

***Who Pays for the Butter? Florence Marryat and the Married Women's Property Acts***

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When a hapless interviewer suggested that Florence Marryat was fortunate in having a husband to provide for her, the author snapped: “My husband is a retired officer on half-pay and I am a successful novelist - who do you think pays for the butter?” Marryat’s domestic situation, like that of her peers, belied the mid-Victorian idea of wifely dependence. Although women were supposedly protected financially by their husbands, the 1851 Census showed that a quarter of married women were employed outside the home. Reality was diverging rapidly from ideology.

Upon marriage, a wife effectively ceded all control of her financial assets to her husband. Except for her clothing and personal ornaments, known as “paraphernalia”, a husband could dispose of his wife’s wealth as he saw fit, and without her permission. Even gifts from husband to wife remained the former’s property and could be revoked (a situation examined at length in Trollope’s *The Eustace Diamonds*). Even if a husband deserted his wife, he was still entitled to control her earnings and property, even to support another household and common-law family. When her husband did exactly that, the novelist Mrs Alexander Fraser was on two occasions denied a judicial separation, thereby obliging her to subsidise his adultery. Such outrages were not confined to the wealthy. For example, in 1858 a working-class Devon woman was forced to support her husband, even after he entered into a bigamous marriage with another woman. The magistrate - appropriately named Mr Bastard - decreed that notions of wifely duty still applied.

The 1850s saw the beginning of the campaign to reform the property laws with a petition presented to Parliament on 14th March 1856. Among the signatories were Elizabeth Gaskell, Geraldine Jewsbury, Jane Welsh Carlyle, Marian Evans, and Elizabeth Barrett Browning. None of these writers was an outspoken advocate of women’s rights (quite the reverse in the case of Jewsbury and Gaskell), yet they recognised the importance of women retaining their own earnings. Florence Marryat was living in India throughout this decade and was possibly unaware of events back home. However, as I shall show, the progress of this long-fought campaign was to have a profound effect on her life; not least because one of the chief opponents of reform, Lord Penzance, was to preside over Marryat’s divorce proceedings.

Given the involvement of women writers in the nascent campaign, the issues it raised are remarkably absent from fiction of the mid-Victorian period. Elizabeth Gaskell in her letters made two references to the fact that her husband pocketed her earnings, yet there is no consideration of this law in her fiction.

Women and property are recurring themes in the novels of Anthony Trollope and Wilkie Collins, but both reserve their concern for the working classes, believing that they alone required legal protection. In this paper, I argue that Florence Marryat made a uniquely radical protest, going further than any other writer in championing a woman's right to financial autonomy. I will show how Marryat used her own experience to educate readers, and how her fiction became a platform on which she argued for change.

Following the petition a resolution was moved and seconded to reform the law. However, traditionalists on all sides succeeded in replacing the Bill with the 1857 Matrimonial Causes Act, legislation that enshrined the sexual double standard in law and did little to protect wives. The first Married Women's Property Act wasn't passed until 1870 and it satisfied few of its supporters' demands. It did at least recognise that in some circumstances married women should control their own earnings and inherit property. The lawyer Montague Lush described it, with the benefit of hindsight, as a "curiously tentative and partial measure". During the debates, the MP George Shaw-Lefevre quipped that the marriage service ought to be changed: the husband said that he endowed his wife with all his earthly goods, but in reality it was the other way around. Significantly, though, for Marryat and the literary signatories of the original petition, a married woman who wrote a book after 1st January 1871 would herself own the copyright, rather than it belonging automatically to her husband. Millicent Garrett Fawcett's husband Henry had to bequeath to her in his will the copyright of her early books; and Charlotte Elizabeth Tonna changed her name in a desperate attempt to prevent her estranged husband from seizing her hard-earned royalties.

For Marryat, the 1870 Act meant liberation. Once the legislation came into force, she separated from her violent and largely dependent husband, Thomas Ross Church, establishing a separate household with their seven children. By taking on an astonishing amount of work, she was able to support her family alone, now that she could earn money in her own right. Church did not take kindly to being left to support himself. In 1875 he filed a Bill of Complaint, claiming an investment bequeathed to Marryat by her mother. Church had already tried to declare his mother-in-law dead in a dastardly bid to access the funds through probate. (Mrs Marryat lived to a ripe old age, just to spite him). The legal files show that Marryat's literary earnings had been covering two-thirds of household expenditure, and the court denied her husband's claim to any of it.

When the unhappy couple divorced three years later, in 1878, Thomas Ross Church again tried to claim Marryat's money, arguing he could not support himself. Marryat had to demonstrate for a second time that his claims were unjustified, and her husband's appeal was overruled by an incredulous judge. This supposedly impecunious pensioner left the equivalent of £1m in his will, so his actions were clearly

motivated by greed and a sense of entitlement, rather than by necessity. Thanks to the Married Women's Property Act, Marryat was able to extricate herself from her husband, and he had no further claim on her.

Marryat's polemical novel *Her World Against a Lie* was published just after her divorce. In it she engages with themes of martial violence, divorce reform, and married women's property. Marryat praises the progress already made, but also demands more. The heroine Hephzibah Horton, a successful author, is a thinly-disguised self-portrait and is described as "the spirit of a man cased in a woman's body". She is a formidable woman who reads the papers, enjoys political debate, and has a healthy contempt for lawyers.

Hephzibah uses her knowledge of the law to help Delia Moray, a young woman married to a violent alcoholic. Before the main action has even begun, Marryat makes an impassioned political speech through her avatar, in this the only novel in which she explicitly supports female suffrage. Marryat articulates the idea that equality will be achieved only when women have a direct political voice. Her heroine declares, "if women had but ventilated their wrongs from commencement, instead of hiding them in their own breast, they would have been emancipated before now! We have suffered in silence too long not to be afraid of our own voices."

There is acknowledgement that the 1870 Married Women's Property Act made a difference to the legal position of wives, and Hephzibah praises it to Delia Moray, effectively assuming the position of the author addressing the reader. Although still sceptical of the institution of marriage, Hephzibah concedes that there has been progress. She says:

Not that I'm an advocate for marriage, as you well know; though, since that blessed Property Act has passed, it's not half the slavery it used to be ... We haven't been standing still for the last fourteen years. If I warned you not to place your foot upon the rotten plank, because it would give way and precipitate you into the stream, that's proper caution. But when this same rotten plank has been propped up by a stout support from beneath, I should say you might cross with safety.

Hephzibah goes on to explain the Act's provisions, ostensibly to Delia, but actually to the reader. She says:

...the 'Married Woman's Property Act' is more comprehensive than any bill that has been passed for the protection of women before. It embraces a wide area of possibilities, and it provides that the earnings of any married woman, however obtained, and all investments of such earning, shall be held as her separate property, and settled to her separate use. ... The women can spend their earnings as

they will, and snap their fingers in the men's faces. There was many a poor wretch sang Te Deum when that bill passed, I can tell you.

Hephzibah goes on to enumerate the benefits of protection orders, also explaining how they operate. This lengthy exposition is clearly designed to enlighten the female reader as much as Delia Moray. Marryat uses her literary platform as a means of educating women as to their rights (and men of their limitations). To emphasise the message, Hephzibah later cites a further example of a woman who takes out a protection order against her violent husband and then travels to the United States, where a divorce can be obtained on grounds of cruelty alone. *Her World Against a Lie* is part novel, part instruction manual, offering women the means of both metaphorical and literal escape.

Thanks to Hephzibah's legal brain, Delia is able to break free from her violent marriage and find happiness. Hephzibah herself eventually marries, too, retaining her own name and choosing for a husband a tiny man she can patronise without fear of him asserting his masculine privilege. This relationship provides Hephzibah with a room of her own and leisure to write what she pleases, while her attentive husband assumes the household cares. For Marryat this was probably wish-fulfilment realised in fiction.

Marryat's polemic is woven into a sensational, compelling and labyrinthine plot, which mitigates the didacticism suggested by the above quotes. Repeated references to women's property legislation, along with many examples to illustrate its application, show that Marryat's aim was to inform as well as to entertain. As a popular novelist, she had the opportunity to educate women who were ignorant of their newly-acquired rights.

When Marryat adapted the novel for the stage in 1880, she took for herself the role of Hephzibah Horton, thereby reinforcing her link with the character, and also communicating her opinions to a wider audience. Unfortunately, most of the script has been lost, so it is very difficult to know the extent to which the radical elements of the novel were recreated on stage. However, a detailed review of the London premiere suggests the plot was left virtually untouched, to the detriment of dramatic performance, and that Hephzibah retained her stridency. The reviewer in *The Era* commented: "Miss Florence Marryat made a hit as Mrs Horton. The strong-minded assertor of women's rights was hit off to the life."

One of the few other novels that dealt explicitly with the theme of married women's property was Dinah Mulock Craik's *A Brave Lady*. Serialised between May 1869 and April 1870, the story unfolded as the Bill was debated in Parliament. In her trenchant novel, Craik invokes potent maternal imagery to argue that women's financial assets should be protected for the sake of their children.

Josephine Scanlan is struggling to bring up her six children with little help from her spendthrift husband. Edward Scanlan puts his own needs first, purloining the housekeeping money to ensure he never wants for anything and encouraging their eldest son to beg. Appalled and frustrated by this behaviour, Josephine leaves him, taking the children with her. With the help of a kindly lawyer, she discovers that she has no right to retain her own earnings, even to support her family. Initially, Josephine resolves to move to France, beyond the reach of her husband, but takes pity on his newly-diagnosed heart condition and returns to care for him. In a threnodic denouement that makes George Gissing look cheery, all six children die and Josephine is left with a husband suffering from early-onset dementia.

The overwrought emotion of the narrative serves to show the potentially devastating consequences of mothers' continuing lack of financial autonomy. However, the relentless misery heaped on her heroine does distract the reader from Craik's political message. Josephine Scanlan is presented as a victim of male solipsism, rather than as a strong woman capable of managing her own financial affairs. In her non-fiction, Craik is unequivocally opposed to the women's rights movement, arguing that her sex is inferior due to "our frivolity, irrationality, and incapacity to seize on more than one idea at the same time." Craik's impassioned argument for legal change in *A Brave Lady* went no further than a wife's right to control the housekeeping money.

Charlotte Riddell's short story collection *Weird Stories* was published in 1882, just as the Second Married Women's Property Act was debated in Parliament. In contrast to both Marryat and Craik, Riddell's stories depict the unfortunate consequences of women gaining financial independence. In 'The Old House on Vauxhall Walk', the ghost of Miss Tynan, a woman who refused to share her fortune during life, is condemned to eternal Scrooge-like lamentation over her miserliness. She finds peace only by relinquishing her wealth to a male heir. The living "ghost" in 'The Open Door' is a malevolent woman seeking a lost will, who is prepared to poison or shoot anyone who attempts to thwart her search. Her barely controllable fury is Riddell's prophecy of what havoc legal change might wreak. The character of Miss Gostock in 'Nut Bush Farm' is an even less subtle warning. An astute businesswoman, she wears men's clothes and keeps her hair short. Shockingly, her house does "not contain a single feminine belonging - not even a thimble," and she prefers brandy to housework. She is described in summary as "some monstrous figure in a story of giants and hobgoblins."

Riddell presents this character as the corollary of women controlling their own wealth, without the guiding influence of men. The independent woman is at best a man, at worst a freak. Riddell's own experiences epitomise the contradictions inherent in mid-Victorian women's lives. Following her profligate husband's

bankruptcy, Riddell felt obliged to repay all of his creditors, amounting to the enormous sum of £10,000. Although one of the most successful authors of her day, Riddell was reduced to subsistence on a small pension from the Society of Authors. She was not compelled to make good her husband's losses, but essentially believed her money to be his, and opted to sacrifice her income. Furthermore, Riddell was unperturbed in 1871 when her stolen purse was described in court as the property of her husband. It was because she too was his property, a position in which she felt comfortable. In her life Riddell's response was one of mute acquiescence; in her writing she made a fervid plea to uphold the status quo.

Marryat's later fiction challenges Riddell's pessimism, showing independently wealthy women who are wiser than their male counterparts. Her heroines are responsible and likeable, in contrast with the grotesque monsters created by Riddell. For Marryat's emancipated wives, money permits them the freedom to live like gentlemen, controlling their own space without the obligation to fulfil a subordinate feminine ideal.

Unfortunately, Marryat did not take her own advice on marriage. In a triumph of hope over experience, in 1879 she married another retired army officer. This second marriage was no happier than the first, quickly ending in a legal separation. Revealingly, the novel Marryat wrote during this period is a bitter tale of a talented and hard-working artist whose dissipated husband fritters away all her earnings. The time, however, the law was firmly on Marryat's side and she was able to leave her husband without any risk to her wealth or future earnings. The Second Married Women's Property Act, passed in 1882, allowed her to retain her home and investments without fear of retrospective claims.

Mary Lyndon Shanley describes the Second Married Women's Property Act as "arguably the single most important change in the legal status of women in the nineteenth century". Married women were at last granted equal rights over property and were treated as a separate legal entity - husband and wife were no longer one person under law. Conservatives feared this power shift would turn the wife into a "domestic tyrant". The final parliamentary debates were punctuated with cries of "No, no!" as the chauvinists expired in horror. This "social revolution," as it was dubbed, allowed Marryat and her peers to be independent women. Wisely, Marryat never married again, instead opting to co-habit with an actor twenty-three years her junior. Ironically, it was he, rather than her husbands, who inherited most of her property portfolio.

In her semi-autobiographical novel *The Nobler Sex*, published in 1892, Marryat provides a retrospective view of the legal advances she witnessed and from which she benefited. She wrote:

The Acts which have been lately passed for the protection of married women and their earnings are the greatest blessings ever bestowed upon the daughters of England, although one half of the sex does not yet know the privileges it has gained. Had these Acts been passed twenty years sooner my life would have altered from beginning to end, and the greatest sins I have committed been avoided.

The Married Women's Property Acts were the fulcrum on which the women's rights movement turned. The fact that no fewer than twenty related Bills were presented to Parliament during the nineteenth century demonstrates their importance and pervasiveness during this period. Although this prominence is also reflected in contemporary fiction, few authors were willing to argue that middle-class wives should be anything other than subordinate to their husbands.

Marryat was not calling for an end to marriage or for freely-available divorce, rather she wanted equal marriage, based on a companionate rather than a patriarchal model. In order for such reform to take place, the gender ideology of the period needed to be destabilised, a process towards which, I argue, Marryat's work contributed. Although the reforms passed during Marryat's lifetime did not present a substantial threat to patriarchy, they did at least give women the protection implied by the idea of separate spheres, protection that had been hitherto theoretical. Some of Marryat's more ambitious heroines would have to wait for the advances of the following century, when equal divorce was finally possible and personal fulfilment in marriage a reasonable expectation. The law was unable to impose its ideology on women's lives and eventually it had to realise that they were resisting their containment.

As I have argued, most women novelists were reticent on the issue of property, or vehemently opposed to increasing the rights of wives. Other than Marryat, only Dinah Craik used her fiction to argue for change, albeit in an overwhelmingly sentimental and gloomy fashion that privileged motherhood over womanhood. Marryat alone made a heartfelt and unqualified plea for wives to be treated as individuals, rather than as domestic slaves. As she showed, women were not only breadwinners, but they paid for the butter, too.