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Later Nineteenth Century Marriage And Divorce Law: The Changing Historiography Of The Law And British Women's History

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LATER NINETEENTH CENTURY MARRIAGE AND DIVORCE LAW: THE
CHANGING HISTORIOGRAPHY OF THE LAW AND BRITISH WOMEN'S
HISTORY

by

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This thesis, submitted by Michael B. Mishler in partial fulfillment of the requirements for the Degree of Master of Arts from the University of North Dakota, has been read by the Faculty Advisory Committee under whom the work has been done and is hereby approved.

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This thesis meets the standards for appearance, conforms to the style and format requirements of the Graduate School of the University of North Dakota, and is hereby approved.

Wayne Swisher

4/25/2012

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ABSTRACT

This thesis examines how the historiography of women's history and legal history with regard to later nineteenth century England have failed to interact in an appreciable way. In failing to do so a gap has gradually emerged between these two related but separate areas of historical inquiry. Women's and later gender history has tended to focus more on what women's lives were like and their roles both inside and outside the home. Legal historians and scholars in general have focused primarily on changes in marriage, divorce, and property law but they have failed to explain or show how legal reform affected or impacted the lives of women. This thesis traces the formation of this gap by focusing on the historiography of women's history and legal history with regard to marriage and divorce and partially bridges it by bringing these two related but disparate fields together. Through incorporating select primary source materials alongside the detailed historiography this study more clearly shows how legal reform and social movements cannot be studied alone and when taken together give a fuller picture of the lives of middle class women.

CHAPTER I
INTRODUCTION

The historiography related to the latter half of the nineteenth century in Britain has undergone massive change over the course of the past three decades. One of the most notable changes has been the focus on women, particularly in studies that have sought to understand what women's lives were like during this period. Rooted in careful examinations of Victorian culture and society, these explorations in women's and gender history have tended to focus on middle-class women. Understandably, much of this literature has examined the middle-class "domestic ideal" as it was manifested, defended, and proclaimed. The result has been numerous studies that have attempted to reconstruct the lived experience of middle-class women, often for the express purpose of demonstrating either how closely or how incompletely these women's lives matched the culturally-constructed ideal. This historiographical dichotomy is perhaps best represented in Elizabeth Langland's *Nobody's Angels: Middle Class Women and Domestic Ideology in Victorian Culture* and Joan Perkin's *Victorian Women*. Other works have sought to document how and why this domestic ideology came into being in the first place. And, perhaps even more to the point, such works have sought to explain what the ideology and the "ideal" meant for middle-class women as well as the important role this ideology played in the redefinition of class and power relationships in Victorian society.

While much of the literature makes mention of the changing legal status of women, few scholars have sought to establish what these legal changes meant for the

middle-class ideal and domestic ideology. One work that fits into this category is *Defining the Victorian Nation: Class, Race, Gender and the British Reform Act of 1867* by Catherine Hall, Keith McClelland, and Jane Rendall. This work, in particular, examines how the Reform Act of 1867 marked the beginning of a debate concerning women's suffrage, defining who was and was not a part of the nation. This collection, however, is the exception that proves the rule, as much of the scholarship has ignored or taken for granted the powerful social force of the law and has failed to connect it to middle-class women's changing place in society during the latter half of nineteenth-century in Britain. The law is one key area in which cultural constructs of women and their roles meet and intertwine with the lived experiences of these women. This thesis, therefore, will illustrate the importance of the changing legal status of women with regard to family law and explain how this set of changes shaped and further defined domestic culture. This study will reveal the similarities and disjunctures between legal and women's history and hopefully provide a clearer understanding of middle-class English women's lives in the latter half of the nineteenth century.

Though largely historiographic in nature, this study will make use of primary sources to highlight why and how legal changes need to be understood, along with larger social changes, to come to a better understanding of middle-class women's lives. Taking a largely qualitative approach, this thesis will make extensive use of the English Reports, Blackstone's legal commentaries for both the United States and England, *The Law of Husband and Wife as Established in England and the United States* by David Stewart, *Legal Rights, Liabilities and Duties of Women* by Edward D. Mansfield, *Every Woman Her Own Lawyer* by George Bishop, and the domestic advice manuals of well-known

authors such as Sarah Stickney Ellis and Isabella Beeton.¹ As a result, this study will both fill an important gap in the extant literature and make a contribution by helping to create a more complete picture of middle-class women's domestic lives in England.

A brief review of the existing historiography concerned with middle-class Victorian women in Britain reveals a significant gap in our historical understanding and knowledge. Works like Perkin's *Victorian Women* sought to understand broadly what life was like for middle-class, working-class, and upper-class women in nineteenth-century Britain. She set out with the intention of understanding their lives over the course of the century, specifically referring to the ways in which education, work, marriage, and family shaped their lives. Perkin's work began with the assumption that women were regarded as inferior to men in nineteenth-century England, and moved into a careful explanation of how these women learned to cope with their unequal situation. Despite providing readers with chapters that focused on marriage and the family, Perkin devoted little time to discussing marriage laws and how these laws affected the lives of Victorian women. Instead she focused on the differences of opinion between various classes of women in an attempt to broadly show what their lives were like. When a discussion of marriage did arise in reference to middle-class women, little connection was drawn between marriage

¹ Isabella Beeton, *The Book of Household Management* (London: S.O. Beeton, 1863); George Bishop, *Every Woman Her Own Lawyer: A Private Guide in All Matters of Law, of Essential Interest to Women, and by the Aid of Which Every Female May, in Whatever Situation, Understand Her Legal Course of Redress, and Be Her Own Legal Adviser* (New York: Dick & Fitzgerald, 1858); William Blackstone, *Commentaries on the Laws of England* (Buffalo, NY: William S. Hein & Co., 1992; Originally published: Oxford: Clarendon Press, 1765-1769); Sarah Stickney Ellis's *Family Secrets: Or Hints to Those that Would Make the Home Happy* (London: Fisher, Son & Co., 1841), *The Women of England: Their Social Duties and Domestic Habits* (New York: D. Appleton & Co., 1843), *The Wives of England: Their Relative Duties, Domestic Influence and Social Obligations* (New York: D. Appleton & Co., 1843), and *The Mothers of England: Their Influence and Responsibility* (New York: D. Appleton & Co., 1844); Edward D. Mansfield, *Legal Rights, Liabilities and Duties of Women* (Salem: John P. Jewett & Co., 1845); David Stewart, *The Law of Husband and Wife as Established in England and the United States* (San Francisco: Bancroft-Whitney Co., 1885); *The English Reports: ECCLESIASTICAL, ADMIRALTY, AND PROBATE AND DIVORCE*, vol. 161-167 (London: W. Green Stevens Son, Limited, 1917).

law and actual married life. For instance, she wrote, “it was middle class wives who were most constrained by marriage laws... the gilded cage of bourgeois marriage was approved by those who idealized its comfort and security, but hated by those who found it claustrophobic and frustrating.”² While a fascinating observation, Perkin did not fully explain why and how marriage was so constricting to middle-class women. In short, Perkin’s work did not fully connect the power of the law to her more detailed description of domestic life.

Another work important to the historiography of middle-class women’s domestic life in Victorian England is Elizabeth Langland’s *Nobody’s Angels: Middle Class Women and Domestic Ideology in Victorian Culture*. Hers is a work that examined the popular writings of the nineteenth century to help inform and present a picture of domestic ideology. Langland’s work was highly influenced by Michel Foucault and examined the social discourse surrounding domesticity in nineteenth-century England in a wide array of texts. Through an examination of the “cultural capital” of the time, focusing particularly on literature from authors such as Charles Dickens and Elizabeth Gaskell, but also on prescriptive literature, Langland outlined the discourses that created multiple views of middle-class domesticity. In her view the prescriptive literature amounted to “documents aimed specifically at enabling the middle class to consolidate its base of control through strategies of regulation and exclusion.”³ Offering further evidence of the social power of etiquette and advice manuals she wrote,

these etiquette books were neither a continuing feature from eighteenth century life nor a continual aspect of the nineteenth century... Suddenly in the 1830s, numerous new volumes found print. The rise of etiquette guides

² Joan Perkin, *Victorian Women* (New York: New York University Press, 1993), 76.

³ Elizabeth Langland, *Nobody’s Angels: Middle Class Women and Domestic Ideology in Victorian Culture* (Ithaca: Cornell University Press, 1995), 24.

thus coincides with a period in British life inaugurated by the Reform Bill.⁴

The Reform Bill opened the political arena to an emergent middle-class. This developing middle-class used its political gains alongside this prescriptive literature to define its place within British society. A result of this was that there was a dramatic increase in the amount of prescriptive literature. This, according to Langland, was why prescriptive literature was so central to creating and maintaining middle-class identity.⁵ The same idea holds true for the novel, which achieved immense popularity during this period. It was the works of Dickens and others that not only reflected middle-class identity but also made firm the foundations of this class identity. Through an increasingly intricate analysis Langland illustrated not only what domesticity was for the middle class but also its centrality to their identity. For women this also meant acting according to their prescribed roles. Absent, however, from this detailed work, is a discussion of marriage law and later divorce law. So, too, is any discussion of how these laws and any changes to them might have affected the middle class, particularly the women.

While a discussion of marriage as it related to the law or legal system is lacking in Langland's work, marriage in Victorian England has been the primary focus of some scholars. John R. Gillis devoted an entire book to a study of marriage in England from the 1600s through the present.⁶ His work is especially important in its tracing of the evolution of marriage customs in England over a four hundred year time period. Gillis, in particular, focused his attention on marriage as an institution and how it affected various parts of English society during the period. His chapters devoted to the nineteenth

4 Langland, 26-27.

5 Langland, 28.

6 John R. Gillis, *For Better, For Worse: British Marriages, 1600 to the Present* (New York: Oxford University Press, 1985).

century provide a good description of marriage rights and traditions among the working classes of England. He also provided insight into the increasing societal norm of officially sanctioned marriages in the nineteenth century. It was during this time that common law marriages or marriages by custom faded into obscurity, largely due to increased access to official marriages through the Civil Marriage Act of 1836.⁷ For the middle part of the nineteenth century Gillis presented a typical picture of Victorian England. In the section titled “The Era of Mandatory Marriage,” Gillis clearly highlighted the importance of families, marriage, and strict sexual morals. While including an informative discussion of the importance of marriage, especially for working-class women who felt economically compelled to marry, Gillis did little to describe what married life was like for these women.⁸ Even worse, in a sense, is the fact that Gillis revealed little about middle-class women and why they felt compelled to marry. Here again we encounter the issue of a work that is too broad; one that is successful in describing how and why marriage and marriage customs changed over time in England but fails to present a more focused picture on what married life was like and how this was affected by the law. For a more detailed explanation of what marriage was like for women in the nineteenth century we must again turn to Joan Perkin.

An earlier work by Perkin that focused not just on Victorian women but on marriage in Victorian England and its impact on women is her 1989 study, *Women and Marriage in Nineteenth Century England*. Similar to her more general work mentioned previously, Perkin began by noting how women have been systematically oppressed throughout the course of English history. More to the point, she attributed this fact not to

⁷ Gillis, 231.

⁸ Gillis, 243.

broader societal factors or notions of sexual biological difference, but instead she attributed it to the law. As she explained, it was in the law that many of these notions of difference made themselves known and became enshrined in a society's official doctrine on how to behave. For Perkin the law enshrined and reflected women's subjugation.⁹ Using the law as a starting point, Perkin strove to understand and explain how women "coped with their subordination... accepted and embraced their lot... [and] why some wives [were] so much more dissatisfied than others, that they were willing to fight long and hard for legal emancipation for themselves and other women."¹⁰ It is in this work that Perkin, more than others, began to connect the powerful social force of the law to women's lives. She addressed the paradox of middle-class women being most constrained by the law even as many women within this class were the most boisterous defenders of their place in society and the laws that kept them there. Ultimately, though, there was a subset of middle-class women who rejected the accepted norms enshrined in the law and worked to emancipate themselves and their fellow women through legal reform.¹¹ Perkin gave powerful descriptions of the legal system, and explained what it meant for women, especially with regard to marriage. Here again, though, there is the issue of a lack of connection between domestic life and how the law, specifically marriage law, shaped and affected middle-class women's lives. Most of the work is focused on what marriage was like for the two poles of English society, the landed and wealthy elites and, on the other end of the spectrum, the poor and working classes. It is not until the end of her work that Perkin's comes to the middle class. Here, however, her work focused primarily on reformers and their rejection of marriage because of its

⁹ Joan Perkin, *Women and Marriage in Nineteenth-Century England* (Chicago: Lyceum Books, 1989), 1.

¹⁰ Perkin, 3.

¹¹ Perkin, 207.

constraining nature.¹² Perkin did deal with the dichotomy created between the prescriptive literature of the day and the contemporary writings of reformers such as John Ruskin and Coventry Patmore. This section in particular offered a ray of hope for connecting the issues of marriage law and domestic life but failed to go any further than stating that, “domesticity was popular with many middle-class women,” and in doing so failed to connect this popularity with the legal enshrinement of domesticity.¹³ Still, when considering *Women and Marriage in Nineteenth-Century England* together with her later work, Perkin comes closer than many in beginning to bridge the historical gap between legal histories and social histories regarding Victorian women.

An equally important work in the historiography of marriage and middle-class life in nineteenth-century England is Allan Horstman’s *Victorian Divorce*. This study, published in 1985, traced the lineage of divorce law in England and explained why a more specific law emerged in the late 1850s that made divorce more accessible than it had ever been in England. His goal in writing this work was to “[find] another way to examine Victorian Society...”¹⁴ To this end he began by tracing the roots of divorce in the English legal system, something that goes back to Henry VIII. For our purposes, though, it is his description of what the Divorce Act of 1857 did that is of importance. In his words, “the Divorce Bill had been passed to punish transgressors against the marital bond—something all Respectables agreed upon—the divorce court also came to educate Respectables about such things as cruelty, desertion, and condonation.”¹⁵ Horstman is also very influential because he centered his study around the idea of respectability and

12 Perkin, 234.

13 Perkin, 249.

14 Allen Horstman, *Victorian Divorce* (New York: St. Martin’s Press, 1985), 1.

15 Horstman, 89.

how this shaped and influenced divorce law reform. The idea of respectability was central not only to the work of Horstman but to many other authors who wrote of this era and of legal reform. Because of its centrality in the historiography, as well as to this work, it becomes necessary to turn from focusing on Horstman for the moment to explaining what respectability meant within Victorian society.

Respectability, as understood in Victorian society, was an ideal of the middle-class that emphasized a certain set of values that were to guide and be evident in a particular person's life. While F.M.L. Thompson explained that respectability "was a creed and a code for the conduct of personal and family life,"¹⁶ Allen Horstman attempted to define it as "not exclusively an economic classification... Respectables saw themselves as the future pillars of Britain, whether as owners, managers, or workers... [It was] not a religious category either, Respectability required the earnestness associated with the Evangelicals but not necessarily the beliefs... most often, Respectability, depending on values and attitudes, hinged on the treatment of others (be they inferiors, superiors, or equals) and appearances—in other words, behaviour."¹⁷ These, however, are not the only definitions and, while adequate, the definition of respectability has been elaborated and improved upon by others. A perception of respectability helped to instruct the middle and upper classes, and those who wanted to be respectable, not only about the importance of marriage but also about living proper lives. This meant a marriage in which a man, as patriarch, lived up to his duty to provide for his wife and family. This is an important aspect of middle-class domestic life and relations, for according to the prescriptive literature and prevailing social norms it was a husband's duty to provide and care for his

¹⁶ F.M.L. Thompson, *The Rise of Respectable Society: A Social History of Victorian Britain 1830-1900* (London: Fontana Press, 1988), 251.

¹⁷ Horstman, *Victorian Divorce*, 37.

wife. This was one of the benefits women were thought to gain through marriage.

In this way Horstman's work, like Perkin's work on marriage, comes closer to explaining how the law affected domestic ideology and women. Still, while promising, Horstman's work falls short of providing an adequate social history that informs the ways in which the law, specifically marriage and divorce law, interacted with and shaped domestic relations and the lives of middle-class Victorian women.

The American context is not without its historiography either. By temporarily shifting the focus and by discussing the American historiography we see similar patterns and problems of historical research emerge especially when taken in context with the British case. Historians studying the American case have sought to explain and understand many of the same research questions as their British counterparts. As such there has been a certain amount of academic exchange and discourse. Indeed, there has been a significant amount of cross-over in the historiography. One of the more influential historians whose works exemplify just this is Nancy Cott. More will be discussed about Cott later, suffice it to say though her works have been influential with historians studying similar issues in both the United States and Britain. Like the British side of things, the American case, has seen numerous works published on the laws of marriage and divorce, the roles and place of women in society and of works that sought to understand legal reform in general as well as with regard to women. One final reason it is necessary to explore the American historiography is that the legal system of the United States inherited its traditions from England, and as such many similar legal issues present themselves. However, like its British counterpart, this body of literature suffers from a serious lack of integration between what might be called social and legal histories and

between these two scholarly communities. Through an examination of this historiography we can trace patterns of scholarship and consequently a fuller historical picture emerges.

Early American women's historians and feminist historians were primarily concerned with inserting women back into the American historical narrative. Put another way, they tried to rewrite the "great man" history of influential male leaders and political events that had existed up until the 1960s. Early works of this second-wave feminism sought to include "great women" in the historical narrative and to understand their lives and their contributions to the nation. One of the earliest works highlighting the exclusion of women from American history was Gerda Lerner's article "New Approaches to the Study of Women in American History" published in *The Journal of Social History*. This article, from 1969, highlighted the systematic exclusion of women in the writing and study of American history up to that point. Of this Lerner wrote,

The historiography of women is the general neglect of the subject by historians. As long as historians held to the traditional view that only the transmission and exercise of power were worthy of their interest, women were of necessity ignored. There was little room in political, diplomatic, and military history for American women, who were, longer than any other single group in the population, outside the power structure.¹⁸

Lerner also explained that up to the time of her writing there had only been scattered, overly-general, piecemeal, and topically limited historical works that included women. It was feminists, Lerner noted, who had primarily written women back into history. To her these feminists wrote about any women in America's past who had contributed in any noticeable way. However, Lerner questioned the limited viewpoint of these feminists (the singular view of systematic oppression of women by men) and the fact that most had no

¹⁸ Gerda Lerner, "New Approaches to the Study of Women in American History," *Journal of Social History* 3.1 (Autumn 1969): 53.

formal historical training. As such their works were largely ineffectual. Lerner ultimately called for other historians to take up the call of writing women back into the history of America by developing a separate framework from that of the feminists. Lerner wrote, “A new conceptual framework for dealing with the subject of women in American history is needed. The feminist frame of reference has become archaic and fairly useless....”¹⁹ Lerner called for historians (social historians in particular) to not only adopt a new framework apart from that of feminism, but also suggested that women’s history was too broad a category to study easily. Instead, Lerner suggested this broad category be broken down into more manageable and meaningful units of study, like women’s economic, family, and political status.²⁰ She also suggested scholars move away from the feminist model of the “oppressed group theory” and look at women’s involvement in the nation’s history beyond just the women’s rights movement.²¹ In short, Lerner wanted historians to move away from a singular, oppressive-based model of understanding and to write women fully back into the history of the United States.

However, even by 1975 those writing women’s history in the United States were still searching for a framework beyond the feminist model of oppression and beyond a simple focus on “great women” or what Lerner calls “women worthies.” Works were still being written within these frameworks, and the result was a series of myopic histories that did little to further explain the experience of a majority of American women. That is to say, by focusing primarily on women who were notable for their leadership, contributions, or radicalism, most histories of the United States that incorporated a diversity of women’s roles were rare. Most failed to understand or even investigate what

¹⁹ Lerner, 56.

²⁰ Lerner, 60.

²¹ Lerner, 60-61.

an average woman's life was like. As early as 1946, Mary Beard, who is sometimes overlooked, wrote about how the feminist framework of oppression was not only too limiting but was also not factually accurate.²² The major failing of this framework according to Beard, and later Gerda Lerner, was that it created a binary understanding of women. Under this framework of oppression women were either historically passive victims or simply reacted to male oppression and the conditions imposed on them.²³ Worse yet, relying on an oppression framework not only made women appear passive and denied their uniqueness as historical actors, it also placed women back in a male-defined and dominated conceptual framework.²⁴ Despite such long-standing critiques many feminist historians continued to incorporate this framework of oppression into their works well into the late 1970s. It can be seen in the rash of works that sought to understand women solely through prescriptive literature and sermons, through the traditional stereotypes of women and Victorian sexuality. Despite theoretical developments like "the cult of true womanhood" or "separate spheres" historians in the mid-1970s continued to understand women's history largely within a singular framework.²⁵ The problem with the analysis which emerged from this framework was that all too often historians understood this prescriptive literature to reflect the actual lived experience of American women in the nineteenth century. As Carl Degler pointed out, "One of the historian's recognized difficulties in showing, through quotations from writers who assert a particular outlook, that a social attitude prevailed in the past is that

22 Mary Beard, *Woman as Force in History* (New York: Collier Books, 1946). Beard basically charges that feminists misread William Blackstone and solely took his understanding of women under the law as the truth about how the law understood and effected women historically.

23 Gerda Lerner, "Placing Women in History: Definitions and Challenges," *Feminist Studies* 3.1/2 (Autumn 1975): 6.

24 Lerner, 6.

25 Lerner, 7.

one always wonders how representative and how self-serving the examples or quotations are.”²⁶ In this 1974 article, Degler attempted to show how historians in the late 1960s and early 1970s had taken a few popular prescriptive medical works from the nineteenth century and used them to show how Victorian doctors and society itself agreed that women were without sexual feelings. In stark contrast to this supposedly widespread and actually long-held notion about the period, Degler showed that many medical experts not only believed that women had sexual feelings but that this was a healthy and normal part of their existence.²⁷ In other words, medical opinion at the time varied and there was no singular ideology of women’s sexuality that was all-encompassing.²⁸ The point of Degler’s article was to caution historians against using prescriptive literature as the basis for their monographs and articles without establishing how widespread or influential a given ideal was. Degler summed this up well by noting that “Another important part of the explanation is that the sources that were surveyed and quoted were taken to be descriptive of the sexual ideology of the time when in fact they were part of an effort by some other medical writers to establish an ideology, not to delineate an already accepted one.”²⁹ In particular, he was critical of historians like Steven Marcus, Oscar Handlin, and Nathan Hale, Jr. who all made this mistake in their writings regarding women and societal views towards women’s sexuality during the nineteenth century. Degler and Lerner are two of the most prominent voices criticizing and urging historians during the late 1960s and the mid-1970s to move beyond the feminist framework to understand the lives of women in the past, but they were not alone.

26 Carl Degler, “What Ought To Be and What Was: Women’s Sexuality in the Nineteenth Century,” *The American Historical Review* 79.5 (Dec. 1974): 1472.

27 Degler, 1471.

28 Degler, 1471.

29 Degler, 1477.

Degler and Lerner did not receive a simple response from the larger historical community. Many members, especially those writing women's history, felt the sense of limitation described by Degler and Lerner, resulting in a number of crucial and influential works that emerged during the late 1970s and early 1980s. These books and articles attempted to move beyond the limited framework provided by the victimization theory and sought to study a broader spectrum of women. One of the most influential was Nancy Cott's *The Bonds of Womanhood*, published in 1977. Writing about New England from the late eighteenth century through 1835, Cott was able to show that while women may have appeared oppressed to the modern eye, in their own minds they saw no link between their domestic life and any possible limitation on their political and social progress.³⁰ In fact this female-dominated domestic sphere, so often portrayed as unequal in prior writings based primarily on singular readings of prescriptive literature, was seen by nineteenth-century women as equal to the men's public sphere. According to Cott it was the sense of shared experience in this domestic sphere that allowed women to feel united as a distinct and important social group.³¹ It is this group consciousness, rooted in the shared "sisterly" experience to the domestic sphere and domestic ideology, that Cott saw as the foundation for the women's rights movement later in the nineteenth century.³² This domestic sphere was created by changing market forces which, to Cott, replaced the traditional home-based economy of shared work between husband and wife. This shared work was replaced with a market-driven economy in which men were required to go out and work for wages while their wives remained at home in the domestic sphere.³³ Cott's

30 Nancy Cott, *The Bonds of Womanhood* (New Haven: Yale University Press, 1977), 15.

31 Cott, 25.

32 Cott, 194.

33 Cott, 40.

work, more than any other up to this point, was able to move beyond the constraints of the feminist framework of oppression to study a broad variety of women from a distinct historical period. Far from being overly broad, Cott was able to create a work that was highly specific but whose conclusions could be applied beyond the specific geographic area of her study. While revolutionary and well-written, Cott's work could benefit from a deeper investigation into the legal realities that created the domestic space in which women created their sense of shared identity. Cott would later come to see the importance of the law as a societal force in its ability to shape and affect the lives of women.³⁴

Cott's work was the seminal study that allowed historians both in the United States and Britain to move beyond the limiting and circular feminist framework of oppression. It also highlighted the importance of how a focused and scholarly analysis of a distinct time period, geographic area, and group of people could result in a meaningful understanding of what women's lives were like as well as their contributions to history. Cott inspired a number of followers who, emboldened by her research, were able to produce monographs and articles that further investigated the lives of women during the nineteenth century in America. Crucial works emerged that sought to understand the experience of middle-class and working-class women from the time of the early republic up through the end of the nineteenth century. These works were not solely devoted to exceptional women or to the women's rights movement but sought to understand the lived experience of women generally, although they typically focused upon a specific class of women. Some of these were Christine Stansell's *City of Women: Sex and Class*

³⁴ Nancy Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge: Harvard University Press, 2002).

in New York, 1789-1860, Glenna Matthews's *"Just a Housewife": The Rise and Fall of Domesticity in America*, Mary P. Ryan's *Cradle of the Middle Class: The Family in Oneida County, New York, 1790-1865*, and Carroll Smith-Rosenberg's *Disorderly Conduct: Visions of Gender in Victorian America*.³⁵ Each of these works built on Cott's work in a sense because, like Cott, they saw the changing economic and social realities of nineteenth-century America as creating a new form of social dialogue, organization, and representation. In short, each of these works focused on the effects of a changing economy and society, and the effect these had on the home and on conceptions of masculinity and femininity. One particularly noteworthy work dedicated to understanding the experience of working-class women from the time of the early republic up through the middle part of the nineteenth century is Christine Stansell's *City of Women*.

In *City of Women* Stansell examined what life was like for working-class women in New York and, in doing so, was able to demonstrate not only their unique class identity, but also how these women were not simply passive, but instead were historical actors actively engaged in and defining the world around them. If middle-class bourgeois women lived by a doctrine of domesticity and were the guardians of morality during the early nineteenth century, then working-class women's sexual and social demeanor subverted these strict notions of female behavior.³⁶ Stansell essentially wrote working and laboring women back into early American history. No longer were they mere passive

³⁵ Glenna Matthews, *"Just a Housewife": The Rise and Fall of Domesticity in America* (New York: Oxford University Press, 1986); Carroll Smith-Rosenberg, *Disorderly Conduct: Visions of Gender in Victorian America* (New York: Oxford University Press, 1986); Mary P. Ryan, *Cradle of the Middle Class: The Family in Oneida County, New York, 1790-1865* (Cambridge: Cambridge University Press, 1983); Christine Stansell, *City of Women: Sex and Class in New York, 1789-1860* (Urbana: University of Illinois Press, 1987).

³⁶ Stansell, *City of Women*, xii-xiii.

victims or faceless masses accepting the beneficence of the middle class and the oppression of men; they were unique historical actors who lived varied and unique lives during a time of drastic economic and social change.³⁷ Stansell did not specifically focus on the law but provided ample background as to the courting rituals of working-class women, especially of the women who relaxed by visiting the Bowery district of New York. The Bowery was a famed place for men and women of the working classes to get together to socialize. Often looked down upon by their perceived social betters, Bowery culture, although distinctly masculine, was where working women could go to relax and break just about every social norm with regard to dress and interaction with members of the opposite sex.³⁸ In this illustration, and in so many others, Stansell was able to create a picture of a group of women that was virtually unknown up to the time of her writing. Stansell's work was revolutionary in many aspects and beneficial to the historical record. Though she only touched on aspects of marriage and the family, Stansell highlighted the ways in which laws regarding married women's property, coverture, and divorce shaped working-class women's attitudes towards courtship, marriage, and work. She also highlighted how a merging of legal and social history can lead to deeper and more meaningful historical understandings.

Mary Ryan was another historian writing in the mid-1980s who sought to expand the historical record with regard to the foundation and change of the middle class. While focusing on an entirely different social class than Stansell, Ryan was able to merge family history with feminist history and by doing so move beyond the limitations described by Degler and Lerner. Ryan attempted to understand how a domestic ideal emerged as part

³⁷ Stansell, xiii.

³⁸ Stansell, 92-93.

of a middle-class identity in Oneida, New York. In doing so she found this came from the great upheavals in a rapidly industrializing society.³⁹ For Ryan it was the interplay between economic factors, family organization and size, and a general religious fervor and revitalization that were key to this period. Building her case on careful readings of sermons and other prescriptive literature, along with a careful analysis of demographic records, Ryan was able to link the rise in the number of marriages and smaller family sizes to the general economic and social upheaval of the 1820s and 1830s. While not overtly focusing on law and politics, Ryan did explore the reasons for the increases in the number of marriages and the reduction in family size. Here again we see both how far women's history had come from only fifteen years prior, as well as the room left open for a work uniting a history of the law with family and women's history.

One work that not only pointed out these missed opportunities but which attempted to fill them was Michael Grossberg's 1985 article "Crossing Boundaries: Nineteenth-Century Domestic Relations Law and the Merger of Family and Legal History," published in *American Bar Foundation Research Journal*.⁴⁰ This article and his later 1987 monograph sought to integrate legal histories, written primarily by lawyers and legal scholars, with works of family and women's history focusing on the nineteenth century.⁴¹

Grossberg's 1987 monograph, *Governing the Hearth: Law and the Family in Nineteenth-Century America*, emerged during a period in which historical writings on the

39 Mary P. Ryan, *Cradle of the Middle Class*, xii.

40 Michael Grossberg, "Crossing Boundaries: Nineteenth-Century Domestic Relations Law and the Merger of Family and Legal History," *American Bar Foundation Research Journal* 10.4 (Autumn 1985): 799-847 and Michael Grossberg, *Governing the Hearth: Law and the Family in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1987).

41 Grossberg, "Crossing Boundaries," 800.

legal systems of both the United States and England were at a high point. His work was firmly focused on the American context and attempted to show how the law of family and marital relations was central to the new American republic and the expansion of its legal system. Grossberg spent a good deal of time laying the groundwork for family or domestic law in America. From here he was able to show the way in which judges, not legislatures, were responsible for the expansion and standardization of the U.S. legal system by way of judge-made family law.⁴² However, because of Grossberg's fascination with the law he was less focused on how these laws affected people and more concerned with how the laws were created and the larger effects this had on the nation. In a sense, he became caught up in the growth of the legal system in his analysis of family law and shied away from stating the effects this had on the actual lives of men and women. The instances where he did direct his attention to the outcomes of this judge-made law were too sparse and fleeting to truly bridge the gap between legal histories and gender or women's histories. Still, it was a noble attempt to tie these two areas together and, in spite of the shortcomings, proved very insightful in its explanation of the ways in which various laws were created and applied in an American context.

Grossberg helped to inspire other American historians and legal scholars to more fully examine the issue of marital breakdown in the formative and early years of the United States. One such work that did just this was Merrill D. Smith's *Breaking the Bonds: Marital Discord in Pennsylvania, 1730-1830*. Smith was interested not just in the numbers of unhappily married couples nor in the number of divorces that resulted from this unhappiness. His goal was not,

to discover how many people were unhappily married; rather its aim [was]

⁴² Grossberg, *Governing the Hearth*, 25.

to determine what kind of problems those in troubled marriages had, and to analyze how men and women coped with marital discord during a time of great social and political transformation.⁴³

Put another way, Smith's book explored the problems that arose in marriages and how people chose to deal with them. To Smith, "Although the topic of marital discord has not been explored in great detail by anyone for any region of early America, what is known of Pennsylvania is probably more meager still."⁴⁴ He explained that, "At the same time, Pennsylvania is unique in some interesting ways. The divorce law of 1785, for example, was the first divorce law in the nation to include cruelty as grounds for divorce, though this 'divorce' was more of a legal separation than what we know today."⁴⁵ Smith's work excels in the detail given to the early laws of divorce in New England and Pennsylvania. His work highlights how early American couples dealt with failing marriages, and explains what often caused these marriages to fail. Smith made it clear that divorce, even where it was allowed in one form or another, was the last option to many in this area of the country. Largely this was because of the harsh economic factors associated with divorce or the fear of losing one's social standing and place. However, having said this, Smith was almost too focused and, while providing a good picture of one area, more references to what was going on outside Pennsylvania would have helped his work. In this way he could have said more about the American context for marital discord.

Recent works have moved away from acknowledging any historiographic gap, and instead have simply moved ahead in their attempts to link the law to larger historic societal issues. One work that fits this description is Debran Rowland's 2004 book, *The*

43 Merrill D. Smith, *Breaking the Bonds: Marital Discord in Pennsylvania, 1730-1830* (New York: New York University Press, 1991), 2.

44 Smith, 2.

45 Smith, 2.

Boundaries of Her Body: The Troubling History of Women's Rights in America. The real goal of this work was to highlight the inequalities of women's lives and their rights in America. It did so by focusing on the law and the ways in which the law has been used in the past and in the present to create a space in America in which women continue to live as second-class citizens. The book was written to highlight the long-standing debate in America over, as the author put it, "what a woman is; what a woman ought to be; and what a woman should, therefore, be allowed to do."⁴⁶ In exploring how women have been thought about Rowland was able, time and again, to show the way in which women have been excluded from being full participants in the life of the nation. Central to the concerns of this essay was Rowland's treatment of women in the nineteenth century. Early on in her work she noted that, "For women, there was neither express inclusion, nor exclusion. Rather, there was silence, raising the emerging question during the nineteenth century of what rights women were to have in their new land."⁴⁷ By silence, Rowland referred to the fact that women were not explicitly made mention of in any of the founding documents of the country. Instead these documents used terms like "man" or "people" which may or may not have included women. Since women were not explicitly included in the language of such documents, they were given no official position or place in American society. In a sense, at least to Rowland, women's place was neither that of a full citizen nor a resident alien. This seeming exclusion from the founding documents of the republic, for Rowland, meant women's place and roles in society were negotiated and created through the law as a reflection of larger societal norms. As she explained, "because the Founding Fathers were 'silent' on specific issues regarding women, the law

46 Debra Rowland, *The Boundaries of Her Body: The Troubling History of Women's Rights in America*, (Naperville, IL: Sphinx Publishing, 2004), xxiii.

47 Rowland, xxv.

was often deemed to be ‘silent’ and it was left open to the states to determine what to do with women. Often they did what had previously been done.”⁴⁸ In short, this meant that women were excluded from the political process and their legal existence reverted to what it had been under English common law. This is to say that women became largely invisible in the legal context of the United States. To Rowland, women had the chance to occupy a space equal to that of men but were forced back to being second-class citizens because the founding documents did not specifically include them in their language. The states largely reverted to older definitions that existed under English common law. The extent to which they reverted to these older definitions varied widely according to Rowland, and women occupied an undefined place. As she put it, “While some states relied heavily upon British common law in drafting their own codes and laws, others did not. The effect for women was a checkerboard of inequity and uncertainty throughout the eighteenth and nineteenth centuries.”⁴⁹ The only thing certain was that women were denied political rights. However, for the period in question, that is to say from the end of the 1850s through the 1870s, women increasingly made gains in American society. Rowland was quick to make note of these gains in areas such as employment and education. However, while certain gains were being made it did not mean women were necessarily gaining equality with men in American society. Once again it was the law that, in spite of gains made by women, helped to reinforce the difference between men and women in American society. Rowland provided a good historical background that helped to explain how women are viewed and understood by the law today. While not necessarily uniting two separate areas of historiography, between the law and women’s

48 Rowland, 16.

49 Rowland, 17.

place in society, her work definitely adds to our understanding of these issues. The places where Rowland did make connections between women, family, and the law were all too brief. This is largely the result of her simply trying to give her readers background into why things are the way they are today. She wanted to show how women have been thought about and treated under the law in order to show the type of development or progression which the United States has gone through from its founding to the time of her writing in 2004.

Having described the American historiography it becomes necessary to turn back towards the British side of things to highlight where the field has been more recently. This is a good place to do so because in so doing we will see the strong correlations between the fields as well as a healthy amount of cross-citation between them.⁵⁰ There have been newer works which focus less on how domesticity was created and more on the setting which epitomized Victorian domesticity, the Victorian home. The most recent and one of the better works focusing specifically on domestic space is Judith Flanders' *Inside the Victorian Home: A Portrait of Domestic Life in Victorian England*. Her work, in particular, drew from prescriptive literature not only about the management of the home but also on home décor. Her study, like that of Langland, focused on the middle class and the homes they created both to emphasize and reinforce class lines. Flanders' work accomplishes the task of showing how and why there was a, "powerful urge to domesticity... [and how] the Victorian house became defined as a refuge, a place apart from the sordid aspects of commercial life."⁵¹ Through her analysis of how this space

⁵⁰ One example of this can be found in Amanda Vickery's, "Golden Age to Separate Spheres? A Review of the Categories and Chronology of English Women's History," in *The Historical Journal*, 36, 383-414.

⁵¹ Judith Flanders, *Inside the Victorian Home: A Portrait of Domestic Life in Victorian England* (New York: W.W. Norton & Company, 2003), 5.

came to be created and defined she was able to recreate the inner space of middle-class Victorian life. Here again the importance of acting and behaving in certain ways is discussed but with reference to the spaces that enabled and demanded certain actions. Taken alongside the works of Perkin and Laland, Flanders is able to add increased understanding and dimensionality to the lives of middle-class women. Her descriptions of the spaces of their lives, particularly of their married lives, helps to further explain the ways in which women either acted as good household managers and wives or as poor managers and disrespectful wives. Here, however, marriage was assumed as a part of normal middle-class domestic life, especially with relation to the home. Little attention was paid to the way in which the law, along with larger social norms defining class lines, shaped the way in which women experienced their world, especially in the home. There is no doubt as to the centrality of the home to middle-class life, but its economic and legal creation needs to be taken into account more fully to create a more accurate image of domestic life.

Before continuing our discussion and exploration of the historiography of women, marriage, divorce, and legal reform in England we need first to define some key concepts and terms that will be used throughout the rest of this work. One of the most important is the concept of the middle-class. There has been no shortage of works that have sought to explain the defining characteristics of the middle-class, including an explanation of just who was and was not a part of this socio-economic group. An overly simple definition is a group of people who are neither part of the working classes nor the landed aristocracy. This, though, is nowhere near being definitive enough. As we shall see, however, this is often what ends up as the definition for the middle-class, especially in Britain, because

class is such a contested concept and is so difficult to define. As Jerry White pointed out, “Class is the most contested category in the whole lexicon of the social sciences.... We all know class and classes exist, but it and they elude both scientific definition and enumeration.”⁵² Continuing with this line of thought, to be middle-class was not to “rely upon manual labor” for one’s occupation and living.⁵³ Solely based on occupation, to be middle-class has meant earning one’s living not by manual labor but by the labor of the mind. Moving towards a more concrete and explicit definition of the middle-class I lean towards the definition offered by Peter Earle who penned—and answered—the following question:

Who were these middling people? Such a question is no easier to answer than it is to define the middle classes today. There is, inevitably, so much blurring at the edges. However, in very general terms, there is no great problem. The ‘upper part of mankind’, the upper class in our terminology, were the gentry and aristocracy. These were men of independent means, normally but not necessarily landowners, who lived ‘on Estates and without the Mechanism of Employment’. They were, in other words, men with a private income who did not have to work for a living. The ‘mechanick part of mankind’, the working class, were ‘the meer labouring people who depend upon their hands. Between these extremes were the middling people, who worked but ideally did not get their hands dirty. The majority were commercial or industrial capitalists who had a stock of money, acquired by paternal gift, inheritance or loan, which they continually turned over to make more money. They also, together with the upper part of mankind, employed the mechanicks, who had no stock of money and so depended on others for their living. . . . Between these extremes were the middling people, who worked but ideally did not get their hands dirty. The majority were commercial or industrial capitalists who had a stock of money, acquired by paternal gift, inheritance or loan, which they continually turned over to make more money. They also, together with the upper part of mankind, employed the mechanicks, who had no stock of money and so depended on others for their living. Some were not so sure. On the one hand, such men did not share a major characteristic of the gentleman in that they were not idle; their very profession was a ‘mechanism of employment’. But they also did not share

⁵² Jerry White, *The Worst Street in North London: Campbell Bunk, Islington Between the Wars* (London: Routledge, 1986), 27.

⁵³ John Benson, *The Working-Class in Britain: 1850-1939* (London: I.B. Tauris, 2003), 4.

in an important feature of the lives of most middling people. They did not turn over capital to make a profit, relying for their income mainly on salaries, fees and perquisites. The professionals in fact occupied an intermediate position between the upper and middling parts of mankind. Some of them, such as bishops and most barristers and physicians, were clearly members of the upper class. Most other members of the learned professions probably thought of themselves as upper class, priding themselves on their education and often on their birth, and clinging valiantly to such labels as Esquire and gentleman. However . . . most of these people really belong to the middle station in terms of income and life-style, even if they do not fit too neatly into the functional definitions which have been employed here.⁵⁴

Middle-class women would come from a background such as the one described above and would only marry a husband who could keep her in the class position and lifestyle to which she was accustomed as part of her upbringing.

Like the middle class and middle-class identity, respectability is another concept that is central to this study. Although not quite as ambiguous or debated as middle class, respectability is still a term that is not easily defined. While often associated with the middle class, it is not something necessarily created by them. It has been defined by Allen Horstman as,

not exclusively an economic classification. . . Respectables saw themselves as the future pillars of Britain, whether as owners, managers, or workers. . . [It was] not a religious category either, Respectability required the earnestness associated with the Evangelicals but not necessarily the beliefs. . . most often, Respectability, depending on values and attitudes, hinged on the treatment of others (be they inferiors, superiors, or equals) and appearances—in other words, behaviour.⁵⁵

To be respectable, according to Horstman, was to act according to values and attitudes of fairness and propriety, which required a person to carry and hold him or herself to high moral and social standards, and to treat others with the respect due to him or her by way of his or her social standing and attitude. Others, like Simon Cordery, have understood

⁵⁴ Peter Earle, *The Making of the English Middle Class Business, Society and Family Life in London, 1660 to 1730* (Berkeley: University of California Press, 1989), 3-5.

⁵⁵ Horstman, 34.

respectability to be dependent upon one's social standing. In other words, people in England during the nineteenth century understood respectability through the lens of their class consciousness. Cordery illustrated this with his observation that

middle-class definitions rested on the premise that individualism and self-help were the twin foundations of respectability, friendly societies gained access to the social power of respectability by offering an alternative definition based on collective self-help and independence from external control.⁵⁶

Further illustration of this came with Cordery's critical response to E.P. Thompson's understanding of respectability: "Underlying Thompson's interpretation is the assumption that respectable values carried the same meaning regardless of the social standing of their possessor, from which it follows that workers who aspired to respectability were being co-opted by the middle class."⁵⁷ Put simply, a person or group's understanding of respectability was informed and shaped by their own social standing according to Cordery. For the middle class, at least, Cordery would have us believe that to be respectable meant to live largely by the values promoted by Samuel Smiles; for example, exhibiting things like self-help and independence. Others like Michael J. Huggins have, like Cordery, defined respectability as a class phenomenon. Huggins, though, is a bit more focused on limiting such ideals and values primarily to the middle class and, to a lesser extent, the respectable English working class. In certain respects this echoes what Horstman was trying to say when he claimed respectability was not just an economic classification, however even Horstman noted that at a certain point one could be too poor to be able to afford to dress and act with respectability. In short, respectability meant to act properly, to avoid excesses in life like drink, and for women to dress and comport

⁵⁶ Simon Cordery, "Friendly Societies and the Discourse of Respectability in Britain, 1825-1875," *The Journal of British Studies* 34.1 (Jan 1995): 35-36.

⁵⁷ Cordery, 38.

themselves in a manner befitting their gender and social position. Respectability in Britain or the United States did not vary too greatly. It was essentially, as Horstman explained, about how one treated others.

A few more terms that need to be defined are legal terms that are not only central to this work but are also constantly recurring. The first of these is divorce *a mensa et thoro*. This form of divorce was a form of separation rather than a full divorce. Typically such an order was granted by a legislature, in the American context, or an ecclesiastical court in the English case. A divorce *a mensa et thoro* allowed a couple to live apart from one another. It did not allow for remarriage, and in the English case orders for support on the part of a husband towards a wife had no real way to be enforced. Technically speaking, a couple was still married to one another, hence they could not remarry, but a court found they could not or should not continue to live together. After the passage of the English Matrimonial Causes Act of 1857, this form of divorce simply became known as a judicial separation.⁵⁸ An equally important and related term is divorce *a vinculo*. Put simply, this was a divorce as we more commonly understand it today; it was a full divorce. The marriage contract was dissolved completely, usually through parliament in the English case or a state legislature early on in the American context. Upon receiving this ruling a couple was free to remarry as they saw fit. This full divorce had important consequences with regard to support and custody of children. A fuller treatment of the results of this legal ruling is treated in later chapters. Another key legal concept is that of coverture. Coverture came out of the medieval English common law and remained

⁵⁸ Written of frequently in any work examining legal reform with regard to marriage, divorce, and married women's property, the Matrimonial Causes Act was the central piece of legislation in English legal history to transform and modernize the English legal system. It also had important effects in European and American legal thought and practice; however, this will be explained in more detail later.

relatively unchanged up to the nineteenth century in England and as it was imported into the United States. Essentially coverture was a state a woman entered into upon marriage. Her individual legal identity ceased to exist and she fell under the care and protection of her husband. She had no control over her earnings or property holdings. Lacking a legal identity of her own, a wife could not make contracts of any kind, nor could she represent herself in court. One possible benefit was that a wife was not responsible for any debts she might incur or laws she might break, it was assumed her husband would cover the debts and that he had coerced her to commit a crime.⁵⁹ For a list of other key dates, abbreviations, and related and relevant terms please refer to the appendix.

The central concern of this thesis is to go beyond the existing base of literature on the lives of middle class English women, and produce a work that takes fully into account the way in which the law shaped and affected the lives of these women. This work needs to go beyond simply stating what marriage laws existed and examine how the given laws came to influence life within the home. It needs to go beyond highlighting the economic aspects of marriage law and delve deeper into the social meanings and contexts of the law. It is not enough to state that the law was written by men and for men. Few works have connected middle-class women's dissent within marriage to larger societal changes. Through a closer examination of the English legal system, especially with regards to marriage laws, one can begin to create a fuller picture of the experience of middle-class women. Too many works have focused on how the laws shaped the lives of either the poorest of society, like Gillis, or those at the opposite end of the spectrum, such as those studied by Perkin. Instead, more needs to be written about the middle class and their

⁵⁹ Allen Horstman, Lee Holcombe, Joan Perkin, Michael Grossberg, and others provide a very full explanation of the concept of coverture. Coverture will also be discussed more fully in later chapters.

centrality in informing and shaping the laws as well as explaining how the laws shaped the middle class.

By undertaking such a study the gap in the historiography will be bridged and there can be an increased tie between histories that are often written and viewed as being separate. The law cannot and should not be separated from the areas in which it operates, defines, and sets limits upon. This has been the case thus far in the historiography of middle-class women's domestic lives in England in the nineteenth century. The law is a social force equal to any prescriptive or popular literature and one which informs, albeit in often indirect ways. By coming to an understanding of the law's direct and indirect effects on the lives of women, greater insight will be gained into their lives and identity. To achieve this it will be necessary to turn not only to the English law that existed in the nineteenth century but also to various legal commentaries like those of William Blackstone. It is also necessary to review legal cases like Caroline Norton's which have been of critical importance to authors like Perkin and Horstman in examining how the law was enforced and practiced during this period. By understanding the law's implementation and enforcement, more will yet be learned about how it affected the lives of middle class women.

CHAPTER II

DIVORCE AND THE LAW FOR ENGLAND

There has been no shortage of articles written by both the historical and legal community that have sought to understand the reasons for, and outcomes of, legal reform in nineteenth-century England. While each may focus on one topic or another within the larger scope of legal reform of marriage and divorce laws, many have sought to understand what such reforms meant for women in particular. Through a closer examination of these works we can trace not only changes in the historiography of the issue but also how an integration of varying articles helps to create a fuller image of the reality and impact of the law and legal reform on the lives of women.

One of the earliest works that sought to understand the meaning of the Divorce Act, also known as the Matrimonial Causes Act of 1857, was Margaret Woodhouse's "The Marriage and Divorce Bill of 1857" published in *The American Journal of Legal History* in 1959. Her work is the earliest to give a narrative account of the way in which divorce reform came about and to examine the debates between proponents and opponents of reforming the English legal system. Her work may appear as nothing more than narrative to readers today, but her article sets the groundwork of facts for later works and provides a good overview of the attitude of both the major proponents and opponents of the Act. Her work is groundbreaking in that it establishes the basic narrative of reform that is central to later works like those of Lee Holcombe, Allen Horstman, Dorothy Stetson, Danaya Wright and others. If she can be said to be coming from a certain school

of historical thought, she might be grouped in the great-man understanding of history. Her article focused almost entirely on the main actors, as it were, with regard to divorce law reform and larger English legal reform.

Woodhouse's work may have provided the groundwork for later works but it lacked a certain depth regarding the larger causes and demands for reform. Simply put, her article did not explain enough of the factors leading to the call for legal reform in England. Her focus on the ecclesiastical courts and the debate between the clergy and others in Parliament is useful but fails to address larger factors regarding why reform was needed in the first place. Thus, she simply noted that "Legal reform generally was in the air; and one aspect of it was simplification of divorce procedure."⁶⁰ Adding to this she mentioned the fact that requests for divorces had been increasing since the beginning of the nineteenth century. However, beyond the idea of increasing demand and an "air of legal reform" Woodhouse did little to explain why reform was sought in the first place. In spite of this missing chain of causality, her work does outline major aspects of the bill and the debate over its passage.

Still, Woodhouse provides the essential background for a topic that saw an explosion of monographs and journal articles in the 1980s. Though not all specifically focused on divorce law reform, they did include it in their larger histories because it was reform of this aspect of the legal system that would allow for further legal reform of laws that were focused primarily on women.

This new round of scholarship was closely related to the emergence of second-wave feminism in the 1960s and 1970s. This period saw the emergence of women's

⁶⁰ Margaret Woodhouse, "The Marriage and Divorce Bill of 1857," *The American Journal of Legal History* 3 (1959): 262.

history. It was during this time that historians and feminists especially sought to write women back into history. Initially such efforts focused on the major players of a given era and sought to show the achievements and contributions these influential women made to society in a given era.⁶¹ However, as time progressed many feminists sought to trace the lineage of modern patriarchal ideals back to their roots and this led them to the nineteenth century or earlier. In tracing the roots of patriarchy, feminists and emerging women's and family historians also sought to understand the institutions of society that created difference and to find the roots of feminism. This again led many to the late eighteenth and nineteenth centuries, especially among scholars of American and English history.⁶²

One work emerging out of this period that benefited from the research of Woodhouse was Dorothy Stetson's *A Woman's Issue: The Politics of Family Law Reform in England*. Stetson's 1982 work attempted not only to gauge the real impact of legal reform on women but also to gauge how involved nineteenth-century feminists were in the reform of the English legal system, especially with regard to divorce law reform and married women's property law. The facts Stetson presented are much the same as those offered by Woodhouse with regard to what the Matrimonial Causes Act was and as to how divorce operated prior to the act. Stetson, however, created a picture in which feminists played a major role in all aspects of legal reform with regard to women in England. She provided even more background as to why legal reform was necessary in England during the period. Still, much of her analysis supported the idea that nineteenth-

61 Martha Vicinus, ed., *Suffer and be Still: Women in the Victorian Age* (Bloomington: Indiana University Press, 1972), Sheila Rowbotham, *Hidden from History* (New York: Vintage Books, 1973), Renate Bridenthal and Claudia Koonz, eds., *Becoming Visible: Women in European History* (Boston: Houghton Mifflin, 1977).

62 June Sochen, *Herstory: A Woman's View of American History* (New York: Alfred A. Knopf, 1974).

century England was an era characterized by reform of all sorts, but especially reform of the legal system. Implicitly building on the work of Woodhouse, Stetson was able to make the case that feminists pushed for legal reform to address the changed socio-economic realities of mid-nineteenth century England. In other words, legal reform came about not because legislators necessarily agreed with a feminist agenda of equalizing the position of women with regard to men, but because the legal system did not match the way in which society operated at that point in time. According to Stetson, these reforms of the divorce law did not necessarily improve the lot of women because the grounds for divorce did not change all that much from what they were prior to reform. The true success of divorce law reform was that it “dealt the first blow to the ancient legal doctrine of coverture.”⁶³ It was the slow erosion of coverture and reform in married women’s property law that, to Stetson, began to equalize the position of women with regard to men in English society. Stetson’s discussion of married women’s property law reform and latter legal reform continuing into the present tends to paint a whiggish picture of progress once women were able to control their own property and gain the rights of single women, even once married.

Stetson’s work is not alone in placing importance on the reform of married women’s property law. Lee Holcombe’s 1983 work, *Wives and Property: Reform of the Married Women’s Property Law in Nineteenth-Century England*, focused on the reform of married women’s property law in nineteenth-century England. For Holcombe, reform of this area of the law more than any other began to shorten the gap between the rights of men and women in English society. Holcombe’s work adds depth to the brief coverage of

⁶³ Dorothy M. Stetson, *A Woman’s Issue: The Politics of Family Law Reform in England* (Westport, CT: Greenwood Press, 1982), 14.

married women's property law reform provided by Stetson. Like Stetson though, Holcombe built on of the basic narrative and facts of divorce law reform presented by Woodhouse. Holcombe, however, added more depth by expanding her analysis beyond a sole focus of the effects on the ecclesiastical law and courts. For Holcombe, divorce law reform came as a result of larger changes in society created by industrialization, which necessitated legal reforms so as to allow the legal system to deal with new forms of property, the changed place of women and men, and the newly emerged and established middle class.⁶⁴ Where Holcombe really differs from Stetson is that she viewed the reform of the divorce law in a negative fashion. Indeed, she argued that the Divorce Act delayed further reform of married women's property law and the larger rethinking about women and their place with regard to the law. Holcombe emphasized that, to the minds of those in Parliament, divorce law reform did enough to protect the property rights of married women, so further legal reform of the married women's property law was unwarranted.⁶⁵ Holcombe also did less to create a history that looked like one of progress, that is to say, of one reform leading to another and another and the eventual equality or near equality of women and men in English society. Instead, Holcombe created a carefully crafted work that highlighted how property law reform, more than any other form of legal reform, did the most good for English women.

There are others who diverge completely from the close focus on feminism, legal reform, and the impact of the law on women's position in English society. In this regard Allen Horstman's *Victorian Divorce*, published in 1985, is of crucial importance. The work of Horstman specifically did more than any up to that point to give a solid

⁶⁴ Lee Holcombe, *Wives and Property: Reform of the Married Women's Property Law in Nineteenth-Century England* (Toronto and Buffalo: University of Toronto Press, 1983), 200.

⁶⁵ Holcombe, 164.

background on divorce from which he was able to analyze the effects of the reform of divorce law in England. He approached the topic from the viewpoint of a Victorian, or so he wrote. That is to say, he did not try to interject contemporary ideas of feminism into his history nor was he trying to trace the influence of feminism on divorce law reform in England. Instead, Horstman, provided a detailed background of the English legal system equal to Holcombe's but it provided even more emphasis on divorce. Horstman is not the last author to focus on divorce and marriage law reform in England. He has been followed in monographs and articles by many others.

One such author and work is Colin Gibson's *Dissolving Wedlock*, published in 2003. Gibson's work was a mixture of history, legal history, and sociology. While not a typical historical work, Gibson was able to shed new light on the subject of divorce and marriage law reform in Britain during the nineteenth century. Essentially, Gibson attempted to explain why divorce was the norm in Britain at the time of his writing. He sought to trace its emergence from once being non-existent in Britain to being the normal way of life in the twenty-first century. In Gibson's own words,

our legal institutions and lawmakers have generally provided a series of *ad hoc* responses to impelling human wants and pressures rather than internally initiate reform. The last two centuries have witnessed the social and occupational structure of England and Wales... metamorphosis from a rural society to a sixfold populated urban industrial state. This transformation has remoulded family patterns and individual expectations. These changing personal attitudes, values and habits have been the catalyst motivating matrimonial law reform.⁶⁶

For Gibson, the courts and parliament never undertook reform because it was needed, but only responded with stopgap measures once public pressure was strong enough. It was a changing public with regard to attitudes and values that eventually pressured the leaders

⁶⁶ Colin S. Gibson, *Dissolving Wedlock* (London: Routledge, 2003), 1.

of Britain to undertake marriage law reform historically and at the time of his writing. Gibson's work built on that of scholars such as John Gillis in that he saw the marriage law reform in its wider social scope. This is the real benefit of his work—he traced and explained how British couples dealt with failed marriages in a time when legal divorce was not available to them. In this same way he traced the emergence of marriage law reform and its effects on British society. With regard to marriage and divorce law reform Gibson did more than any other recent author to link public pressure, primarily from the middle class, to eventual reform. Of this he wrote,

One of the principal factors leading to the Matrimonial Causes Act of 1857. . . was increasing middle-class discontent at the working and procedure of the ecclesiastical courts. The law reform movement was led by Utilitarian thinkers like Sir Samuel Romilly and Jeremy Bentham. Such men were motivated by a wish to rationalize the legal process rather than a desire to assist the poorer classes gain greater access to civil courts.⁶⁷

For Gibson it was middle-class self interest that led to legal reform of the marriage and divorce laws in nineteenth-century Britain. Inspired by utilitarian thinkers and discouraged with the overly cumbersome and ineffectual legal system the middle class, according to Gibson, pushed legal reform.⁶⁸ Gibson's strength lies in his ability not to generalize or to develop too focused a view; his work builds on the existing historiography and expands upon it by its close attention to issues of class and other socio-economic factors.

The divorce law of nineteenth-century England was the product of hundreds of years of English Common Law. Divorce, while never common in England until the later nineteenth century, had existed since the time of Henry VIII. Divorce was reserved for the very elite of society and up through the eighteenth century only 128 divorces had

⁶⁷ Gibson, 53.

⁶⁸ Gibson, 53-54.

been granted in all of British history.⁶⁹ Parliament was responsible for hearing and granting full divorces. However, to even have Parliament hear a divorce petition one member of the couple seeking a divorce, usually the husband, had to have been granted a *divorce a menso et thoro*, or a separation from bed and board by an ecclesiastical court. After obtaining this ruling from an ecclesiastical court a couple was legally separated, but in the eyes of the law the couple was still married. These “divorces” allowed a couple to live apart from one another. They could not, however, remarry, hence these really were more separations than divorces. While these separations were more common than divorces they too were costly and time consuming. Most people, even if they wanted a separation, could not afford one, either in terms of money or the time required, to acquire such an ecclesiastical ruling.⁷⁰ According to Lee Holcombe, by 1850 the cost of a full Parliamentary divorce was estimated to be between £600 and £800 and an uncontested divorce *a mensa et thoro* typically cost £300 to £500.⁷¹ This did not mean that couples did not separate. Instead, they used informal means to separate and live apart from one another. John Gillis had a great deal to say about this subject. Of it he wrote,

In addition to young persons who postponed or omitted church marriage, the other major constituency of common-law practice included those already married, who, separated from their spouses for one reason or another, wanted to remarry but had no access to legal divorce. In earlier generations they might have turned to the Fleet⁷² or another renegade facility to notarize a second marriage without fear of recognition and prosecution for bigamy. The Hardwicke Act ended all that and forced those who wished to remarry to find new ways of establishing their union for the world, if not the law, to know. The result was a set of secular divorce rites that, while they drew on the symbolism of an earlier period,

69 Horstman, 13.

70 Holcombe, 96.

71 Holcombe, 95-96.

72 The Fleet, or Fleet Street, was an area in London notorious for its disreputable characters and shops. In particular there were many coffee and ale houses as well as publishing shops located in the area during the nineteenth century.

were apparently unique to the eighteenth and nineteenth centuries.⁷³

While church marriages were the only recognized legal form of marriage after the Hardwicke Act of 1753, they were expensive and many couples either chose to postpone them or found a more affordable informal means by which to marry. There was also a large population of informally divorced or separated couples that wanted to remarry but were barred by the fact that their original marriage still legally existed. One solution would have been for them to go to the Fleet to obtain a falsified marriage certificate.⁷⁴

The Fleet, referring to Fleet Street in London, was an area known for its ability to create questionable legal documents at a relatively low price. However, here again the Hardwicke Act, with its requirement of church marriages, forced people to find new ways to end their marriages and remarry.⁷⁵ Gillis provided excellent insight into how the common English people dealt with an unhappy marriage. One way was through the practice of wife sales or exchanges, common among the miners of Yorkshire in the nineteenth century. As Gillis observed,

An agreement to part and remarry would be made and witnessed in a public house; there would be a feast and the men would make token gifts to their new brides, “whom they now maintain together with the ‘childers’ of the former union.” In the Midlands miners were also known to have engaged in “swappin’” or “sellin’” of wives. While this practice seems to have been in decline after mid-century, “those engaging in the transactions never seem to doubt about their right to do so.”⁷⁶

This solution was also popular in the eighteenth century in rural areas of England. Here again the wife sale required that both partners were on amicable enough terms to

⁷³ Gillis, *For Better, For Worse*, 209.

⁷⁴ R.B. Outhwaite gives a great description of just how easy it was to obtain a falsified marriage certificate in *Clandestine Marriage in England: 1500-1850*, (Rio Grande, Ohio: Hambledon Continuum, 2003).

⁷⁵ R.B. Outhwaite, *Clandestine Marriage in England: 1500-1850*, (Rio Grande, Ohio: Hambledon Continuum, 2003), 124.

⁷⁶ Gillis, 201.

mutually decide to separate from one another. These wife sales functioned by way of the husband taking his wife to market where he would “sell” her to a new husband. This seeming commodification of a woman was more a symbolic gesture than anything else. This practice, while not always in vogue or common throughout England, highlights the ways in which common people came to deal with marriages that failed. However, these unofficial means used by the masses of English society did not constitute either a legal separation or a full divorce. Perhaps even more to the point, while such informal practices might have worked for people of little property, they were totally inappropriate for people of means. Thus, it is not too surprising to learn that as the eighteenth century progressed there was an increasing number of petitions for divorce among the landed gentry and aristocracy. Numbers went from ten or fifteen requests a year to twenty and more, although it should be noted that typically only one or two full Parliamentary divorces were granted per year.⁷⁷ This general trend of one or two divorces per year began to accelerate upwards from the 1770s onwards. Allen Horstman puts the number of divorce requests for the 1770s at twenty-seven in the year of 1772-73 alone, and in the late 1790s there were thirty-one divorces in three years.⁷⁸ Most authors agree that there was a dramatic spike in the number of divorce requests before Parliament by the end of the eighteenth century. These same authors, notably Stetson, Horstman, and Holcombe, also agreed that certain members of Parliament began to see England as facing a divorce epidemic. Some proposed reforming the divorce laws of England but such voices were largely drowned out by opponents who claimed such reform would bring the end of

⁷⁷ Holcombe, 96.

⁷⁸ Horstman, 15.

English society.⁷⁹

The fabric and foundation of English society was beginning to change as the eighteenth century went on and this change continued on into the nineteenth century. No longer was wealth primarily determined through land holdings; increasingly wealth was made through trade and manufacturing. Napoleon did not call England “a nation of shopkeepers” for nothing.⁸⁰ While this may be an overly broad generalization it, strikes at a truth and a real change that had taken place over the course of the eighteenth century in English society. Merchants and those involved in the financial service sector, especially in London and other major port cities but also in some of the growing manufacturing centers, were beginning to accrue wealth that rivaled that of the old landed nobility.⁸¹ As their wealth and prominence grew so too did their need to be formally recognized for their new place in English society. Historian David Nicholls aptly described this need for recognition. As he put it,

Two factors are crucial to an understanding of the character and role of radical ideology in late eighteenth- and early nineteenth-century. . . first. . . is the capitalist basis of agricultural production by the eighteenth century, which meant that, as the commercial and industrial middle classes emerged, they required some form of political accommodation with the landed class but not an economic revolution. In this context radicalism emerged as an ideology whose central tenet was parliamentary reform.⁸²

Since the middle class did not derive its wealth from the land and because it had grown significantly in size and economic power over the eighteenth century representatives of

79 Horstman, 22.

80 Napoleon Bonaparte, quoted in Paul F. Boller, Jr. and Frank George, *They Never Said It: A Book of Fake Quotes, Misquotes, and Misleading Attributions* (Oxford: Oxford University Press, 1989), 100.

81 Simon Gunn, “The Public Sphere, Modernity and Consumption: New Perspectives on the History of the English Middle Class”, in *Gender, Civic Culture and Consumerism: Middle-Class Identity in Britain, 1800-1940*, (Manchester: Manchester University Press, 1999), 12.

82 David Nicholls, “The English Middle Class and the Ideological Significance of Radicalism, 1760-1886,” *The Journal of British Studies* 24.4 (1985): 416.

this class began to demand political recognition.⁸³ Political recognition would, alongside their growing economic presence, allow members of the middle class to enshrine their values in society through the law. Reform prior to the 1820s was largely overshadowed and stifled by the model of reform and revolution exemplified by France. While sentiment in favor of reform clearly existed in the early years of the nineteenth century, those in power in Parliament feared reform would lead to the chaos and anarchy prevalent in France. Nicholls again had insightful commentary when he explained that the early nineteenth century “was one of uneasy symbiosis, of cooperation (in the attack on Old Corruption) but also of a developing sense of conflict, especially in the wake of the revolutionary events in France in the 1790s, which polarized opinion in Britain.”⁸⁴ This polarization and fear of reform could be seen by the way in which political protests like Peterloo were so quickly and violently put down. On one side there were those in the growing middle class who demanded political recognition, and on the other there was an older generation of landed nobility in Parliament who feared what reform might do to society. However, as the nineteenth century progressed, and with a victorious end to the Napoleonic wars, Britain was ready for major political reform. As historians like Nicholls as well as E.P. Thompson and Anna Clark have noted, this push for political reform came not only from the growing middle class but also from a more unified working class which banded together in response to the pressures brought upon them as a result of industrialization.⁸⁵ Together, both the middle and the working classes formed a

83 Dror Wahrman, *Imagining the Middle Class: The Political Representation of Class in Britain, c. 1780-1840*, (Cambridge: Cambridge University Press, 1995), 1.

84 Nicholls, 426.

85 Nicholls, “The English Middle Class and the Ideological Significance of Radicalism,” E.P. Thompson, *The Making of the English Working Class* (New York: Random House, 1963), and Anna Clark, *The Struggle for the Breeches: Gender and the Making of the English Working Class* (Berkeley: University of California Press, 1995).

coalition of sorts that worked towards the political reform of Parliament and of the expansion of the franchise.⁸⁶ Nicholls tended to highlight the way in which the middle class used the working classes to achieve its political end of passing the Great Reform Bill of 1832. In many ways Nicholls echoed and built upon the framework created by E.P. Thomposon. Nicholls observed that “the ‘betrayal’ of the working class by the middle class in 1832 culminated in the great ‘class’ campaigns of Chartism and Corn Law repeal.”⁸⁷ While this interpretation may be a bit colored, it does essentially describe what happened to the coalition after the passage of the Great Reform Bill of 1832. Clark goes even further than Nicholls though; she traced the middle class betrayal of the working class back to domesticity, Malthusianism, and Lockean language of property ownership.⁸⁸ While focusing primarily on the working classes, and Chartists in particular, Clark did have quite a bit to say about the middle class. In her analysis the treatment and definition of domesticity were paramount to understanding class aspirations in the 1820s and 1830s.⁸⁹ According to Clark, the extension of the franchise to the middle class was based upon a particular definition of domesticity promoted by themselves. Clark noted, “Domesticity was an important subtext in Chartist language because in the politics of the 1830s gendered notions of virtue demarcated the working class as different and inferior to the middle class.”⁹⁰ She continued her observation by writing

Blackwood’s Edinburgh Magazine justified giving the vote to the middle class but not the working class by contrasting the middle-class man’s “self-denial” in supporting his family with the “sensual indulgence” of excessive drinking, bastardy, and wife desertion by working men. The middle class also justified their

86 Nicholls, 427.

87 Nicholls, 427.

88 Clark, *The Struggle for the Breeches*, 267.

89 Clark, *The Struggle for the Breeches*, 268.

90 Anna Clark, “The Rhetoric of Chartist Domesticity: Gender, Language, and Class in the 1830s and 1840s,” *The Journal of British Studies* 31.1 (Jan 1992): 66.

claims to the suffrage in Lockean terms; they were propertied heads of households who represented their subordinates. This explains the middle-class attachment to “household suffrage.”⁹¹

For Clark, the middle class used domesticity as the rationale for not extending the vote to the working classes. Unlike what so often has been written, in the 1830s the middle class created a particular notion of domesticity from which they sought to further differentiate themselves from the working classes.⁹² Domesticity is not so much a commodity to be bought and sold or gifted from one class to another, instead it is an ideology which any group could adopt but which the middle class in particular used to define themselves and to signal their newly found power in the British political system. The Reform Bill of 1832, more than any other preceding piece of legislation during the nineteenth century, made clear the power of the middle class and demonstrated that England’s political system could be reformed without society collapsing into the anarchy that had enveloped France. The Great Reform Bill highlighted the power of the middle class to shape and cause legal reform. More than this though, it was the last time the middle class would band together with or, according to some historians, use the working classes to achieve its political ends. Writing of the period immediately after the passage of the Great Reform Bill Dror Wahrman provided the following insight, “‘Middle classness’ by now was associated with domestic virtue, with religiosity, with an evangelical impulse, with social control; that is to say, it was associated with a morality which prescribed both public and private (or familial) behavior.”⁹³ This is particularly interesting when considering Nicholls’ interpretation of the result of the Great Reform Bill: “The Reform Act, achieved

⁹¹ Clark, 66.

⁹² Clark, 67.

⁹³ Dror Wahrman, “‘Middle-Class’ Domesticity Goes Public: Gender, Class, and Politics from Queen Caroline to Queen Victoria,” *The Journal of British Studies* 32.4 (October 1993): 397.

in an atmosphere of middle-class threats of revolution, was the first step in a long process of consolidation of capitalist fractions, and the legislation that followed demonstrated the propensity of an aristocratic parliament leavened with a pinch of radicalism to implement a middle-class program—reform...”⁹⁴ In other words, fearing this radicalized middle class, the aristocratically-based Parliament capitulated to middle-class demands which allowed the middle class to inculcate society with their values by way of legal and social reform. Parliament’s fear of a general rebellion by the working classes also cannot be understated.⁹⁵ The riots and protests outside of Parliament and in Derby and Bath struck fear in the hearts of many in the House of Lords.⁹⁶ The passage of the Great Reform Bill set the tone for the rest of the century and highlighted the power and influence of the middle class in English society. It is what made possible virtually all future legal and social reform in England.⁹⁷ One area of legal reform that England would undertake was to modernize its judicial and legal system. The judicial system in general had not kept pace with the rest of society, and rather than helping society through providing a uniform code of procedure and process, the legal system was weighed down by relics of the middle ages. The legal system was a patchwork of overlapping jurisdictions and laws; there were wide variances in procedure, all of which led to a legal system that no longer served the interests of the nineteenth century. A portion of this legal reform and modernization entailed a reexamination of the role of ecclesiastical courts and the institutions of marriage and married women’s property law. Part of the broader judicial reform focused on the law of divorce and how it was practiced and functioned in English

94 Nicholls, 427.

95 Eric J. Evans, *The Great Reform Act of 1832* 2nd ed. (New York: Routledge, 2000), 54.

96 Evans, *The Great Reform Act of 1832* 2nd ed., 53.

97 Evans, 1-2.

society.

Our understanding of divorce is largely a result of the reforms in the legal systems of England and to a lesser extent the United States that began during the nineteenth century. These legal reforms, especially in England, would not have happened without the precedent of political reform that was set by the Passage of the Great Reform Bill of 1832.⁹⁸ This piece of legislation in particular was the foundation for a century characterized by reform in all aspects of society, but especially of the law and legal system. Legal reform in the United States “would and did not go unnoticed” in England. In part it was this legal reform which stoked fears and shaped the discussion of the later legal reform in England.⁹⁹ In the United States, reform of marriage and divorce laws stemmed not so much from grand overarching political reforms, but rather as a result of the needs of individual states to reform their legal systems to meet the changing social and economic realities of the nineteenth century. A woman’s ability to seek a divorce from a husband on grounds of abuse are common today but it was a startling innovation during this time. Our understanding of marriage as being about love and not just about securing money and property also comes, in part, from the nineteenth century. These elements, marriage for love and the availability of divorce for women, came together during the second half of the nineteenth century, especially after 1860. They would not just change society at large but, in particular, the lives of women. Middle-class women especially took part in and benefited from these two changes in society and the law. These gains were made against a backdrop of competing societal tensions between the

⁹⁸ Albert Venn Dicey quoted in Linda Mulcahy, *Legal Architecture: Justice, Due Process, and the Place of Law*, (New York: Routledge, 2011), 129.

⁹⁹ Goldwin Smith was of many to take note of the United States, although he was not alone. For more on this refer “Conservatism and Female Suffrage,” in *The National Review* no. 60. (Feb, 1888), (London: W.H. Allen & Co, 1888), 742

ideals of home and marriage and the reality of changed social and economic positions that did not match the middle-class ideal of husband, wife, home, and children. Through legal reforms like the Matrimonial Causes Act of 1857 society at large finally acknowledged that women had the right to obtain a divorce from their husbands, albeit on limited grounds. Much the same can be said of the United States except for the fact that there is no single date or piece of legislation. It should be noted, however that, generally speaking, American women had more access to divorce because of the increased number of grounds for divorce and expanded definition of cruelty as compared to Britain. To begin, though, we first must turn to the British case and after a thorough examination of the law prior to the Matrimonial Causes Act of 1857 and the effects of the Act itself we can turn to the American case, for comparative purposes.

To understand just how important and crucial these legal changes were we need to first examine what marriage meant both prior to and after the Matrimonial Causes Act. There have been a number of monographs and journal articles written specifically to highlight these changes in the law. The works of Allen Horstman, Dorothy Stetson, Lee Holcombe, Danaya C. Wright, Robert Griswold, Nancy Cott, Joan Perkin, Colin Gibson are but a few that have their focus on marriage, the law, and the Matrimonial Causes Act.¹⁰⁰ We need to understand how the law viewed women and their station in society.

¹⁰⁰ Dorothy Stetson, *A Woman's Issue*, Lee Holcombe, *Wives and Property*, Allen Horstman, *Victorian Divorce*, Robert Griswold, "Law, Sex, Cruelty, and Divorce in Victorian America, 1840-1900," *American Quarterly* 38.5 (Winter 1986): 721-745, Leonore Davidoff and Catherine Hall, *Family Fortunes: Men and Women of the English Middle Class, 1750-1850* (London: Routledge, 1987), Michael Grossberg, *Governing the Hearth*, Joan Perkin, *Women and Marriage in Nineteenth Century England* (London: Routledge, 1989), Mary Lyndon Shanley, *Marriage and the Law in Victorian England* (Princeton: Princeton University Press, 1989), Lawrence Stone, *The Road to Divorce: England 1530-1987* (Oxford: Oxford University Press, 1991), Glenda Riley, *Divorce: An American Tradition* (New York: Oxford University Press, 1991), Norma Basch, *Framing American Divorce: From the Revolutionary Generation to the Victorians* (Berkeley: University of California Press, 1999), Nancy Cott, *Public Vows*, Colin S. Gibson, *Dissolving Wedlock*, Danaya C. Wright, "Untying the Knot: An Analysis of the English Divorce

The other side of the equation is how the law thought of men. By carrying out such an investigation we begin to understand how the law was different for men and women and how it affected them in different ways.

The English legal system of the nineteenth century was the product of centuries of historical precedent and practice. The legal system inherited by the Victorians was a vast and at times confusing, contradictory, and overlapping network of laws and courts.¹⁰¹

Three main branches of this system were the Common law, Ecclesiastical law, and Equity law. These three branches at some point or another affected the daily lives of most English men and women. One way in which they did so was through the institution of marriage.¹⁰² Marriage fell under these three parts of the English legal system, and since marriage was the norm in Victorian society it is a good case by which to understand the background of the legal system.

Marriage was a societal institution that had become an almost mandatory part of English life at least since the passage of the marriage acts of the eighteenth century. Of course it was a central part of society long before the Hardwicke Act of 1753, but it was with this act that the British government really began to assert itself in controlling this aspect of British social life. As Eve Bannet put it somewhat facetiously, “the Bill [of 1753] only required that people get married in what we now take to be the normal and natural way: with banns or a license and parental permission for minors, before witnesses and an authorized clergyman, and by recording the event in a Marriage Register.”¹⁰³ This

and Matrimonial Causes Court Records, 1858-1866,” *University of Richmond Law Review* 38 (2004): 903-1010.

¹⁰¹ Holcombe, 12.

¹⁰² Holcombe, 11-14.

¹⁰³ Eve Bannet, “The Marriage Act of 1753: ‘A Most Cruel Law for the Fair Sex,’” *Eighteenth Century Studies* 30.3 (1997): 233.

semi-sarcastic statement was designed to throw a reader off guard in the sense that it was designed to challenge presuppositions as to how marriage was understood and defined in the eighteenth century. Bannet argued that, contrary to our understanding of marriage, people in the eighteenth century saw nothing normal or natural about the prescriptions in the Hardwicke Act.¹⁰⁴ Illustrating this point Bannet explained, “[t]he Government they said, had changed the meaning of marriage by making the existence of a marriage depend entirely on the couples public observance of some purely ceremonial and procedural forms.”¹⁰⁵ Bannet continued by noting, “Before the Marriage Act, marriages had been based on the proposition that what creates the married state and constitutes the contract is that ‘FAITH’ by which the Man and Woman bind themselves to each other to live as man and wife.”¹⁰⁶ The Hardwicke Act redefined this older understanding by making a marriage valid less by way of the feelings of the husband and wife to be and more through a process of public procedure and record. Although designed to curb sexual non-conformity, the Hardwicke Act was not as effective as Parliament would have liked. By the early nineteenth century Parliament continued its campaign against non-conformity in marriage and sexual relations by allowing for civil marriages starting in 1836.¹⁰⁷ This reversed the older legal position established in the Hardwicke Act of marriages only being legal if they were celebrated under the auspice of the Church of England. By 1836 marriage was no longer solely a religious rite, it was a societal obligation firmly in the hands of the secular government. Marriage was the norm and now was accessible to all. The secular legal understanding of marriage was that it was a contract between two

104 Bannet, 233.

105 Bannet, 233-234.

106 Bannet, 233-234.

107 Gibson, *Dissolving Wedlock*, 47.

people, who were each capable of making a contract. The law understood capability as both parties having the mental cognizance to enter into a contract. In other words, both husband and wife had to be in a sound mental state in order for a marriage contract to be legally binding. An example illustrative of this understanding comes from the noted nineteenth-century lawyer Leonard Shelford. He wrote, “Marriage is considered in every country, and by me defined to be a contract-according to the form prescribed by law by which a man and woman, capable of entering into such a contract, mutually engage with each other to live their whole lives together in the state of union which ought to exist between a husband and his wife.”¹⁰⁸ Aside from the issue of mental capability or lack thereof, other points that might invalidate a marriage were things like undisclosed venereal diseases, impotency, already being married, or being under aged. These were not grounds for divorce because they made the original marriage contract null and void; in effect, the marriage had never happened in the eyes of the law. Marriage may have become a norm based on a mutual contract, but legal reform would take place that would forever change the institution in Britain.

The Matrimonial Causes Act of 1857, more commonly known as the Divorce Act, forever changed not only the law of England but also marriage. This legislation allowed for civil divorce in England for the first time. No longer was divorce under the jurisdiction of Parliament and the ecclesiastical court's. The Act itself created an entirely new court, the Court for Divorce and Matrimonial Causes, which was under the Court of Queen's Bench. Essentially this new court was in charge of legal cases which had once fallen under the common law, equity, and ecclesiastical courts jurisdictions. One real

¹⁰⁸ Leonard Sheldon, *A Practical Treatise on the Law of Marriage and Divorce* (Philadelphia: John S. Littell, 1841), 25.

accomplishment of the Act was to unify and update parts of the English legal system that were overlapping and antiquated. Danaya Wright, a modern legal scholar, put it this way: “The creation of the court marked the final shift in the modern secularization of divorce and the acceptance of the appropriateness of judicial oversight in matrimonial affairs.”¹⁰⁹ She continued by observing that “[t]he creation of a civil court to handle these varied aspects of legal divorce was a rejection of ecclesiastical and legislative control over the marital relationship as well as a unification of family, property, custody, and marital status.”¹¹⁰ In other words, the creation of this court marked the beginning of the modernization of English family law. It also highlighted the crusade of legal reformers to unify the overlapping and generally ineffectual laws of the nation. No longer was marriage legally the lifelong union it had once been. No longer was it simply a spiritual or ecclesiastical concern. Now it had become something almost completely civil, something even more clearly defined by the law. Beyond these general observations, though, the concern here is how the Act changed the law, but more importantly its effect on women, their lives, and their marriages.

For middle-class women and “Respectable women,” a group not necessarily synonymous but which often went hand in hand, the change in divorce meant a change in their marriages. Marriage, after 1857 and after the Act and its numerous revisions, became something dissolvable, as divorce came within the reach of more couples, and within the reach of more women. Prior to the nineteenth century only four women in all of English history had been able to obtain full divorces, divorces *a vinculo*.¹¹¹ Even up to

109 Danaya C. Wright, “Untying the Knot,” 906.

110 Wright, 906.

111 Ann S. Holmes, “The Double Standard in English Divorce Laws: 1857-1930,” *Law and Social Inquiry* 20.2 (1995): 604.

1857, divorces were something quite rare and very difficult for a woman to obtain because of the cost, legal inequalities, and the issue of proof. Instead, far more frequently a wife sought a separation from her husband, from bed and board, known as divorce *a mensa et thoro*. To obtain such a divorce a woman had to go to an ecclesiastical court and prove her husband's infidelity and also prove that he was cruel to her. This was no easy task, and if a wife was successful she might be entitled to maintenance and was able to move out of her home to escape an adulterous and cruel husband. The Act may not have really simplified things for women, but to a certain extent it did increase opportunities for them to receive a full divorce, a divorce *a vinculo*.

To obtain a full divorce after 1857 was, if not easier for a woman, at least more of a viable option than in the years prior to the Matrimonial Causes Act. Mr. Punch gave his opinion of the Bill in the form of poetry:

He may get a Divorce-- that's a grave and solemn thing;
Annuling the marriage and melting the ring;
And though actions like those which disgrace us are barred,
He may claim from Lotharios what juries award.
But you have no right for divorce Joan to stir
(Save in cases so shocking they never occur.)
Except he's so base a from virtue to draw
One he may not espouse-- say a sister-in-law.¹¹²

Naturally Punch was using a bit of hyperbole in his poem, but along with this exaggeration there was nevertheless quite a bit of truth. The Matrimonial Causes Act, though making progress in reforming divorce law and procedure, still contained within it a strict double standard between men and women. Punch was making much light of this when he wrote, "He may get a Divorce-- that's a grave and solemn thing... But you have

¹¹² Mr. Punch, "Punch," (Sept. 5, 1857): 103, quoted in Stetson, *A Woman's Issue*, 44.

no right for Divorce Joan to stir...”¹¹³ It was still easier for a man to obtain a divorce from his wife than the other way around. All a husband needed to do was to prove his wife’s infidelity. For a wife, though, things were different; she still had to prove her husband’s either bigamous or incestuous adultery to a court. This was the case prior to reform of the divorce law and so the double standard of simple adultery versus what might be termed “aggravated adultery” remained. Ann Holmes, a legal scholar and historian, was particularly interested in understanding why a woman’s adultery was considered to be so much worse than a man’s and in the ideology behind the double standard in the divorce law reform. Part of her explanation for the retention of this double standard has to do with it being part of the popular ideology of society. Indeed, as Holmes pointed out, “During the 19th century, the development of the idea that women lacked sexual desires reinforced the traditional bases of the double standard.”¹¹⁴ Because women did not have desire, their transgressions were perceived as worse than a man’s. Men were seen to have so much desire and so little control over it that their transgressions or mistakes were viewed as more understandable than a woman’s. However, another aspect, according to Holmes, had to do with property. Of this Holmes observed, “Simply stated, a wife’s infidelity was considered to be more serious than her husband’s because her adultery could confuse the rightful inheritance of property by introducing illegitimate children into a family.”¹¹⁵ The pregnancy resulting from a wife’s infidelity could have placed tremendous social and financial strain on a family. An individual woman’s transgression lasted forever, whereas a man’s was fleeting. Even if he fathered a child out of wedlock he need not worry unless the woman he committed

113 Punch quoted in Stetson, *A Woman’s Issue*, 44.

114 Holmes, 606.

115 Holmes, 605.

adultery with was married. In this case the cuckold husband could bring a case of criminal conversation against the adulterous male and seek punitive damages. This, in part, explains why the double standard remained a part of the law. Allen Horstman's work on the Respectable element of society went beyond this and indicated that those who held values of monogamy, marriage, and separate spheres for men and women (amongst other values), wanted to prevent a divorce epidemic. If women were allowed to seek divorce on the grounds of simple adultery by a husband then there was likely to be a huge upswing in the number of divorces. Since the courts were already seeing divorce proceedings in the low hundreds it seemed logical that extending the grounds on which a woman might seek a divorce would only increase the numbers to perhaps an American level. This also helps to explain why the double standard remained in the reformed law.¹¹⁶

Even though a wife no longer had to appear before an ecclesiastical court or win a criminal conversation case against her husband's lover, or appear before Parliament, a divorce was not easy to obtain. There were fewer steps required and the law had been streamlined, but the grounds for divorce remained the same. These same grounds are the "shocking cases" to which Punch is referring. Following the Act a wife could seek a full divorce based on grounds of aggravated marital infidelity, that is the adultery of her husband combined with incest, bestiality, sodomy, and now cruelty and desertion.¹¹⁷ Although, desertion cruelty had been added as grounds for divorce they had to be accompanied by aggravated marital infidelity. Simple cruelty was not enough grounds for a woman to seek or win a full divorce. It still had to be combined with adultery.

116 Horstman, *Victorian Divorce*, 85.

117 Stetson, *A Woman's Issue*, 8.

Adultery was the only thing that, to the minds of legal reformers and many lawyers, could truly destroy a marriage, the double standard notwithstanding.

Cruelty and desertion become very important because these two factors essentially undermined what marriage was supposed to be, not just legally but socially as well. Cruelty legally defined became thought of as, “The infliction of unnecessary pain.... Legal cruelty is the willful and persistent causing of unnecessary suffering, whether in realization or in apprehension, whether of body or of mind, in such a way as to render cohabitation dangerous or unendurable.”¹¹⁸ The most important parts of this definition for our purposes is that cruelty is something willful and persistent and that it not necessarily need manifest itself physically to exist. It was because cruelty was thought to make cohabitation either extremely dangerous or unendurable that it became part of the legal grounds for a woman to seek a divorce after 1857. The caveat to cruelty, though, was the fact that it was an offense that typically had to happen with some frequency before an act or particular form of treatment was considered to be cruel. This, however, was not necessarily always the case because a judge was the one who decided what constituted cruelty and, if he thought an action were likely to repeat itself, a single offense, whether physical or mental, might be considered cruel and be acceptable as a reason, when combined with adultery, to grant a divorce.¹¹⁹ Equally illuminating is what the law did not consider cruelty or adequate grounds for raising a charge of cruelty against a husband. For instance, nineteenth-century legal author David Stewart noted that, “Vices, gaming, gross extravagance, might occasion great mental suffering and bodily ill health, yet this would not be cruelty. So too an austere temper, petulance, or

118 David Stewart, *The Law of Marriage and Divorce, As Established in England and the United States* (San Francisco: Sumner Whitney and Company, 1884), 236.

119 Stewart, 240.

rudeness, or want of affection, or neglect, or injuring health through ignorance.”¹²⁰ For cruelty to exist under the law there needed to be intent. Initially, though, in the first two years after the act was passed, cruelty was something difficult to prove because spouses could not testify against one another in open court. This was amended in 1859, making it much more possible for a wife to prove her husband’s cruelty.¹²¹ Stewart’s observation above is important because, although these instances may not be something often associated with the middle class or with notions of “Respectability,” these vices and character flaws were traits and modes of behavior that existed at all levels of Victorian society. This is not to say categorically that everyone within English society exhibited these traits, but rather that they were fairly common and not just something relegated to either the extremely wealthy or poor and working classes. Cruelty was not a societal norm but instead was an aberration, abhorred by all; this may explain why lawmakers were quick to include it in divorce law reform.

In addition to cruelty being partial grounds for divorce after 1857, a woman could also seek a divorce based on being deserted by her husband. Desertion, like cruelty, had an equally specific legal definition. Desertion, most commonly defined, was, “a husband’s or wife’s willfully and wrongfully ceasing to cohabit with his wife or husband.”¹²² This may seem straightforward enough but there was more to desertion than just willfully and wrongfully ceasing cohabitation. Desertion, like cruelty, required intent, and in the case of a woman seeking a divorce after 1857 she needed to prove her husband’s intent was to either leave and end cohabitation, or to drive her from the home to cause an equal effect. Desertion also required that, after proving the intent of a

120 Stewart, 239.

121 Horstman, *Victorian Divorce*, 90.

122 Stewart, 223.

husband to cease cohabitation with his wife, this intent had to endure or last a given period of time in order for desertion to exist. Stewart put it this way, “His ceasing to have a common home must continue uninterruptedly for the required time. This time begins to run when the intent to desert is formed, and runs, no matter where the parties may be; but it does not run during the complainants consent to separation.”¹²³ The time period typically used to constitute desertion on the part of a husband was anywhere between three and five years of willful and intentional separation. In order to prove such an allegation, a wife had to prove her husband had intended to leave her against her wishes and for reasons entirely his own. In other words, a husband had to cease to cohabit for some other reason than adultery by his wife, mutual consent, business or work, or any other action by the wife that could be used to seek a divorce on the part of the husband. David Stewart again is useful in making clear the circumstances required to make a sustainable charge of desertion. As he explained the law concerning desertion, it would typically include

[a husband] leaving his wife with the declared intention never to return, marrying another woman, or otherwise living in adultery abroad; absence for a long time not being necessarily detained by his occupation or business otherwise; making no provision for his wife, or wife and family, being of ability to do so; providing no dwelling or home for her, or prohibiting her from following him; and many other circumstances.¹²⁴

These were all actions showing not only intent but also the willful ending of cohabitation on the part of a husband towards his wife. So, while desertion, like cruelty, provided another ground for English women to seek and pursue a divorce suit against a husband after 1857, it required just as much proof as a case sought on other grounds, and because of the time and cost involved, proved out of reach for many women.

¹²³ Stewart, 225-226.

¹²⁴ Stewart, 233-234.

Although these new grounds for divorce opened up alternatives for women after 1857, more needs to be said both about the number of divorces after the Act and the type of women who sought divorces as well as their reasons for doing so. Allen Horstman was quick to point out that after the passage of the Matrimonial Causes Act the number of annual divorces in England did indeed increase. He noted that compared to the relatively few number of requests prior to the Act, the number after was in the hundreds and he also stated that those opponents to the bill and, indeed, society itself, “came to accept that 200 or 300 marriages would be dissolved yearly.”¹²⁵ Further, he went on to state that the early predictions of divorces only slightly increasing might have come true if the Act would have limited the grounds for women to seek divorces to adultery based on incest or bigamy.¹²⁶ In spite of the increased grounds on which a wife could seek divorce, wives only brought forty percent of the divorce cases heard by the courts after the Act became law and during the rest of the reign of Victoria.¹²⁷ Husbands were still initiating 60% of all the divorce cases heard by the Divorce Court.¹²⁸ The grounds that allowed more women to seek divorces came as a result of changes like the addition of cruelty and desertion to the list of acceptable reasons to win a simple divorce. These numbers are revealing because, although small compared to the total number of annual marriages and the number of married people in England during the Victorian era and after 1857, they attest to the fact that marriage, while a very powerful social force, was not as powerful as some had thought. Nor was marriage the happy bliss so constantly written about in the various advice pamphlets and other prescriptive literature of the day.

125 Horstman, 85.

126 Horstman, 86.

127 Horstman, 90.

128 Horstman, 90.

The foregoing, however, does not really reveal the type of women who sought divorces, but instead merely attests to the fact that in spite of the legal double standard that still existed women were, if not eager, almost as willing as men to seek a divorce when a marriage was something in name only. To determine what type of women sought divorces after the Act it must be noted that first and foremost, it was only those women who had financial means who sought a legal end to their marriages. Divorce was and is something that costs a considerable amount of money. It was something not easily undertaken by the poor and working classes. It is here that we run into some difficulty in trying to define a typical woman seeking a divorce. The problem is not just that there was no typical woman, per se, but is instead one of categories. Horstman pointed out that divorce was not something strictly limited by class lines. In theory, anyone after 1857 could seek a civil divorce in an England. However, as noted above, the cost of a full divorce deterred many, and if the legal costs alone were not enough to deter some, then the idea or issue of supporting oneself and one's children alone was another deterrent. Beyond these economic concerns, though, were notions not so much of class identity, but of a larger identity of respectability and unrespectability, at least according to Horstman. To him, the Divorce Act was something specifically created and shaped by "Respectables" to punish and educate "unrespectables" in English society.¹²⁹ To "Respectables" it was not necessarily unrespectable for a wife to seek a divorce from her husband based on his infidelity, cruelty, or desertion. "Respectables", (especially those whom dominated the early divorce court), viewed divorces on the above grounds as being the fault of the husband and they were out to punish and educate "unrespectables" on the

¹²⁹ Horstman, 83-84.

concept of respectability.¹³⁰ For Dorothy Stetson, on the other hand, while respectability is something important to consider, it was not the be all and end all Horstman made it out to be. Instead, Stetson chose to focus upon the feminist pushes for reform in the 1850s, like those of Caroline Norton and Barbara Leigh Smith Bodichon and similar women. For Stetson, it was feminist groups' concern for increased legal equality between the sexes and their ability to influence prominent politicians that resulted in the Matrimonial Causes Act of 1857 and its subsequent reforms.¹³¹ Stetson saw women who sought a divorce not through the binary lens of Horstman; according to Stetson, women were not simply respectable or unrespectable. Instead she viewed them as women who realized there was something very wrong with their marriage and who had the ability to do something to change the situation.

Finally, in terms of another perspective on the type of woman likely to seek and get a divorce after the Act in 1857, we need to turn to the work of Joan Perkin. Her work was different from both Horstman and Stetson in that, unlike Horstman, she did not approach her work from the perspective of a simple dichotomy between respectable and unrespectable groups in Victorian society nor did she focus as much as Stetson had on feminism's influence on changing the law and legal status of women. Instead, Perkin broke her work down by class and explained what options various people in each class had in terms of divorce. In a sense, all three scholars covered much of the same ground and indeed say many similar things, but Perkin made it very clear that divorce was most available to women of wealth. This meant women who were economically independent and, after 1857, this meant landed elites and wealthy industrialists. For Perkin it was the

¹³⁰ Horstman, 90-91.

¹³¹ Stetson, *A Woman's Issue*, 15, 36, 44.

middle-class woman who, if not being most likely to divorce, was most capable of doing so. Finally, for Perkin it was the working-class wife who had no real way out of marriage. Yes, she might be able to obtain a full divorce but this had pressing economic consequences for her and her family, unlike the effects it might have had for a wealthy grand dame or a financially secure upper middle-class wife.

Still even the elite women of English society could still be affected by the law's understanding of their identity. Marriage before 1857 changed their legal identity and it is here that its powerful social force is glimpsed. Prior to marrying, a woman existed under the common law as "femme sole." This meant a woman had her own legal identity and would have access to her property, earnings, and could enter into contracts on her own behalf. Further, she would be held responsible legally for any actions or suits brought against her. However, once married, all women in England and the United States lost this individual legal identity and the status and benefits it afforded. Marriage was the gateway into a new legal existence and identity for women, because once married a woman became "femme covert," or covered by her husband. Her legal identity ceased to exist and she fell under that of her husband's. This meant that every woman, regardless of class, was no longer her own person as far as the law was concerned. This had dramatic consequences for women. Coverture not only deprived them of their legal identity, it meant that a woman was no longer the sole recipient of her earnings. She could no longer enter into contracts on her own behalf, needing her husband's consent for all such arrangements. Her property became the property of her husband to do with as he pleased, and the same went for any earnings a woman might make. The legal loss of identity also meant that a husband was responsible for any crimes a wife might commit.

This, however, could hardly outweigh the long-reaching social ramifications of the negative and long established aspects of the common law.

Coverture, more than many parts of marriage law, highlights not only society's projection and codification of a norm or set of beliefs, it also highlights the social effects of law in the daily lives of people and, in this case, women. Dorothy Stetson wrote that coverture, "provided that marriage encompassed separate and unequal roles for the sexes. Upon marriage a woman became *femme couverte*: she lost her separate legal status of *femme sole* and came under her husband's tutelage as though she were one of his children or part of his property."¹³² This may sound extreme, but Stetson accurately portrayed the legal situation of married women in England. As far as the law was concerned married women had no legal rights of their own. Instead these rights transferred to their husbands who were to care for and protect their wives; but the husbands also had a legal responsibility to restrain and correct when necessary.¹³³ This, though, only begins to touch the surface of the effect of coverture on married women. Married women, in effect, had no real rights and far fewer rights than single women who, although nowhere near equal with men, were afforded more rights than married women. William Blackstone, writing in 1765, perhaps defined coverture best when he wrote, "by marriage the very being or legal existence of a woman is suspended, or at least is incorporated or consolidated into that of the husband, under whose wing, protection and cover she performs everything, and she is therefore called in our law a *femme covert*."¹³⁴

To highlight the nature of coverture and its real effects on married women let us turn to the English case of Susannah Palmer. Palmer was an average working-class wife

132 Stetson, *A Woman's Issue*, 5.

133 Stetson, 5.

134 William Blackstone, quoted in Lee Holcombe, *Wives and Property*, 23.

who had the misfortune of marrying an abusive man. By 1869 she had left him and found a new home in which to raise her children. However, her husband found her and the children and then sold all her belongings because legally they were his. Eventually she was taken to court for stabbing her husband during one of his instances of abuse. She was found guilty and sent to prison. Susannah Palmer was the criminal in this case, not just for stabbing her husband, but for leaving the marital home against his will and taking the children and her belongings, both of which were considered his property.¹³⁵

Marriage, according to mid-nineteenth century English legal scholar Sydney Bell Smith, “operates as an assignment by the woman to the man of all her personal property, and the creation in him of a freehold estate in all her real property....”¹³⁶ Coverture made the actions of Susannah Palmer illegal. When she left her abusive husband and took the children with her she was breaking the law. This law applied to all the women of England, from the poorest to the wealthiest women of England. Here it should be noted that while this law did indeed apply to all women, elite women or very well-to-do women often had their assets protected in trusts. These trusts can be thought of as similar to the way prenuptial agreements function today. Prior to an elite woman marrying, her father or brother would often establish a trust in her name into which all her property and wealth were placed. This trust was held in the woman’s name, usually by her male relative, and was only accessible to either one of them. In this way a wealthy or elite family could protect their daughter and the family wealth from a ne’er do well husband.

The caveat listed above highlights one of the ways in which the English legal

¹³⁵ Holcombe, 3.

¹³⁶ Sydney Bell Smith, *The Law of Property as Arising from the Relation of Husband and Wife* (Philadelphia: T. & J.W. Johnson, 1850), 29. Smith was a legal scholar familiar both with the laws in England and the United States and wrote about marriage laws in these two countries. This explains why his work was published in Philadelphia and not just in England.

system was permeated with inequities based upon class. In other words, while it seemed there was equal justice for all under the law, the law worked more on behalf of the wealthy and well-to-do than against them. Joan Perkin has invested a great deal of time and effort to show these inequities, especially between women of wealth and those less well off. While this avenue of inquiry is useful because it demonstrates that wealthy women might have had more legal protection than their poorer sisters, it also creates a somewhat misleading picture. There is no doubt that separate courts existed for the wealthy in the form of equity courts. It is also true that a portion of an unmarried daughter's wealth might be put in a trust that a husband could not touch, but this did not mean the property laws for wealthy women were different from those of other women. Again Lee Holcombe highlighted this well with the case of Millicent Garrett Fawcett, wife to a Liberal Member of Parliament and a leader of the women's suffrage movement. Holcombe wrote, "[In the 1870s] Millicent Garrett Fawcett had her purse snatched... when she appeared in court to testify against him, she heard the youth charged with 'stealing from the person of Millicent Fawcett a purse containing £1 18s. 6d., the property of Henry Fawcett.'"¹³⁷ Here was a woman who would have occupied one of the higher places in English society, yet because she was married she was *femme couverte* and as such the purse and the money in it were not hers but her husband's. The law did not make exception because of her station, just as it did not make exception for Susannah Palmer. So women of wealth and status might have access to a trust set up in equity court prior to their marriage, but this did not mean the law made exceptions for such women once they were married.

To further highlight this point one need only turn to the famous case of Caroline

¹³⁷ Holcombe, 3.

Norton. Norton, a well-known and respected writer, ended up marrying a less than good man in George Norton. She separated from him in 1832 after having her third child.¹³⁸ Because this happened long before the Matrimonial Causes Act (even though this might not have helped much), George used his rights as her husband and denied her visits to her children and kept all the money from the sale of her writings.¹³⁹ This case, like that of Millicent Fawcett Garrett, demonstrates that just because a woman came from wealth or a politically influential family did not mean that the legal system would bend or shift for them. Instead they faced the same law and the same restrictions as any other married woman in English society. Norton later wrote of the inequities the legal system placed upon married women. Her list of these inequities was as follows:

1. a married woman has no legal existence whether or not she is living with her husband;
2. her property is his property;
3. she cannot make a will, the law gives what she has to her husband despite her wishes or his behavior;
4. she may not keep her earnings;
5. he may sue for restitution of conjugal rights and thus force her, as if a slave, to return to his home;
6. she is not allowed to defend herself in divorce;
7. she cannot divorce him since the House of Lords in effect will not grant a divorce to her;
8. she cannot sue for libel;
9. she cannot sign a lease or transact business;
10. she cannot claim support from her husband, his only obligation is to make sure she doesn't land in the parish poorhouse if he has means;
11. she cannot bind her husband to any agreement.¹⁴⁰

Norton's list provided a good description of married women's legal position before the Matrimonial Causes Act of 1857. Many parts of it also hold true with regards to married women's place after the Matrimonial Causes Act. The act did not end coverture but was the first law to amend coverture and its function.

Now that a brief outline of divorce legislation and change in English law has been provided, it is instructive to turn to the United States in order to see what a related

138 Stetson, 31.

139 Stetson, 31.

140 Caroline Norton, quoted in Stetson, *A Woman's Issue*, 33.

legal system and society thought about marriage, women, and divorce. By briefly examining the U.S. side of things one gains a greater appreciation as to why moral reformers and other members of English society were so worried by reform of their own legal system. Divorce laws in America did not have the same legal or social history as they did in England. Divorce in England was something few could obtain, and most who could were men; the United States offered a completely different picture especially for the period of 1857 and beyond. Divorce from bed and board had existed in the colonies and then in the states from the founding of the Republic. Full divorces emerged as an increasing norm shortly after the Revolution, partially as a response to it, and they only increased in the early and middle part of the nineteenth century.¹⁴¹ Reform came earliest in the Northeast, first in Maine and New Hampshire and latest in South Carolina, where divorce still did not exist until as late as 1878.¹⁴² Nelson Blake, author of *The Road to Reno: A History of Divorce in the United States*, explained that, “almost everywhere legislators used their newly won powers to relax what they regarded as as the undue rigidity of the old English law [of divorce]”.¹⁴³ In breaking from England politically legislators in the United States believed it was expedient to loosen the grip of the English legal tradition. This is not to say that American legislators on the state level wanted or necessarily intended to make divorces something easy to obtain. In fact, as Nancy Cott made abundantly clear in *Public Vows: A History of Marriage and the Nation*, when amending the laws of marriage and divorce, American lawmakers simply were “refining

141 Norma Basch, *Framing American Divorce: From the Revolutionary Generation to the Victorians*, (Berkeley: University of California Press, 1999), 21.

142 Woolsey, 203.

143 Nelson M. Blake, *The Road to Reno: A History of Divorce in the United States*, (New York: Macmillan, 1962), 49.

an institution.”¹⁴⁴ That is, by revising and modernizing the divorce laws of a given state, lawmakers hoped to stress the lifelong nature of marriage and only changed the grounds of divorce to reflect what already had been common practice among the populace when it came to ending a marriage.¹⁴⁵ As Cott explained, “By declaring what behavior broke the bargain of marriage, states were reiterating what composed it.... Rather than inviting husbands and wives to pursue marital freedom, the states in allowing for divorce were perfecting the script for marriage, instructing spouses to enact the script more exactly.”¹⁴⁶ Legislators were not intending to create the circumstances for a divorce epidemic; they were merely attempting to address what was already the norm and reiterate what marriage was all about. Marriage in the American legal context was built around the idea of a mutually created contract between two people, a union entered into freely; in short, American judges focused more on the breach of promise than on the complete breakdown of the marriage.¹⁴⁷ In England divorce was granted only because one spouse had undertaken an action or set of actions that critically and irrevocably undermined the marriage. In the United States, however, lawmakers, in expanding the grounds for divorce, recognized more avenues for actions that would break the marriage contract. American lawmakers were stressing that marriage was a mutual relationship of responsibility. In extending the grounds for divorce they were merely showing what actions on the part of a husband or wife broke the marriage contract and marriage itself. In spite of these well meaning attempts the reality created by American marriage law reform ended up dramatically and drastically increasing the number of divorces.

144 Cott, *Public Vows*, 47.

145 Cott, 47-48.

146 Cott, 52.

147 Basch, *Framing American Divorce: From the Revolutionary Generation to the Victorians*, 26.

The sheer number of divorces granted in the United States began to worry many in England not to mention the United States.¹⁴⁸ English moralists had their eyes open to divorce epidemics or outbreaks in general and in particular saw, or thought they saw, divorce epidemics in Prussia and the United States. In Prussia it was alleged that the divorce rate was 57 per 100,000.¹⁴⁹ Looking across the Atlantic these same moralists or Respectables saw something worse in the United States. Allen Horstman noted,

The various states of the United States provided much copy as statistics flowed in from 'the land of the free'. Figures revealing that Connecticut and Ohio produced one divorce for every eleven marriages served to emphasize the unRespectability of the Great Republic. An American who, after his former wife remarried, discovered he still loved her, committed suicide in her Parisian hotel after she rejected him—such were the consequences of easy American divorce. All was confirmed in 1889 when the United States Department of Labor published a report on divorce which suggested divorce had become a threat to the social order. The various states of the American republic permitted more divorce than all of Europe combined!¹⁵⁰

Opponents of the Matrimonial Causes Act like William Gladstone, voiced their fear of easy divorce epitomized by example of the United States. Gladstone worried, that by reforming divorce law and making the process more efficient divorce would be easier to obtain which would only increase the appetite for divorce and threaten family stability.¹⁵¹ He need only look to the states in the U.S. that had legalized divorce because they saw hundreds to thousands of divorces a year. These numbers are confirmed in *Marriage and*

148 For a thorough examination and explanation of the American context refer to Nelson M. Blake's, *The Road to Reno: A History of Divorce in the United States*, especially chapter 7.

149 *Hansard*, 147:770, 759-60 found in Lawrence Stone *The Road to Divorce: England 1530-1987* (Oxford: Oxford University Press, 1991), 384.

150 Horstman, *Victorian Divorce*, 108. The Department of Labor report which Horstman references is Carroll D. Wright, *Marriage and Divorce in the United States, 1867-1886*, (New York: Arno Press, 1889). Horstman states that the report was from 1889 which is true but is somewhat misleading. The report, by Carroll D. Wright, was published in 1889, but it focuses on the years of 1867 through 1886.

151 *The Gladstone Diaries* vol. 5, entry for 4 August 1857 ed. H.C.G Matthew, (Oxford: Oxford University Press, 1994), found in Stephen Cretney, *Family Law in the Twentieth Century: A History*, (Oxford: Oxford University Press, 2005), 163.

*Divorce in the United States, 1867-1886.*¹⁵² [Please refer to the appendix for the data tables that will be discussed below.] In looking at the two data tables for all of the states and territories between the years of 1867 through 1886 it becomes clear how people like Gladstone and later Goldwin Smith might have thought that there was a divorce epidemic in the United States. During this period there were no less than 9,000 divorces granted throughout the country and as the years progressed these numbers only increased, so much so that by 1886 some 25,535 divorces were granted.¹⁵³ The total number of divorces granted between 1867 and 1886 was 328,716.¹⁵⁴ Now, where these numbers become truly striking is when they are compared to England for the same period. Here again the work of Carroll Wright is useful. For the year of 1867 in England and Wales there were 11 judicial separations, (divorces a mensa et thoro) and 119 dissolutions of marriage, (divorce a vinculo) resulting in a total of 130 divorces for that year. When compared against the 179, 154 marriages that we performed there was a marriage to divorce ratio of 1 divorce for every 1,378 marriages.¹⁵⁵ In the same year, 1867, there were 9, 937 divorces granted in the United States.¹⁵⁶ There is a huge difference and disparity between these numbers. The United States saw nine times the number of divorces as England for the same period and the English data even includes Wales. This in spite of a population, counted in 1860, including all states and territories of 30,443,321.¹⁵⁷ For the 19 year period of 1867 through 1886 there were only 5,408

152 Carroll D. Wright, *Marriage and Divorce in the United States, 1867-1886*, (New York: Arno Press, 1889), 442-443.

153 Ibid, 443.

154 Ibid, 443.

155 Ibid, 1017.

156 Ibid, 443.

157 Joseph G. Kennedy. *Population of the United States in 1860*. (Washington: Government Printing Office, 1860), iv.

divorces granted in England and Wales, and out of these 684 were judicial separations.¹⁵⁸ This small number of divorces is even more striking when viewed in comparison to the British population which in 1860 was 23.1 million.¹⁵⁹ Taken as a percentage English divorces for this 19 year period would have accounted for only 1.64% of American divorces for the same period. Connecticut alone for the same twenty year period saw 8,542 divorces granted, that is over 3,000 more than for the entire country of England over the same period.¹⁶⁰ Indiana was even worse than Connecticut, some called it a 'divorce mill' and for good reason as not only did the state have an omnibus divorce clause, but there was no residency requirement for those seeking a divorce.¹⁶¹ Indiana typically saw well over 1,000 divorces a year between 1867 and 1886.¹⁶² In point of fact, Indiana along with a number of other states became what Nelson Blake termed divorce colonies.¹⁶³

There is no singular explanation that adequately answers why the number of divorces in the United States was so high especially when compared to England for the same period. Instead, a multitude of reasons emerge as a partial explanation for the difference in the numbers. First and foremost it needs to be stated that contrary to England, the United States, had a wide variety of laws dealing with the dissolution and ending of marriage. Indeed, as Nancy Cott, Norma Basch, Glenda Riley, and Nelson Blake have all noted in varying forms, because there was no one single law for the entire nation divorce rates increased as states tried to deal with the issue of marital breakdown

¹⁵⁸ Ibid, 1017.

¹⁵⁹ E.A. Wrigley, "British Population During the 'Long' Eighteenth Century, 1680–1840." in *Industrialization, 1700–1860*, ed. Roderick Floud and Paul Johnson, (Cambridge: Cambridge University Press, 2004), 58.

¹⁶⁰ Ibid, 443. This data matches up nicely with Horstman's assertion quoted earlier on page 60.

¹⁶¹ Cott, *Public Vows*, 51.

¹⁶² Carroll Wright, 443.

¹⁶³ Blake, 116.

on their own.¹⁶⁴ Hence, certain states began to be perceived as divorce mills or divorce colonies. England on the other hand had a singular law and court for dealing with divorce, all of which was created with the Matrimonial Causes Act of 1857.¹⁶⁵ Related to the issue of a singular law versus a multitude of varying local laws, England's law regarding what conduct allowed for divorce was much stricter than in the United States. In England, even after the Act, divorce was only available to women if a husband committed aggravated adultery and for husbands if a wife committed simple adultery.¹⁶⁶ In the United States, however, divorce could be sought on more and expanded grounds. For example Pennsylvania as early as 1785 granted divorces based on impotence, bigamy, adultery, and willful desertion for four years, nor was it unique: Virginia (never the bastion of liberal ideas), by 1848 granted full divorces on all these grounds and even added imprisonment, and conviction for “infamous offense” prior to marriage without knowledge of the other party.¹⁶⁷ These states were by no means alone in having multiple avenues to divorce open to both men and women. As we have already seen Connecticut and Indiana both had very liberal divorce laws both with regard to the United States and especially when compared to England. Emphasizing these points, scholars like Robert Griswold and Jane Turner Censer have written that in the American legal context expanded definitions of cruelty alone led to an upswing of divorce cases. Censer asserted that “[i]n English law, cruelty endangering life or limb justified a legal separation but not divorce. In much of the nineteenth century South, cruelty not only became a cause for

¹⁶⁴ Riley, 108, Cott, 50, Blake, 133, Basch, 6.

¹⁶⁵ Danaya Wright, “Well-Behaved Women”, 215.

¹⁶⁶ Rebecca Probert, *Family Law in England and Wales*, (Frederick, MD,:Aspen Publishers, 2011), 23.

¹⁶⁷ Blake, 51-52.

divorce, but the conception of cruelty was considerably enlarged.”¹⁶⁸ Robert Griswold also observed that, “[f]rom 1867 to 1886, United States courts granted 328,716 divorces in the next twenty years, the number jumped to 945,625, far outpacing the proportionate rise in population... Next to non-support, cruelty cases rose more sharply than cases based on any other cause in these years.”¹⁶⁹ Each of these authors traced the rise in American divorces to increased availability through an expanded definition of cruelty. Merely having more grounds upon which to seek divorce provides part of the explanation for why there were simply more divorces in the United States than in England for the same period. There are still other reasons for the disparity in divorce numbers between both countries.

Another one of the reasons for such a large disparity in the number of divorces has to do with the fact that after 1857, there was only one court and indeed only three judges who heard cases and were able to grant divorces in England.¹⁷⁰ The judge in charge of the newly created Divorce Court was Sir Cresswell, and his court was situated in London and would sit for two to three days at a time.¹⁷¹ This meant that petitioners of the court not only had to travel to London, no small task in terms of time or money especially for the working classes, but also that they had to do so in a very specific time frame.¹⁷² In contrast, the United States, offered relatively easy access to divorce courts. Unhappy couples seeking a divorce could go to a court in their state and jurisdiction or even to another state like Indiana, Connecticut, or Illinois which had little to no residency

168 Jane Turner Censer, “‘Smiling through Her Tears’: Antebellum Southern Women and Divorce,” *The American Journal of Legal History* 25 (1981): 27.

169 Griswold, “Law, Sex, Cruelty, and Divorce in Victorian America,” 722.

170 Danaya Wright, “Untying the Knot”, 915-916.

171 Wright, 915.

172 Cretney, *Family Law in the Twentieth Century: A History*, 199.

requirements.¹⁷³ In the United States a petitioner seeking divorce did not have to travel to the state capitol let alone the national capitol to have their case heard and tried, they only needed go to a local court.¹⁷⁴ Ease of access meant that Americans could more easily get divorces when compared to their English counterparts for the same period. Two final factors with regard to why there were so many more divorces in the United States versus England have to do with cost and with each country's conception of marriage.

The cost of divorce has never been cheap but when one compares the cost of a divorce in the nineteenth century in the United States and England, the simple difference between the two highlights how divorce was cheaper and thereby easier to obtain in the United States. Danaya Wright provides solid data with regard to the cost of divorce in England after the Matrimonial Causes Act of 1857. Between the years of 1858 and 1861 the average divorce cost between £51 and £100.¹⁷⁵ Some divorces could cost well over £200, which was no small sum of money for the time.¹⁷⁶ Cynthia Curran noted that, “the average middle-class income was well under £300 and a more accurate figure would be under £160.”¹⁷⁷ If the average divorce cost somewhere between £50 and £100 then this would mean that a divorce would cost around half of an average middle-class income. In the United States, however, legislators sought to make divorce accessible to all no matter how impoverished.¹⁷⁸ In fact certain states like New York and Tennessee allowed the impoverished, especially women, to sue for divorce without cost.¹⁷⁹ Since divorce was still expensive after 1857, (although no means as expensive as it had been), it remained a

173 Blake, 120-121.

174 Lawrence M. Friedman, *A History of American Law* 3rd ed. (New York: Simon & Schuster, 2003), 144.

175 Wright, “Untying the Knot,” 1010.

176 Wright, “Untying the Knot,” 1010.

177 Cynthia Curran, “Private Women, Public Needs: Middle-Class Widows in Victorian England,” in *Albion: A Quarterly Journal Concerned with British Studies*, vol. 25, no. 2 (Summer, 1993), 219.

178 Basch, *Divorce an American Tradition*, 53.

179 Basch, *Divorce an American Tradition*, 54.

very limited option hence the lower number of divorces when compared to the United States. By contrast divorce in the United States was relatively cheap and available to the poor.¹⁸⁰ While exact figures are hard to come by it can safely be said the divorce was not something open to the poor and working classes in England after 1857.¹⁸¹ The issue of cost and the relative availability of divorce to a broad section of the American population as opposed to their English counterparts leads to one final point in describing the difference in divorce rates between both countries, namely that of each countries conception and understanding of marriage.

In England both before and after the Matrimonial Causes Act marriage was generally viewed as a lifetime commitment, which in part explains the passage of legislation like the Hardwicke Act of 1753 and the Civil Marriage Act of 1836. Since marriage was understood in these terms, divorce was a social evil that was only to happen in rare circumstances and was to be discouraged.¹⁸² The Campbell Commission, the body charged with investigating the need for divorce law reform, had said as much in 1852. In their report the representatives stated, “[the need to protect the] reverence accorded to the nuptial tie [required that the causes of divorce be limited to] a few extreme and specific provocations.”¹⁸³ By contrast the “American legal attitude” did not see marriage necessarily as a lifetime commitment, and since marriage was viewed as a mutual contract between two parties, much like the people to the government it could be dissolved. This does not mean marriage was unimportant nor did it mean that other types

180 Cott, *Public Vows*, 50.

181 Wright, “Untying the Knot,” 988.

182 Wright, “Untying the Knot,” 988.

183 *Report of the Commissioner... into the Law of Divorce* (1852-3) BPP vol. 40, 249.

of marriages, like non-monogamous unions were accepted.¹⁸⁴ Marriage was important, it was simply thought about in distinctly different legal and ideological terms in the United States. Indeed, as Nancy Cott wrote, “state legislators willingness to allow divorce gave compelling evidence that the contractual ideology of the Declaration of Independence resonated through their thinking about spousal relations.”¹⁸⁵ Indeed marriage began to be seen as a contract between two mutual and equal partners. Glenda Riley noted, “after the American Revolution, the customary view of marriage as a patriarchal structure was increasingly challenged by an emerging ideal of compassionate marriage—a union based on a partnership of friends and equals.”¹⁸⁶ Perhaps even more to the point, Riley noted, “spurred on by revolutionary rhetoric against submission and tyranny, husbands and wives began to ask for increased respect from their spouses... for honor, esteem, and consideration.”¹⁸⁷ In other words marriage, in the American context was increasingly seen as a mutual partnership based on love and consideration. If one partner failed to live up to certain expectations within these grounds then the other should have the opportunity to end the marriage. Here again Cott is insightful observing that, “having justified rebellion against government tyranny, many state legislators were convinced that an innocent, ill-used spouse's escape from intimate tyranny should likewise be possible.”¹⁸⁸ Whereas England sought to discourage divorce and generally saw it as a social evil, the United States saw divorce in somewhat different terms. The ideological underpinnings of being governed by choice became linked to marriage and as such divorce was not seen in the same negative light as it was in England. America, from its

184 Cott, *Public Vows*, 106.

185 Cott, *Public Vows*, 47.

186 Riley, *Divorce: An American Tradition*, 55.

187 Riley, 55.

188 Cott, 47.

founding, was imbued with the idea that almost nothing was necessarily permanent especially if it infringed upon people's rights, (that is white people's rights). The consequence of this mentality was that state legislatures and legislators opened up the grounds for the divorce and made it relatively accessible to most Americans' even the poor.¹⁸⁹ The differing attitudes and ideologies with regard to marriage also help to explain the vast differences in the number of divorces between these two nations. Taken together with factors such as increased grounds for divorce, lower costs, and ease of access it becomes clear why there were so many more divorces in the United States than in England.

Divorce rates both in England and the United States would only increase as the nineteenth century progressed. Although these numbers pale in comparison to today's numbers they began to alarm many in both American and English society. In part increased numbers of divorces added fuel to the debate over women's rights, roles, and places in English society, something that will be discussed more in the coming chapter.

Up to now however, little has been said regarding the relationship between the law and prescriptive social norms. One source that highlights the connection may be found in the various advice manuals which began to become popular around mid-century and continued to be influential well into the 1870s and 1880s. These manuals, popular in England and the U.S. and were one medium through which the notion of separate spheres, proper roles for men and women, as well as general advice, were given. These tracts may, on the surface, appear as offering plain and simple advice but they carry with them values, and through the tracts' plain and simple advice these values emerge and take shape.

¹⁸⁹ Basch, *Framing American Divorce*, 52.

To begin, we turn to a work from England, first published in 1838, titled *Female Excellence; or Hints to Daughters Designed for Their Use from the Time of Leaving School till Their Settlement in Life*. This work was written supposedly by “a mother” and published by an important evangelical group, the Religious Tract Society. This work, like many in this genre and many by evangelical religious groups, began by grounding itself in scripture and moved on to explain how these lessons might manifest themselves in the lives of young women. Interestingly this work in particular did not push marriage as something that must happen immediately or as something to maintain a person’s respectability. This, however, does not mean that this work discouraged marriage. Rather, it encouraged marriage but not for what it described as silly or idle reasons. An illustrative excerpt revealed that “[y]oung people should be guarded against supposing that it is essential to their respectability or happiness that they should marry. This mistaken notion has led many to engage in very undesirable connexions from the sheer dread of living unmarried...”¹⁹⁰ Marriage was something that, to the author of this work, needed to be taken seriously and was not something entered into lightly. Marriage, at least for this author, was the normal thing to do. For the author, “according to the arrangements of Providence, it is the ordinary lot of young females to form connexions in life, and to enter upon its more active and specific domestic duties, as heads of families and parents.”¹⁹¹ In other words, while it may not have been prudent or even a good idea to marry out of a sense of protecting one’s respectability or simply for happiness, marriage was seen by this author as a normal and essential part of typical Christian female life. Expanding on the point that marriage was not something that should be

190 A Mother, *Female Excellence or Hints to a Daughter* (London: Religious Tract Society, 1838), 199.

191 A Mother, 197.

forced or entered into lightly, this work in particular placed emphasis on finding a good husband, one who would fulfill his duties and treat his wife appropriately. For instance, “[t]he first consideration ought to be of moral and religious character... this must invariably be the foundation of happiness in married life. Let no young woman deceive herself with the idea that a bad man can be a good husband, or that he who neglects and disregards his duty to God, is likely to discharge it to his fellow-creatures...”¹⁹² Here again we see how the author urged women to make a conscious and clear choice when it came to finding a suitable husband, the stress being on the values of having a good character which stemmed from morals and religion. Marriage was important, but a marriage must be happy and in order to ensure the likelihood of this happiness care must be taken in choosing a husband. All this emphasis on care and choice and not rushing into marriage might seem peculiar in an era of almost mandatory marriage as the nineteenth century and the Victorian era has been described. This emphasis, though, was not problematic because there was a clear emphasis on marriage and in this sense marriage entered into the central place of the conversation. The centrality of marriage, a happy and proper one, was what the work tried to emphasize and present to young women. This work sought to provide a guide for young women in search of a husband, to instruct them in their moral duty and explain how to accomplish this in a way that was not only proper but one that was designed to guarantee success, thereby guaranteeing propriety and respectability.

A similar but equally important passage from a related work of the same period is also helpful in illustrating this sentiment. Again this work, authored by Reverend John Edmund, had its roots in evangelical religion. The work titled *Female Happiness; or The*

¹⁹² A Mother, 205.

Lady's Handbook of Life, is much like *Female Excellence* in that its goal was to instruct and guide women on living a moral and purposeful life which naturally, to the author, means a happy one. In regards to marriage Reverend Edmund had the following to say, "Marriage is a most important era in woman's life... if formed judiciously, and with a suitable partner, this is the most natural, innocent, and happy condition of a woman's existence:- in fact, it not only bids fairest for that little portion of happiness which this life admits, but is in some degree a duty which she owes to the world..."¹⁹³ Marriage was not just something important but was a woman's duty to herself and to the larger world. Again it was not something to be entered into lightly or with just anyone; marriage was crucially important and might be the only thing to grant a woman any true happiness according to this author. As Horstman was so quick to emphasize and repeat, central to Victorian society were the Respectable class and their morals and ideals.

Horstman wrote that Respectability,

depend[ed] on the values and attitudes, hinged on the treatment of others (be they inferiors, superiors, or equals) and appearances—in other words behaviour. . . Knowing what was unrespectable and avoiding it constituted the other side of the coin. Three activities—drink, gambling, and sex—came to be the focus of Respectable hates and fears.¹⁹⁴

These ideals, according to Horstman, emerged with the rise of evangelicals in England and then spread to a section of society hoping to define itself against the perceived loose morals of the previous century and largely against the aristocracy of England. This work especially highlights that of the group of evangelicals Horstman views as laying the groundwork for the Respectables. This was not so much a class, per se, to Horstman, because its members crossed class lines ranging from the aristocracy through the working

193 John Edmund, *Female Happiness: or The Lady's Handbook of Life* (London: William Tegg & Co., 1840), 303.

194 Horstman, *Victorian Divorce*, 37.

class. Even Horstman, though, concedes that to be Respectable required money and a large part of this group's membership was made up of middle-class professionals. This work highlighted the importance of marriage as an institution and as the role most women search for and fulfill.

In their "respectable" conception marriage was central in that it provided for stability in society, in a sense becoming a cornerstone for it, one "ordained by providence." John Edmund's *Female Happiness* corresponds with the idea that to be Respectable meant to be married. To ensure its success, marriage should not be entered into lightly; thought and care was required in the selection of a husband. In this sense, then, respectability could be maintained because happy marriages were to ensue if young women followed the advice contained within. What Edmund's work did, in our sense at least, was deter the need for divorce because, through instilling proper values and teaching young women to find a proper suitor, a happy marriage was supposed to occur. Choosing the right partner, in theory, prevented divorce because the right person would not commit adultery, the one thing that ensured divorce for a man or a woman.

This is important because it helps to confirm Horstman's view with regards to divorce law reform and legislation, but it does not fit within our time frame. It represents the precursor and initial establishment of the values and traits of those who considered themselves respectable and these values, according to Horstman, are what helped to define the Victorian age. These are the values most often thought of even if they are exaggerated and in their exaggeration end up misleading us to the actual reality of the period.

This brief discussion of one small part of the large body of domestic advice literature as well as advice literature in general begins to establish a link between the law and larger societal norms. It only begins to scratch the surface of this connection, however. In its brevity it is unfortunately similar to the passing sentences written in many works regarding divorce and women's property law, both in England and the United States. The next chapter expands on this link, focusing specifically on this area of literature and tying it back to the law. In this way these two bodies can be seen as intertwined as opposed to separate. It is in their interaction that we see the mix of ideals and reality. This interconnected activity sheds light on two areas that affected women's lives greatly and provides a fuller understanding of the forces that existed, forces that helped shape women's lives during the final thirty years of the nineteenth century.

CHAPTER III

WOMEN, THE HOME, AND A CHANGING SOCIETY

Many works have been written devoted to understanding nineteenth century social mores and the societal debates surrounding the establishment of these in England. Many scholars have viewed class to be a defining characteristic with regard to attitudes surrounding social mores. In a similar way, class has also been used as a lens through which to view an ongoing debate about how people were to comport and carry themselves within society. Nowhere is this truer than in works that have focused on women. Initially, such works took women to be a rather homogeneous group, however class quickly became one way that scholars began to delve deeper into the experiences of women. Middle-class women in England from the 1860s through the 1880s faced a rapidly changing world. Their class position may have appeared secure by this time, but elements that had helped define that position were increasingly under attack.

This attack on middle-class ideals and values with regard to womanhood and women's rights and roles was not new. The debate had started as early as the 1830s. However, the 1850s was one of the crucial periods in the history of the women's rights movements and for legal reform in England. Danaya Wright, a legal scholar and historian, made the case for the importance of legal reform during this decade. She observed that "[t]he idea of creating a unified court to handle all issues of family breakdown was a product of the nineteenth-century reform movement and recognition

that the family was a social institution that deserved a protected legal status.”¹⁹⁵

These movements for reform had the effect of spurring actual legal reform with regard to married women’s property and divorce rights as well as issues of child custody. Clearly these movements did not seek to launch an all out assault on the middle-class women, but the changes produced did undermine parts of the foundation that had become central to middle-class women’s identity in the Victorian era. *The Christian Lady’s Magazine* described the situation after the passage of the Matrimonial Causes Act of 1857 in hyperbolic terms. One of its authors wrote, “The main plan... is, first, to wholly abolish marriage... secondly, to take every child from its mother at the time of its birth... Thirdly, to do away with that sacred and endearing thing—home... there is to be no separate dwelling, no husband, no wife, no parent, no child, no brother, no sister, no neighbor, no friend, no pastor, NO GOD.”¹⁹⁶ These fears might be expressed hyperbolically but they contain an element of the real fears that certain members of society felt.¹⁹⁷ This population of evangelicals, moralists, socially conservative politicians, and conservative middle-class men and women feared that reform in the divorce law and the married women’s property law would not just corrupt society, but ultimately be the cause of its downfall.¹⁹⁸ Members of these groups were fearful that such legal reform would open the door to the destruction of the family by transforming marriage into a temporary institution. John Gillis even went so far as to write that, “by the 1850s even the most radical elements [socialists, sexual nonconformists, etc] were abandoning their public

195 Wright, “Untying the Knot,” 904.

196 Barbara Taylor, *Eve and the New Jerusalem: Socialism and Feminism in the Nineteenth Century* (Cambridge: Harvard University Press, 1993), 119, in John R. Gillis, *For Better, For Worse*, 190.

197 Samuel Wilberforce as quoted in Mary Poovey, *Uneven Developments: The Ideological Work of Gender in Mid-Victorian England*, (Chicago: University of Chicago Press, 1988), 59.

198 Stone, *The Road to Divorce*, 384 and in *Hansard’s Parliamentary Debates* vol. CXLIII, 3rd series 1856, (London: Cornelious Buck, 1856), 756.

opposition to the nuclear family and the monogamous marriage.”¹⁹⁹ When even the most free-thinking and liberated voices in society are turning away from sexual and marital nonconformity, events like increased numbers of divorces had to be causing real fears about marriage and family in society. However, the idea that some were simply toning down their rhetoric in the face of a backlash cannot be completely written off. Opponents like Gladstone had voiced their fears that by streamlining divorce it would therefore be made easier, and if easier, more divorces would occur. Echoing these sentiments and the fear that making divorce easier affects attitudes towards marriage Lord Redesdale claimed in 1860:

Everything which had occurred in the Divorce Court since it had been established had done much to lessen in this country the sanctity of the matrimonial tie... [T]he marriage tie was no longer regarded by the people of this country with the sanctity that had hitherto attached to it.... At present divorce was brought within the reach of men of moderate means. The cry would soon be raised to bring it within the reach of men of any means; and he believed that an attempt would be made to have divorces settled in other and cheaper courts...²⁰⁰

Redesdale's view proved prophetic as divorce continued to increase throughout the rest of the century. These opponents to the Bill, along with other moral reformers, in the words of Allen Horstman, “became aware of the status of divorce in other countries, and the divorce court made those differences more evident as it began receiving petitions involving laws of other nations especially the United States.”²⁰¹ In other words England and its reformers, along with a conservative divorce court, saw the problem created by easy divorce in the United States and sought to prevent such high numbers of marital and family breakdown

199 Gillis, 228.

200 Cretney, *Family Law in the Twentieth Century: A History*, 195.

201 Horstman, 163.

occurring in England. Christine Bolt stated this very idea in her 1993 work *The Women's Movement in the United States and Britain from the 1790s to the 1920s*. Bolt wrote, “the escalating American divorce rate, like other American social trends, was regarded with gloom by British conservatives.”²⁰² Supporting Bolt's observation is a story from *The National and English Review* entitled “Conservatism and Female Suffrage”, wherein it was written, “the liberty of divorce has been enlarged in some States of the American Union till the very foundations of the family are shaken, and women themselves are beginning to cry Hold....”²⁰³ Smith feared that this American model of increased women's rights with regard to the law and divorce would come to effect England. He feared that such examples would embolden feminists and other suffragists who sought to extend the vote to women. He also expressed clear fears over the breakdown of family, the home, and, by extension, society when he added “till the very foundations of the family are shaken”.²⁰⁴ Perhaps nothing better sums up his view and that of other social conservatives of the time than the end of article,

If supreme power is to be again partitioned, and if the relations of the sexes are to be revolutionized, let both things be done conscientiously, deliberately, and with a full view to the probable effects. The revolutionary cauldron will hardly be cooled for a single hour by flinging into it female character and the home.²⁰⁵

The final sentence expresses clear fears over the breakdown of the household if there were further legal reform with regard to women in England and especially if the vote

202 Christine Bolt, *The Women's Movement in the United States and Britain from the 1790s to 1920*, (New York: Harvester Wheatsheaf, 1993), 137.

203 Goldwin Smith, “Conservatism and Female Suffrage,” in *The National Review* no. 60. (Feb, 1888), (London: W.H. Allen & Co, 1888), 742.

204 Goldwin Smith, 742.

205 Goldwin Smith, 752. Here it should be noted that while William Gladstone was a famous liberal politician, on the issue of divorce, he came down with the social conservatives and was greatly opposed to the Matrimonial Causes Act of 1857.

were to be extended to them. Indeed, so strong was the fear of a divorce epidemic that Parliament worried that after the passage of the 1857 Act, the availability of civil divorce might lead to a divorce epidemic because it might possibly encourage adultery.²⁰⁶ For some these fears might have been confirmed by the 406 divorce petitions filed in 1858, the 317 in 1859, the 279 in 1860, and the similar number which kept coming in annually from there on out.²⁰⁷ Since the numbers did not dramatically drop there was a real anxiety that further reform of marriage law might indeed create a flood of divorces.

This highlights a larger societal debate that was ongoing from the 1850s to the 1880s. While not always obvious and not always written in bold or clear terms, the expectations and roles of middle-class women were under considerable debate in England. One area in which we can get a glimpse of this debate is in the prescriptive “domestic advice” literature. This sort of literature had been in heavy publication at least since the 1840s and an increased wave of publication occurred from the 1860s through the 1880s.²⁰⁸ Taken with the debate over legal reform we see a heated debate over the definition, or redefinition, of what middle-class women should be and how they should live their lives.²⁰⁹ It is through an examination and understanding of this societal debate that we are able to gain a better appreciation not just for the reality of English middle-class women’s lives, but also for the ways in which each society was changing as a whole. By doing so we can link two vital areas of historical inquiry that have, up to the present, failed to interact with each other in a meaningful way, namely legal histories with gender and family histories. Through linking both together we see the law as the

206 *Royal Commission on Divorce*, 6 July 1859 and 31 July 1861.

207 Wright, “Untying the Knot”, 992.

208 Elizabeth Langland, “Nobody’s Angels: Domestic Ideology and Middle-Class Women in the Victorian Novel,” *PMLA* 107.2 (Mar. 1992): 293.

209 Cott, *Public Vows*, 68.

expression of the English middle-class respectable society's norms and values, and through prescriptive literature the reader glimpses the fears and realities of a small number of men and women who were attempting to more broadly instill fear in middle class women.

As has been noted, the historiography of this topic is broad and many monographs and articles have been written about middle-class women and their lives and what was expected of them. The same is true with regard to examinations of the legal system and laws pertaining to women, marriage, property, and divorce in England. The historiography with regard to England continues to be a topic of scholarly debate. Articles and to a lesser extent, books continue to be written about women and class in the nineteenth century, however works pertaining to the law have largely become the focus of legal scholars and legal historians rather than social and gender historians.²¹⁰

For instance, the 1980s saw the publication of articles by Sybil Wolfram, Nancy Anderson, Michael Griswold and others. Important monographs were written as well by Allen Horstman, Dorothy Stetson, Lee Holcombe, Susan Staves, John Gillis, and Joan Perkin. The legal works that have been written tend to offer brief glimpses of the nineteenth century while having their focus more on the present. This is crucial because the two genres have not been taken together as a whole and this has left a relative gap in the historiography. What has developed in this absence of a connection is a historiography of law and legal reforms that views almost any legal change with regard to women in either England or the U.S. as necessarily beneficial. As legal scholar Danaya

²¹⁰ Probably the most recent substantive historical work on marriage and divorce written by a trained historian is Nancy Cott's *Public Vows*. In contrast, legal scholars and historians, especially in the United States, have been interested in the history of women and the law. Here one can look to Debra Rowland's *The Boundaries of Her Body* or articles by Danaya C. Wright published in 2004 that describe the English context.

Wright has noted, “Historians of divorce have examined the rules that evolved from the court... family-law scholars often begin their studies of family with 1857, recognizing the importance of civil divorce in family law....”²¹¹ A one-dimensional whiggish history of progress has emerged as the dominant narrative as a result of this lack of communication between the two scholarly communities. Here again Wright is helpful because she pointed out this fact so well when she explained,

Historians and family-law scholars have generally viewed the rise in family law as beneficial to women because it recognizes their special interests in the family and it rejects hierarchical, male-dominated values of commercial and public law that dominate the capitalist marketplace...The liberalization narrative asserts that because women are gentle, build relationships, and have interests focused in the home, a special law of family is good for them; it reflects their way interacting with people and it protects the things they value.²¹²

Thus, reforms related to divorce law and married women’s property law came to be viewed as part of something like a natural process of progression whereby women gained an equal footing in England and moved towards equality with men socially and legally.²¹³ This may be a somewhat simplistic summary of these works, but it is a major trope that comes through in the historiography.²¹⁴ This trope holds true both for the historiography related to our period and that which carries beyond it into the twentieth century. Legal reform did not necessarily mean either social or legal equality. While not denying that such changes may have been beneficial in certain respects, they were not enough to sweep old societal ideals and norms away. Instead, these reforms highlight an ongoing

211 Danaya C. Wright, “Well-Behaved Women Don’t Make History,” *Wisconsin Women’s Law Journal* 19.1 (2004): 216.

212 Wright, 217.

213 Wright, 217.

214 Wright, 217. Here Wright is even more specific stating that no one has really looked at the effect of such legal reform on the lives of women and if one patriarchal structure was replaced with another. She goes on to say this liberalization narrative has caused legal rights for women within the family to be viewed as unnatural and destructive.

struggle in society over how to define and understand the place and position of middle-class English women. This was not a simple debate over what women were and how they were to act and carry themselves in society. It was informed by science, religion, literature, law, and the women themselves.²¹⁵ Middle-class women were, at times, participants in this debate on the side of further legal reform and women's rights as well as on the side of social conservatism and traditional or supposedly natural values.²¹⁶

While it is necessary to understand what this body of prescriptive literature had to say about middle-class women and their roles and place in English society, to come to a more fulsome understanding of the place of woman in those societies the law must be taken into account. The same can be said for the historiography that deals with the issue of prescriptive literature and women's place in late Victorian society. The law is central to both because it is the law that codifies and enshrines what is deemed to be proper, normal, just, and good. In this sense, the law is society's codification of rules of behavior and decorum.²¹⁷ When these older societal values and codified norms came under attack and when people sought to revise them it threatened a particular section of society. This was the case in Victorian England when legal reform with regard to women started taking place from the 1850s onward and appeared threatening to certain elements of society.

Legal reform threatened what society, especially the middle-class, knew to be their identity and the way in which they understood and viewed their world.²¹⁸ One source of societal response came through the proliferation and publication of numerous works and tracts of prescriptive literature. These works, when considered along with the

215 Elizabeth Langland, "Nobody's Angels," 291.

216 Nancy Cott, *The Bonds of Womanhood*.

217 Stetson, *A Woman's Issue*, 15.

218 Lawrence M. Friedman, *Private Lives: Families, Individuals, and the Law*, (Cambridge, Massachusetts: Harvard University Press, 2004), 28.

legal reforms, highlight two nations in a state of flux, redefining their views on women and their place in society. Part of the process of rethinking such issues was a backlash by moral reformers who sought to defend values they saw as traditional and central to English society.²¹⁹

To begin to understand these moral reformers and their sense of fear and shock that resulted from legal reforms starting in the 1850s we need to examine the world they had created prior to such reforms. We need to trace the roots of Victorian England. It is useful to include limited parts of the case of the United States because, certain events in the United States clearly affected English attitudes. Much of the prescriptive literature that was so popular from the 1840s onward in England was equally popular and had its counterparts in the United States.²²⁰

Political and social reform was not something guaranteed with the coming of the nineteenth century in England. In fact reform was probably the last thing that was likely to come, at least when viewed from the perspective of the first decade of the century. England had watched France disintegrate.²²¹ What was once a monarchy had descended through bloody revolution, into empire. Reform, violent or otherwise, was seen by many in Parliament as likely to cause the collapse of society and bring about an English reign of terror. More to the point, after defeating Napoleon and putting an end to the French menace, England was in a position of unrivaled power and security.²²² It had seemed to

219 Stone, 383.

220 Laura McCall, "'With All the Wild, Trembling, Rapturous Feelings of a Lover': Men, Women, and Sexuality in American Literature, 1820-1860," *Journal of the Early Republic* 14.1 (Spring 1994): 71-89. For the English side see Jennifer Lloyd, "Conflicting Expectations in Nineteenth-Century British Matrimony: The Failed Companionate Marriage of Effie Gray and John Ruskin," *The Journal of Women's History* 11.2 (Summer 1999): 87.

221 Rohan McWilliam, *Popular Politics in Nineteenth Century England*, (New York: Routledge, 1998), 93.

222 Norman Gash, "After Waterloo: British Society and the Legacy of the Napoleonic Wars," *Transactions of the Royal Historical Society*, Fifth Series, vol. 28 (1978): 146.

prove that reform was not only unnecessary but dangerous. However, as the century progressed into the 1820s the voice of reform began to be heard throughout England, and not just for political or legal reform, but for reform of most aspects of British life.²²³

David Nicholls has noted that “[t]he developing middle-class critique of the existing aristocratic-dominated polity consisted of two essential elements. On the one hand was the attack on ‘Old Corruption,’ the constant assertion that the enemy of both middle and working class alike was a landed aristocracy, placemen, churchmen, and a corrupt Parliament.”²²⁴ In short, the middle class along with its working-class allies began to demand political reform; namely the franchise, but they also wanted to clean up the corrupt and so-called pocket boroughs. As Richard Price has written of the outcomes of the Reform Bill of 1832:

It was the first step in the democratization of politics. The worst anomalies of the old unreformed system were removed. The most egregious disparities in representation—the notorious rotten boroughs—were corrected; recognition was finally accorded to the shifts that had occurred in the social and economic geography of the nation... Most of all, of course, [was] the expansion of the electorate from under around 400,000 to around 600,000 meant the inclusion of new middle-class types in the political nation.²²⁵

This coalition of sorts demanded political recognition so as to gain the ability to have a voice in society and to shape it in ways that they saw as fit. The middle class achieved its goals, gaining the franchise and quickly abandoned their working-class allies, as both

223 McWilliam, 17.

224 David Nicholls, “The English Middle Class and the Ideological Significance of Radicalism,” 418.

225 Richard Price, *British Society, 1680-1800: Dynamism, Containment and Change*, (Cambridge: Cambridge University Press, 1999), 265-266. This, however, has been debated by some in the historical community like Norman Gash in *Politics in the Age of Peel: A Study in the Technique of Parliamentary Representation, 1830-1850* (London: W.W. Norton and Co., 1953), and by Frank O’ Gorman in “The Electorate before and after 1832,” *Parliamentary History* 12 (1993): 171-83. These authors see the Reform Bill of 1832 as less than revolutionary in that it did little according to them to expand the franchise or to change politics in general.

Nicholls and Anna Clark have noted.²²⁶ This may have been bad for the working class, but for the middle class it signaled, in part, its arrival as an influential class in British society, not just economically but politically and socially as well. Its demand for political reform, however, was not the only area in which the middle class sought to reform English society. Colin Gibson noted that “there was a disparity of matrimonial justice, not only between rich and poor, but also between the very rich and the increasingly powerful middle class.”²²⁷ As a result of this and other legal disparities the middle class began demanding further legal reform, of this Lord Grey noted “[the middle class] formed the real and efficient mass of public opinion, and without them the power of the gentry is nothing.”²²⁸ In other words from 1832 and onward the middle class had established itself as a political, and as we shall see, social force to be reckoned with in England. The middle class was also heavily invested in the evangelical religious movements and, more generally, in various societies that worked for social reform.²²⁹

One area of social and religious reform that emerged early on in the nineteenth century involved the rise of evangelical religions. These evangelical religions and their members were central in later nineteenth-century discussions about women’s role and place in society. The rise of evangelical religions can be perceived as a response both to the corruption of the English Church and to the moral laxity of the aristocracy.²³⁰ These religions gave the working classes a voice in society that they had not had before. They

226 Anna Clark, “The Rhetoric of Chartist Domesticity: Gender, Language, and Class in the 1830s and 1840s” *Journal of British Studies* vol. 31 no. 1 (1992), 66.

227 Gibson, *Dissolving Wedlock* (London: Routledge, 2003), 55.

228 Earl Grey in Colin Gibson’s *Dissolving Wedlock* (London: Routledge, 2003), 55.

229 Allison Twells, “‘A Christian and Civilized Land’: The British Middle Class and the Civilizing Mission, 1820-42, in *Gender, Civic Culture and Consumerism: Middle-Class Identity in Britain, 1800-1940*, ed. Alan Kidd and David Nicholls, (Manchester, Manchester University Press, 1999), 48 & 59.

230 David Hempton, *Religion and Political Culture in Britain and Ireland: From the Glorious Revolution to the Decline of Empire* (Cambridge: Cambridge University Press, 1996), 1.

also gave the middle class its voice in society as many within were drawn to and ended up playing prominent roles in the emergent evangelical religions²³¹. Evangelical religions stressed propriety and morality alongside hard work. These religions stressed the need to live morally, which meant marriage, gainful employment, and not participating in activities like gambling, excessive drinking, and fighting.²³² These religions helped set the moral tone for the era. This was a tone of self control and even abstinence. Evangelical leaders stressed notions of responsibility, hard work, and right action.²³³

New religions were not the only developments the new century had to offer. New classes were forming as well. There was development of an increasingly self-conscious working class, now made famous by the work of E.P. Thompson and others like Anna Clark.²³⁴ There was also the emergence of the middle class. The term middle class has proven to be quite problematic throughout the historiography. Some authors prefer the term bourgeoisie, while others have gone so far as to claim that no middle class existed in England prior to 1870.²³⁵ Here, though, one may employ a simple but effective definition. The middle-class can be understood as those members of English society who were not landed gentry or laborers. Instead they were the emergent merchants of the eighteenth century, the bankers, and other related professionals. Beyond this economic

231 A.D. Gilbert, *Religion and Society in Industrial England: Church, Chapel, and Social Change, 1740-1914* (London: Longman, 1976), 72-75.

232 Eve Colpus, "Preaching Religion, Family, and Memory in Nineteenth Century England." *Gender and History* 22, no. 1 (April, 2010): 51.

233 Dennis G. Paz, *Nineteenth-Century English Religious Traditions: Retrospect and Prospect*, (Westport, Connecticut: Greenwood Press, 1995), 131.

234 E.P. Thompson, *The Making of the English Working Class* (New York: Random House, 1963), and Anna Clark, *The Struggle for the Breeches: Gender and the Making of the English Working Class* (Berkeley: University of California Press, 1995).

235 Tom Nossiter, "The Middle Class and Nineteenth-Century Politics: Notes on the Literature," in J. Garrard et al, eds., *The Middle Class in Politics* (Farnborough, Hants: Saxon House, 1978), 80-81.

definition they were the part of English society that defined themselves with the values of domesticity and respectability. As Dror Wharman has put it, “‘Middle classness’ by now (1831) was associated with domestic virtue, with religiosity, with an evangelical impulse, with social control; that is to say, it was associated with a morality which prescribed both public and private (or familial) behavior.”²³⁶ In other words, to be middle class was to value domestic virtue, to be religious but of an evangelical bent, and to strive towards social control or the inculcation of a particular morality rooted in domestic and evangelical values in the rest of society. The members of this class typically did not have enough wealth to lead lives of complete luxury but earned enough not to toil and labor for twelve or fourteen hours a day. The middle class was the section of society whose members used their minds to do labor, not their bodies. Increasingly, as the century progressed, they were the factory owners, managers, lawyers, and doctors. This class, while not new, was just beginning to emerge in a major way during the early years of the nineteenth century.²³⁷

Part of the emergence of the middle class came from the self-identified need to define their group’s rightful place in English society. They defined themselves in opposition to the two other major classes in English society and through the adoption of a common set of ideals.²³⁸ First they differentiated themselves from the landed aristocracy through their strong moral sense and their work ethic.²³⁹ The rising middle class tended

236 Wahrman, “‘Middle-Class’ Domesticity Goes Public,” 397.

237 Indeed, the middle class was not really new to English society. The middling sort of people or the middle class had been a part of English life at least since the mid-eighteenth century. For a fuller discussion of this refer to Asa Briggs, “Middle-Class Consciousness in English Politics, 1780-1846,” *Past & Present* 9 (Apr. 1956): 65-74 and David Nicholls, “The English Middle Class and the Ideological Significance of Radicalism,” 415-433.

238 Harold Perkin, *The Origins of Modern English Society* 2nd ed., (New York: Routledge, 2002), 181.

239 R.J. Morris, *Class, Sect and Party: The Making of the British Middle Class: Leeds, 1820-50*, (Manchester: Manchester University Press, 1990), 327-328.

to view the aristocracy with disdain. They saw the aristocracy as morally corrupt and even as a danger to English society. To the middle class the aristocracy was a group of lazy, morally suspect, power-holders who surely would bring about the eventual downfall of English society. As the author's of *The Family Story: Blood, Contract, and Intimacy: 1830-1960*, put it “the duty to work, the necessity for [middle class] men to provide an income to support the establishment of both productive enterprise and home life, was often contrasted to aristocratic gentry habits of living off rents and assets.”²⁴⁰ They, the members of the aristocratic class, were lazy because they did not work to earn their wealth but instead inherited it. The aristocracy was morally corrupt because they partied, drank too much, ate too much, and generally were not God-fearing. In short, according to the middle class, the members of the aristocracy did what made them happy whenever they felt like it, even at the expense of the larger society. Contrary to this the middle class saw themselves as being morally upstanding and virtuous members of society. They stressed the importance of working hard to gain one’s place in society and not just to sit back and live on the wealth accrued by earlier generations.²⁴¹

Differentiating itself from the landed elite was not enough though; the middle class also defined itself against the working classes. The middle class generally viewed the working classes with as much negativity as the landed aristocracy, albeit for different reasons; as such the working classes were problematic for this emergent middle class.²⁴²

Some of the main ways in which the middle class defined itself as different from the

²⁴⁰ Leonore Davidoff, Megan Doolittle, Janet Fink, and Katherine Holden, *The Family Story: Blood, Contract and Inquiry: 1830-1960* (London: Longman, 1999), 124.

²⁴¹ M.J.D. Roberts, *Making English Morals: Voluntary Association and Moral Reform in England, 1787-1886*, (Cambridge: Cambridge University Press, 2004), vii.

²⁴² The middle class did propagate images of the “respectable” working class, that is to say skilled laborers and other similar workers. However, by and large the middle class looked down with disdain on the working classes and in doing so sought to define themselves, the middle class, as something other and better than working classes.

working-classes were by the type of work they did, the fact that they were debt-free, and through a particular notion of domesticity. In the middle-class estimation, to have debt of any kind was seen as a grave sin.²⁴³ Yet another important way in which the middle class distinguished itself from the working class was through its definition of domesticity. Anna Clark has gone to some lengths to explain and document this idea of class differentiation. As she put it, “In the 1830s gendered notions of virtue demarcated the working class as different and inferior to the middle class.”²⁴⁴ She went on to note how the working class was defined by the middle class as lacking domestic virtue and in part was denied access to the political process via the Great Reform Bill of 1832 as well as in later reforms like the New Poor Law of 1834 precisely because of their lack of domestic virtue.²⁴⁵ In contrast, the middle class defined itself through its particular version of domesticity. According to Clark, *Blackwood’s Edinburgh Magazine* described the middle class version of domesticity particularly well. Clark observed that *Blackwood’s* explained the rationale behind supporting the extension of the vote to the middle class “by contrasting the middle-class man’s ‘self-denial’ in supporting his family with the ‘sensual indulgence’ of excessive drinking, bastardy, and wife desertion by working men.”²⁴⁶ In other words, the middle class were “moral” partly because the husband supported his family through his work, but also because middle class husbands abstained from excessive drinking and other unseemly activities. The image portrayed of and by the middle class was one of balance and harmony, a mix of hard work and what might be called family values. In this conception the ideal family consisted of a male who worked

243 Samuel Smiles *Self Help* (London: John Murray, 1876), 298.

244 Anna Clark, “The Rhetoric of Chartist Domesticity,” 66.

245 Clark, 66.

246 Clark, 66.

and cared for his wife and children, and a wife who worked at home caring for her husband and children.²⁴⁷ As has been stated, the middle class defined itself in part by its work and, in the case of women, the need not to work outside the home.²⁴⁸ Indeed a major class distinction between the middle-class and the working classes was that many women of the working classes needed to work outside the home to help support their families. As Sonya Rose put it, “members of Parliament and social reformers who were concerned with... the “working mother problem” did not acknowledge that most working-class women had to bring cash into their households at sometime during their working lives... with birthrates remaining high and earnings either low, erratic, or both, the income of more than a single wage earner was often necessary.”²⁴⁹ There are two key elements in this observation, one being that many social reformers were women from the middle-class.²⁵⁰ The second important part is that numerous hardships like stagnant wages and an increase in childbirths often meant working-class women had to work, a fact not understood by social reformers. Social reformers like those in the middle-class did not acknowledge or perhaps understand this reality. For men work typically meant some activity where one used his mind and not his body to earn an income.²⁵¹ Early on this group was primarily comprised of merchants, but as time progressed it grew to include bankers, managers, doctors, dentists, lawyers, civil servants, and many other professions.²⁵² The working classes, on the other hand, were engaged in jobs that

247 Davidoff and Hall, *Family Fortunes*, 30.

248 Sonya O. Rose, *Limited Livelihoods: Gender and Class in Nineteenth-Century England*, (Berkeley: University of California Press, 1992), 76.

249 Rose, *Limited Livelihoods*, 76.

250 Robets, *Making English Morals*, 10.

251 John Tosh, “Masculinities in an Industrializing Society: Britain, 1800-1914” in *Journal of British Studies*, no. 44 (April, 2005), 332-334.

252 Lauren M.E. Goodlad, “A Middle Class Cut in Two:’ Historiography and the Victorian National Character,” in *ELH*, vol. 67 no. 1 (Spring, 2000), 148-150.

required large amounts of physical labor in order to earn their pay. Another aspect with regard to work that came to define and identify the middle-class was the strict geographic separation between work and the home and the rise of suburbs. This was especially true from the 1860s onwards. Here Simon Gunn and Rachel Bell noted that, “suburbanization was about more than just living away from the smoke and disease... it was about creating a different way of life, one which the middle classes were to make their own, distinct from the old jumbled co-existence.”²⁵³ Put another way the middle-class by way of their professions had the financial means to move out of the cities and into the expanding suburbs. This geographically separated them from grime, crime, their work, and the working classes.²⁵⁴ The suburbs were not simply a place where the middle class lived, but they helped to create the space in which a particular type of household could function, one which included space for guests, servants, and of course the family.²⁵⁵ These new homes required men to travel to work and were where middle-class women would never think of working outside the home as that was a husband’s duty, at least in theory.²⁵⁶ However, in practice this was not always true. It should be noted that, as a middle-class woman, being seen doing labor was viewed as unbecoming at best. In fact the only unproblematic form of wage earning employment for women, at least according to middle class commentators, was in residential and domestic service because they were supported and administered by men.²⁵⁷ However, some working-class women had to work just so a family could earn enough to survive. While it may be true that middle-

253 Simon Gunn and Rachel Bell *Middle Classes: Their Rise and Sprawl* (London: Cassell, 2003), 31.

254 John Tosh, *A Man's Place: Masculinity and the Middle-Class Home in Victorian England*, (New Haven: Yale University Press, 1999), 17.

255 Simon Gunn and Rachel Bell *Middle Classes: Their Rise and Sprawl* (London: Cassell, 2003), 30.

256 A Womanly Woman, *Woman's Rights and the Wife at Home* (London: Robert Hardwicke, 1872), 10.

257 Davidoff et al. *The Family Story: Blood, Contract and Inquiry: 1830-1960* (London: Longman, 1999), 107.

class women often did work, the ideal was quite the opposite, aside from their duties in the home.²⁵⁸

Generally speaking the middle class also viewed the working classes as morally suspect due to their perceived propensity for engaging in activities like drinking, dancing, and other less than moral pursuits.²⁵⁹ This may have been pure hypocrisy on the part of the middle class, but they viewed themselves as morally superior, if only in their own minds.²⁶⁰ As we have noted one response to physically manifest this difference on the part of the middle class was to move to the suburbs away from the working classes and the poor.²⁶¹ Then there was the issue of debt, something no upstanding middle-class member of society would entertain. Debt was a sign that one either lived beyond their means, like the landed gentry, or was unable to support their family properly, as in the case of the working classes.²⁶² The working class also lacked religiosity according to most middle class observers. In the minds of many in the middle class the working class simply was not religious largely because they did not attend church. In these ways the English middle class set itself apart from the rest of society. Having given some definition to the middle class it becomes necessary to return to talk of legal and social reform.

258 Jane Humphries "... The Most Free From Objection..." The Sexual Division of Labor and Women's Work in Nineteenth-Century England," *The Journal of Economic History* vol. 47, no. 4 (Dec., 1987),931-935.

259 Neville Kirk, *Labour and Society in Britain and the USA Vol. 2 Challenge and Accommodation 1850-1939*, (London: Scolar Press, 1994), 182-84.

260 Rosemary O'Day, *The Family and Family Relationships, 1500-1900: England, France, and the United States of America*, (New York: St. Martin's Press, 1994), 230.

261 For more on issues of space, the middle class, and modernity see Simon Gunn "The Middle Class, Modernity and the Provincial City: Manchester c. 1840-80", in *Gender, Civic Culture and Consumerism: Middle-Class Identity in Britain: 1800-1940* (Manchester: Manchester University Press, 1999), ed. Alan Kidd and David Nicholls.

262 Samuel Smiles, *Self Help* (New York: American Book Company, 1904), 175-77. Though this is a later version of the 1859 work nothing has been changed except for the addition of notes and an index by Ralph Lytton Bower.

As has been noted, the Great Reform Bill of 1832 was not the only important reform bill of the century but it was probably the most important because it set the foundation for all later reform.²⁶³ It allowed part of the English middle class into politics and, in doing so, also allowed it to assert a certain amount of social control through the political process. Part of this social control was exercised in the name of social reform, but their reform efforts were broadly speaking rooted in middle class ideology, especially with regard to notions of propriety and morality. Marriage became a value that held increasing importance not only with the religiously-minded reformers but also with a growing middle class who sought to shape English society.²⁶⁴ One way was through the Civil Marriage Act of 1836. This act nullified the Church of England's exclusive right to marry people. Lord Hardwicke's Act of 1753 had given the Church of England the sole right to grant legitimate marriages. However, as the eighteenth century progressed into the nineteenth, more and more people began celebrating unofficial marriages, marriages that took place outside the Church of England.²⁶⁵ There was a fear among English moralists and members of the Church of England that society broadly speaking was slipping further and further into moral depravity. A marriage outside the Church was, strictly speaking, immoral and illegitimate. However, the number of non-Anglicans had grown significantly. As J.C. D. Clark noted "Non-Anglicans grew from about ½ million out of 7 million in England and Wales in 1770 to slightly over half the churchgoing population at the 1851 religious census; and over half the population did not attend

263 John A. Phillips and Charles Wetherell, "The Great Reform Act of 1832 and the Political Modernization of England," *The American Historical Review* 100.2 (Apr. 1995): 411-412.

264 John Gillis, *For Better, For Worse*, 104.

265 John Gillis, *For Better, For Worse*, 190.

church at all.”²⁶⁶ This is likely a sign of middle class preference for non-conformist religions. The solution was to allow for civil marriages performed by the state and to acknowledge outside religious marriage ceremonies as legitimate. This is what the Civil Marriage Act of 1836 did. It removed the sole right of marriage from the Church of England and gave this power not only to the state but to other denominations like Catholics, Unitarians, and all other religious groups.²⁶⁷ Essentially, it allowed marriage by other religious institutions but it also allowed marriage to occur without the participation of any religious institutions, by way of a license.²⁶⁸ It was hoped that by recording marriages and making marriage easier to obtain, more people would marry. By doing so it was thought that a wave of moral inequity would be curbed and a standard form of morality would sweep through society. Legislation such as this provided the background values that later became so central to the middle class and representative of Victorian values in general. In part, understanding, this legislation helps to explain why prescriptive literature began to be so popular in England, especially with members of the middle class from the 1840s onwards.

First let us begin by examining what this prescriptive literature had to say about middle-class women and their place and role in society. We can then compare prescriptive literature in relation to legal and social reforms and make this ongoing societal debate more evident. By doing so we will also be able to see what daily life was like for middle-class women through a comparison and analysis of the ideals and constraints under which they lived. This literature reflected, if not societal norms like the

²⁶⁶ J.C.D. Clark, *English Society: 1688-1832*, (Cambridge: Cambridge University Press, 1985), 89.

²⁶⁷ Adam Kuper, *Incest & Influence: The Private Life of Bourgeois England*, (Cambridge, Massachusetts: Harvard University Press, 2009), 56.

²⁶⁸ Gillis, 192.

law, then a particular set of societal ideals with regards to women and their roles and place in society.²⁶⁹ It might be thought of as a discourse defining the place of women through linkages to a particular space based largely on notions of gender and sex. In particular the prescriptive literature was aimed at the middle-class women of England.²⁷⁰ Such works simultaneously described both fragments of a reality and an idealization of what life should be like.²⁷¹ First and foremost the world this domestic advice literature described was one that hinged upon separate spheres.

Put simply “separate spheres” was an ideology in which men and women each had a set of roles to play and a distinct place in society. The place or sphere for men was in the outside world, in the world of business, work, and politics. The sphere for women consisted of the home, the space inside and immediately around it.²⁷² These spheres were distinctly separate spaces from one another and gender determined the space one occupied. While not an entirely new ideology, it was the Victorians who took the notion of separate spheres to new heights.²⁷³ Specifically, the emerging middle class adopted and made this notion central to its own identity.²⁷⁴

For the middle class there was the sphere of the home and the sphere of the outside world or the private and the public spheres. The home was central to the private sphere and was clearly set apart from the outside world. It is this particular distinction

269 Carl Degler, “What Ought to Be and What Was,” 1490.

270 French, 129.

271 Langland, “Nobody’s Angels,” 291.

272 Barbara Welter, “The Cult of True Womanhood, 1820-60,” *American Quarterly* 18 (1966), 151-74. Although first formally expressed and identified in the American context, the “cult of true womanhood” or “cult of domesticity” was quickly supported by scholars studying the British context for the same period. One work in particular to look at is Martha Vicinus, ed., *Suffer and Be Still*.

273 Marilyn French, *From Eve to Dawn Infernos and Paradises, The Triumph of Capitalism in the 19th Century*, (New York: The Feminist Press at the City University of New York, 2008), 129.

274 Davidoff and Hall, *Family Fortunes*, 150.

that is important because the separation of space was central to middle-class ideals.²⁷⁵ Public was distinct from private, the outside world and the inside world were separate and should rarely interact with one another. The home was the space around which domestic advice literature centered. The home was central, and such works focused on men, women, and their relation to one another within the home.²⁷⁶ These same works also devoted some attention to children and the relationship between them and their mother and father.

The foundation of this home was marriage. Without marriage the home ceased to exist. Without marriage there was no family, and family was one of the other central concerns of this advice literature.²⁷⁷ Because marriage was a legal as well as a societal institution, the home was the space where the law and prescriptive literature met and defined the space, roles, and lives of middle-class women. Indeed, women and the home have been a central theme in the historiography of the Victorian era.²⁷⁸ It was the women of the middle class who had fought for change in the laws, yet it was often the same women who fueled the domestic advice literature that began pouring out of the presses at the same time.²⁷⁹ This dichotomy represents a larger change in society, one which, while

275 French, *From Eve to Dawn Infernos and Paradises, The Triumph of Capitalism in the 19th Century*, 128-129.

276 Some works that exemplify this are: Catherine Beecher's *Domestic Economy*, (New York: Harper Brothers, 1845), Sarah Stickney Ellis, *The Mothers of England: Their Social Duties and Domestic Habits*, (London: Fisher & Son, 1845), Isabella Beeton, *The Book of Household Management*, (London: Chancellor, 1861), Phillis Brown, *What Girls Can Do: A Book for Mothers and Daughters*, (London: Cassell, 1885).

277 French, *From Eve to Dawn Infernos and Paradises, The Triumph of Capitalism in the 19th Century*, 131.

278 See for example: Yaffa Claire Draznin, *Victorian London's Middle-Class Housewife: What She Did all Day*, (Westport, CT: Greenwood Press, 2001).

279 Mary Lyndon Shanley, "One Must Ride Behind: Married Women's Rights and the Divorce Act of 1857," *Victorian Studies* (Spring 1982): 356. Although Shanley identifies the women who pushed for legal reform as feminists, many feminists were drawn from the upper middle-class as is made apparent in Lee Holcombe's *Wives and Property*. In contrast to these middle class feminists, were those identified by Joan Perkin in *Victorian Women*. Who, according to Perkin, were perfectly happy with

making space for women, also created new avenues of disenfranchisement and difference.²⁸⁰

Central to this picture and this debate was the institution of marriage. Marriage was the norm in Victorian society, or at least it was the norm for the landed elite and the middle class. There was, however, a portion of society that sought to work around the marriage norm. As John Gillis noted,

the sexual radicalism that found expression in the 1830s and 1840s was only the most visible and articulate sign of fundamental shifts in conjugal habits. . . as they [the working classes] had done before, Britain's 'ungovernable people' gave the appearance of conforming to official marriage discipline, while seeking every means to turn the system to their advantage.²⁸¹

This, combined with the emergent feminist movements in both the United States and England, began to cause many to worry in both countries. The solution to this problem was the Civil Marriage Act of 1836. Simply put, this Act made civil marriage possible in England and ended the church's control over official marriages.²⁸² This was not to say that church marriages were now illegal; these were still acknowledged, but there was now a cheaper alternative to church marriage for the working class and others who for various reasons had not followed traditional norms with regard to marriage. Official marriages became the norm in society and gone were the days of common law marriages or unofficial marriages and related ceremonies.²⁸³

For the middle class marriage was the way by which property and wealth were passed along. It was also the legal vehicle by which middle-class social ideals could function and thereby reinforce class norms. Marriage created a state in which young

their lives.

280 Rose, *Limited Livelihoods*, 76.

281 Gillis, *For Better, For Worse*, 192.

282 Gillis, 193.

283 Gillis, 93.

women could fulfill their biological duty and become mothers. Philippa Levine wrote that, "Marriage, for the nineteenth-century woman, was perhaps the single most profound and far-reaching institution that would affect the course of her life."²⁸⁴ It created the proper environment for the release of sexual energy between men and women, but more than this marriage created a home. By the 1860s marriage was as important as it ever had been to the Victorians. After all, it was marriage that allowed for the creation of home which was where men of the middle class went to recuperate and recover, and where children were educated and raised. In effect, the home was the recreation of the larger society in miniature.

By this time, the middle classes had become integral to England. The middle classes played a major role in politics and economy. They had risen far and fast and had become a major part of the economic engine of the nation. A marriage, however, while being as important as ever, had changed. It was no longer the permanent bond it had been. Marriage, the family, and the home could now be overturned. Divorce, full divorce, was something that had become theoretically more available to the middle class but that in no way made it more common. Although many may have abhorred the notion because divorce was still considered unrespectable, this did not prevent it from happening.²⁸⁵ Indeed, as noted previously it appeared to the English that a divorce epidemic had broken out in the United States. The sheer number of American divorces was staggering to English observers. The annual totals in the United States for full divorce by the 1860s and 1870s were in the thousands, between 1867 and 1886 there

284 Philippa Levine, "'So Few Prizes and So Many Blanks': Marriage and Feminism in Later Nineteenth Century England," *The Journal of British Studies* 28.2 (Apr. 1989): 150.

285 Horstman, *Victorian Divorce*, 88.

were 328, 716 divorces.²⁸⁶ In England, on the other hand, the number was still in the hundreds, with a total of 130 divorces being granted for the year of 1867 (119 of which were dissolutions of marriage).²⁸⁷ England saw 130 divorces in 1867, the United States saw 9, 937, making English divorces account for only .013% of American divorces for that year.²⁸⁸ In fact it got so bad in the United States that 1886 there were some 25,535 divorces granted in the United States.²⁸⁹ Of course, to moral reformers and other “respectable types” even this number was egregious, but by comparison far more acceptable.²⁹⁰ These same types, however, were not going to stand idly by while marriage, the home, and the family were, from their perspective, under attack. Though largely failing to prevent legal reform like the Matrimonial Causes Act of 1857 and its subsequent amendments such people put forth a concerted effort to defend and maintain the interrelated institutions of marriage and family.²⁹¹

It was women who played a crucial part in the above institutions and many of these same women had to be reminded of what their role and place was, at least according to the authors of the prescriptive literature. This meant, first and foremost, women were to be married. However, a young woman could not and should not marry just any young man. While romantic love as we understand it had indeed made inroads into the ideology surrounding marriage, property and wealth still played a vital if less powerful role than they once had. Young women were called to be discerning in their choice of partners. In this way Respectables sought to preempt and avoid the nasty

²⁸⁶ Carroll D. Wright, *Marriage and Divorce in the United States, 1867-1886*, (New York: Arno Press, 1889), 443.

²⁸⁷ Friedman, *Private Lives*, 28., and Carroll D. Wright, *Marriage and Divorce in the United States, 1867-1886*, (New York: Arno Press, 1889), 1017.

²⁸⁸ Wright, 443.

²⁸⁹ Wright, *Marriage and Divorce in the United States, 1867-1886*, (New York: Arno Press, 1889), 443.

²⁹⁰ Horstman, *Victorian Divorce*, 28.

²⁹¹ French, 128.

prospect of a divorce.

An article from the *Chicago Daily Tribune* highlights this feeling well. The article, titled “A Fearful Risk for Girls” began by quoting a local pastor who stated,

I have officiated at forty weddings since I came here, and in every case, save one, I felt that the bride was running an awful risk. Young men of bad habits and fast tendencies never marry girls of their own sort, but demand a wife above suspicion. So, pure, sweet women, kept of their girlhood, give themselves, with all their costly dower of womanhood into the keeping of men who, in the base associations, have learned to under-value all that belongs to them, and then find no repentance in the sad after years.²⁹²

His solution to this problem was for “the young women of the country—to require in associations and marriage, purity for purity, sobriety for sobriety, and honor for honor. There is no reason why the young men of this Christian land should not be just as virtuous as its women, and if the loss of society and love be the price they are forced to pay for vice, they will not pay it.”²⁹³ This solution required young women to act on their virtues, of which they naturally had more than men (or so it was thought at the time), and to be discerning in their choice of companionship.²⁹⁴ They were to choose someone of their own sort with regard to values, but also with regard to class.²⁹⁵ The class element was a concern in that lower-class men attempted to “marry up” to improve their own lot with little care for the life of the women they married. It can safely be assumed that the author of this article was focusing on middle-class women, because these women had some station in society that was a man might be aspiring to. However, the broad scope of the author’s call was too broad to include the elite women of society. And while education had broadened in its scope, only middle-class women would have had the time

292 Unknown Author, “A Fearful Risk for Girls,” *Chicago Daily Tribune*, October 31, 1877, 10.

293 Unknown Author, “A Fearful Risk for Girls,” 10.

294 Reverend John Bishop Cox, *Female Happiness: Or the Lady’s Handbook of Life* (London: William Tegg and Co., 1854), 303.

295 Cox, 315.

and education to devote to a thorough reading of the *Chicago Daily Tribune*. Here, though, we digress a bit. The article suggested that marriage, the home, and the very youth and future of the nation were in peril because marriage was being corrupted. Divorce was merely the end result of a bad marriage. The key was to prevent bad marriages from taking place. Another way to prevent marital breakdown was written about by Sarah Stickney Ellis in her, *The Women of England: Their Social Duties and Domestic Habits*. Ellis reflected that that one way to prevent a bad marriage was if women did not drastically alter their personality and actions from the time of courtship to the time they were married.²⁹⁶ In other words, women should not present their husbands with an inaccurate image of who they truly are prior to marriage. This would have prevented bad homes from arising and immorality from spreading and, in so doing, would have protected the nation. All this relied upon young women making wise choices; it required woman to use their naturally imbued “moral nature” to help choose the right marriage partner.²⁹⁷ Again we see the presumptive notion that women were naturally more pure than men. By way of this gift they were able to the rest of society with them—including their husbands, brothers, and fathers in order that a more perfect society might result.²⁹⁸ This is but one example of where we can detect a backlash against the larger changes in law and society with regard to women.

Proper marriage was central to the creation of family and the home to the middle class of England. By the time that the unknown author of “A Fearful Risk for Girls” had published that of this article divorce existed in many states in the northeastern U.S. as

²⁹⁶ Sarah Stickney Ellis, *The Mothers of England: Their Social Duties and Domestic Habits*, (London: Fisher & Son, 1845), 355.

²⁹⁷ Ellis, *The Mothers of England*, 268.

²⁹⁸ Paz, *Nineteenth-Century English Religious Traditions: Retrospect and Prospect*, 140.

well as in Illinois. Divorce ruined families and families were central to middle-class identity in both countries. But preventing divorce required more than prospective brides choosing suitable husband, though. It required them to fulfill their wifely duties just as their husbands' fulfilled theirs. The advice literature was simply full of details as to what a wife's duties were. It also provided hints as to how a wife might best accomplish her duties.²⁹⁹ To the authors of these works and works focusing specifically on marriage, it was by way of these duties and through their fulfillment that a happy marriage would ensue. Let us turn our focus to what, according to this literature, was required of a wife. By doing so we might begin to understand how an ideal marriage was supposed to grow.

The creation of this idealized marriage was the responsibility of men and women. However, the advice literature tended to focus on women more than men. As such these works focus upon the wife. A wife had numerous duties, all of which took place in and, to a lesser extent, around the home. Marriage was the legal binding of man to woman, and woman to man, and it was a contract linking two people legally and it is also what legally created a home. In this home a woman fell under the legal protection of her husband and lost her individual legal identity. This was called coverture and it remained in place, albeit in a modified form, even through the 1880s. As the previous chapter highlighted, with marriage came certain legal responsibilities for both men and women. Men, as husbands, were to provide for their wives in a way that was equal to their station in life. In other words, if a woman grew up in a middle-class home and married a middle-class man, this man, was expected to provide a home equal to his status and position in life. The woman, for her part, was to care for and love her husband. This

²⁹⁹ See the works of Sarah Stickney Ellis, *The Women of England* and Isabella Beeton, *The Book of Household Management* to see the innumerable ways in which a wife can make a home happy.

translated into keeping a good home and raising any children. Keeping a good home meant not squandering what a husband brought home in terms of pay. It was up to the wife to manage the funds and meet the requirements of the home.³⁰⁰ In this way the law reflected, in part, the ideal of separate spheres for men and women—men out in the world at work and women at home in its maintenance.

There was both legal and societal pressure which sought to prevent or inhibit women in England from working.³⁰¹ It was not just that it was not a woman's role to work; this would mean that a husband was clearly not living up to his end of the marriage bargain by being unable to provide for his wife in a way that was equal to their station in life. Indeed, such notions were again and again affirmed in the advice literature of the period.³⁰²

Middle-class women who chose to live the life of a wife and mother were confronted with a life centered on one space, the home. From within its walls these women were in charge of the expenditures as well as the day to day operations of the home. It was their job and duty to not only make sure the home was decorated properly, but also to ensure it was well-stocked with food, supplies, coal, and any other necessities of daily life. Managing the home's money was one area upon which authors such as Mrs. Beeton, Mrs. Ellis, and Mrs. Brown paid particular attention. To these authors no other duty ran the risk of harming one's class standing more than living outside one's means by

300 A Widow, *The Marriage Offering: Or A Series of Letters Addressed to a Young Married Lady* (London: Rotherman, 1847), 93-94. This advice is not unique to this work, however, and can be found in similar works of the period like John Edmund, *Female Happiness*. Judith Flanders, writing in 2003, also gives a good description of this in *Inside the Victorian Home*.

301 Emily Shirreff, *Intellectual Education and Its Influence on the Character and Happiness of Women*, (London: John W. Parker and Son, 1858), 418. and in Mary Lyndon Shanley, *Feminism, marriage, and the Law in Victorian England*. (Princeton: Princeton University Press, 1988), 99-100.

302 John Angell James, *The Marriage Ring: Or How to Make Home Happy* (Boston: Gould, Kendall and Lincoln, 1843), 81. Similar notions can also be found in David Hay, *Home: Or the Way to Make Home Happy* (London: J. Mason, 1854), 126.

way of mismanaging the household money.³⁰³ Throughout her work, Beeton is careful to note how much a wife should pay for milk, butter, soap, and other supplies of daily life. She is also quick to caution her readers about what to pay a servant. By way of careful management of money all other household tasks could be accomplished and done well. However, a wife could do nothing worse than to overspend the money her husband allocated for her to manage with regards to the home. It was one thing to spend what was allocated, but quite another to go beyond this. By doing so she would not only insult her husband but also risk changing their social status.³⁰⁴

Beyond management of the household finances wives needed to actually care for the home. For the middle class this meant the ordering of the drawing room, the acceptance or denial of callers, occasional cooking, and other light cleaning duties. A middle-class wife might have one or two servants to help her out. This meant that a wife would do all household duties except for the dirtiest and thereby most unbecoming of her class. For a housewife this meant avoiding any duties having to do with the scullery or other tasks seen as especially dirty or “unladylike”.³⁰⁵ The scullery was where all the dirty dishes and food waste were kept in a home and was typically located on the lowest floor. For the middle-class wife the scullery might be nothing more than a small dirty closet-like space. Being poorly lit and full of dirt and waste this was no place for any wife who thought of herself as belonging to the middle class. Instead she would have her maid clean and care for this small and dank area off of the kitchen. For middle-class wives there was the tension between doing work that was seen as proper and womanly and avoiding the work seen as being beneath them. It is in this tension that we can see a

303 See Phillis Brown's *What Girls Can Do: A Book for Mothers and Daughters*, 19-21 and

304 Flanders, 11-13.

305 Yaffa Draznin's *Victorian London's Middle-Class Housewife: What She Did All Day*, 51.

clash between the ideals of the “cult of domesticity” and what reality actually required.³⁰⁶

First and foremost a wife was to manage and care for her home. This meant furnishing it, cleaning it, and caring for those inside of it. In terms of furnishing a home it was up to a husband to provide monetarily for the home; however, it was up to a wife to manage the household budget. As such, a wife had to figure out how to decorate and appoint the home in a way that matched her social standing. For a middle-class woman this meant spending money on the rooms open to the public and saving on the private spaces. For the most part this meant spending money to decorate the drawing room and main hallway while spending a bit less on the bedrooms and the scullery.³⁰⁷ The goal was to walk the fine line between over-decorating and decorating nicely without appearing to skimp. As mentioned earlier, to live beyond one’s means was seen as a grave sin for the middle class. This was because it showed they could not properly manage their finances. Proper financial management meant living within one’s means, which also meant not having debt. It was critical that a middle-class wife decorate the drawing room to match her husband’s social and monetary standing.³⁰⁸ Having decorated and appointed the home in a style befitting the couple’s social standing it was up to her to maintain the space, people, and objects within.

Some works that focused on women and management of the home were those by Sarah Stickney Ellis, Isabella Beeton, and Emily Marshall to name a few. Their works were designed to be instructive and were aimed at helping a wife (motherhood is almost synonymous with being a wife) to properly order and manage her household. This

306 Deborah Rotman, *Historical Archeology of Gendered Lives*, (New York: Springer, 2009), 170. and Anne Clendinning, *Demons of Domesticity: Women and the English Gas Industry, 1889-1939*, (Burlington, VT: Ashgate, 2004), 24.

307 Judith Flanders, *Inside the Victorian Home*, 169.

308 Flanders, 168-69.

maintenance of the home was seen to be the essential duty of a wife. It was by the husband's leave that a wife was to maintain, care for, and order the home. This, to many of the authors, was the natural and God-given order of the world. For instance, *A Woman's Worth: or Hints to Raise the Female Character* stated this sentiment in explicit detail. In it, author Emily Marshall wrote,

as Home is that place which has the strongest ties upon the feelings, so is it the place which woman has the power of exerting her influence in the greatest degree. This is her true and proper station—the duties of Home are peculiarly hers; and let it not be thought that in assigning Home as the appropriate sphere for her action, we are assigning her a mean and ignoble part. It is, in truth, otherwise. The sphere of her operation may be a limited one ; but, as many rivers make up the ocean's waters so the conjunction of many homes makes up the world; and therefore in performing her duties at Home, she is performing her part in the world at large; and as a man carries with him through the world those same habit and feelings he has gathered in his Home—and as those habits and feelings are principally derived from the influence of woman—woman in performing her Home-duties takes a vast share in the concerns of the community.³⁰⁹

To Marshall it was only natural that a woman had her place in the home. The home was, as she stated, the place where a woman could have her greatest influence. This was woman's lot in the world as far as Marshall was concerned. This role may have seemed small but it had considerable importance. This is because women, in this author's view, (a view that was common for the period) were naturally imbued with morality and goodness. This "moral superiority" of which women are naturally imbued with is hinted at in the following assertion "as a man carries with him through the world those same habit and feelings he has gathered in his Home—and as those habits and feelings are principally derived from the influence of woman...."³¹⁰ Women, by way of the home, were best able to use this superior morality or nature in order that they might better their

309 Emily Marshall, *A Woman's Worth: Or Hints to Raise the Female Character*, 2nd ed. (London: Stevens & Co., 1847), 82.

310 Marshall, 83.

husbands who had to go out in the rough and tumultuous outside world. It was a wife's duty and calling to do so, and by doing so she was doing her part in the world.

The notion that the natural order was such that a woman was to remain in the home was something almost taken for granted by middle class Victorians. This was because a defining aspect that was central to their identity was the home. The home was, in part, what defined the middle class. The home was the refuge from the outside world; it was the private sphere, a respite from the larger body politic. As Judith Flanders writes, "the Victorians brought the idea of home to the fore in a way that was new.... By mid-nineteenth century the home and what it contained were omnipresent in theory as well as in fact."³¹¹ The home was the center of life as far as the Victorians were concerned, and it was the home and what went on within it that shaped the outside world around it. Because of the home's centrality to Victorian thought and life, especially by mid-century, it was only natural that such literature as has been under discussion here emerged, and its importance should not be underestimated.

As we have already seen, the one person who was central within the confines of the home was the woman, the wife, because this was her natural duty. Beyond just being there, though, and beyond being merely the moral influence upon a husband, a wife was to occupy herself with the home maintenance and upkeep. Flanders sums up the feeling of many from the period when she noted that, "The well-kept home directed men as well as women along the path of virtue, while the opposite led them irretrievably astray."³¹²

As well as the authors of the advice and prescriptive literature, writers such as Coventry

311 Flanders, 4.

312 Flanders, 17.

Patmore and George Gissing had also made this fact abundantly clear in their novels.³¹³

The authors of prescriptive literature specifically targeted middle-class women with their calls to domesticity and domestic duty. Sarah Stickney Ellis wrote in *The Women of England* that

There never was a more short-sighted view of society, than that by which the women of our country have lately learned to look with envious eyes upon their superiors in rank... the women of England [meaning middle class] were once better satisfied with that instrumentality of Divine wisdom by which they were placed into their proper sphere. They were satisfied to do with their hands what they now leave undone, or repine that they cannot have others do it for them.³¹⁴

To Ellis, the nation was at peril because part of its backbone, the middle class, and specifically its women, were shirking their duties and instead dreaming of a life they could not have. Ellis makes reference to “superiors in rank” by which she means aristocratic women, the problem is middle class women are looking to them and setting their own standard of living on these “social superiors”. Rather than dreaming or hoping for someone else to do it for them, women needed to accept their God-given reality and devote themselves to their labors within the home. This problem was one commonly cited by authors like Ellis and was one of the reasons they gave for the writing of their works. It is clear, at least from the prescriptive side of things, that a woman’s place was in the home attending to domestic duties.

The world described by Ellis and other often turned out to be not so different from the reality of some middle class women. While some middle-class women did work, and this only increased as the century progressed, others stayed at home and occupied themselves with their domestic duties. Here we can see a way in which the law not only

313 See George Gissing, *The Odd Woman* (New York: Norton, 1971) and Coventry Patmore, *The Angel in the House* (Boston: Ticknor and Fields, 1858).

314 Ellis, *The Women of England*, 13.

reflected societal norms, as Dorothy Stetson suggested, but actually shaped societal practice. The marriage laws both in England, even up to the 1870s, still contained the element of coverture within them. In short, coverture meant that once married a woman lost her individual legal identity. She came under the protection of her husband. As such she lost all access to any earnings, property held, and the ability to enter into contracts. Unlike her unmarried counterpart, a wife ceased to exist as far as the courts in England were concerned. Even in spite of modest gains made in married women's property law, coverture still remained in practice. In this sense the law gave little impetus to the notion of married women working outside the house.

A husband could reprimand his wife if she were acting in a way that was viewed as unfit or outside of her wifely duties because a wife was legally a non-existent entity. David Stewart noted that, “[t]he wife by marriage is merged in the husband; the husband is the ‘head of the wife’; she is sub protestate viri; he may to some degree restrain or punish her....”³¹⁵ This did not mean that a husband could beat or intimidate his wife, though. By the 1870s such actions were cause for divorce in England as well as in most parts of the U.S. . Instead a husband could take actions to instruct his wife to follow her duty.

So far we have looked only at what prescriptive literature has described as the duty of the wife, and at that only the surface. The law, however, was not all that different from the advice given in the prescriptive literature. While there was no statute in England that forced a wife to remain home, this domestic ideology was well enshrined

³¹⁵ David Stewart, *The Law of Marriage and Divorce*, 83.

within the law of the nation.³¹⁶ The notion that the married woman's role was in the home is clear. She was obligated by marriage to undertake the care and maintenance of the home. This is not to say that a husband did not have a role. His role was to provide for his wife and any children the couple had. This meant he was to keep his wife and children in the type of home, and with the standard of living, as the wife's class directed.³¹⁷ To do otherwise was to fail in his legal obligation as part of the marriage.

The law, then, did play a powerful role in the lives of middle-class women. It codified and enshrined the social mores and understandings so often trumpeted in the prescriptive literature.³¹⁸ While not specifically outlawing or forbidding a wife from occupying herself outside the home, the law of marriage at least decreased the incentive for woman to work outside the home, and instead made it easier for them to stay inside and occupied by domestic duties. By doing so she cared for and showed love for her husband and lived up to her part of the marital union. This is but one area in which the law, reality, and prescriptive literature combined and overlapped. It is in the interplay between the three that we are able to see the way in which middle-class women's lives were shaped and pushed. Here it is important to remind ourselves that while some middle-class women rejected these laws and the pronouncements of the prescriptive literature, a large number did not.

However, having stated this fact it would be wrong to say that all middle-class women desired to be home-makers or that all blindly followed the advice of such literature. We can begin to see cracks in both the law's understanding of society and the

³¹⁶ Leonore Davidoff, *Worlds Between: Historical Perspectives on Gender and Class*, (London: Blackwell, 1995), 18.

³¹⁷ Tosh, *A Man's Place: Masculinity and the Middle-Class Home in Victorian England*, 31.

³¹⁸ French, 129, 134-135.

prescriptive literature by focusing our attention on areas they seem to go out of their way to define or stress. As has been noted previously, the Victorian world had changed by the 1870s. An increasing number of middle-class women had entered the workforce in England. These same women had also started movements asking for legal and social reform. In response to these movements more and more works emerged stressing the value a good marriage, the home, and the proper roles of men and women.

CHAPTER IV

THE LIVES OF WOMEN: REFORM AND BACKLASHES

Up to this point relatively little has been said about the lives of the women about whom this thesis is concerned. In passing we have looked at the ways in which the law affected and shaped their lives. It has been shown how women were, theoretically, able to get a divorce after 1857, but even then it was never easy. At the same time as this reform-minded legislation was passed there were reactions against it. These came primarily from the religious and moral leaders who saw such legal reform as dangerous to society and women. To them legislation like the Matrimonial Causes Act and its various American counterparts struck at the very foundation of society. This type of legislation was an attack on the family and, as we have seen, family was central to Victorian society in general, but especially to the leaders representing the “moral fabric” of society.³¹⁹ Divorce meant the end of a family unit, the separation of husband from wife, wife from husband, and children from their mother or father. In response to these developments, the moral leaders of society spread their agitating message through the pulpit and prescriptive literature. In a sense it was a back lash against both the feminist movement and against reform that called into question the perceived long-standing definitions of women’s place and role in society. The authors of these works were often moral reformers who simply

³¹⁹ Wright, “‘Well-Behaved Women Don’t Make History,’” 234.

chose a pen name like “A Mother” or “A Womanly Woman.” These moral crusaders sought to influence the portion of society they felt was most affected by such legislation, the middle class.

In essence what happened as a result of this tension between societal change and those who feared it was that middle-class women became split between their feelings towards reform and greater rights and the love of their family. It was not so much that these were actually mutually exclusive, but that they were presented or perceived this way by moral reformers. In essence this dialog and debate illuminates the countervailing forces that pushed and pulled middle-class women in Britain. Through an examination of the ways in which these middle-class women’s lives and their class bonds were being manipulated, glimpses of their daily lives emerge.

The historiography of this sub-topic includes many works that span in time from the beginning of the writing of women’s history up through the present, some of which have already been discussed in varying detail. All of these works have been of use to this study because each has added a layer of depth to our understanding of the lives of women, and those of the middle class in particular. Historians of the past thirty years have been able to examine and better understand the lives of middle-class women because middle-class women were educated and also had more time to write letters, diaries, and other works. This understanding of these women’s lives has gone through a number of changes and incarnations, though, largely as a result of post-modernist critiques and new ways of investigation pioneered within the fields of women’s and gender history. In spite of the size of this field there are ways to wade through it to come to an understanding not only of where the field is today but also to come to a better

understanding of the lives of middle-class English women.

The first major works on middle-class women in both England and the United States emerged in the late 1960s and early 1970s. It was these early works that outlined the key issues of the field and shaped the ways in which future historians would examine and understand the lives of middle-class women. In the American context, works from Barbara Welter introduced the phrase “the cult of true womanhood.”³²⁰ For Welter, the “cult of true womanhood” was the ideology that defined and shaped the lives of American women for the greater part of the nineteenth century.³²¹ Through the use of primarily didactic literature, Welter found that women, especially of the middle class, lost their public position in society due to a larger societal ideology in which women, “true women”, were to remain in the home.³²² Nancy Cott built off the work of Welter, but took her definition of true womanhood and removed its necessarily oppressive overtones to show how it created a common identity of sisterhood for middle-class American women of the nineteenth century.³²³ Like Welter, Cott viewed the changes brought about by industrialization as causing this change in gender roles and relations, leading to the establishment of the ideology of domesticity.³²⁴ She was not alone in linking economic transformation in the nation to the changing place of women within it. It was Mary Ryan, however, who brought the work of Cott and Welter together. She bridged the gap between economic transformation and the rise of the middle class.³²⁵ Amanda Vickery was also helpful. It is by looking at the works of Cott and Vickery where clear crossovers

320 Barbara Welter, “The Cult of True Womanhood, 1820-1860,” 151-174.

321 Welter, 151-174.

322 Welter, 151-174.

323 Nancy Cott, *The Bonds of Womanhood*, 197.

324 Cott, 74.

325 Mary P. Ryan. *Cradle of the Middle Class: The Family in Oneida County, New York, 1790-1865*, (Cambridge: Cambridge University Press, 1983).

can be seen between the U.S. And English historiography. According to Vickery, “the cult of true domestic womanhood was presented as both a consequence of the rise of the middle class, and a vital component in the reproduction of middle-class collective identity.”³²⁶ This is almost the exact process that Cott described for the U.S.

The result of all these women’s scholarship was that this framework became the main lens through which historians of women practiced and understood their work. The effect of these works was not limited to the American context. This model was widely used and adopted by those writing the history of British women as well. Indeed, so pervasive was this framework that it remained in use with American scholars until the late 1980s and with the British even longer. According to Vickery this phenomenon was even more naturally suited to the British context because these tropes were associated with the period starting in the 1960s and because it was “the separate gender spheres which put the middle in middle-class.”³²⁷ This lens, however, would not dominate the historical interpretations of British and American scholars forever. Family historians had long questioned the influence of prescriptive literature on society in general. Historians of women began to pick up on this in the late 1980s and early 1990s. A slew of works emerged that sought to challenge the old interpretations and show ways in which women did or did not live up to such standards. Some even went so far to show how middle-class women used this literature in a subversive way to accomplish their own ends. Historians like Elizabeth Langland see such ideals as influential but not as the end-all and be-all of these women’s lives.³²⁸ In other words, seeing notions such as separate spheres

326 Amanda Vickery, “Golden Age to Separate Spheres? A Review of the Categories and Chronology of English Women’s History,” *The Historical Journal* 36.2 (Jun. 1993): 384.

327 Vickery, 387.

328 Elizabeth Langland, *Nobody’s Angels*, 184.

or the cult of domesticity as being the solely defining characteristics to middle-class women's lives is to hold an overly simplistic view and is to obscure and hide the reality of daily life.³²⁹ What has emerged since the works of Langland and others is a mix of works that directly challenge or incorporate previous historical interpretations. In particular, the field has been enlarged via gender history and a focus not just on women but on men and the way in which discourses regarding the lives of each other shaped roles, places, and thoughts about their lives and society.³³⁰

The work of Vickery only highlighted some of the major works that have been written; because of this it cannot and should not stand on its own. On the contrary, it is one of many studies that sought to understand and represent what middle-class women's lives were like. Vickery attempted to do this by offering an overview of what had been written up to the time of her writing in 1993. She sought to challenge those writing women's history to find new ways to understand what life was like for women and to not repeatedly use and rely on the tropes and scholarship developed early on in the examination of women's history. One work that, while not necessarily living up to the call of Vickery, but which nevertheless proved insightful about the lived experience of middle-class English women, is Yaffa Draznin's *Victorian London's Middle-Class Housewife: What She Did All Day*. For Draznin middle-class women were the group that, because of their class position, were most able to resist societal pressure and chart a new course for women and their place in English society. Draznin explained, "these were women who, despite overwhelming societal pressures simply to marry, have children and

329 Carl Degler, "What Ought To Be and What Was," 1472.

330 Joan Wallach Scott, *Gender and the Politics of History* (New York: Columbia University Press, 1989). Scott's work is the seminal work which broke women's history wide open to transform it into gender history. Her work originating from a conference papers not only reshaped but revitalized the field.

embrace the cult of domesticity, broke out of the mold.”³³¹ She observed that “they struggled to develop in a different direction, to break down the barriers of discrimination in employment, education, and political participation they saw around them, to fight against the injustices and exclusions practiced against women.”³³² Through her work, Draznin attempted to understand what life was like for middle-class women and how they balanced a family alongside striving to break the molds society had created for them. This often turned out to be no small or easy task. Though her work goes beyond the time period of this study, it provided a rich background as to what London was like from the 1850s through the 1870s and, in particular, what women’s lives were like. Draznin’s detailed background provides clear evidence for changing social demographics that show the fluidity of the society in which middle-class women existed from the 1870s onward. Her description of what childhood might have been like for many middle-class girls is helpful in explaining, at least in part, why they may have later felt the urge to break with tradition and societal norms.

Illustrative of this is the way in which Draznin described issues such as education and work. Of girls’ education she wrote, “once a girl reached school age, her education was equally informal.... since no compulsory public education was required of children until 1870, formal education entailed the payment of fees.”³³³ She continued by explaining that “[e]ducating daughters. . . depended largely on the incidence of boys in the family, whatever surplus income was available for education purposes was reserved for them.”³³⁴ This is not to say that middle-class girls were not educated, they were, but

331 Draznin, *Victorian London’s Middle-class Housewife*, vii.

332 Draznin, vii.

333 Draznin, 6.

334 Draznin, 6.

their education was informal, probably received from mothers. Draznin dispelled the notion that middle-class girls were all educated by a governess by stressing that census records do not show that there were enough governesses in 1851 to even educate all the children of the upper classes let alone those of the middling sort.³³⁵ The education of a middle-class girl was in the arts of the home and included more than just housekeeping, but also included instruction on how to keep accounts and other matters of a similar nature. It is the sense of deprivation from formal education that is important. Girls from this period grew up to be women who fought for more formal education for girls and all children.

The same can be said with regard to work. As we have seen from an examination of the prescriptive literature, work outside the home was not something middle-class women were told to aim toward. Of course they had their “duty” of maintaining a household, but paid work outside the domestic sphere was more often than not frowned upon, especially in the 1850s. Instead, middle-class women were to marry and were to rely upon their husbands to keep them according to the lifestyle they had experienced growing up. Draznin was clear on this point. She wrote, “Of course, in the mid-century years, [a woman] was never permitted to do paid work, even if her family could have used the additional income; to have done so would have irrevocably damaged the family’s image of respectability.”³³⁶ With regard to marriage Draznin noted, “the father’s role was to inquire into his prospective son-in-law’s financial prospects... because a couple could only get married when the man’s income was large enough to support a wife

335 Draznin, 6.

336 Draznin, 9.

in the style to which she was accustomed...³³⁷ Put simply, middle-class women in the 1850s and even beyond were expected to marry and rely on their husbands to support them. Working outside the home was not a sign of a true middle-class woman, and in spite of increasing numbers of women who were entering the workforce it was something that was not done by a respectable middle-class woman. However, in many cases it was these same middle-class women who were discouraged from working who would later turn the tide with regard to class and societal notions of propriety and in the legal realm as well. While her work tended to chronicle more the life of a middle-class housewife in the latter part of the nineteenth century it also highlighted the changing attitudes of Victorian society and elements within the middle-class toward women's role and place within English society.

Another thing we need be aware of are some of the key differences between American and English society, especially with regards to women. For now let it suffice to say that, in general, American women lived in a society that allowed them somewhat more freedom than their English sisters. By freedom I mean that fewer social constraints existed to limit their movement, experiences, and social engagement in society. Another way of putting it might be to say that American society was less rigid when it came to strictly adhering to notions of what was proper and right for a woman in all circumstances. Part of this might have stemmed from two historical factors. The first of which is that America, even up to this point, was a wild and untamed land when compared to England. With the frontier pushing ever westward, America was not a completely settled country by the 1860s or 1870s. Necessity required women, regardless of social rank, to do what was necessary on the frontier and in daily life; in other words

³³⁷ Draznin, 10.

women had to be pragmatic. This is not to say that British women at the same time were not pragmatic, nor is it to say that they never did things that were deemed improper for women of a given station. Quite the contrary, as Joan Perkin has shown, “the number of wives who were decorative and idle was very small, since few were wealthy enough to employ servants to do all their housework and childcare.”³³⁸ This meant that, in spite of what authors like Isabella Beeton or Sarah Stickney Ellis might have written, middle-class English women necessarily had to perform those household tasks that were perceived as unfitting of their station in society. It is to say, however, that circumstances often permitted American women to be independent in ways that were not available to British women. As Christine Stansell wrote of the experience of women moving west to Oregon and California, “All able-bodied adults worked all day... women’s work was no less indispensable than men’s; indeed, as the summer wore on, the boundaries dividing the work of the sexes were threatened, blurred and transgressed.”³³⁹ Another source of this difference was the values fostered in the early American republic. Individualism and liberty were stressed above all else, especially in the realm of social and political writings. England was, however, much more defined by a strict adherence to a code of mingling in like society, carrying oneself a certain way, and acting according to values determined by one’s station in life. This difference is clear in the literature from the period and it is reflected in the historiography. As Michael Grossberg has written of the early American republic, “[there was] a deep aversion to unaccountable authority and unchecked governmental activism... a belief that individual virtue could prevent the abuse of power, and a tendency to posit human relations in contractual terms, [this extended

338 Perkin, *Victorian Women*, 87.

339 Johnny Faragher and Christine Stansell, “Women and Their Families on the Overland Trail to California and Oregon, 1842-67,” *Feminist Studies* 2.2/3 (1975): 151.

into the sphere of home].”³⁴⁰ Women in England and America, while having a number of things in common, like being supposedly more moral and wholesome in comparison to men, differed greatly.

Bearing this in mind we can come to understand the lives of women in each country as being shaped and affected by more than just the law or pervasive societal norms. It was up to these individual women to decide how to live their lives and what to believe in. As such, many women were confronted with difficult decisions and choices. Often presented as a binary, these women were faced with choosing between family and increased legal and political recognition. The choice presented them was binary in that to be a proper mother meant that one could not be a feminist demanding increased legal and political rights. To be a feminist was to not be a mother, at least as feminism was presented by many writers of prescriptive literature. Put another way, there was an idea being promoted that being for reform and loving one’s family (or current way of living) were mutually exclusive, and while this may not have been true in actuality, the established belief was that this was true. This idea was largely promoted by those who feared change, like many of the authors and publishers of the venerable domestic advice manuals. It was also a view held by increasing numbers of middle-class women in both countries as the century progressed, especially in the years of the 1870s as a powerful backlash against feminist movements in both England and the United States emerged.³⁴¹ This caused a split of sorts among middle-class women. On one side there were the wives and mothers and on the other the feminists. It should be noted that, in actuality, the two groups were not mutually exclusive. In fact, many feminists used the images of wife

³⁴⁰ Grossberg, *Governing the Hearth*, 5-6.

³⁴¹ A Womanly Woman, *Women’s Rights and the Wife at Home*, 2.

and mother as a badge of honor of sorts. It was within this debate over what women should be and do that both groups of middle-class women in England and the United States lived. By looking into their lives and their thoughts and feelings with regard to such issues we not only see what their lives were like, but how they perceived them, especially in relation to social and legal norms.

Women were split in their feelings towards reform, because reform having to do with increased rights for women was often presented as being exclusive of loving and caring for their families. In reality legal reform and the granting of increased rights via increased legal equality were not necessarily mutually exclusive of loving or caring for one's family. Nevertheless, "guardians of morality" and those who most feared and fought against such legal reform and the feminist movement(s) presented their arguments in this manner of mutual exclusivity.

To understand how women could be split in their feelings towards legal and social reform it is necessary to understand their thoughts and images concerning marriage and family life. In understanding the influence of Victorian ideals of marriage and family life on the psyche of middle-class women, one can better appreciate not only the debate over the role of women in society, but also why middle-class women were so torn in their feelings toward reform. This avenue of inquiry also helps to explain why feminists invoked images of the home and women's "traditional" or "accepted" roles as wives and mothers as part of their message for the necessity of political and legal reform hence the development of maternal feminists.

An understanding of home and marriage life allows for a glimpse into the daily life of many middle-class women. As Philippa Levine has written,

Marriage, for the nineteenth-century woman, was perhaps the single most profound and far-reaching institution that would affect the course of her life. For the woman who did not marry, whether by choice or by chance, spinsterhood marked her as one of society's unfortunates, cast aside from the common lot of the sex.³⁴²

Almost all middle-class women were married in the period of the 1860s, although somewhat less so in the 1870s.³⁴³ As one author has put it, "The majority of adult middle-class women were married and fully employed at home—either in time-consuming labor or maintaining a household and raising children with minimal domestic help, or, for the wealthier few, in the equally time-consuming rituals of a social life whose major setting was the private home."³⁴⁴ The fact was that, once married, most women of the middle class, no longer continued to work outside of the home. This meant that they were left with the task of maintaining a household and raising children. We have already seen what the advice manuals had to say about this being women's essential and proper duty and how to best accomplish this duty. What has not been said, however, is how these middle-class women felt about this duty or, as the advice literature would have us believe, this natural aspect of their existence.

Primary accounts from these women prove invaluable for coming to an understanding of how they felt about being wives and mothers. Two interesting accounts from this period come from the diaries of two American women, Peris Sibley Andrews and Mary Ellen Castle Rankin. Andrews, writing in 1845, reflected on her marriage when she wrote,

³⁴² Philippa Levine, "'So Few Prizes and So Many Blanks,'" 150.

³⁴³ Here I say almost not just because of the women who chose not to marry but also because of the terrible impact the Civil War had on the American male population. This naturally made for fewer marriages as there were less men to marry and an overabundance of eligible women. For more on this see Beverly Schwartzberg, "'Lots of Them Did That': Desertion, Bigamy, and Marital Fluidity in Late-Nineteenth Century America," in *Journal of Social History* vol. 37, no. 3: 573-600.

³⁴⁴ Helsinger et. al, *The Woman Question*, 134.

Here I am in the same room where I was married three years ago this day. My reflections upon this space of past time are many—both sweet & bitter, but in *all* connected with *him* to whom I then entrusted my happiness with a strange mingling of confidence & fear. I find but little of the latter & an abundance of the former to repay all the sacrifice I then made & the painful consequences. I believe few enjoy as rich an inheritance of domestic bliss. I have always been treated with tenderness & kindness & with great indulgence to my complainings in sickness. He has failings & I know them, but I *love* respect & esteem him more than I did then because I know him better....³⁴⁵

Andrews was clearly happy about her marriage. She loved her husband and felt secure and happy in her relationship to him as his wife. In particular, this was also because of his love and care for her when she became ill after giving birth to their child. The sweet and bitter she referred to were related to the complications of the birth. It was his treatment of and disposition toward her during this difficult time that sealed, for her, tender feelings toward her marriage.

Another informative account of a happy middle-class marriage (happy in the sense of a fulfilling relationship, not necessarily because of life's circumstances) comes from the diary of Mary Ellen Castle Rankin. In 1861 she wrote,

Two days have passed away since I last felt your *good-bye kiss* and I am beginning to long earnestly for the sight of your dear face—and loving embraces;.... I wonder where you are tonight my own darling, and if you miss your *absent wife*... I did have such a *heart-ache* the last night I slept in your arms, I could not talk to you at all... I am too tired to write more tonight—my heart is *full* of love to you and *all* the time darling, I am still *your own* Ellen.³⁴⁶

The love she felt for her husband is almost palpable. She clearly missed him and could barely wait to be reunited with him. At the time of her writing she was spending the

³⁴⁵ Peris Sibley Andrews in, *Victorian Women: A Documentary Account of Women's Lives in Nineteenth Century England, France, and the United States*, ed. Erna Olafson Hellerstein, Leslie Parker Hume, and Karen M. Offen, (Stanford: Stanford University Press, 1981), 167-168.

³⁴⁶ Mary Ellen Castle Rankin in, *Victorian Women: A Documentary Account of Women's Lives in Nineteenth Century England, France, and the United States*, ed. Erna Olafson Hellerstein, Leslie Parker Hume, and Karen M. Offen, (Stanford: Stanford University Press, 1981), 168.

winter away from him because of health issues. Rankin obviously had fond feelings for her husband and it would seem that her marriage was happy. There is just not enough, though, to definitively state whether her marriage was or was not a happy one. What we do not get from either example is any real insight into what their daily life was like. There are hints, but there is not enough to definitively say one way or another what each woman did each day within the marriage and how they felt about it. One thing that is clear is that a happy marriage rested on a good relationship between the spouses. A good relationship meant a happy marriage and day-to-day lives that were not filled with the stress that comes from an unhappy relationship or marriage. What a good relationship consisted of could and did vary widely. While authors of domestic advice literature may have been strong advocates of separate spheres, not all middle-class marriages were so heavily invested in that ideology. This, though, is a limited view into middle-class marriage, and to find out more about the daily lives of women like Andrews or Rankin and their English counterparts we need turn our attention to other accounts of women as well as to the advice and prescriptive literature that flourished throughout the 1860s and 1870s.

Clearly, not all middle-class women were like Andrews or Rankin. Some of them had marriages they abhorred and others simply chose not to get married. Those who chose not to marry were going against societal and class norms.³⁴⁷ It was deemed normal, natural, and proper for a middle-class woman to marry. That was her job in life, to become married, at least according to prevailing notions of normalcy, morality, and the general social understanding.³⁴⁸ The prescriptive literature paints this “fact” again and

³⁴⁷ Philippa Levine, “‘So Few Prizes and So Many Blanks’,” 150.

³⁴⁸ A Womanly Woman, *Women's Rights and the Wife at Home*, 2.

again. In the popular and influential writings of Ruskin, Tennyson, and Partmore we find that a woman was to be married and within the home.³⁴⁹ Women who chose not to marry were clearly going against the prevailing norm in society. To understand why they made this choice is to understand not just the law and social norms but how varied life could be among middle-class women. Yes, there was a societal debate going on about the role and nature of women and it did involve the middle class; however, the middle class was not a homogeneous whole where everyone subscribed to the same notions and values. Not all valued the importance of marriage, and to understand why they did not is to move closer to understanding the debate over the roles, place, and lives of middle-class English and American women.

One reason why there appeared to be many unmarried middle-class women in England and the United States had to do with population dynamics. In England, for example, the 1851 census revealed that there were 500,000 more women than men in the population.³⁵⁰ In the United States there was a similar trend; however, in America there was a geographic divide between east and west.³⁵¹ In the English context there simply were not enough men for all the women of England to marry. In the United States, generally speaking, more men than women moved westward and this created a population dynamic in which men outnumbered women in the west and women outnumbered men in the east. The difference in the English context may be explained by the “higher death rate among males and their greater emigration which meant there were

349 See John Ruskin, *Sesame and Lillies* (Chicago: Scott Foresman and Co., 1920), Alfred Tennyson, *The Princess* (London: Edward Moxon, 1865), and Coventry Patmore, *The Angel in the House* (London: George Bell & Son, 1901).

350 Perkin, *Victorian Women*, 153.

351 Yasukichi Yasuba, *Birth Rates of the White Population in the United States, 1800–1860: An Economic Study* (Baltimore: Johns Hopkins University Press, 1962).

considerably more single women of marriageable age.”³⁵² Another explanation may be that, as increasing forms of work became available to women, more middle-class daughters chose to work rather than to marry. A similar trend has been shown to exist for the American context where women in the northeast were found to delay marriage or even never marry as increased opportunities to work were presented to them.³⁵³ However, to some this trend away from marriage implied that “there had been a breakdown in the social system.”³⁵⁴ Marriage was the norm and, statistics or not, it seemed as if women, especially middle-class women, were not marrying.

Another explanation as to why this phenomenon was occurring, outside of basic statistics, was that an unmarried woman in the 1850s or 1860s typically had more legal freedom than her married counterpart. This was in spite of various married women’s property law reforms passed in England and the United States. As Lee Holcombe has noted, the Divorce and Matrimonial Causes Act of 1857 actually stymied further legal reform with regard to married women; instead, most lawmakers felt enough had been done to address actual legal inequities with regard to marriage.³⁵⁵ In fact it took until 1882 and the Married Women’s Property Act of that year for English women to get a property act passed that was truly beneficial to them.³⁵⁶ In the American context, a number of states had reformed their married women’s property laws, starting with

352 Gillis, 234.

353 Thomas Dublin, *Transforming Women’s Work: New England Lives in the Industrial Revolution* (Ithaca, NY: Cornell University Press, 1994), 111-118.

354 Perkin, *Victorian Women*, 153.

355 Holcombe, 3.

356 Mary Lyndon Shanley, “Suffrage, Protective Labor Legislation, and Married Women’s Property Laws in England,” *Signs* 12.1 (Autumn 1986): 74. It should be noted, however, that English women did gain a small victory with the Married Women’s Property Act of 1870 which for the first time allowed married women to keep their wages. This though highlights Holcombe’s point of the Matrimonial Causes Act of 1857 and its subsequent revisions inhibiting legal reform with regard to married women’s property.

Mississippi in 1838. However, most of these reforms did very little to benefit women. As Norma Basch noted of New York after its passage of such laws in 1848, in spite of revisions to the law judges still used the older common law when making their decisions.³⁵⁷

As has been noted in the chapter on divorce, married women lost many legal rights. Unmarried women, on the other hand, retained many more rights. These rights were not equal to men but they gave unmarried women more freedom. Unmarried women had the right, for instance, to make contracts, buy and sell land, and appear in court on their own behalf. Married women, however, lost these very rights by the fact of their marriage. This was because under coverture, they fell under the legal identity and protection of their husband. Middle-class, and especially upper-middle-class women, had the option not to marry so long as they had an independent means of income to support themselves. For middle-class women this could perhaps mean work as a teacher. Elite women could, in theory at least, live off of an annual disbursement from the will of a relative or some other source of inherited capital. Joan Perkin's pointed out, "The consequences of remaining unmarried, for those who had no money and could not live with family members, were often economic hardship and social marginality."³⁵⁸ To prevent this fate from befalling them many unmarried middle-class women chose to work. In choosing to work as single women they could keep the wages they earned. The married woman, however, could not keep what money she earned if she worked outside the home. Instead, as part of coverture's function in the legal system of both the United States and England, all her income went to her husband.

³⁵⁷ Norma Basch, *In the Eyes of the Law: Women, Property and Marriage in Nineteenth Century New York* (Ithaca, N.Y.: Cornell University Press, 1982), 200.

³⁵⁸ Perkin, *Victorian Women*, 161.

Legal reforms, like changes to married women's property law, were slow in coming and sporadic throughout the United States from the 1850s through the 1870s. Even when legislation was changed, it was not necessarily done to benefit the married woman. Instead it was designed to protect her wealth and property (which came from her family) from a husband who might squander it away. This would explain why Mississippi, far from being a hotbed of social progressiveness, was the first state to pass such legislation in 1838. In England, effective married women's property law reform did not occur until 1882. Allen Horstman provides insight into why such legislation was so slow to come in spite of calls for such reform from the 1850s onwards. He wrote,

What opponents most feared was that giving wives' property such protection would set husbands and wives against each other within marriage. To make husband and wife equal would increase both the strains on the marital bond, equal authority providing scope for dissent in decision-making. Also wives, entering the business world, would be exposed to the lower morals of such a world, in both sexual and financial matters. Practical objections were thrown into the scales.³⁵⁹

In other words, opponents feared that the established order of things would be upset. They feared chaos and a world in which supposedly "naturally moral" women would be exposed to the worst of society. They did not know what would happen if such legislation passed, only that it would strain marriage, one of the foundations of society, and put women in roles they were not designed for, both in a social and physical sense.

Thomas Laqueur has made a good case for the Victorians' view of the scientific difference between men and women. According to the prevailing thought at the time, "Women, in short, are creatures less plagued by passion, a selfish destructive tendency, and more fully endowed with fellow feeling and the sort of corporeal tranquility required

³⁵⁹ Horstman, 159.

to be the radiant cents of a new morality.”³⁶⁰ In other words, women were naturally designed or imbued with more morality than men, and because of this they were to create a new and more moral society. This was to be accomplished first and foremost through marriage and the proper maintenance of a home and family. What legislators in England and the United States feared was that by passing such reform legislation they would cause society and its moral and practical foundation to collapse. It is interesting to note, however, that the feminist movements at the time used this very reasoning in an attempt to extend the vote to them.

Kate Washington offered the following in relation to society’s fear of legal reforms, “In the 1860s and 1870s, legal reforms of marriage led to an explosion of writing on marriage in the Victorian periodical press.... nearly all exhibit uneasiness about the economics of marriage.”³⁶¹ There was economic incentive not to marry because an unmarried woman retained her economic freedom. This may have been an incentive not to marry, but there were real fears about what these same rights might do for married women. If married women could keep their wages, create their own contracts, and carry on business of a similar nature then what was a husband’s role or place. Since marriage was seen as a pillar of society there was a general fear that one of society’s foundations would be upset.

Some women chose not to marry simply because it did not suit them or their lifestyle. Some liked the freedom that came with living an unmarried life or felt they did not need to marry. There were others that opted out of marriage to pursue relationships

³⁶⁰ Thomas Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge, Massachusetts: Harvard University Press, 1990), 204-205.

³⁶¹ Kate Washington, “‘The Thing Bartered’ Love, Economics, and the Victorian Couple,” in Marilyn Yalom and Laura L. Carstensen, eds., *Inside the American Couple: New Thinking/New Challenges* (Berkeley: University of California Press, 2002), 52.

with the same sex as well. This was really a taboo in Victorian society and was only discussed in obscure ways but it did happen.³⁶² Perhaps there is no one primary reason why certain middle-class women chose not to marry. They were likely motivated by a number of different factors. Whatever the factors, their choice not to marry essentially marked them as societal outcasts. They were not pariahs, but were seen broadly as women who chose to act in unwomanly ways, ways that were outside the norms of their upbringing and class values.³⁶³

Here we come to an important point. Once a woman had made the choice not to marry she was branded as the other. Middle-class women were supposed to marry; it was part of their class background. It was only proper that they should marry, care for the home provided by their husbands, and raise any children that they might have. As Kate Washington put it,

a culture obsessed with love and marriage were reflective of complex social attitudes that were shifting to produce a new form of couple-hood; such representations showed an ideal that the culture aspired to. . . examining a range of representations of Victorian couples and couple-hood makes it clear that marriage was at the center of the Victorians' conception of their own culture. . . the middle classes in particular were sorting out, often contentiously, what it meant to be a part of a married couple.³⁶⁴

In effect, marriage was a big part of a middle-class woman's identity. To be unmarried and to work were seen as a faltering and would have been viewed as something that diminished a woman's class status.³⁶⁵ The middle class may have been sorting out what marriage meant during this period, but they nevertheless acknowledged it as central to

362 Martha Vicinus, "Lesbian Perversity and Victorian Marriage: The 1864 Codrington Divorce Trial," *The Journal of British Studies* 36.1 (Jan. 1997): 70-71.

363 Vicinus, 72.

364 Kate Washington, "'The Thing Bartered' Love, Economics, and the Victorian Couple," 52.

365 Nicole Tonkovich, *Domesticity With a Difference: The Nonfiction of Catharine Beecher, Sarah J. Hale, Fanny Fern, and Margaret Fuller* (Jackson: University Press of Mississippi, 1997), 92.

their identity. To not marry was to be an outsider within English society in general, but especially in the middle class.

As was mentioned previously, it seemed to some in England that there was a problem in society—not enough women were marrying and even those who were, were not having enough children. With no turn around in the census statistics for the 1860s, it appeared as if women had forgotten their place, their role, and their obligation to themselves and society. As Michael Brooks has written, “By the end of the 1860s, the middle-class birth rate had begun to decline, and the press began to analyze the emancipated woman’s ‘flight from maternity’.”³⁶⁶ It was not just a flight from motherhood, in the sense of not bearing children, but a flight from marriage. This could be by way of choosing not to marry or through divorce, an option opened by the Matrimonial Causes Act of 1857. However, here it must be noted yet again that divorce, while technically open to women, was still something difficult to obtain. There was the double standard regarding adultery as well the other difficult grounds through which a woman might be granted a full divorce from her husband.³⁶⁷ The decline in the birth rate and the issue over whether enough young people were marrying does not fall only on the shoulders of women, though. For men in society marriage was an expensive prospect. With it came a large financial responsibility which included the care of a wife, their home, and lifestyle. Perhaps the marriage and birth issue was a result of the greater number of women compared to men in the period, a growing sense of independence among middle-class women, and young men’s reluctance to marry because of financial

³⁶⁶ Michael Brooks, “*Love and Possession in a Victorian Household: The Example of the Ruskins*,” in ed., Anthony S. Wohl, *The Victorian Family: Structure and Stresses* (New York: St. Martin’s Press, 1978), 108.

³⁶⁷ Danaya C. Wright, “Untying the Knot,” 911.

concerns.

Moving away from societal concerns for the moment, more needs to be said about the daily life of a married middle-class woman. While it may be true that the middle class was beginning to reexamine what marriage was all about with regard to economics and romance, works such as Marilyn Yalom and Laura Carstensen's *Inside the American Couple* fail to provide enough of an insight into the marriages that existed at this time.³⁶⁸ Instead they give more detail to the societal debate and understanding about marriage. To complement their analysis and possibly make it a bit more complete something needs to be said about just what married life was like for these middle-class women. We have seen two views from women who were lucky enough to have been romantically in love with their partners, but two cases cannot be seen as representative of the whole. We have also seen that part of a middle-class woman's daily life consisted of doing housework. This housework consisted of decorating, maintaining, cleaning, and caring for the home and the family within. This was her space, the space granted to her through marriage and by her husband. It was the space which society and class set apart from the rest and labeled as women's.

When a middle-class wife was not occupied doing one of the numerous and time-intensive chores that were described in chapter two she might have some time for herself.³⁶⁹ In this rare situation a woman might read a newspaper or magazine. She might also read one of the domestic advice manuals. If she was not reading or relaxing in a similar way in the drawing room, she might have entertained guests. This, though, would have been something prearranged well in advance of it actually happening. It was

³⁶⁸ Yalom and Carstensen, *Inside the American Couple*, 5-6.

³⁶⁹ Perkin, *Victorian Women*, 88.

not just bad etiquette to do otherwise, it was something that might hurt a woman's, and thereby her husband's, social standing in the community. Instead, if a wife were to have female guests (a male would never have been allowed into any proper middle-class woman's home with only her or her servants present) they would have planned such an occasion in advance. More than this, though, the caller or set of callers would announce their arrival by way of a greeting card of sorts, these cards were much like today's business cards.³⁷⁰ These meetings between housewife and similarly stationed guests were very formal structured ceremonies. While they might be considered as something leisurely, they did not function like the leisurely entertaining that happens today. "Leisure time" and "leisurely" do not properly describe these carefully planned and executed meetings of women. In fact, it is almost a misnomer to call them leisurely. These were highly stylized affairs in which women would exchange pleasantries. Only certain subjects were to be discussed and these, of course, did not involve things such as finances, politics, or their husbands. Instead, polite topics might include the sermon from church on Sunday or remarks about fashion. They might be considered as akin to a Japanese Tea ceremony in their formality and adherence to ritual. These stylized meetings typically would take place midweek. However, as the century progressed, and even into the later parts of our period in question, such events might also have taken place on a Sunday.

When the romantic connection was absent between spouses in a marriage, or when there were insufficient finances, many middle-class marriages ended up in trouble. A troubled marriage was nothing new to either English or American society. The new

³⁷⁰ For good examples of this, but in a male context, one might look to the writing of Sir Arthur Conan Doyle.

element in the equation was that divorce had been opened to a larger portion of society. In particular, it had been opened to the middle class. As Colin Gibson has pointed out, “Whatever sympathy might have been felt by members of the House of Commons for such views, they knew the opportunity of divorce had to be made available to at least the middle classes. After three months of acrimonious Parliamentary debate the objective of Prime Minister Lord Palmerston was achieved. On 21 August 1857....”³⁷¹ In other words Parliament was forced to recognize the middle-class’s demand for what had been available to the elite of society for the previous one hundred years. However, in spite of the passage of the Act, it did little to actually open divorce to middle-class women. The grounds for divorce on the part of a woman, middle-class or otherwise, were limited indeed. On this point Gibson observed that

[t]he legislation of 1857 was about procedure and process, the substantive law of divorce remained unchanged. As before, the husband could petition on the ground of his wife’s adultery alone, but the wife had to prove her husband had been guilty of adultery, with the additional aggravation of either bigamy, rape, sodomy, bestiality, incest, cruelty or desertion for two years or more....³⁷²

He clarified further when he revealed “the double standard continued for divorce, and adultery remained the Victorian supreme marital sin. A spouse might desert home and family or be an alcoholic; such marriage-destroying behaviour did not equal adultery—especially if it was the wife’s infidelity.”³⁷³ In other words, while divorce *a vinculo* was technically open to middle-class women it was something almost unobtainable because of the way the law was written. If middle-class women could not receive a full divorce because of the way in which the “reformed” law was written, they could more easily obtain a separation. These separations were known as divorce *et mensa thoro*, or divorce

371 Gibson, *Dissolving Wedlock*, 58.

372 Gibson, *Dissolving Wedlock*, 58.

373 Gibson, 58-59.

from bed and board. They were not new, but after the 1857 Act were now apart of the divorce court and not the ecclesiastical court.

The lack of female petitioners in the years after the legislation is clear. Women made up a very small percentage of the nearly three hundred cases brought to the newly-formed court in the first year after the passage of the act. This again was largely as a result of the double standard within the law and because, typically speaking, a wife relied on her husband for financial support.³⁷⁴ Women, middle-class or not, did not have the opportunity to fully separate from a spouse except in the worst of circumstances. The reality of the inequality and almost unrealistic grounds for a woman receiving a divorce were lampooned by the likes of Mr. Punch and other social commentators.³⁷⁵ Despite the inequity, the divorce rate rose in both countries. It was more limited in England because of the cost and the fact that those seeking a divorce were publicly ridiculed in order to dissuade others from following their example. In America it seemed as if a divorce epidemic had swept the nation with yearly divorce rates for individual states in the thousands.

The important point to remember is that it was men and not women who typically sought and received full divorces in both countries. As we have seen, this was due in large part to the double standard within the laws of both countries and the issue of cost. Men in a middle-class relationship were typically the only earners and so could afford a divorce and had only to prove simple adultery against a wife to receive a divorce. Instead, women in both countries typically sought separations from cruel or unsupportive husbands. If these women were lucky enough their family would have established a trust

³⁷⁴ Gibson, 60-61.

³⁷⁵ Charles L. Graves, *Mr. Punch's History of Modern England: Volume II 1857-1875* (London: Cassell and Company, 1922), 80.

for them in equity courts; if not, they had to find work. There was an upside, however, in that there were increasing numbers of professions open to middle-class women even if it meant a drop in social status.

The lives of middle-class women in both England and the United States were in no way uniform during the 1860s and 1870s. All types of marriages existed, from the romantic and well-natured to the purely economically-based. Women were torn between choosing increasing freedoms or relying on long-held class values. They questioned whether or not being a wife and mother was incompatible with work outside the home. In the end women made up their minds individually; there were those who jumped on the bandwagon of reform and those who dug their heels in and stuck with tradition. There were also those who ended up somewhere in between. All this highlights a society in transition, one that had begun to question old assumptions about class makeup and gender roles due in no small part to changes the economy. These changes, although not necessarily in and of themselves beneficial to women, did challenge norms in relation to roles and identity. It was not a chain of progress but rather a breaking of links that had women questioning themselves and their place in English and American society. Some chose to mend the link and others chose to break with the past and embrace change.

CHAPTER V

CONCLUSION

This essay began with the premise that broadly speaking two related but disparate bodies of scholarly literature have existed with regard to the history of the women in England for the latter part of the nineteenth century. It posited that by connecting these fields of legal and women's history a more nuanced understanding would be gained between the interconnections of law and society, and a more fulsome picture of the lives of middle-class English women of the latter half of the nineteenth century would emerge. In part this argument is based on the premise that laws are a society's official endorsement or recognition of what is socially acceptable behaviour. The law dictates what can and cannot be done in a society, but as much as it shapes a society, so to is it actively shaped by that same society. Bearing this in mind this work has sought to show how an analysis of prescriptive literature, the law, and historiography of women's history when understood over time, allows for a truer picture to emerge of the life of middle class English women for the latter part of the Victorian era. It has highlighted the importance of competing definitions over class, and how these helped to shape the lives of women. It also has emphasized the ways in which the law, social ideals, and class identification interacted to push and pull middle class women in various directions. Some were pulled toward legal and social reform, while others became staunch defenders of the status quo. It also focused upon the legal reform with regard to marriage, divorce, and women's property law, and how such reform shaped English society and in doing so the lives of

women. This leads to our current position of explaining where women found themselves by century's end both socially and legally. Legally there can be little doubt that women in England made modest gains over the course of the century. In certain respects English women moved, if only a little, towards being on a more equal legal footing with men. This was especially true with regard to the ending of coverture brought forth in the Matrimonial Causes Act of 1857, and to a lesser extent with the Married Women's Property Law Act's which gave a married woman property rights more on par with an unmarried woman. Socially the results are less clear. Perhaps women made gains in certain respects, with regard to employment and education. However, their core roles and stations in life had not changed all that much by century's end. What we are left with is a tapestry, interwoven with limited legal gains and relative social stagnation.

Legally women in England at century's end had, if not a more secure legal position, then at least an expanded one, especially married women. As was stressed in the chapter on divorce, single women generally speaking were already on a more even legal standing with men in England, even at the beginning of the nineteenth century. Single women were sole retainers of their wages, solely responsible for their property and any income it might bring them, and capable of making contracts and appearing in court on their own behalf. However, for the greater part of the century, married women in England, were understood as falling under the legal identity of their husbands. Married women were not the sole retainers of their wages, were not capable of making contracts independent of their husbands and were not solely responsible for their property. Instead they had to seek their husband's consent or permission in all these matters. Here we should note that women who were financially well off often had their property and

dowries protected through the use of equity courts whereby their property would be placed in the care of another male relative. This relative would hold the property and other forms of wealth on behalf of a woman so as to protect it against an unscrupulous husband. The degree of access to and control over this wealth by a woman varied on a case by case basis. Married Women's Property Law reform helped to ameliorate this situation and gave married women much greater control over their financial resources during marriage. The first Married Women's Property Act of 1870, although falling short of its creators' original intents, did provide that a wife could keep her own earnings during marriage.³⁷⁶ The second Act of 1882 added that married women would retain all property brought to marriage and attained by their own means during marriage.³⁷⁷ By century's end married women had more or less the same legal rights as their unmarried counterparts and had moved a bit more towards legal and economic equality with men, although not too close.

While women in England may have made moderate legal gains over the course of nineteenth century, their experience cannot simply be represented by one of progress. By century's end English women may have had limited control over their incomes during marriage, greater access to divorce, and the possibility of child custody and alimony, but they still could not vote. It was not a smooth transition from legal inequality to equality. On the contrary as moral reformers began to fear a divorce epidemic, the breakdown of the family, and heard the call of feminists and other women's rights activists, they started to push back against legal reform. This could be seen with minimal gains acquired in the Married Women's Property Acts when compared against what the

³⁷⁶ Cretney, 97.

³⁷⁷ Cretney, 97.

proponents of reform actually were seeking.³⁷⁸ As Lord Penzac, one of the proponents of the 1870 Act, put it, “the Bill presented to the Commons had been a bill to separate husbands' and wives' property; the Act which emerged after the House of Lords had made amendments and did little more than give the married women the legal right to property earned by her own industry or talents.”³⁷⁹ In other words, what started out as quite a revolutionary Bill, one which would have moved women closer to being equal with their spouse in marriage, ended up being a watered down version. A version, which like Matrimonial Causes Act of 1857, simply chipped a bit more of coverture away rather than sweeping it away entirely. Putting it bluntly, the amount of good legal reform did, was almost matched by what it did not do to remedy or improve the life of middle-class English women. As Danaya Wright has noted,

progressive reformers believed that legal rights to divorce would allow women to control their husbands or escape them if they could not, that legal rights to their children would allow them to choose how they would be mothers, and that legal rights to property would give them autonomy to define their daily lives. Instead wives were blamed for their husbands' breeches, they suffered even if they were not at fault, and their husbands' actions could condemn them to a future of loneliness dependence, and celibacy.... For a woman whose entire life was defined by her worth in the marriage market, the fault-based interdependent family law that arose to replace coverture gave her very little power to control her own destiny.³⁸⁰

While Wright might be a bit overzealous in her description of where things stood by century's end for middle-class English women, she does make a few crucial points. The first is that marriage was indeed the norm in English society and as such the lack of substantial legal progress definitely left women in general, but perhaps middle class women in particular, in a less than satisfactory legal

378 Cretney, 96-98.

379 *Hansard's Parliamentary Debates* (3rd series), 18 July 1870 vol. 203, col. 396.

380 Wright, *Well-Behaved Women*, 305.

position. The double standard with regard to adultery still remained enshrined in law. Finally, with regard to coverture, it was indeed replaced and while its replacement, interdependent family law, may not have been perfect it laid the groundwork for later reform that would be more comprehensive and groundbreaking.

Socially, middle-class English women made moderate, albeit limited gains, over the course of the century. This does not mean they did not try nor does it mean they simply passively accepted what certain elements of society thought or felt about them and their place in English society. Instead, what we have seen emerge was a debate and a shifting paradigm over what it meant to be a woman, specifically a middle-class woman. Certain groups of middle-class women sought something more than just being wives and mothers. These women often championed legal reform, specifically for suffrage and often fought for increased female occupations outside the home.³⁸¹ Other factions clung to notions of domesticity and “separate spheres” and used them to create their own sphere of influence in society through the home.³⁸² In spite of these divides women did make some gains outside the home with regard to work. By the end of the century middle-class women could find “respectable work” outside the home in a number of areas like education, nursing, and in philanthropic organizations.³⁸³ These gains cannot be underestimated, especially when taken together with some of the legal gains made over the course of the century. However, while important,

³⁸¹ Davidoff & Hall, *Family Fortunes*, 436.

³⁸² Draznin, *Victorian London's Middle-class Housewife*, vii

³⁸³ Dorice Williams Elliot, *The Angel Out of the House: Philanthropy and Gender in Nineteenth Century England*, (Charlottesville: University of Virginia Press, 2002), 160.

these gains did not change the fact that middle-class English women still felt pressured to live up to certain societal ideals and expectations, and in spite of any work outside the home, found themselves occupied with home, and the task of raising a family.

Having examined the historiography of English women's history as well as the law separately we have seen that there was a gap in terms of coverage with regard to how the law affected society and how society affected the law. By integrating these two disparate but related fields of study this gap has begun to be bridged at least partially. There can be little doubt as to how the law affected and shaped the lives of married middle-class English women. The law stipulated what property rights married women enjoyed, the grounds for ending a marriage, and, to a certain extent, the types of employment she could engage in. Societal pressure often resulted in middle-class women remaining in the home, attached to their domestic duties of being a wife and mother. There were, of course, dissenters who fought for increased roles for women outside the home and access to jobs and professions, not to mention increased legal equality with men.³⁸⁴ Still there were others like Caroline Norton, who, while in favor of legal reform in matters such as child custody laws, did not see women as being equal to men, and consequently felt women were best served by being wives and mothers.³⁸⁵ It is within the feminist movement that we see the most profound fracturing of middle-class women with regard to their thoughts and ideas about their place and role in

384 Mary Lyndon Shanley, *Feminism, Marriage, and the Law in Victorian England*, (Princeton: Princeton University Press, 1989), 17.

385 Wright, *Well-Behaved Women*, 314.

society. Some viewed the home as the sphere in which they might influence society, primarily their husbands' and children through the nurturing and raising of them. Others felt that while this was important a woman should not solely be defined by her ability to bear children, raise them, and tend to her family's needs. Women, and indeed English society at large, found themselves at a crossroads of trying to define roles and place in a society that had been transformed by advancements in technology, the law, the workplace, and politics.

APPENDICES

APPENDIX A

Recurring Terms

Recurring Terms:

Divorce a menso et thoro: Divorce from bed and board known today as judicial separation.

Divorce a vinculo: Total and complete divorce that dissolves wedlock, divorce as it is understood in the modern sense.

Femme covert: Upon marriage a women's separate legal identity ceased to exist and she fell under the identity of her husband. A married woman could not keep her own wages, nor make contract without her husband's consent, and all property she might have brought into marriage became the husband's. One possible benefit was that any crimes committed by a Femme covert or married woman were thought to be commissioned by the husband. In other words a married woman could not commit a crime on her own behalf.

Femme sole: Prior to marriage a woman had her own separate legal identity. As such she was able to keep all her own pay if she was employed and was also able to create contracts on her own.

APPENDIX B

Important Dates

Important Dates:

1832 First Reform Bill Passed

1834 New Poor Law Passed

1836 Civil Marriage Act Passed

1857 Matrimonial Causes Act Passed also known as Divorce Act of 1857

1867 Second Reform Bill Passed

1870 Married Women's Property Act Passed

1882 Second Married Women's Property Act Passed

APPENDIX C

U.S. Divorce Figures

Figures for the United States from Carroll David Wright's *Marriage and Divorce in the United States*

442 REPORT OF THE COMMISSIONER OF LABOR.

TABLE II.—DIVORCES, 1867 TO 1886, BY STATES AND TERRITORIES.

	States and territories.	Population.		1867.	1868.	1869.	1870.	1871.	1872.	1873.	1874.
		1870.	1880.								
1	Alabama.....	996,992	1,262,505	78	91	90	114	106	117	143	167
2	Arizona.....	9,658	40,440		1		1	2	2	3	2
3	Arkansas.....	484,471	802,525	121	83	113	113	132	129	143	144
4	California.....	560,247	864,694	100	206	297	298	287	368	489	535
5	Colorado.....	39,864	194,327	4	9	9	30	28	42	59	63
6	Connecticut.....	537,454	622,700	500	493	497	412	412	449	461	531
7	Dakota.....	a14,181	a135,177	1		2		9	2	9	10
8	Delaware.....	125,015	146,608	25	1	21	1	21		25	8
9	Dist. of Columbia..	131,700	177,624	28	23	24	39	47	67	64	73
10	Florida.....	187,748	269,493	32	28	52	57	29	51	58	61
11	Georgia.....	1,184,109	1,542,180	127	82	112	118	148	143	175	182
12	Idaho.....	14,999	32,610	12	7	12	9	14	7	8	3
13	Illinois.....	2,539,891	3,077,871	1,071	1,125	1,179	1,178	1,250	1,745	1,787	1,673
14	Indiana.....	1,680,637	1,978,301	1,096	1,126	1,210	1,170	1,139	1,157	864	1,002
15	Iowa.....	1,194,020	1,624,615	504	553	584	570	627	617	709	662
16	Kansas.....	a364,399	a996,096	76	113	122	158	256	280	236	296
17	Kentucky.....	1,321,011	1,648,690	292	320	332	368	414	404	460	436
18	Louisiana.....	a726,915	939,946	33	34	41	30	35	32	49	70
19	Maine.....	626,915	648,936	408	416	365	357	402	387	365	466
20	Maryland.....	780,894	934,943	83	83	86	84	89	109	87	81
21	Massachusetts.....	1,457,351	1,783,085	318	369	359	404	331	337	442	611
22	Michigan.....	1,184,059	1,636,937	449	509	493	554	630	620	705	794
23	Minnesota.....	a439,706	a780,773	52	73	84	83	111	108	137	131
24	Mississippi.....	827,922	1,131,597	49	59	75	85	105	170	169	176
25	Missouri.....	1,721,295	2,168,380	362	387	426	491	615	584	621	664
26	Montana.....	30,595	39,159	17	11	14	14	19	18	20	17
27	Nebraska.....	a122,993	a452,402	10	23	39	30	49	37	80	87
28	Nevada.....	a42,491	a62,266	37	62	40	28	40	39	72	72
29	New Hampshire.....	318,300	346,991	136	143	186	163	153	200	209	281
30	New Jersey.....	906,096	1,131,116	60	79	79	89	83	84	92	106
31	New Mexico.....	a91,874	119,565	1		3	1	1	1	4	4
32	New York.....	4,382,759	5,082,871	771	761	824	731	668	592	630	716
33	North Carolina.....	1,071,361	1,399,750	21	24	22	41	22	37	46	53
34	Ohio.....	2,665,260	3,198,062	901	818	1,013	992	975	1,065	1,128	1,090
35	Oregon.....	80,923	174,768	81	66	77	64	81	79	64	99
36	Pennsylvania.....	3,521,951	4,282,891	575	606	689	623	665	615	707	710
37	Rhode Island.....	217,353	276,531	195	209	167	202	165	222	193	240
38	South Carolina.....	705,606	995,577			5	1		7	16	17
39	Tennessee.....	1,258,520	1,542,359	287	226	299	284	319	363	431	364
40	Texas.....	a818,579	a1,591,749	91	104	108	163	233	236	286	299
41	Utah.....	a86,786	a143,963	88	58	75	82	84	100	134	149
42	Vermont.....	330,551	332,286	157	161	137	164	211	152	170	182
43	Virginia.....	1,225,163	1,512,565	90	77	67	62	86	65	88	91
44	Washington.....	23,955	75,116	20	29	12	15	20	29	29	35
45	West Virginia.....	442,014	618,457	72	60	79	80	85	89	89	163
46	Wisconsin.....	1,054,670	1,315,497	408	409	417	396	378	414	390	416
47	Wyoming.....	9,118	20,789		3	2	13	10	19	12	14
	The United States.	38,558,371	50,155,783	9,937	10,150	10,939	10,962	11,586	12,390	13,156	13,909

a These figures are the true population for the years indicated, but the figures given in Table I are somewhat less for reasons there stated.

TABLE II.—DIVORCES, 1867 TO 1886, BY STATES AND TERRITORIES.

1875.	1876.	1877.	1878.	1879.	1880.	1881.	1882.	1883.	1884.	1885.	1886.	Total.
146	183	194	268	327	390	413	395	486	413	515	662	5,204
1	9	8	5	28	23	17	22	34	27	22	30	237
187	243	256	334	383	464	510	422	497	539	582	646	6,041
573	588	630	594	664	683	829	858	986	1,049	974	1,010	12,118
83	91	102	138	153	250	362	440	510	470	387	451	3,687
496	380	412	412	325	346	428	401	423	844	398	420	8,542
12	16	15	17	80	72	77	123	153	172	188	179	1,087
4	6	16	6	36	5	20	6	27	11	41	9	289
56	58	74	49	40	66	65	55	66	81	55	75	1,105
85	85	89	104	130	149	153	174	200	158	201	232	2,128
196	197	211	123	223	253	215	284	258	292	295	325	3,969
10	9	9	8	16	23	14	36	80	36	52	53	368
1,647	1,659	1,647	1,748	1,842	2,189	2,326	2,375	2,455	2,342	2,273	2,006	36,072
1,052	1,014	1,151	1,183	1,271	1,423	1,495	1,540	1,607	1,534	1,504	1,655	25,193
675	846	854	842	854	1,001	1,068	1,150	1,043	1,164	1,119	1,127	16,564
229	261	261	357	387	442	444	558	643	574	690	817	7,191
432	510	550	531	537	567	660	615	640	668	755	757	10,248
90	78	68	70	87	109	112	94	157	143	168	197	1,697
447	436	495	410	510	600	496	529	373	344	332	374	8,412
97	91	83	82	99	128	103	138	157	173	167	165	2,185
547	511	520	572	550	595	387	532	631	649	623	565	9,853
864	800	927	993	1,110	1,119	1,313	1,335	1,383	1,239	1,227	1,339	18,433
135	148	140	151	176	228	223	277	301	328	358	379	3,623
171	172	172	189	295	429	421	393	449	475	482	504	5,040
668	683	728	737	727	930	951	1,029	1,107	1,158	1,193	1,217	15,278
9	15	15	38	27	38	55	86	70	97	112	130	822
81	106	115	130	184	198	191	271	315	314	338	436	3,034
65	72	80	84	78	61	61	44	51	57	38	44	1,128
231	252	237	235	265	352	303	318	308	812	814	841	4,979
127	117	104	120	146	135	147	190	176	234	186	286	2,642
3	5	5	3	8	8	12	39	44	34	39	40	255
657	629	569	657	704	834	853	983	881	953	936	1,006	15,355
65	65	46	74	77	84	83	104	88	106	117	163	1,338
1,177	1,153	1,160	1,345	1,441	1,553	1,594	1,701	1,758	1,746	1,840	1,889	26,367
96	110	126	138	152	174	169	170	216	188	210	249	2,609
655	638	677	769	725	951	995	1,133	1,046	1,067	1,018	1,156	16,020
184	191	197	213	226	274	287	280	265	270	225	257	4,462
25	17	26	39									163
387	409	506	515	551	680	586	566	626	628	797	801	9,625
370	356	455	497	641	786	959	1,024	1,185	1,171	1,182	1,326	11,472
285	709	914	298	122	115	145	141	162	146	142	119	4,078
190	157	178	192	132	136	158	167	174	198	91	129	3,238
106	112	113	153	132	164	179	196	219	212	185	238	2,635
21	26	28	37	40	65	67	73	99	109	114	128	996
91	98	110	118	142	120	204	176	193	194	235	217	2,555
455	471	396	486	468	535	599	638	679	637	698	700	9,988
16	18	18	25	22	21	18	31	27	32	54	46	401
14,212	14,800	15,687	16,089	17,083	19,663	20,762	22,112	23,198	22,904	23,472	25,535	328,716

5.204
6.041
12,118
3,687
8,542
1,087
289
1,105
2,128
3,969
368
36,072
25,193
16,564
7,191
10,248
1,697
8,412
2,185
9,853
18,433
3,623
5,040
15,278
822
3,034
1,128
4,979
2,642
255
15,355
1,338
26,367
2,609
16,020
4,462
163
9,625
11,472
4,078
3,238
2,635
996
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401

269
2,128
3,959
10,248
1,697
2,185
5,040
1,338
163
11,472
2,635
2,555
64579

So Div - 64.579. % of Total - 0.16³
So Pop - 19,759,639 % of Total - 0.31⁴

APPENDIX D

English and Welsh Divorce Figures

Figures for the England including Wales from Carroll David Wright's *Marriage and Divorce in the United States*

APPENDIX.

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TABLES FOR THE UNITED KINGDOM.

MARRIAGES AND DIVORCES IN ENGLAND AND WALES FROM 1867 TO 1886, INCLUSIVE.

Year.	Marriages. (a)	Judicial separation. (b)	Dissolution of marriage. (b)	Total.	Marriages to one divorce.
1867.....	179,154	11	119	130	1,378
1868.....	176,962	23	23	46	3,847
1869.....	176,970	25	169	184	962
1870.....	181,655	22	154	176	1,032
1871.....	190,112	22	166	188	1,011
1872.....	201,267	22	133	155	1,298
1873.....	205,615	23	215	238	864
1874.....	202,010	36	194	230	878
1875.....	201,212	19	173	192	1,048
1876.....	201,874	27	208	235	859
1877.....	194,352	49	249	298	652
1878.....	190,054	57	292	349	545
1879.....	182,082	38	358	396	400
1880.....	191,965	58	278	336	571
1881.....	197,290	53	311	364	542
1882.....	204,405	29	289	318	643
1883.....	206,384	45	334	379	545
1884.....	204,301	45	348	393	520
1885.....	197,745	33	396	429	461
1886.....	196,071	47	325	372	527
Total.....	3,881,480	684	4,724	5,408	718

^a The figures as to marriages in this and the three succeeding tables were obtained from the "Forty-ninth Annual Report of the Registrar-General of Births, Deaths, and Marriages in England" 1886 pp. lx.i, lxxii.

^b These figures were derived from annual returns of the court for matrimonial causes, made to the home secretary, and published under the title of Judicial Statistics for England and Wales.

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