession.'[66] The gendered nature of property rights under coverture provided a powerful rationale to retain the practice of felony forfeiture. English jurists liked to claim that women were a 'favourite' of the law, noting as evidence married women's diminished responsibility for their own criminal misdeeds. Given that wives and widows were for so long subject to punishment for their husbands' more frequent criminal acts, some might have thought this a very fictive kind of favouritism indeed.

Works Cited

Primary Sources

Manuscript sources

National Archives. Public Record Office, SP 1/131; SP 1/162; SP 10/8; SP 29/57; C 66/1320; C 82/530/369; E 134/17 Eliz/Trin 4; E 134/44 & 45 Eliz/Mich 39; E 134/17 Jas 1/Mich 38; E 134/23 & 24 Chas I/Hil 2; E 124/1; STAC 3/2/77; STAC 3/3/59; STAC 5/A10/20; STAC 8/24/10.

Norfolk Record Office, Y/C 27/1.

Nottinghamshire Archives, DDE 67/1.

Parliamentary Archives, HL/PO/PB/1541/33H8n44.

Printed Primary Sources

Barlow, Theodore. *The Justice of the Peace*. London, 1745.

Blackstone, William. *Commentaries on the Laws of England*. 4 vols. Oxford, 1765–69.

Bracton, Henry. *On the Laws and Customs of England*. Translated by S.E. Thorne. 4 vols. Cambridge, MA: Harvard University Press and the Selden Society, 1968–77.

[66] Erickson, 2007, 382, and 'Coverture and Capitalism', *History Workshop Journal* 59 (2005): 1–16.

Brinkelow, Henry. *The Complaint of Roderyck Mors ... unto the Parlament House of Ingland ... for the Redresse of Certeyn Wycked Lawes, etc*. 'Geneva' [i.e., London], 1548.

Britton: *The French Text Carefully Revised, with an English Translation, Introduction and Notes.* Edited and translated by Francis Morgan Nichols. 2 vols. Oxford, 1865; repr. Holmes Beach, FL: W.W. Graunt, 1983.

Cobbe, Frances Power. 'Criminals, Idiots, Women and Minors'. *Fraser's Magazine,* December 1868, 777–94.

Coke, Edward. *The First Part of the Institutes of the Laws of England, or a Commentary upon Littleton*. Edited by Francis Hargrave and Charles Butler. 19th ed. 2 vols. London, 1832.

The Court Rolls of the Honor of Clitheroe. Edited and translated by William Farrer. 3 vols. Edinburgh: Ballantyne Press, 1913.

Eden, William. *Principles of Penal Law*. 3rd ed. Dublin, 1772.

The English Reports. Edited by Alexander Wood Renton. 176 vols. Edinburgh, 1900–1932.

Hale, Matthew. *Historia Placitorum Coronae*. Edited by Sollom Emlyn. 2 vols. Philadelphia, PA, 1847.

Married Women's Property Committee Report of the Proceedings of the Annual Meeting, 1876. Manchester, 1876.

The Parliament Rolls of Medieval England. Edited by Chris Given-Wilson et al. Leicester: Scholarly Digital Editions, 2004.

Proceedings and Ordinances of the Privy Council. Edited by Harris Nichols. 7 vols. London, 1834–37.

Pulton, Ferdinando. *De Pace Regis et Regni*. London, 1609.

Records of the Colony of Rhode Island and Providence Plantations. Edited by John Russell Bartlett. 10 vols. Providence, RI: 1856–65.

Select Committee on Criminal Laws Relating to Capital Punishment in Felonies. Report, Minutes of Evidence. London, 1819.

Staunford, William. *Les Plees del Coron*. London, 1560.

T.E. *The Lawes Resolutions of Womens Rights*. London, 1632.

Tomlinson, William. *Seven Particulars*. London, 1657.

A Treatise of Feme Coverts: Or, The Lady's Law. London, 1732.

The Treatise on the Laws and Customs of the Realm of England: Commonly Called Glanvill. Edited by G.D.G. Hall. London, 1965; repr. Holmes Beach, FL: W.W. Gaunt, 1983.

Yorke, Charles. *Considerations on the Law of Forfeiture for High Treason*. London, 1745.

Secondary Sources

Bailey, Joanne. 'Married Women, Property, and "Coverture" in England, 1660–1800'. *Continuity and Change* 17 (2002): 351–72.

Bean, J.M.W. *The Decline of English Feudalism, 1215–1540.* Manchester: Manchester University Press, 1968.

Beattie, Cordelia. '"Living as a Single Person": Marital Status, Performance and the Law in Late Medieval England'. *Women's History Review* 17 (2008): 327–40.

Bellamy, John G. *The Law of Treason in England in the Later Middle Ages*. Cambridge Studies in English Legal History. Cambridge: Cambridge University Press, 1970.

———. *Strange, Inhuman Deaths: Murder in Tudor England*. Sutton: Stroud, 2005.

Biancalana, Joseph, *The Fee Tail and the Common Recovery in Medieval England, 1176–1502*. Cambridge Studies in English Legal History. Cambridge: Cambridge University Press, 2001.

Brand, Paul. '"Deserving" and "Undeserving" Wives: Earning and Forfeiting Dower in Medieval England'. *Legal History* 22 (2001): 1–20.

Butler, Sara M. 'Degrees of Culpability: Suicide Verdicts, Mercy and the Jury in Medieval England'. *Journal of Medieval and Early Modern Studies* 36 (2006): 263–90.

Cioni, Maria. *Women and Law in Elizabethan England, with Particular Reference to the Court of Chancery*. New York: Garland, 1985.

Crawford, Anne. 'Victims of Attainder: The Howard and de Vere Women in the Late Fifteenth Century'. *Reading Medieval Studies* 15 (1989): 59–74.

Doggett, Maeve. *Marriage, Wife-Beating, and the Law in Victorian England*. Columbia: South Carolina University Press, 1993.

Dolan, Frances. *Marriage and Violence: The Early Modern Legacy*. Philadelphia: University of Pennsylvania Press, 2008.

Erickson, Amy Louise. 'Common Law versus Common Practice: The Use of Marriage Settlements in Early Modern England'. *Economic History Review*, 2nd ser., 43 (1990): 21–39.

———. ‘Coverture and Capitalism’. *History Workshop Journal* 59 (2005): 1–16.

———. ‘Possession—and the Other One-tenth of the Law: Assessing Women’s Ownership and Economic Roles in Early Modern England’. *Women’s History Review* 16 (2007): 369–85.

———. *Women and Property in Early Modern England*. London: Routledge, 1993.

Habakkuk, John. *Marriage, Debt and the Estates System: English Landownership 1650–1950*. Oxford: Clarendon Press, 1994.

Harris, Barbara J. *English Aristocratic Women, 1450–1550: Marriage and Family, Property and Careers*. Oxford: Oxford University Press, 2002.

Holcombe, Lee. *Wives and Property: Reform of the Married Women’s Property Law in Nineteenth-Century England*. Toronto: University of Toronto Press, 1983.

Houston, R.A. *Punishing the Dead? Suicide, Lordship, and Community in Britain, 1500–1830*. Oxford: Oxford University Press, 2010.

Hunt, Margaret. ‘Wives and Marital “Rights” in the Court of Exchequer in the Early Eighteenth Century’. In *Londinopolis: Essays in the Cultural and Social History of Early Modern London*. Edited by Paul Griffiths and Mark S.R. Jenner, 107–29. Manchester: Manchester University Press, 2000.

Jones, W.J. *The Elizabethan Court of Chancery*. Oxford: Clarendon Press, 1967.

Kesselring, K.J. ‘Felons’ Effects and the Effects of Felony in Nineteenth-Century England’. *Law and History Review* 28 (2010): 111–39.

———. ‘Felony Forfeiture, c. 1170–1870’. *Journal of Legal History* 30 (2009): 201–26.

———. ‘Felony Forfeiture and the Profits of Crime in Early Modern England’. *Historical Journal* 53 (2010): 271–88.

———. *The Northern Rebellion of 1569: Faith, Politics and Protest in Elizabethan England*. Basingstoke: Palgrave Macmillan, 2007.

Lander, J.R. ‘Attainder and Forfeiture, 1453–1509’. *Historical Journal* 4 (1961): 119–51.

Levy, Leonard W. *A License to Steal: The Forfeiture of Property*. Chapel Hill: University of North Carolina Press, 1996.

Loengard, Janet. ‘“Of the Gift of Her Husband”: English Dower and Its Consequences in the Year 1200’. In *Women of the Medieval World: Essays in Honor of John H. Mundy*. Edited by Julius Kirshner and Suzanne F. Wemple. Oxford: Blackwell, 1985. 215–55.

———. ‘“Plate, Good Stuff, and Household Things”: Husbands, Wives, and Chattels in England at the End of the Middle Ages’. *Ricardian* 13 (2003): 328–40.

MacDonald, Michael, and Terence R. Murphy. *Sleepless Souls: Suicide in Early Modern England*. Oxford: Clarendon Press, 1990.

Pollard, A.F. *England under Protector Somerset*. 1900; repr. New York: Russell and Russell, 1966.

Ronner, Amy D. ‘Husband and Wife Are One – Him: *Bennis v. Michigan* as the Resurrection of Coverture’. *Michigan Journal of Gender and Law* 4 (1996): 129–69.

Ross, C.D. ‘Forfeiture for Treason in the Reign of Richard II’. *English Historical Review* 71 (1956): 560–75.

Ross, Charles. *Elizabethan Literature and the Law of Fraudulent Conveyance: Sidney, Spenser, and Shakespeare*. Aldershot: Ashgate, 2003.

Spring, Eileen. *Law, Land, and Family: Aristocratic Inheritance in England, 1300–1800*. Chapel Hill: University of North Carolina Press, 1993.

Staves, Susan. *Married Women’s Separate Property in England, 1660–1833*. Cambridge, MA: Harvard University Press, 1990.

Stone, Lawrence. *The Family, Sex and Marriage in England, 1500–1800*. New York: Harper and Row, 1977.

Stretton, Tim. ‘Coverture and Unity of Person in Blackstone’s Commentaries’. In *Blackstone and His Commentaries: Biography, Law, History*. Edited by Wilfrid Robinson Prest. Oxford: Hart, 2009. 111–28.

———. ‘Marriage, Separation and the Common Law in England, 1540–1660’. In *The Family in Early Modern England*. Edited by Helen Berry and Elizabeth A. Foyster. Cambridge: Cambridge University Press, 2007. 18–39.

Todd, Barbara. ‘Freebench and Free Enterprise: Widows and Their Property in Two Berkshire Villages’. In *English Rural Society, 1500–1800*: *Essays in Honour of Joan Thirsk*. Edited by John Chartres and David Hey. Cambridge: Cambridge University Press, 1990. 175–200.

Walker, Sue Sheridan. ‘Litigation as Personal Quest: Suing for Dower in the Royal Courts, circa 1271–1350’. In *Wife and Widow in Medieval England*. Edited by Sue Sheridan Walker. Ann Arbor: University of Michigan Press, 1993. 81–108.

Wormald, Patrick. *The Making of English Law: King Alfred to the Twelfth Century*. Vol. 1: *Legislation and Its Limits*. Oxford: Blackwell, 1999.