

## Marriage, Coverture, and the Companionate Ideal in *The Coquette* and *Dorval*

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### Abstract:

In this essay, I focus on Hannah Webster Foster's *The Coquette* and Sally Sayward Barrell Keating Wood's *Dorval*, novels suggestive of how the topos of coverture is explored in early American fiction with regard to bourgeois women. While discussions of coverture in general speak to the foreclosure of independence for women in the wake of the American Revolution, both Foster and Wood expose the larger economic implications of coverture for a nation in which wealth was becoming increasingly portable and hence vulnerable to the schemes of unethical or fiscally irresponsible men.

**Keywords:** Marriage in literature | Married women | Legal status | American Literature | 19<sup>th</sup> century | Hannah Webster Foster | *The Coquette* | Sally Sayward Barrell Keating Wood | *Dorval*

### Article:

Following Cathy N. Davidson's work in *Revolution and the Word*, virtually every critic who has since written about the novels of early America has discussed, in one way or another, female sexuality and its consequences in, and implications for, the novel. This fact is not surprising, given that most novels equate female value with virtue or, often more specifically, with chastity. But the novels of early America are likewise concerned with other, more material forms of value, as an important passage from the novelist Charles Brockden Brown suggests. In the sketch "Walstein's School of History," Brown, writing in the guise of a reviewer of the philosophy and works of a fictional European historian, Walstein, discusses what he calls the "intricate relations" that bind people together. He identifies the foremost of these relations as property, claiming that "[n]o topic can engage the attention of man more momentous than this. Opinions, relative to property, are the immediate source of nearly all the happiness and misery that exist among mankind." Continuing his discussion of these intricate relations, Brown asserts, "Next to property, the most extensive source of our relations is sex. On the circumstances which produce, and the principles which regulate the union between the sexes, happiness greatly depends"

(152).<sup>1</sup> Indeed, Brown's construction of the intricate relationships between property and sexuality holds true not only for his own writings, but also for virtually the entire corpus of early American fiction, as I have argued elsewhere.<sup>2</sup> Yet I find this passage from Brown so central to understanding the work of the novel in early America that I want to revisit it here while pursuing a different line of argumentation. Whereas in previous work I've focused on seduction, in this essay I focus on women's property rights; I intend to explore the "intricate relations" specific to *married* unions and property in early American fiction because coverture—the common law doctrine that held that a woman's legal identity merged with her husband's and that her property became his upon marriage—becomes emblematic for novelists of the inequities embedded in the legal system of the United States in the post Revolutionary era. Within these seemingly domestic plots, novelists expose the structural inequalities that governed the economic lives of women and that the cultural ascendancy of the affectionate marriage helped to mask.

Female novelists are most likely to grapple with coverture and its remedies indirectly within the plots of their novels.<sup>3</sup> In this respect, my argument builds upon an assertion Sharon M. Harris makes in *Redefining the Political Novel: Female authors of the eighteenth and nineteenth centuries often "conflated the political and the domestic to expose the false constructions of the political that have separated the so-called public and private spheres"* ("Introduction" xx). While the trend toward companionate marriage helped to create the illusion of marital privacy, privacy gained within marriage was simultaneously sustained and undermined by the doctrine of coverture. It was sustained because the woman's legal identity merged with that of her husband, and their interests could not be separated against their collective will. It was undermined because the affectionate marriage effected no legal changes; law still governed economic relations between husbands and wives, but this law now operated under the guise of affection rather than patriarchal authority.

In this essay, I focus on Hannah Webster Foster's *The Coquette* and Sally Sayward Barrell Keating Wood's *Dorval*, novels suggestive of how the topos of coverture is explored in early American fiction with regard to bourgeois women. While discussions of coverture in general speak to the foreclosure of independence for women in the wake of the American Revolution, both Foster and Wood expose the larger economic implications of coverture for a nation in which wealth was becoming increasingly portable and hence vulnerable to the schemes of unethical or fiscally irresponsible men. *The Coquette* and *Dorval* reveal the failure of the legal codes of the new United States to adapt to changing social conditions, and they suggest that coverture was an impediment to the increasingly idealized companionate marriage. More pointedly, however, they also suggest how the companionate ideal, so celebrated in popular and political writing, effectively masked the legal realities of married women's lives. While *The Coquette* is now familiar to several generations of scholars and students, it is instructive to use it as a basis for understanding how differently Sally Wood treated some of the same issues just four years later. Both novels condemn coverture; *Dorval*, however, is in some ways the more politically and legally progressive of the two, inspired no doubt by Wood's personal history as a

vulnerable widow and her family background, which provided her with extensive exposure to legal issues. Not content with merely exposing how coverture undermines affectionate marriage, Wood models alternatives to women's economic dependence by demonstrating the use of marriage settlements, which in *Dorval* reduce economic incentives for marriage, enhance the economic stability of families, and enable individuals to seek truly companionate marriages. Before I discuss the novels themselves, however, I will discuss briefly the changing legal and social history of marriage in the early Republic. The growing body of equity law and the changing status of marriage itself as the normative life-style choice for women complicate in interesting ways how we should understand the treatment of marriage, coverture, and separate estates in these novels.

### **Marriage and Women's Property During The Early National Era**

During the early national era, marriage was, of course, the defining feature of most women's legal identities. The colonies, and later the states, generally followed English common law, modified according to local needs. This process of modification was not necessarily coherent: Jurist St. George Tucker in 1802 described Virginia's modification of common law, "in which the acts of the legislature are *stitched* together," as "*loose and slovenly*" (v). By the end of the eighteenth century, the result was a patchwork of laws that varied widely from state to state with regard to married women's rights to dower and/or jointure and their ability to own, manage, and devise real and personal property.

In general, the practice of coverture as derived from English common law obscured the political, legal, and economic identities of married women, rendering married women unable to own and manage real and personal property independently of their husbands; at the same time, however, husbands became legally obligated to provide economic support for their wives and any dependents resulting from the marriage. Tapping Reeve, in his revealingly titled legal treatise *The Law of Baron and Femme, of Parent and Child, Guardian and Ward, Master and Servant, and of the Powers of the Courts of Chancery*, describes coverture in this way: "The husband, by marriage, acquires an absolute title to all the personal property of the wife" (49). Marylynn Salmon specifies what this entailed:

Under the common law, . . . [a]ll personalty a woman brought to marriage became her husband's. He could spend her money, sell her stocks or slaves, and appropriate her clothing and jewelry. He gained managerial rights to her lands, houses, and tenements and decided if land was to be farmed by the family or leased. . . . He also controlled the rents and profits from all real estate."

("Women and Property in South Carolina" 1)

Under coverture, women were also unable to enter independently into contracts or to will or devise property without the consent of their husbands. The only major limitation to the husband's right to his wife's property was his inability to sell real estate without her consent, although the

requirements for obtaining this consent varied widely by state.<sup>4</sup> The legal term applied to the married woman's status was *feme covert*.<sup>5</sup> In his commentaries on English law, William Blackstone defined the *feme covert* as follows:

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and *cover*, she performs every thing; and is therefore called in our law-french [sic] *afeme-covert* . . . and her condition during her marriage is called her *coverture*.

(2: 441)

Blackstone explains that the original intent of *coverture* was to protect women from the legal system; he argues that "even the disabilities, which the wife lies under [resulting from *coverture*], are for the most part intended for her protection and benefit. So great a favourite is the female sex of the laws of England" (2: 445). Unless modified by a marriage settlement of some kind, the legal and economic restrictions entailed by the status of *feme covert* in the United States remained essentially unchanged until the passage by individual states of married women's property acts, a process that began in Mississippi in 1839 and continued on a state-by-state basis throughout the mid-nineteenth century (Basch 27–28).<sup>6</sup>

From a legal standpoint, marriage in the early United States was thus a civil contract between two consenting adults, one of whom (the woman) consented to give away certain economic rights; were she to remain single, these rights would inhere to her as a *feme sole* (Blackstone 2: 433).<sup>7</sup> The key issues are contract and consent: Virginia law, for example, made legal any marriage "between single persons, consenting, of sound mind, and of the age of twenty-one years; or of the age of fourteen in males, and twelve in females, with consent of parents or guardians; or without it in case of widowhood" (Blackstone 2: 440n16). Women, as Gillian Brown has argued in *The Consent of the Governed*, were, despite their legal limitations, seen as capable of consenting (123–47). Oddly enough, the marriage contract was the last legal contract to which a woman could consent without her *husband's* express consent. One might wonder why so many propertied women consented to marry at all under such circumstances. We can thus see, given the sexual and economic ramifications of marriage, why the marriage plot is so central to the early novel and indeed to broader cultural discussions about the relations between the sexes. Regardless of how liberal-minded a prospective husband might be, the authority of husbands to control their wives' economic resources structured all marital relationships, even the most companionate.

Although *coverture* was adopted across the board in the English colonies, over time, legal remedies emerged. Equity law, which the colonies and later the states borrowed from English jurisprudence, was, as Norma Basch describes it, designed to "[fill] in gaps left by the rigidity of the common law" (21). Equity law allowed women to negotiate within the rule of common law

for marital settlements, which were similar to today's prenuptial agreements, although settlements could also be executed after marriage. Marriage settlements granted women special legal rights with regard to property. Depending upon the nature of the agreement, women could opt to maintain control of their property, whether real or personal, manage their income, and will away said property, often through some kind of trust.

The foregoing principles generally held throughout the early colonies and states, but there were significant variations among the states with regard to women's ability to use equity law. Salmon has researched this issue extensively with regard to Massachusetts, Connecticut, Pennsylvania, New York, Maryland, Virginia, and South Carolina. In *Women and the Law of Property in Early America*, she reports that Massachusetts, Connecticut, and, to a lesser extent, Pennsylvania were the most restrictive with regard to married women's rights to maintain separate property. She argues that in New England this strictness stemmed from Puritan adaptation of common law early in the settlement process; these modifications were intended to strengthen the family unit, the authority of which rested solely in the husband/father. Quaker authorities in Pennsylvania shared this goal of strengthening the family and were likewise resistant to using equity law to modify coverture (6–8).<sup>8</sup> In the eighteenth century, as Puritanism lost its sway, the absence of chancery courts exacerbated the problem. Salmon reports, "Without a court to administer the complicated body of equity precedents on women's property rights, New England fell behind in this area of the law" (120). By way of contrast, New York and the southern colonies more closely modeled their practices on English common law, which entailed considerably more support for women's separate estates, including the establishment of courts of chancery (9–10, 82). Not until the 1840s did Massachusetts and Connecticut recognize the right of women to protect and maintain private property. Until that time, many New England women were denied the basic property rights that their southern sisters for decades had been entitled to through marriage settlements (139–40).<sup>9</sup> While it is tempting to interpret laws protecting women's property as aimed at increasing their autonomy, that was not necessarily the intention behind them. Rather, the intent of these property acts was to protect women's estates from their husbands' creditors, especially during periods of economic volatility.<sup>10</sup> Such legal protections to women's property clearly benefited the state, as they prevented women of means from being made dependent on public assistance in the event that their husbands wasted their estates.

Despite the scattered legal availability of marriage settlements, they were not commonly used in the United States during the early national era, especially by women marrying for the first time. Salmon has found that in South Carolina, for example, where substantial numbers of white women brought property into marriages, only one to two percent of couples between 1785 and 1810 created separate estates through settlement, even though the remedies of equity law were open to women of all social classes ("Women and Property in South Carolina" 663). Clearly, negotiating a marriage settlement required a fair amount of legal sophistication and, in all likelihood, a broad-minded and generous spouse-to-be. Many men likely resisted the prospect of a marriage settlement. According to Anya Jabour, famed lawyer William Wirt, who often took

on unpopular causes, believed that a request for such a settlement was so offensive that it was grounds for a friend to end an engagement (20). Not surprisingly, marital settlements tended to be used primarily by the elite or by widows who were protecting property for their children (Salmon, *Women and the Law of Property in Early America* 88–89). In the South, courts recognized that the intent behind marriage settlements was not to undermine familial authority, but to protect the financial security of all family members. As the law came to acknowledge the unfairness of a woman's property being seized to pay her husband's debts, Salmon concludes, "[s]ettlements . . . became more widely accepted and employed as the financial prospects of male heads of household became less secure over time" (*Women and the Law of Property in Early America* 96).

Although coverture was the law of the land, clearly there were specific remedies to coverture available in some states via equity law. If this was the case, why, then, do so many early American novels focus on the economic liabilities of coverture for women and ignore such remedies? I'll return to this issue later, but first I want to address changing social attitudes toward marriage as well as the symbolic value marriage assumed within the polity during the Revolutionary and early national periods.

### **Marriage as an Institution in Late Eighteenth-Century America**

While fiction is a venue that writers (and readers) frequently use to imagine and work through pervasive, culture-wide problems, the genre is obviously not an exact mirror of social conditions; there are significant disjunctions between social reality at the end of the eighteenth century and the social world imagined by fiction with respect to the marriage prospects of young women. Novels of the era picture a United States populated largely by nubile young women of middling or upper social class and privilege marriage as a normative state; yet there is convincing evidence that women in the wake of the Revolution were seeking alternatives to marriage, as Karin Wulf persuasively suggests in *Not All Wives*, her study of social, religious, and economic alternatives to marriage for women in Pennsylvania (15–16, 41–50, 75–81). Earlier studies, such as Lee Virginia Chambers-Schiller's *Liberty, A Better Husband*, note similar findings in the northeastern United States (27–31). Early in colonial history, both religion and settlement needs tended to encourage marriage, particularly in the northeastern portions of British America. But over the course of the eighteenth century and into the early part of the nineteenth, marriage rates for women slowly dropped. According to Wulf, in urban areas by the mid-nineteenth century, approximately one-third or more of free adult women were single, meaning they had never married, were widowed, or were, in a very small number, divorced (13, 201, and *passim*).

Contrast these facts with the world imagined by Anglo-American fiction, where singleness is portrayed as a liminal state and only the foolish or unlucky remain unmarried. Rather than imagining courtship and marriage as stages in women's lives, which comprise many phases ranging from infancy to old age, these novels imply that courtship and marriage are the only stages that matter. Consequently, marriage or widowhood become normative states for women;

voluntary singleness is not an option. As a rule, we do not see in the fiction of this era the spirited defenses of spinsterhood that Chambers-Schiller and Wulf have identified in manuscript culture.<sup>11</sup> Indeed, in fiction prior to the 1820s, we are far more likely to see single women who are beyond early adulthood being pressured to marry, as is Eliza Wharton in Foster's *The Coquette*, or described as freakish and pathetic, as is Dorcasina Sheldon in Tabitha Tenney's *Female Quixotism*, or in some other way stigmatized, as is Lucy Franklin of *The Vain Cottager*, a woman who is seduced but who goes on to live a useful, albeit lonely, single life.

Periodical literature was even more likely to disparage mature unmarried women, consistently and demeaningly labeling them as old maids. As Jan Lewis has noted, periodical literature of the era tends to stigmatize willful singleness on the part of both women and men, often characterizing the condition as both the cause and effect of selfishness (709). But there is an exceedingly sharp gender divide in these texts, with criticism of so-called old bachelors being both rare and mild, and attacks on old maids being especially vituperative, portraying their singleness as a failure to marry, rather than a rational choice to remain single.<sup>12</sup> Indeed, bachelorhood sometimes is characterized as a desirable state of liberty,<sup>13</sup> while one essay published in 1792 in the *Lady's Magazine, and Repository of Entertaining Knowledge* seems to represent a cultural consensus when its author argues, "I conceive it to be the *duty* of every woman to accept the first likely [marriage] offer" (B. 61; emphasis added). This advice flies in the face of the trend toward companionate marriage, but clearly this writer believes that *any* marriage for a woman was better than *no* marriage. While this attitude would be radically challenged over the next thirty to forty years, it predominates in the novels and periodicals of the early national period.<sup>14</sup>

The figure of the single woman, when not actively stigmatized, declined in visibility during this time as print culture emphasized marriage as the normative state for bourgeois women. Yet Wulf notes that at the same time the number of single women was increasing in Philadelphia, their public representation in nonfictional print materials was declining. In fact, Wulf sees during this time an "erasure of unmarried women" from such public documents as tax rolls, part of a process through which "[p]roperty was no longer the marker of civic status and responsibility, but had been superseded by gender as the crucial determinant of membership in the polity" (205). Even single women who retained control of their property as *femmes soles* saw their public presence diminish. One way to bring perspective to this phenomenon is to consider the elevation of the roles of republican wife and mother in political discourse. Married women could be made to serve the rhetorical and ideological goals of the polity as republican wives and mothers and as partners in affectionate unions. The role of unmarried women was ideologically unclear, a problem that was exacerbated in urban areas, where unrelated single women performed vital household labor. Single women were often paid for performing the same labor as wives and mothers, and they were often a part of the extended family, yet they were not necessarily part of a nuclear family conceived of as the building block of the republic. Further, as the number of out-of-wedlock pregnancies peaked in the post-Revolutionary era,<sup>15</sup> single women might well

have been seen as a potential moral threat and economic burden. Perhaps as an extension of this trend, women who stayed single by choice similarly tend to be virtually invisible in early American novels, which do not begin to appear en masse until the 1790s; by this time, gender had already come to overshadow property as the most important requirement for participation in public life. Singleness does emerge as a viable choice for women in the 1820s in such novels as Catharine Maria Sedgwick's *Hope Leslie*, for example, in the character of Esther. But in the fiction of earlier decades, a woman rarely remains single by her own choice. Rather, her unmarried state signals that she has somehow disqualified herself for marriage.

I claimed earlier that the novel was far from an exact mirror of social reality. Now I want to amend that metaphor. If the novel can be described as functioning as any kind of social mirror, it might best be imagined as a funhouse mirror that magnifies critical social and political issues. While continuing to emphasize marriage as the norm through adherence to the marriage plot (a plot of great significance to the novel's women readers), a number of early American novels nonetheless seek to expose, through a searing critique of coverture, a growing crisis of female economic dependence in the wake of the war fought for independence, a war that wrought little lasting change in women's legal or economic conditions. Further, given the movement at the end of the eighteenth century from a land-based economy to one of more portable wealth, coverture was becoming not a women's issue, but a family issue (Salmon, "Republican Sentiment" 451–54). Common law placed no restrictions on husbands' control of portable wealth, unlike the limitations it placed on the sale of real estate. Consequently, a family's potential financial loss through a bad marriage became ever greater. Through the critique of coverture, novelists such as Foster and Wood pragmatically expose the divide between the politically celebrated companionate marriage and the economic realities that coverture continued to entail for bourgeois married women and their families.

In the late eighteenth century, the affectionate or companionate marriage assumed growing importance, both as a cultural ideal and as a political metaphor. This phenomenon was not limited to the British colonies and the early United States. Rather, the reconceptualizing of marriage in this country was part of a broader evolution in the understanding of marriage that emerged in Great Britain and western Europe starting in the late 1700s, when marriage began to be conceived of less as a business partnership or merger and more as a relationship based upon personal inclination.<sup>16</sup> In the early United States, however, this reimagining of the marital bond was inflected in particular ways by republican principles. Carl N. Degler, Ellen K. Rothman, and Anya Jabour have all documented an increasing emphasis on romantic love in courtship that would, ideally, lead to a companionate union emphasizing mutual affection, respect, and shared moral values.<sup>17</sup> The affectionate, voluntary marriage also became a prevalent political metaphor at the time of the American Revolution, challenging the authoritative father/child or mother/daughter analogies so commonly used to describe the relationship between England and the American colonies. Both Jay Fliegelman and Nancy Cott have noted the importance of marriage in political rhetoric and literary culture, with the emphasis on the voluntary nature of



the union suggesting the similar consent required in a democratic republic.<sup>18</sup> And, in her well-known essay "The Republican Wife: Virtue and Seduction in the Early Republic," Jan Lewis has documented the close connection between the affectionate marriage and republicanism. The affectionate "republican marriage," she tells us, "presented itself as egalitarian. Republican characterizations of marriage echoed with the words *equal*, *mutual*, and *reciprocal*, and marriage was described as a friendship between equals" (707). Clearly the affectionate marriage came to represent the "beau ideal" of heterosexual relations (to echo the title of Jabour's introduction to *Marriage in the Early Republic*), the highest evolution of the marital state. Further, if one identified one's marriage as loving and equal, the sting of women's financial dependence might be ameliorated. Given the loaded political context in which affectionate marriage came to be discussed, we might not be venturing too far afield to call it a patriotic choice. The downside to this idealization of the affectionate marriage is that it so dominated discussions of marriage that it rendered null other ways of thinking about or even questioning marriage.

Yet neither the political and literary celebrations of the affectionate marriage nor the sociological trend toward viewing marriage as based on romantic love altered the essential fact of coverture: Once married, even the most beloved woman was subject to the economic decisions of her husband. This point was not lost on the novelists of the early republic. Elizabeth Maddock Dillon has persuasively suggested that marriage receives so much attention during the early republic because it most vividly represents the intersections of private and public life. She concludes, "Marriage thus derives its political force in part from appearing to be wholly private and apolitical, from appearing to be entirely voluntaristic and affective, while nonetheless shaping subjects and their 'private' desires" (127). Hendrik Hartog puts this idea somewhat more dramatically when he claims, "Privacy was nothing more than the law's euphemism for the powerlessness of subordinates, their reduction to the level of property. . . . Public power constituted the private sphere" (24). The rhetoric of affection effectively obscured how the tendrils of law shaped marriages. Novelists' explorations of coverture called attention to how the impersonal state continued to regulate what were increasingly conceived of as intimate unions between private individuals, while at the same time common law clearly delineated the eclipsed nature of public identity for married women and their consequent economic and legal liabilities.

### **Economic Impediments to the Affectionate Marriage in *The Coquette* and *Dorval***

The novels on which I focus in this final section of my essay, *The Coquette* and *Dorval*, figure two competing tensions with regard to marriage. First, they represent marriage as a contractual and public event and are concerned with marriage's political, legal, religious, and, most particularly, economic status. Second, they also figure marriage as a personal, private state and thus privilege the companionate marriage. Much of this tension revolves around the issue of coverture, marking an intersection between the goal of intimate, companionate union and the ineluctable fact that women lost most legal rights to their property under the marriage contract. Other early novels authored by women consider women's property rights—most notably Susanna Rowson's *Lucy Temple* and Judith Sargent Murray's *Story of Margareta*—but *The*

*Coquette* and *Dorval* do so most interestingly.<sup>19</sup> In fact, both these novels ultimately suggest that coverture, rather than strengthening the marital bond and hence family life, actually works against these goals, in that it encourages marriage for mercenary, rather than romantic, reasons.

The relationships among Peter Sanford, his wife Nancy, and Eliza Wharton in Foster's *The Coquette* clearly illustrate the unhappy resolution of these competing tensions with regard to marriage. Aware of their disparate stations in life as well as their respective needs for economic security, Sanford and Eliza wish circumstances allowed them to gratify both their financial imperatives and romantic desires. Sanford comes to love Eliza as much as he is capable, but he consciously rejects an affectionate marriage and instead chooses to exercise his legal rights to his future wife's property. Shortly after meeting Eliza, Sanford writes to his friend Deighton, "[S]he is a fine girl. . . . Were I disposed to marry, I am persuaded she would make an excellent wife; but that you know is no part of my plan, so long as I can keep out of the noose. Whenever I do submit to be shackled, it must be from a necessity of mending my fortune. This girl would be far from doing that" (122). Sanford reiterates these sentiments shortly thereafter, telling Deighton, "I know not the lady in the world with whom I would sooner form a connection of this sort than with Eliza Wharton. But it will never do. If my fortune, or hers were better, I would risk a union; but as they are, no idea of the kind can be admitted" (131). For Sanford, Eliza's personal charms are no compensation for the fact that she is poor.

Consequently, Sanford even briefly pursues Miss Lawrence, a woman he describes as having "no soul," but who "is heiress, nevertheless, to a great fortune; and that is all the soul I wish for in a wife. In truth, Charles, I know of no other way to mend my circumstances" (131).<sup>20</sup> Ultimately, Sanford rejects the idea of marrying Miss Lawrence, exclaiming to his friend about Eliza, "Love her, I certainly do. Would to heaven I could marry her! Would to heaven I had preserved my fortune; or she had one to supply its place!" (161). Dependence on coverture is implicit in Sanford's desire to marry a rich woman and his disqualification of Eliza as a potential wife.

Without coverture, Sanford would have no incentive to pursue Nancy, the woman he eventually marries and who he concedes "is really too good for such an imposition" (198). Nancy is "handsomer, and more agreeable" than Miss Lawrence, besides being twice as rich (198). Additionally, without the access to Nancy's funds that coverture ensures him, Sanford would be unable to continue his pursuit of Eliza. Let me make clear that I concede that Eliza is responsible in part for her downfall. However limited her options, she does make choices that, in negotiating the rules of the polite society to which she aspires, render her vulnerable to Sanford's machinations and magnify her desire for him. Nonetheless, it is the law of coverture that enables Sanford to express disdain for accepting a civil appointment and becoming what he calls a "downright plodding money-catcher, for a subsistence [sic]" (198); it is coverture that encourages him to marry a wealthy woman he does not love; and it is coverture that enables him to spend all of her money. Coverture is a crutch for Sanford to lean on as he pursues his ideal of the gentlemanly lifestyle; he justifies his actions with this explanation: "I cannot bear the idea of confinement to business. It appears to me quite inconsistent with the character of a gentleman"

(155–56). Given the alternative of living off the largesse of a wealthy wife or working for a living, Sanford tells Deighton, "I chose the first," and asks, "[W]ho would not?" (198). Coverture, as Foster portrays it, encourages precisely this kind of anti-republican dependency.

Further, marriage to Nancy provides Sanford with quick access to a substantial sum of money that enables him to fend off his creditors and continue his pursuit of Eliza. He tells Charles that "[n]ecessity, dire necessity, forced me into this dernier resort" (197).<sup>21</sup> Sanford explains that the money he gains control of upon his marriage—Nancy's fortune of five thousand pounds—"will compensate for some of my past mistakes, and set matters right for the present" (198). Further, the prestige attached to Nancy's wealth guarantees Sanford access to Eliza's society and enables him to pursue her from a socially superior vantage point.<sup>22</sup> Given Sanford's freedom with Nancy's money, however, his financial solvency is only temporary, and in a convergence of unfortunate events, Sanford ultimately seduces and impregnates Eliza, as he simultaneously exhausts both Nancy's fortune and his own credit. Shortly thereafter, Eliza leaves her home to deliver her baby in secrecy, while Sanford's impoverished wife leaves him to live with her parents.

In an ironic twist, Sanford's greed destroys Eliza, whom he has refused to marry because she does not have money but whom he will not leave alone; it also prevents him from seeing her before she dies. Sanford explains to Deighton,

Oh, that I had seen her; that I had once more asked her forgiveness! . . . The day on which I meant to visit her, most of my property was attached, and to secure the rest, I was obliged to shut my doors, and become a prisoner in my own house! High living, and old debts, incurred by extravagance, had reduced the fortune of my wife to very little, and I could not satisfy the clamorous demands of my creditors.

Sanford delivers his own verdict on the situation: "Thus, that splendor and equipage, to secure which, I have sacrificed a virtuous woman, is taken from me; that poverty, the dread of which prevented my forming an honorable connection with an amiable and accomplished girl, the only one I ever loved, has fallen, with redoubled vengeance, upon my guilty head; and I must become a vagabond in the earth!" (238). While Sanford is the obvious villain of the piece, it is the law of coverture and Sanford's unmanly—and anti-republican—dependence upon it that underlie these sad events.<sup>23</sup>

Heiresses, debt, and the ramifications of coverture play no role in the facts verifiable about the historical Elizabeth Whitman, on whose story *The Coquette* is based. For precisely this reason, we should pay careful attention to how Foster makes them crucial elements of the novel as she exposes the potentially devastating economic and social consequences of coverture. Cathy N. Davidson and Carla Mulford have noted that Foster's treatment of Eliza Wharton in the first half of *The Coquette* does correlate roughly with the known courtship experiences of Elizabeth Whitman, in particular with the death of her first fiancé, the Reverend Joseph Howe,

fictionalized as Haly, and an extended courtship with a second minister, the Reverend Joseph Buckminster, fictionalized as Boyer.<sup>24</sup> Yet the father of Whitman's child has never been definitively identified. Foster's wholesale invention of Sanford, then, merits particular attention, especially given his deliberate fortune hunting and the way he regards women as property, writing to Deighton on one occasion, "Though I cannot possess [Eliza] wholly myself, I will not tamely see her the property of another" (131), an attitude that Lori Merish labels "gothic ownership" (77), suggesting its psychological, if not legal, dimensions. Also of note is the way Foster carefully contrasts Sanford's aristocratic, autocratic, and coverture-driven marriage with the companionate, republican-style marriages of Ann and General Richman and Lucy Freeman and George Sumner (and, to a lesser degree, the marriages of Selby and Boyer).<sup>25</sup> And yet even the happy, companionable nature of the Richman and Sumner marriages obscures the economic realities underlying these marriages: Nothing protects either Ann or Lucy, both of whom are apparently daughters of the economic elite,<sup>26</sup> from future financial losses their husbands might sustain. Foster's novel thus captures the spectrum of marriages possible to bourgeois women in late eighteenth-century New England, while exposing the economic inequities embedded in common law.

If a critique of coverture is partially Foster's intent—and given the amount of storyline allotted to Sanford's waste of Nancy's money and her penniless return to her family, clearly it is—and if Foster intends to educate the American "fair," that coded phrase signifying bourgeois white women,<sup>27</sup> one might well wonder why Foster does not indicate that legal alternatives to coverture existed (Foster 241). Given the novel's setting in Connecticut and Boston and the resistance of New England legislatures and courts to equity law, it is perhaps not surprising that Foster does not explore remedies to coverture, even when they might be appropriate. We do not know precisely where Sanford found his bride, Nancy; we know only that he took "a tour to the southward," prompted "by the prospect of making a speculation, by which," he tells Deighton, "I hope to mend my affairs" (181). As a considerable heiress, Nancy makes an excellent vehicle through which Foster can explore the folly of a young woman marrying a "gentleman" unknown to her family and friends, with the added complication of her family's failure or legal inability to secure her inheritance through a marriage settlement.

Likely less familiar to scholars of American literature than *The Coquette, Dorval; or The Speculator* also grapples with issues relating to coverture, but in a rather different fashion: The novel is preoccupied with preserving and transmitting wealth from one generation to the next via the female line of a New York family. Unlike *The Coquette, Dorval* explicitly suggests remedies to coverture. Because this novel is probably unfamiliar to many readers today, a brief summary of the plot is in order. The novel centers around the fortunes of the Morely family, whose economic prosperity is founded upon the ability of Colonel Morely's unmarried aunt, Miss Wilson, to will her property where it is most needed to ensure the long-term stability of the family, as well as to will her property to the individual she deems most capable of putting her wealth to good use. This inheritance enables Colonel Morely to do economic good on an

individual and national level, when he buys devalued currency at high rates from impoverished soldiers during the financially turbulent post-Revolutionary era. Witness to her father's benevolence, Aurelia, the heroine of the novel, is trained to be similarly philanthropic and public spirited. The financially secure family lives happily until Colonel Morely is bankrupted through a land speculation scheme orchestrated by the nefarious Dorval and later dies while in debtor's prison.<sup>28</sup>

*Dorval* directly addresses the issue of coverture by looking at its detrimental effects from the perspectives of both a mature widow, Mrs. Morely, and her young adult daughter, Aurelia. Coverture and its remedies are not incidental in the novel; indeed, the action of the novel hinges upon the various ways characters respond to common law regarding marital property. Before his finances fail, Colonel Morely settles on his wife a large country estate to make her financially independent and to ease her concerns about his financial affairs; this legal transaction is overseen by Burlington, Aurelia's fiancé (74–76). The Colonel likewise intends this transaction to preserve his daughter's inheritance. He thus inadvertently foils Dorval's plan to defraud him of all his property because the country estate is protected from the bankruptcy proceedings by virtue of the deed of gift to Mrs. Morely. In this instance, the settlement on Mrs. Morely performs exactly the function that state legislators working on the married women's property acts in succeeding decades would aim for: using women's property to stabilize family finances in times of economic volatility. In this extended episode, Wood demonstrates both a shrewd grasp of the legal system and her life-long concern for the well-being of women and children, issues to which I will return later.

Dorval finds another way to gain control of the Morely family's property, however, when he marries the widowed Mrs. Morely, who fails to secure additional rights to her property upon her remarriage. This marriage gives Dorval legal control of her real estate, and shortly thereafter, angered by Aurelia's open distrust, he throws her out of her family home (199). After tricking his new wife into conveying her real property to him via a deed of gift, Dorval gains full control of it, revealing that "he only married her for the sake of her property" (242). He immediately sells her estate, furniture, and clothing, and in short order, the new Mrs. Dorval runs away from her husband and descends upon her daughter, who has supported herself by sewing. Because she has neglected to secure her daughter's inheritance through a marital settlement, Aurelia's mother explains that her unwise consent—both to a second marriage and to Dorval's legal trickery—has "ruined you [Aurelia], as well as myself: I have deprived you of the power of doing any good to any one" (240). Given Aurelia's careful training by her father and aunt in the practice of benevolence toward those less financially fortunate, this is no small loss to Aurelia. The new Mrs. Dorval realizes the extent of her folly in marrying Dorval, as well as that the legal system has aided Dorval in his scheme to strip her of the property that was rightfully hers and her daughter's. She asks Aurelia, "What will you say, when you know my folly has undone both myself and you? do you know that I have neither house nor home? that the wretch I married has stripped me of my property, as well as peace? and that I have not in the world a change of

apparel, except what is contained in that small trunk?" (239–40). Frustrated by her own gullibility, Mrs. Dorval tells her, "When I think of how easy my circumstances were, and how happy I might have been, had I not been so easily duped, I am ready to die with vexation" (240). Ironically, Mrs. Dorval does, in fact, "die from vexation" when her husband, enraged by Aurelia's efforts to expose his crimes, mistakes her for Aurelia and murders her.

One of Wood's hallmarks as a novelist—a hallmark she shares with many of her contemporaries—is structural repetition.<sup>29</sup> In case readers miss her critique of coverture the first time, she reiterates it in the back story the narrator provides about Dorval and his first marriage when Aurelia by coincidence meets Dorval's first wife. This back story crucially amplifies our understanding of the origins of Dorval's greed and possessive desire. Although Dorval has an English father and an American mother, he is orphaned early and grows up at sea. At loose ends as a young adult, Dorval travels to the West Indies, which the narrator of the novel cryptically describes as "a more proper theatre for him to exhibit upon" (54). Hired as an overseer by a rich planter, Dorval starves and abuses the slaves, making an enormous profit for his employer. At the same time, he secretly marries Addela, a fifteen-year-old Jamaican heiress, admonishing her to secrecy until the death of her father, at which time she—and hence Dorval—would inherit an enormous estate. Not content to wait until Addela is of age or her father dies to gain control of her wealth, Dorval forges the deed to his employer's plantation and murders him. Only when he is about to be jailed for his crimes does he flee to the United States. The narrator is at some pains to make readers understand that Dorval's West Indian interlude has unloosed this violent propensity in his nature, which he carries with him to the United States like an infection. Once possessed of the power of life and death over slaves under his legal control, he seeks to extend this power over others; absolute power, in his case, does indeed corrupt absolutely. Desiring Aurelia, he becomes determined to possess her. When she rejects him, he maliciously bankrupts and destroys her family, preferring to annihilate what he cannot possess. Further enraged by Aurelia's attempts to nullify his bigamous marriage to her mother and to circumvent his confiscation of his first wife's property, Dorval breaks into Aurelia's bedroom at a friend's home in Philadelphia, but she escapes before he can attack her. A few weeks later, however, he breaks into the house once again and, after a violent struggle, stabs Aurelia's mother to death, mistaking her for her daughter. Dorval attempts a third time to murder Aurelia when she visits him in prison; once again he fails. He defends his actions as the result of unrequited love, but he is driven instead by a poisonous conflation of thwarted possessiveness and greed that makes a mockery of both coverture and the rhetoric of the affectionate marriage.

The plot of *Dorval* may seem over the top, but in depicting not one but two marriages driven by coverture, Wood spares no effort to illustrate the gross injustices and economic dangers of that law—not only to the individual wife, but also to her family, and especially her children, who may be deprived of their inheritance, as was Aurelia. By setting her novel in New York, rather than in her native Maine (then still a district of Massachusetts), Wood was able more expansively to explore coverture and equity law, for marriage settlements were legal in New York. And,

indeed, Wood carefully illustrates remedies: Marriage settlements appear several times in *Dorval*, not only when Colonel Morely settles the country estate on his wife, but also in the context of marital preparations for several different young women, whose families are anxious to preserve familial wealth and provide economic security for their daughters, regardless of the financial circumstances of their husbands.<sup>30</sup> Unlike Eliza Wharton or Sanford's wife, Wood's heroine, Aurelia, gets her happy ending. She not only marries the man she loves, but she does so knowing that he loves her and not her money, which Major Seymore, a man revealed in the course of the novel to be her birth father, has settled on her independently.<sup>31</sup> Major Seymore now has the satisfaction of bestowing economic security on the next generation.

Wood's unusual assiduousness in exploring the potential economic liabilities of marriage for women stems from several factors: She was part of a wealthy, well-connected, close-knit family deeply concerned about her well-being. Further, she grew up in the household of her grandfather, Judge Jonathan Sayward; her first husband, Richard Keating, was a clerk in Judge Sayward's office at the time of their marriage. Her first husband, her father, and her grandfather participated in the coastal trade of southern Maine and in trade with the West Indies. Family correspondence indicates that commerce, mortgages, wills, and deeds were part of family discussions in her daily life.<sup>32</sup> Familial circumstances thus helped make Wood knowledgeable about money: She knew how it was earned, spent, invested, and inherited. Further, she had the legal knowledge to understand the implications of coverture. She knew that without the kind of marriage settlements that *Dorval* repeatedly models—virtually unique among early texts in its attention to them—married women were rendered dependent on their husbands' integrity and good business sense.

But there is likely another more personal reason for Wood's investment in exposing the liabilities of coverture and in modeling the use of marriage settlements: what her uncle Theodore Barrell described in a letter written on 4 May 1785 as her "fortunate escape" from a dangerous second marriage.<sup>33</sup> The death of Keating in 1783 left her a twenty-four-year-old widow with two young daughters and pregnant with her son. Two years after she was widowed, she was courted by "a Spanish gentleman of great fortune" visiting New England. Although the details of their relationship are scarce, he evidently proposed. Before their relationship progressed further, however, he was exposed as "an imposter," to the consternation of her family and friends. Her family learned that, under the alias of "Captain Browne," this same man had schemed to purchase a large estate in Jamaica Plain, but his ruse was discovered before the sale went through. These impostures came to light only because neighbors and family friends assiduously looked out for her interests to prevent what her uncle described as the "Missfortune [sic] of an alliance." Shortly after these events, her uncle, Theodore Barrell, wrote the following to her father, Nathaniel Barrell:

Sally has been blessed with one good Husband, and I sincerely hope that if it should ever be her lot to enter in to the Marriage State again she may be equally happy, and I cannot think otherwise than that both you and she should carefully Guard against Strangers let their pretensions be what they may, unless they are well recommended by Persons of credit who are known amongst us, I

heartily rejoice at the discovery being made before it would have been too late . . . to prevent a Connection.

Her narrow escape from marrying a scoundrel and risking her economic security and that of her children undoubtedly brought home to her the legal and economic dangers that women faced, even as they embarked on what seemed to be the most private and intimate of relationships. This experience may also help to explain why she waited to remarry until 1804, when her youngest child had reached his majority; at that time, she married General Abiel Wood, a longtime family friend.

Wood ceased publishing fiction during the lifetime of her second husband, but she continued to be avidly interested in the status of women and girls in the early United States. In 1805, she was the founding president of the Wiscasset Female Charitable Society, which endures today and is the second oldest such organization in the United States. The express purpose of this society was "to provide help to local widows and female orphans in need of assistance" (*Wiscasset Female Charitable Society 2*). Although the plot of *Dorval* may initially seem fantastic, Wood used her own experiences and her knowledge of the legal system to craft a novel that exposed the very real legal and economic liabilities that bourgeois women faced in the early United States, as well as to suggest pragmatic solutions to these liabilities.

While Foster and Wood most unambiguously critique the common-law practice of coverture and make it a central feature of the plots of their novels, other novelists in the early United States also explore the repercussions of women's economic dependence, at least in passing. Time and again in early American fiction, women's property disappears through the carelessness, poor judgment, or criminality of spouses or lovers, leaving the women little legal recourse. And yet their critiques of coverture expose far more than the inequities embedded in property rights: Foster and Wood in particular suggest that coverture was an impediment to the affectionate marriage, for coverture invited men to view their prospective wives as property embodied, rather than as beloved companions. Capitalizing in their novels on both the growing popularity of the affectionate marriage and the widespread use of the affectionate marriage as a political trope, Foster and Wood expose the fissures that coverture created between legal praxis and cherished cultural ideals. One might well wonder, if the stated purpose of so much early American fiction was to educate the reader, why *more* novels did not educate women about ways to protect their property through separate estates. There is no simple answer to this question, but certain facts are suggestive. A substantial majority of novels from the early national period were written and published in New England and Pennsylvania, where marriage settlements were not widely used; relatively few novels were written and published in New York and the South, where marriage settlements were readily available, although used almost exclusively by the wealthy and the legally sophisticated. Given these facts, it is not surprising that many novels condemn the economic inequities of coverture but neglect to explore the legal possibilities of separate estates. Further, while an implicit critique of coverture was likely socially acceptable, explicit advocacy of separate estates was more radical and even offensive to some gentlemen's sense of honor, as



indicated by William Wirt's response to his friend's dilemma. Wood's secure social position in a rural area populated by a large family and many friends would have insulated her from public criticism. Allied to her knowledge of the legal system and her personal experience, Wood was uniquely positioned to address these issues in *Dorval*.

## Notes

1. "Walstein's School of History" was first published in the *Monthly Magazine* in 1799.
2. See *Intricate Relations*, chapter 4.
3. By contrast, Charles Brockden Brown, who participated freely in political debates in a fashion impractical for most women writers, directly addresses the ramifications of coverture in *Alcuin* (54–55). For a discussion of Brown's position within the debate over coverture, see Davidson, "The Matter and Manner of Charles Brockden Brown's *Alcuin*"; Hinds 37; and Burgett 119–53, especially 142.
4. For more information about specific legal limitations to coverture, see Salmon, *Women and the Law of Property in Early America* 14–15 and "Women and Property in South Carolina" 655–85; and Kerber, *Women of the Republic* 145.
5. On the implications of coverture for American women, see Kerber, *Women of the Republic* 119–36 and *No Constitutional Right to be Ladies*. On the *feme covert*, especially with regard to fiction, see Davidson, *Revolution and the Word* 117–22, 126–28, 148–49.
6. Lest we mistakenly regard Mississippi as a bastion of forward-thinking liberalism in the nineteenth century, it is important to note that marriage settlements in that **[End Page 19]** state were specifically intended to preserve familial wealth, generally in the form of large tracts of land and groups of slaves (Basch 37–38). The measured empowerment of bourgeois white women was a secondary consequence of the law, rather than its intent.
7. For a discussion of the movement from a sacramental to a contractarian view of marriage originating from Locke's *Two Treatises of Government*, see Witte 196–97. For more on the contractual nature of marriage, see Morgenstern 108–18.
8. For a discussion of Pennsylvania's adaptation of common law, see Salmon, *Women and the Law of Property in Early America* 40.
9. Salmon further asserts that there was "[n]o sudden revolution in the legal status of married women" but rather "an evolutionary process, not a radical break from post-revolutionary trends" (*Women and the Law of Property in Early America* xvi–xvii).
10. See Salmon, *Women and the Law of Property in Early America* 83, 96–97; and Cott 52–53.

11. See Chambers-Schiller, chapters 1–4, and Wulf 43–65. Davidson also notes ambivalence about marriage in women's private writings; see *Revolution and the Word* 118–25.
12. See "Character of an Old Maid" and the especially vituperative "An Old Maid," which argues that the old maid "hates all womankind and all mankind; and her principle [sic] reason is, because she hates herself" (2). Another essayist explains that singleness for mature women stems only from coquettish "*imprudence*" or "*misfortune*" (Z. 643).
13. See the satirical essay "Arguments in Favour of Celibacy," published under the pseudonym "Misogamos," part of which was reprinted as "An Old Bachelor's Reflections: On Matrimony."
14. See Chambers-Schiller, chapter 1, on the rise of "single blessedness" (10–28).
15. See Smith and Hindus, especially 561; see also Gross 217n59.
16. See Coontz, chapters 8–10.
17. Degler, chapter 1; Rothman, *passim*; Jabour, especially 9–10.
18. See Fliegelman 123–31 and Cott 15–17, 21–23.
19. Although Foster and Wood make marriage central to the waste of female property, there's considerable variation in how other novelists treat this issue. In Rowson's *Lucy Temple*, for example, Lady Mary Lumley marries Sir Stephen Haynes and is tricked into giving him her entire fortune of seven thousand pounds. On the other hand, Lucy Temple's grandfather is careful to explain that he has settled money on Lucy herself (216). By contrast, most of the plot of Tenney's *Female Quixotism* revolves around Dorcasina Sheldon's narrow escapes from men who want to marry her only for her property. But as Brown's *Arthur Mervyn* and Murray's "Story of Margaretta" indicate, marriage wasn't necessary to render young women's property vulnerable. In *Arthur Mervyn*, Clemenza Lodi's inheritance is dissipated by Welbeck. In "Story of Margaretta," Courtland intends to marry Margaretta only for her money, and, prior to courting Margaretta, he had seduced a wealthy orphan and spent her entire fortune. Brown also takes up coverture briefly—but directly—in *Ormond*, when the economic restrictions of coverture help Constantia decide against marrying Balfour.
20. Miss Lawrence ultimately marries Mr. Laiton, whom Ann Richman describes as "a mere fortune-hunter" (Foster 183).
21. Previously, Sanford had expressed some concern about having to mortgage his recently purchased estate in Hartford, but he assures Deighton, "I shall manage matters very well . . . till I find some lady in a strait for a husband, whose fortune will enable me to extricate myself from these embarrassments" (Foster 156).
22. For further discussion of how Sanford's presumed wealth guarantees him access to Eliza's social circle, see Weyler, *Intricate Relations* 154–57.

23. Yazawa discusses the stigma that dependence assumed during the post-Revolutionary era (141).

24. See Davidson, Introduction vii–xiii, and Mulford xliii–xlv.

25. For a discussion of republican marriage, see Lewis 694–95. While Davidson describes the Richman marriage as fulfilling this egalitarian ideal (*Revolution and the Word* 143–48), Harris reads their relationship less sanguinely. Harris suggests that the apparent harmony between the Richmans stems from Mrs. Richman's adoption of repressive patriarchal values ("Hannah Webster Foster's *The Coquette*" 12–15). Literary critics have widely discussed the general subject of marriage in the novel; see Stern 95–100, 131–33; Dill, especially 257–59, 271–73; and Dillon 187–96.

26. Kristie Hamilton makes this point about Lucy when she observes that Lucy "is able to choose easily a spouse who is affluent because she is of the same socioeconomic class as he. Proof of this is apparent not only because Lucy's father can invite 'all the neighboring gentry' to her wedding reception but also in Eliza's description of Lucy's wedding dress; it is 'such as wealth and elegance required'" (145). While we have less concrete proof of Ann Richman's economic origins, the novel emphasizes that theirs is a marriage of relative equals.

27. See Schloesser 7–8 for a discussion of legal alternatives to coverture.

28. For an extended discussion of speculation and other economic issues in *Dorval*, see Weyler, *Intricate Relations* 105–39.

29. Mulford notes similar strategies of repetition in *The Coquette* and *The Power of Sympathy*; she explains, "By providing subplots that acted as varying reflections on the themes of the novel, novelists created dramatic intensity while offering additional examples of the problems their novels were interrogating" (xxxix).

30. *Dorval* refers several times to such marriage settlements. Charlotte Barton, an orphan, shows foresight in signing a marriage settlement that allows her to preserve her financial resources (122). Aurelia's biological father settles a country estate and thousands of dollars on her prior to her marriage in order "to see [his] child independent" (269).

31. In a complicated plot twist not related to this argument, Aurelia's presumed parents are revealed to be her aunt and uncle, who raised her from birth.

32. For a brief overview of Wood's life, see Weyler, "Profile." For a comprehensive overview, see Doris Marston's unpublished thesis. Important documentary evidence can be found in several archives in Maine, including the Maine Women Writers Collection at the University of New England, the Maine Historical Society, and the Old York Historical Society.

33. All subsequent quotations by Theodore Barrell refer to this letter, which contains all of the known details of this episode. Marston does not mention either the abortive courtship or this letter.

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