

**Women and Debt Litigation in Seventeenth Century Scotland:
Credit and Credibility**

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ABSTRACT

Many scholars suggest that credit networks were fundamental to the operation of early modern towns. Unfortunately, the majority of this scholarship ignores the role of women in the debt and credit system. The legal position of early modern women and the nature of the available sources mean that women's experiences are generally not documented in any significant numbers. Historians are therefore forced to speculate on how women might have been involved in borrowing and lending and often end up writing as though the female experience of credit was identical to men's experience of the system. The records of the Baillie Court of Aberdeen, Scotland offer a glimpse at women engaging in debt and credit transactions in large numbers and pursuing transactions that went awry. This study looks at 671 debt cases brought before Aberdeen's court system in two years in the late seventeenth-century and reveals that women participated in 46% of these cases. Similar studies, focusing mainly on England, have found female participation in debt and credit to hover closer to the 15% range. While there are some unique characteristics that might explain how Aberdeen would see more women becoming involved in the court system, there is little evidence that Aberdonian women were unusually active in the debt and credit system as a whole, in comparison to the rest of early modern Europe. Instead, Aberdeen's court records reveal what was likely a very common, but undocumented, experience in the rest of the pre-industrial world. As a result of this unprecedented level of documentation, we see women involved who would otherwise be invisible to us. The Baillie Court shows married women involved in far greater numbers than either single women or widows, a fact which goes against the traditional image of single and widowed women as the only

ones involved in the credit system through their roles as moneylenders. Instead, we find another level of women using debt and credit to secure goods for their households and participating in the economy of the town. We find that, although women were heavily involved in borrowing and lending, their experience of that system was significantly different than that of early modern men. The causes of debt and the amounts for which people would both sue and be sued were substantially different depending on one's gender and marital status. While the statistics that come out of this study are impressive, the human stories are even more enlightening. By examining individual cases, we can see how women negotiated the debt and credit and how they shaped that system to their own needs.

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INTRODUCTION

The most common complaint of scholars studying women's history is that women just simply do not appear in the sources. While historians of women's history have made great strides in the last twenty or thirty years in recovering the experiences of women in the early modern period, their work is often complicated by the fact that the lives of everyday women are obscured by the types of records kept by a patriarchal system. But, what happens when we find a unique source in which women are appearing in numbers similar to men? What can we learn when the usual restrictions in court records are lifted? Can we begin to understand how women lived and how they made a place for themselves in the economy? Through this understanding of women, can we also gain a better understanding of men and the economic system in general? The cases from the Baillie Court of Aberdeen are one example where the restrictions are, at least partially, lifted. For whatever reason, the women of Aberdeen appear in the records of this court and their stories are able to survive in much greater numbers than any other court studied thus far. The Baillie Court provides a unique opportunity to learn how women were involved in the system of debt and credit and how that system operated as a result.

In this study we will examine two years of records from Aberdeen's Baillie Court. The first year stretches from September 13, 1673 to February 17, 1674 and includes 170 debt cases. The second year of records begins on October 26, 1687 and

ends September 11, 1688 with 501 debt cases being recorded for that year.¹ In total, then, there were 671 cases involving debt and credit studied and 310 (or 46%) of these cases involved women in one way or another. As we will see in the following chapters, this is a considerable number in comparison to other studies done on early modern women and credit. These records were chosen because of their accessibility and because they form a manageable sample of cases from a civil court which previously have not been studied. Though the range of dates is not extensive,² this is a substantial number of cases and definite patterns emerge about the participation of women in the court and in the debt and credit system at large.

Though the numbers are impressive, there are limits to what we can learn from the Baillie Court records. The records simply are not full enough to explain everything we would like to know. Widows, for example, appear far less frequently in the Baillie Court records than do married women. This data contradicts the often-stated belief that widows were important moneylenders in their communities. There are several possible reasons for the smaller number of widows participating in the court. First, scholars may be wrong about the importance of widows as moneylenders; perhaps it was quite uncommon for widows to act in this capacity. Or maybe widows were acting as moneylenders but were paid back more often than married women lenders. This explanation could itself be attributed to a variety of factors, either because widows were so important that borrowers did not want to risk losing credit with them or because

¹ As is discussed later in this paper, a plaintiff often brought several defendants to court at one time. The number of defendants in a single suit could range from one to twenty or more. I have, therefore, chosen to count each debtor-creditor pairing as a case, since it is these individual debt relationships that are most instructive of how people experienced the debt and credit system.

² Craig Muldrew took a similar tactic in his study of the Palace Court of Westminster in which he studied one very densely packed month of court records in order to gain a manageable portrait of how women were involved in the court. Craig Muldrew, "A Mutual Assent of Her Mind?" Women, Debt, Litigation and Contract in Early Modern England." *History Workshop Journal* 55 (2003).

borrowers recognized the precarious economic situation of a widowed woman and paid her back more promptly. Or perhaps widows did not have the resources or inclination to take people to court in order to recover their debts. They may have been unable to afford the costs of a court case or they may have had other means of resolving conflict that did not involve the court system. There are many possible explanations and these court records simply do not give answers to many of the questions historians would like answered.

One way of approaching the problem is to look beyond the apparent facts recorded in the documents. There is a body of very interesting scholarship on court records and trying to read beyond what is written there. Fiction in the Archives, by Natalie Zemon Davis, examines how people coming before the court constructed their stories. Davis claims that we can learn how “through narrative they made sense of the unexpected and built coherence into immediate experience.”³ Davis, along with scholars such as Steven Shapin,⁴ Barbara J. Shapiro⁵ and David Sabeau,⁶ examines how people construct truth and what their construction tells us about social assumptions, beliefs and values. The idea here is that someone testifying before the court will attempt to construct his or her story in a way that is going to paint him or her in the best possible light and is going to appeal to what the court wants to hear. Unfortunately, it is very difficult to apply this sort of theory to the Baillie Court records. The records themselves are a barebones account of the case and no testimony is recorded or explanations given.

³ Natalie Zemon Davis, *Fiction in the Archives* (Stanford: Stanford University Press, 1987),4.

⁴ Steven Shapin, *A Social History of Fact: Civility and Science in Seventeenth-Century England* (Chicago: University of Chicago Press, 1994).

⁵ Barbara Shapiro, *A Culture of Fact: England, 1550-1720*. (Ithaca: Cornell University Press, 2000).

⁶ David Warren Sabeau, *Power in the Blood: Popular Culture and Village Discourse in Early Modern Germany* (Cambridge: Cambridge University Press, 1984).

There is no narrative to assist historians in analyzing how women viewed their role in the debt and credit system. What we can do is quantitatively analyze the information in these records for an overall picture of women's place in the world of debt, then piece together how individual women experienced that system. Unfortunately, no source can provide all the answers and, in an area as scantily documented as women and credit, the Baillie Court records provide a relatively plentiful resource. While we must always be cautious of the details that are missing from early modern records and the bias that is inherent in documents created by a patriarchal authority, a careful study of the Baillie Court records can reveal aspects of the system of debt and credit at which we could previously only guess.

The records under study are a handwritten account of the judgements passed in civil cases in Aberdeen. The challenge of illegible handwriting, ink smudges, incomprehensible abbreviations, antiquated colloquialisms, and legal jargon make understanding these records very difficult at times. In order to make this process easier for the reader I have provided a somewhat translated version of the quotations from the Baillie Court. In doing so I have included the full word in place of abbreviations and modernized spellings in words where the meaning is difficult to ascertain in the original spelling. Thus "qch" is translated to "which" and "W'm" has been expanded to "William". In addition, some Scots words that may be unfamiliar to the reader have been defined parenthetically the first time they appear. Punctuation has been added to the quotations where necessary to facilitate understanding of the text. The syntax, as well as the phonetic spellings of most words, has remained untouched to give the reader a sense of the original author's voice and the legal tone of the records. It is hoped that

these small changes will make the text more accessible while still preserving the subtleties of the records.

The earliest work on the subject of debt and credit focused on usury and the moral debate surrounding moneylending. The most famous study of this nature is Thomas Wilson's A Discourse Upon Usury, of 1572, for which R.H. Tawney wrote an influential introduction when it was published in 1925.⁷ Tawney's introduction discusses the issues and controversies that surrounded usury and moneylending in the early modern period. He does not, in that discussion, make mention of women and their role in the moneylending system. Tawney's focus is on goldsmiths and clothiers and not wives and widows as important figures in borrowing and lending. The work tends to concentrate on the moral dimension of moneylending and, to Tawney at least, women did not figure into that debate. It is presented as an issue for church philosophers and businessmen to debate and women were seen as, at best, passive recipients of moneylending activities.

Since Tawney there have been many scholars whose work has been influential in the study of debt and credit. B.A. Holderness published several pieces in the 1970's and 1980's which looked at credit systems in rural England throughout the early modern period.⁸ Through a study of probate inventories Holderness discovered that debt and credit was an inherent part of rural society and that a complex network of borrowing and lending existed that permeated every level of a community. Similarly, Margaret

⁷ Thomas Wilson, *A Discourse Upon Usury*, Edited by R. H. Tawney (London: G. Bell, 1925).

⁸ B.A. Holderness, "Credit in a Rural Community, 1660-1800," *Midland History* 3, no. 2 (1975); idem, "Credit in English Rural Society before the Nineteenth Century, with Special Reference to the Period 1650-1720," *Agricultural History Review* 26 (1976); idem, "Widows in Pre-Industrial Society: An Essay Upon Their Economic Functions," In *Land, Kinship and Life-Cycle*, edited by Richard M. Smith (Cambridge: Cambridge University Press, 1984).

Spufford's influential book Contrasting Communities: English Villagers in the Sixteenth and Seventeenth Centuries emphasizes the importance of borrowing and lending to people reliant on the products of agriculture and at the mercy of the agricultural cycle and natural disasters.⁹ Ian and Kathleen Whyte extended this discussion to Scotland where they examined Commissary Court testaments from the Panmure estates in seventeenth-century Forfarshire. They found that a high percentage of the population of that community was involved in some sort of credit transactions.¹⁰ This scholarship established the importance of debt and credit to early modern life, but did not offer much analysis of gender and the role of women in the economy.

The most influential and prolific scholar with regards to the study of early modern debt and credit has been Craig Muldrew.¹¹ His book The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England has been an important influence on the study of this topic. In this work Muldrew argues that a culture of credit existed in early modern society in which people's behaviour and attitudes were shaped by the desire and, in fact, the necessity, of maintaining credit within their community. Muldrew establishes how the expansion of the market economy in the sixteenth century brought tremendous changes to the lives of people at all levels of English society but he rejects the idea of people becoming obsessed with

⁹ Margaret Spufford, *Contrasting Communities: English Villagers in the Sixteenth and Seventeenth Centuries* (London: Cambridge University Press, 1974).

¹⁰ Whyte and Whyte, I.D. Whyte and K.A Whyte, "Debt and Credit, Poverty and Prosperity in a Seventeenth Century Scottish Rural Community," In *Economy and Society in Scotland and Ireland 1500-1939*, edited by Rosalind Mitchison and Peter Roebuck (Edinburgh: John Donald Publishers Ltd., 1988), 72.

¹¹ See: Craig Muldrew, "Credit and the Courts: Debt Litigation in a Seventeenth Century Urban Community," *Economic History Review* 46 (1993); idem, "Interpreting the Market: The Ethics of Credit and Community Relations in Early Modern England," *Social History* 18 (1993); idem, "The Culture of Reconciliation: Community and Settlement of Economic Disputes in Early Modern England," *The Historical Journal* 39 (1996); idem, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (New York: Palgrave Publishers Ltd., 1998); idem, "Hard Food for Midas: Cash and Its Social Value in Early Modern England," *Past and Present* 170 (2001).

profit and self-interest. He claims, instead, that economic transactions were based on the ideas of equalization and mutual benefit. Through his study of debt litigation records, Muldrew found that nearly all of early modern society was bound together by webs of credit. He suggests that people loaned and borrowed both within and across divisions of gender, religion and social status and that the myriad of relationships that were created through these economic transactions served to hold people together. If one person defaulted on a debt it might affect not only the creditor, but also the creditor's creditor who would not be paid and the creditor's debtor who might be forced to take up the slack. People were therefore cautious about loaning money to those seen as unworthy of credit because of some sort of moral failing. Muldrew claims that, consequently, a "culture of credit" was created in which people judged each another according to their moral and economic health.¹²

In addition to Muldrew's work, there have been several studies on pre-industrial European towns that have also considered debt and credit as an integral to the community's economic functioning. Elaine Clark and Alexandra Shepard have made important contributions to our knowledge of debt and credit through their studies of English communities.¹³ Similarly, Scott Taylor's study of Castille, Spain¹⁴ David Nicholas' work on Ghent in Flanders,¹⁵ and Katheryn L. Reyerson's study of

¹² Muldrew *Economy of Obligation*, 4.

¹³ Elaine Clark, "Debt Litigation in a Late Medieval Vill," in *Pathways to Medieval Peasants*, edited by J. A. Raftis (Toronto: Pontificate Insititute of Mediaeval Studies, 1981).; Alexandra Shepard, "Manhood, Credit and Patriarchy in Early Modern England, c. 1580-1640," *Past and Present* 167 (2000).

¹⁴ Scott Taylor, "Credit, Debt and Honor in Castille, 1600-1650," *Journal of Early Modern History* 7, no. 1 (2003).

¹⁵ David Nicholas, *The Domestic Life of a Medieval City: Women, Children, and the Family in Fourteenth-Century Ghent* (Lincoln, Nebraska: University of Nebraska Press, 1985).

Montpellier, France¹⁶ have all demonstrated that the centrality of debt and credit in economic life applied to continental Europe as well. A recent work comparing the marital economy in the British and Scandinavian experience has shown that credit was a critical part of life in Sweden, Norway, Denmark, and Finland.¹⁷ While a discussion of the details of these case studies will be saved for chapter 2, for now it is sufficient to note that none of these studies found a level of female participation comparable to that seen in Aberdeen's Baillie Court.

While the importance of debt and credit is not debated, the issue of women and their participation in that system, especially in earlier studies, is often overlooked. Scholars such as B.A. Holderness and Keith Wrightson briefly mention the involvement of some groups of women in the credit system, but then discuss it as if men were the only people involved.¹⁸ Even in the most cutting-edge research on the subject, the importance of women in the system is often ignored. In "Credit and the Courts: Debt Litigation in a Seventeenth-Century Urban Community" Craig Muldrew notes the lack of women involved in the Guildhall Court of King's Lynn, but then later goes on to state that "the court was a surprisingly egalitarian and accessible institution".¹⁹ While Muldrew is discussing the involvement of people from all levels of society, he does not

¹⁶ Kathryn L. Reyerson, "Women in Business in Medieval Montpellier," In *Women and Work in Preindustrial Europe*, edited by Barbara A. Hanawalt (Bloomington, Indiana: Indiana University Press, 1986).

¹⁷ See: Gudrun Andersson, "Forming the Partnership Socially and Economically: A Swedish Local Elite, 1650-1770"; Hilde Sandvik, "Decision-Making on Marital Property in Norway, 1500-1800"; Hanne Marie Johansen, "Marriage Trouble, Separation and Divorce in Early Modern Norway," 184; Inger Dübeck, "Property and Authority in Danish Marital Law"; Anu Pylkkänen, "Forming the Marital Economy in the Early Modern Finnish Countryside" All in *The Marital Economy in Scandinavia and Britain, 1400-1900*, edited by Maria Ågren and Amy Louise Erickson (Aldershot, England: Ashgate Publishing Limited, 2005).

¹⁸ See Keith Wrightson, *Earthly Necessities: Economic Lives in Early Modern Britain* (New Haven: Yale University Press, 2000); Holderness, "Credit in English Rural Society" and Holderness, "Credit in a Rural Community".

¹⁹ Muldrew, "Credit and the Courts", 36.

qualify the statement to mention that one half (or more) of the population was not permitted to participate in this court. It is difficult to see a court restricted in this way as either accessible or egalitarian.

There is a general assumption in these works that, though women were probably involved in some limited way, their participation in the credit system did not substantially change anything. Historians tend to assume that the system was in place and the occasional woman snuck into it, but it would have operated in the same way whether the woman was there or not. There is very little recognition that women may have helped to shape the way that the economy or credit functioned. The following quotation from Holderness helps to explain the position of many scholars dealing with the history of credit:

There seems at present no hope of ascertaining the total volume of credit supplied to English rural society at any period during the seventeenth and eighteenth centuries, or of disentangling the involved pecuniary connections which existed between different social classes, and between *men* [emphasis added] inside the agrarian community and outsiders from towns and non-rural trades who appear as part of the system at various points in the analysis.²⁰

The system was so complex and so poorly documented that the task of reconstructing it seems daunting. The idea of including an analysis of the role of women, who are even less well-documented, could be overwhelming. Therefore, a scholar such as Holderness might discuss the system as a whole as if it were only “between men” and ignore the complications that women introduce.

More commonly, scholars discuss the limited appearance of women in the courts and other documents, arguing that this does not reflect the full extent of their participation in debt and credit transactions. Elizabeth Ewan claims that the small

²⁰ Holderness, “Credit in a Rural Community,” 99.

percentage of women she sees in the debt courts of Scotland are only the tip of the iceberg because women were likely involved in many more small transactions that do not make it to court.²¹ Other women may have been excluded from court cases because, as Garthine Walker points out in her study of criminal courts, early modern people held the head of a household (who was usually male) responsible, even if it was another member of that household who was actually involved in the original deed.²² Some scholars see small pieces of evidence that suggest a much greater female involvement that is hidden from view. Although the vast majority of her cases involve only men, Alexandra Shepard claims that, in many cases, husbands only nominally brought cases to court, but it was their wives who were really involved in the debt transaction.²³ Similarly, Hilde Sandvik notes in her study of early modern Norway that, while husbands were technically held responsible for debts in court, the language used indicates that their wives were keeping account of debts and were probably the ones trading themselves.²⁴ Margaret Sanderson argues that similar things were happening in sixteenth-century Scotland when she discusses how legal documents were worded to indicate that husbands held complete control over their wives, but a more careful reading of the records suggests that women had much more power over their own affairs in practice.²⁵ Beverly Lemire's work has been particularly important in finding a place for women in the study of debt and credit. She is one of very few scholars who has found

²¹ Elizabeth Ewan. "For Whatever Ales Ye': Women as Consumers and Producers in Late Medieval Scottish Towns," In *Women in Scotland 1100-1750*, edited by Elizabeth Ewan and Maureen M. Meikle (East Linton: Tuckwell Press, 1999), 127.

²² Garthine Walker, *Crime, Gender and Social Order in Early Modern England*, *Cambridge Studies in Early Modern British History* (Cambridge: Cambridge University Press, 2003), 12.

²³ Shepard, 90-91.

²⁴ Sandvik, 118.

²⁵ Margaret H.B. Sanderson, *A Kindly Place?: Living in Sixteenth-Century Scotland* (East Linton: Tuckwell Press, Ltd, 2002), 99-100.

records documenting a significant level of female participation in borrowing and lending. Lemire's study of a seventeenth-century pawnbroker's ledger is important in establishing that women were participating in the credit system and that their participation was often hidden by records which excluded them.²⁶ Unfortunately records such as Lemire's are scarce and most scholars can do little more than lament the lack of women in the sources, because there is no way to prove that women were involved more than we see in the documents. Yet, the Baillie Court records suggest that, if women in Aberdeen, Scotland were suing and being sued, the rest of early modern Europe might be experiencing the same sort of participation in the credit system, a participation that was simply not reflected in the court records.

As many historians have long supposed, women were involved in the debt and credit system both through their paid labour and through the work they did to provide for their families. The question remains as to what the nature of their involvement was and how their participation influenced the very structure of the debt and credit system. This study attempts to shed light on those questions by examining one town and how the women and men there experienced debt and credit. Chapter One examines Aberdeen and Aberdonians as well as the Baillie Court itself in an attempt to place the records in context. How did the political, economic and social backdrop affect the relationships people constructed when they borrowed or loaned money? We will discover that Aberdeen was a fairly typical early modern town in most respects. And while the varied legal and social circumstances of each town mean that we cannot explain how women

²⁶ Beverly Lemire, "Petty Pawns and Informal Lending: Gender and the Transformation of Small-Scale Credit in England, Circa 1600-1800" in *From Family Firms to Corporate Capitalism: Essays in Business and Industrial History in Honour of Peter Mathias*, edited by Kristine Bruland and Patrick O'Brien (Oxford: Clarendon Press, 1998).

were involved in debt and credit across Europe with this one source, we can hope to shed light on the ways that they might have experienced that system and to draw attention to an area of women's history which has received little attention. In the second chapter, the focus shifts to the Baillie Court records themselves to gain a better understanding of who was participating in the court and why. I will examine how gender, marital status, time, and amount of debt affected one's credit and involvement in the court. Finally, Chapter Three will consider the individual experience of the debt and credit system. By looking at individual cases, both alone and in conjunction with other early modern records, we can gain a greater understanding of what debt and credit meant to early modern people. It is hoped that the stories of the women in the Baillie Court will better explain how debt and credit functioned and how women both adapted to the system and moulded it to suit their needs.

CHAPTER ONE

MAKING CONTACTS: ABERDEEN IN THE SEVENTEENTH CENTURY

Seventeenth-century Aberdeen was a fairly typical early modern place. As with any town, it had its share of distinctive traits and its own unique history, which informed the beliefs and values of the people there. But it also shared many of the features that defined early modern towns across Europe. Yet this town, which was so typical, produced such extraordinary legal records that are able to illuminate a previously shadowy part of early modern urban life. This chapter will attempt to explain the Aberdonian background and people to better understand why such unusual records could come out of a place as usual as this Scottish burgh. First we will look at the geography and demographics of the town to better grasp the environment in which these cases arose. We will then look at the political and economic context of Aberdeen in the seventeenth century to inform our understanding of how the people of Aberdeen interacted with each other and the market. Finally, we will look at the Baillie Court itself, a place which was at once both unique and common: common because it shared a legal tradition with most of the western world; and unique because it allowed women to appear before the court to present their own economic grievances when other courts would not. Though these records are remarkable, Aberdeen itself is fairly representative of all early modern towns in general. While these records cannot explain exactly what was happening in the rest of Europe, they do illuminate the experiences of women in one

town and can provide insight into what might be hidden in the records of other early modern European towns.

The contemporary city of Aberdeen is actually made up of two smaller medieval burghs located in the northeast of Scotland near the North Sea. The first was a small town in the crook of the River Don called Old Aberdeen. It was centered around a cathedral and university, but it did not have royal burgh status¹ and in the late seventeenth century only numbered about 1,800 inhabitants, though its population was on the rise.² About a mile distant from Old Aberdeen was the larger centre of New Aberdeen, which was located on the north bank of the River Dee. This town enjoyed all the privileges of a royal burgh and its location made it an important link between the rural countryside and the urban marketplace.³ Having easy access to the North Sea made New Aberdeen an important centre for trade. It is New Aberdeen which concerns us here because the records of the Baillie Court were kept by the town council of that burgh. While there were close ties between the two towns, New Aberdeen was distinct. For most of the seventeenth century it held a monopoly over trade in the region because of its royal burgh status. For the rest of this paper Aberdeen will be used to refer to New Aberdeen.

Robert Tyson has estimated that the population of Aberdeen in 1640-44 was around 8,300 people. This was followed by a period of decline and by the 1690's he

¹ Royal burghs were towns granted special status by the monarch to engage in international trade.

² Robert E. Tyson, "People in the Two Towns," in *Aberdeen before 1800: A New History*, edited by Patricia E. Dennison, David Ditchburn and Michael Lynch (East Linton: Tuckwell Press, 2002), 112.

³ A royal burgh was a town which had been granted special status by the crown to engage in international trade. Aberdeen was likely granted this status as early as the twelfth century. E. Patricia Dennison, Anne T. Simpson and Grant G. Simpson, "The Growth of the Two Towns," in *Aberdeen before 1800: A New History*, edited by Patricia E. Dennison, David Ditchburn and Michael Lynch (East Linton: Tuckwell Press, 2002), 17.

estimates the population to be around 7,000 people.⁴ We can guess, then, that in the 1670's and 1680's the population was probably somewhere between 7,000 and 7,500. Though this size would have made Aberdeen a small to middle-sized town by continental European standards, it was the third or fourth largest in Scotland throughout the seventeenth century.⁵ The size of Aberdeen makes it a very interesting case for comparison with King's Lynn, England, a town whose debt and credit system has been studied extensively by Craig Muldrew. King's Lynn in the late-seventeenth century also numbered around 7,000 to 8,000 people.⁶ The Guildhall Court, King's Lynn's civil court, seems to have been slightly more active than Aberdeen's Baillie Court. Muldrew estimates an average of 1,000 civil suits per year were brought before the Guildhall Court.⁷ This number is almost double that of Aberdeen's cases, but the difference may be partly explained by the types of records kept in King's Lynn. The Guildhall Court kept records of the initiation of litigation, which, as we will examine later in this chapter, was a stage for which we have no written records in Aberdeen. In both towns, however, the number of cases is considerable in relation to the rather small population. Even 500 cases per year out of a population of only 7 to 8,000 people signifies that a good portion of the townspeople were involved in litigation. Since we know that only a fraction of the debt cases would actually make it to court, we can guess that many more people were involved in the debt and credit system.

Like many early modern towns, Aberdeen most likely had a population made up of more women than men. In Aberdeen's poll tax of 1696 there were listed 1,686

⁴ Tyson, "People in the Two Towns," 112.

⁵ See Michael Lynch, "Continuity and Change in Urban Society, 1500-1700," in *Scottish Society, 1500-1800*, edited by R.A. Houston and I.D. Whyte (Cambridge: Cambridge University Press, 1989), 101-105.

⁶ Muldrew, "Credit and the Courts," 25.

⁷ Muldrew, "Credit and the Courts," 25.

females, 1,195 males and 30 persons of unspecified gender.⁸ We should not be surprised, in light of this evidence, that the Baillie Court records include so many women. Yet, Aberdeen was not alone in this demographic trend. According to Michael Flinn, poll taxes from many Scottish towns in the 1690's show more men than women, but these records leave out the poor who were predominantly female. Flinn claims that a slight majority of the population was female, especially in urban situations where many women moved to find work as domestic servants.⁹ Ian and Kathleen Whyte's study of female geographic mobility in Scotland also argues that women were more likely to migrate to larger cities because of employment opportunities.¹⁰ Helen Dingwall claims that this imbalanced sex-ratio was true for late seventeenth-century Edinburgh and was, in general, a characteristic of urban life.¹¹ While there were more women in Aberdeen than men, this population trend was also true for most early modern towns and it does not explain why Aberdeen had such an unusually high level of female participation in the courts.

The economy and politics of Aberdeen were not exceptional either, though the period in question was a time of real change, conflict, and division within the town. In general the seventeenth century is an interesting period in European history because it is a time of real transformation in economy, society, religion and attitudes. Joyce Appleby

⁸ John Stuart, ed., *List of Pollable Persons within the Shire of Aberdeen, 1696*, Vol. 1. (Aberdeen: William Bennett, 1844), 595.

Gordon DesBrisay notes that this means there were 71 men for every 100 women in the town. DesBrisay, "City Limits: Female Philanthropists and Wet Nurses in Seventeenth-Century Scottish Towns," *Journal of the Canadian Historical Association* 8 (1997): 39.

⁹ Michael Flinn, ed., *Scottish Population History from the Seventeenth Century to the 1930's* (Cambridge: Cambridge University Press, 1977), 192.

¹⁰ I.D. Whyte and Kathleen Whyte, "The Geographical Mobility of Women in Early Modern Scotland," in *Perspectives in Scottish Social History: Essays in Honour of Rosalind Mitchison*, edited by Leah Leneman (Aberdeen: Aberdeen University Press, 1988), 97.

¹¹ Helen Dingwall, *Late Seventeenth-Century Edinburgh: A Demographic Study* (Aldershot, England: Scolar Press, 1994), 28-29.

claims that England experienced a shift in the seventeenth century from traditional ways of working and landholding towards capitalism and the market economy.¹² Keith Wrightson also sees that change was occurring throughout Britain, but he describes it as a transition from interdependence to individuality.¹³ Certainly, the market was becoming increasingly important in the lives of early modern people throughout this period and the people of Aberdeen experienced the effects of that change. As we have discussed, credit was incredibly important to the functioning of the early modern economy. There was a limited amount of cash in circulation and people found it necessary to make transactions based on credit and to only periodically settle accounts.¹⁴ As a result, prohibitions against usury were beginning to relax and lending at interest became acceptable. The seventeenth century was certainly a period of change and conflicting ideologies and the relationships seen in the Baillie Court represent the various interpretations that early modern people had about how the economy and society itself should function.

For Aberdeen, the century began with prosperity and growth for the town. By the 1630's Aberdeen had reached a peak in both population and economy for the century. This boom was led largely by the success of the plaiding industry, which was followed by growth in buildings and infrastructure for the town.¹⁵ Unfortunately for Aberdonians, this prosperity was short-lived as the Covenanting Wars wreaked havoc on

¹² Joyce Oldham Appleby, *Economic Thought and Ideology in Seventeenth Century England* (Princeton: Princeton University Press, 1978), 3-4.

¹³ Wrightson, 301.

¹⁴ Wrightson, 120. See also: Muldrew, "Hard Food"; I.D. Whyte, *Scotland before the Industrial Revolution: An Economic and Social History, c1050-c1750* (Harlow, England: Longman Group Limited, 1995), 77.

¹⁵ Gordon DesBrisay, "'The Civill Warrs Did Overrun All': Aberdeen, 1630-1690," in *Aberdeen before 1800: A New History*, edited by Patricia E. Dennison, David Ditchburn and Michael Lynch (East Linton: Tuckwell Press, 2002), 239.

the town through the middle of the century. Aberdeen was deeply divided by the wars and Gordon DesBrisay argues that their inability to commit to one side over the other led to distrust from both sides of the conflict and, as a consequence, the town was occupied numerous times by both armies and brutally sacked by the Marquis of Montrose and his army in 1644.¹⁶ The loss of people, prosperity and peace of mind proved difficult for the town to recover from in the years following the war. While the post-war period was not nearly as traumatic as what had happened during the conflict, the debt and destruction caused by war had a long-lasting impact on the town throughout the rest of the century. Tyson claims that the town never regained the prosperity it enjoyed during the 1630's¹⁷ while DesBrisay argues that it was partly because of the losses incurred in wartime that the burgh was unable to handle the crop failures and famine of the 1690's.¹⁸ The years under study, 1673/74 and 1687/88, therefore, represent a sort of lull in a very lively and contentious period for the people of the burgh. These were not the prosperous and plentiful times of the 1630's, the tumultuous days of mid-century nor the desperate times of the 1690's. Because these were not periods of extreme social upheaval, these years provide a balanced portrait of how people dealt with debt and credit in everyday circumstances.

Economically, the town was experiencing serious change as well. As with many early modern European towns, Aberdeen had a tightly controlled economy. In addition to the limitations imposed by the crown on which burghs could trade and with whom, the town councils of Scottish burghs attempted to control the nature of trade that existed

¹⁶ DesBrisay, "The Civill Warrs Did Overrun All': Aberdeen, 1630-1690," 247.

¹⁷ Robert E. Tyson, "The Economy and Social Structure of Old Aberdeen in the Seventeenth Century," in *Old Aberdeen: Bishops, Burghers and Buildings*, edited by John S. Smith (Aberdeen: Aberdeen University Press, 1991), 44.

¹⁸ DesBrisay, "The Civill Warrs Did Overrun All': Aberdeen, 1630-1690," 265.

within the town. In Aberdeen trade was restricted to the daily fish and flesh markets as well as the weekly general market, which was held on Fridays in the market square.¹⁹ The town council was further involved in regulating and policing the market in order to ensure fair prices and accessibility of food for the entire town. The price of staples like bread, meat and shoes was controlled, as was the quality and quantity of many basic necessities such as the size of a loaf of bread or the quality of ale.²⁰ Ian Whyte claims that these policies were meant to help the poor because poor relief was inevitably selective, but low food prices helped everyone.²¹ This attitude comes out of the early modern belief that it was the responsibility of the town to ensure that survival for the town's inhabitants took precedence over profit for the merchants. Aberdeen subscribed wholeheartedly to this belief and had one of the most comprehensive price control systems in all of Scotland.²² All of these regulations signify how important the market was to the people of Aberdeen and how it acted as a site of economic and social interaction.

In understanding the Aberdonian economy we might look at two key industries. The first is the plaiding industry, which was very important to the town's economy throughout the seventeenth century. Plaiding was a very inexpensive and poor-quality woollen cloth often made in the countryside with much of the spinning and carding done by women and children in their own homes. Exports of this product rose steadily

¹⁹ Gordon DesBrisay, "Authority and Discipline in Aberdeen 1650-1700" (Ph.D. diss., St. Andrews University, 1989), 121.

²⁰ Ian Blanchard, Elizabeth Gemmill, Nicholas Mayhew and Ian D. Whyte, "The Economy: Town and Country," in *Aberdeen before 1800: A New History*, edited by Patricia E. Dennison, David Ditchburn and Michael Lynch (East Linton: Tuckwell Press, 2002), 149-50.

²¹ Whyte, *Scotland before the Industrial Revolution: An Economic and Social History, c1050-c1750*, 191.

²² Blanchard, et. al., 149.

throughout the early part of the seventeenth century and peaked around 1639.²³ There is some debate as to whether the industry regained its position after the Restoration, but most sources agree that, by the period under study, plaiding was in serious decline.²⁴ Alexander Skene,²⁵ a seventeenth-century Aberdonian politician and author, notes in his Memorialls for the Government of the Royall-Burghs in Scotland that, by the time of his writing in 1685, “the Trade of this so profitable a Commodity [plaiding] is greatly decayed and become very low.”²⁶ With the death of one industry came the rise of another, manufacturing woollen stockings, which also employed women and children on a piece-work basis. These stockings were initially made from local wool, but the work was eventually done through a putting-out system in which a merchant would give out the materials (in this case imported wool) and buy back the finished product. The industry employed mostly women who knitted part-time in their own homes and Tyson claims that the stocking trade was even more female-dominated than plaiding had been.²⁷ While Aberdeen’s exports of woollen stockings reached its peak in the eighteenth century, it began in the early years of the seventeenth century and continued throughout the period.²⁸ The nature of the system meant that merchants from Aberdeen were able to invest capital and raw materials and then profit from the ready supply of

²³ Blanchard, et. al., 157-158.

²⁴ See: DesBrisay, "Authority and Discipline in Aberdeen 1650-1700," 56; Robert E Tyson, "The Rise and Fall of Manufacturing in Rural Aberdeenshire," in *Fermfolk and Fisherfolk: Rural Life in Northern Scotland in the Eighteenth and Nineteenth Centuries*, edited by John S. Smith and David Stevenson (Aberdeen: University Press, 1989), 64.

²⁵ Skene came from a prominent family and served in many positions on Aberdeen’s town council. He also wrote on civic government and local history. See Gordon DesBrisay, “Skene, Alexander, of Newtyle (1621?–1694)”, *Oxford Dictionary of National Biography*, Oxford University Press, 2004 <<http://www.oxforddnb.com/view/article/69912>> (19 February 2006).

²⁶ Alexander Skene, *Memorialls for the Government of the Royall-Burghs in Scotland: With Some Overtures Laid before the Nobility and Gentry of the Several Shyres in This Kingdom: As Also, a Survey of the City of Aberdeen, with the Epigrams of Arthur Johnstoun Doctor of Medecin, Upon Some of Our Burghs Translated into English by J.B.* (Aberdeen: Forbes, 1685), 245-246.

²⁷ Tyson, "The Rise and Fall of Manufacturing in Rural Aberdeenshire," 70.

²⁸ Blanchard, et. al., 158.; Tyson, "The Rise and Fall of Manufacturing in Rural Aberdeenshire," 65.

low-wage labour to be found among women in the countryside. It also meant that many women who might not otherwise be involved in the Aberdonian economy were drawn into debt and credit relationships and that many opportunities were created for conflict within those relationships. Both these industries, therefore, were important sources of work and wages for women and were active during the period under study, though neither was at its peak. Consequently, we see many women in the Baillie Court records who appear to be involved in this type of work. Studying their cases helps us to understand both how these cottage industries operated and how women's paid labour was organized.

While they were important to the economy of Aberdeen, the plaiding and stocking industries were a departure from the usual nature of the town's trade. Ian Whyte claims that since medieval times Scotland was a country dependent on exporting raw materials such as wool, hides and fish and it did not take a leading role in manufacturing goods, which subsequently had to be imported into the country.²⁹ This analysis holds true for Aberdeen, whose major exports included products such as salmon, wool, hides and skins.³⁰ This economic pattern can be explained largely by Aberdeen's location. While the town's proximity to the North Sea meant that it had easy access to transportation routes, the region around Aberdeen was also the least urbanized area around a major centre in all of Scotland.³¹ This meant that Aberdeen did not have large towns nearby with which to trade, but did have a large hinterland from which to draw products and labour. Gordon Jackson argues that, despite this advantage,

²⁹ Whyte, *Scotland before the Industrial Revolution: An Economic and Social History, c1050-c1750*, 272.

³⁰ Gordon Jackson, "The Economy: Aberdeen and the Sea," in *Aberdeen before 1800: A New History*, edited by Patricia E. Dennison, David Ditchburn and Michael Lynch (East Linton: Tuckwell Press, 2002), 167.

³¹ Blanchard, et. al., 150.

Aberdeen's poor harbour facilities and its lack of products for export prevented it from having an important role in trading goods to the rest of Europe.³² There is evidence, however, that Aberdeen was an important player in at least some areas of trade. Alexander Skene claimed in 1685 that "[w]hen Plading was giving good price in Holland, the old Conservator Sir Patrick Drummond frequently reported that the Kingdom of Scotland was more obliged to the City of Aberdeen for the abundance of money the Merchants thereof brought to the Nation, then to all the Towns of this Kingdom besides".³³ Merchants willing to engage in the dangerous and costly business of shipping overseas could find great success and many of the people we see in the Baillie Court were likely seeking their fortune in that manner.³⁴ Yet, it is clear that Aberdeen's economic strength lay in the domestic market and the town might rightly be referred to as "the focal point of commerce in the north-east."³⁵

Though we might downplay their international role, it is important to recognize that Aberdeen had a busy market and the people of Aberdeen were employed in a wide range of occupations. Ian Whyte's study of the 1696 poll tax indicates that Aberdeen had a significant number of professionals in the population and was second only to Edinburgh in that regard. Where it differs from Edinburgh is the number of merchants. While 9% of Edinburgh's male pollable population were listed as merchants,

³² Jackson, 163-71.

³³ Skene, 245.

³⁴ For the importance of merchants in the Aberdeen economy see Duncan MacNiven, "Merchants and Traders in Early Seventeenth-Century Aberdeen," in *From Lairds to Louns: Country and Burgh Life in Aberdeen, 1600-1800*, edited by David Stevenson (Aberdeen: Aberdeen University Press, 1986).; Louise B. Taylor, ed. *Aberdeen Shore Work Accounts, 1596-1670* (Aberdeen: Aberdeen University Press, 1972).; DesBrisay, "Authority and Discipline in Aberdeen 1650-1700".

³⁵ Blanchard, et. al., 134.

Aberdeen's was listed at 22%.³⁶ This corresponds to what we see in the Baillie Court as, over the two-year period, 203 cases list the main plaintiff's occupation as merchant. Merchants therefore make up the single largest occupational group in the court record by a significant margin as no other occupation is listed in more than 25 cases. The term merchant is, of course, fairly vague and could include a wide range of people employed in various sectors of the economy. They are also the people we would most expect to see bringing cases before the Baillie Court since they would be heavily involved in extending credit in the course of their business transactions. Their prominence does show, however, the importance of trade to the economy of Aberdeen.

While the proportion of merchants in the poll tax seems representative of what we see in the Baillie Court, there are other occupations that appear to be slightly skewed. One example of this can be seen in the shipping and transport sector, which only accounts for 4.5% of the males polled in 1696.³⁷ The Baillie Court records suggest that there were more of these types of occupations around since there were a good number of people listed as mariners, skippers, and fishermen of different types throughout the records. There are also other places where the poll tax gives a less than representative picture of the Aberdonian economy. For instance, in the poll tax 28% of all males polled listed occupations from the manufacturing sector.³⁸ Some of the most common occupations among Baillie Court defenders do come from this part of the economy, such as weaver (40 cases), flesher (33 cases), and tailor (29 cases). While these were

³⁶ I. D. Whyte, "The Occupational Structure of Scottish Burghs in the Late Seventeenth Century," in *The Early Modern Town in Scotland*, edited by Michael Lynch (London: Croom Helm, 1987), 224-25. Edinburgh had 15.3% of male pollable population listed as professionals, while Aberdeen had 9.9%.

³⁷ Ian Whyte acknowledges that this figure is suspiciously low and can likely be explained by the fact that the figures from some areas known to be important in the fishing trade were missing from the records. Whyte, "The Occupational Structure of Scottish Burghs in the Late Seventeenth Century," 226.

³⁸ Whyte, "The Occupational Structure of Scottish Burghs in the Late Seventeenth Century," 224-25.

common occupations, the most prominent designation for a defender was a gardener, with 82 cases.³⁹ Yet, only 2% of the male pollable population were identified as part of the agricultural sector in 1696.⁴⁰ It is quite possible that many of the gardeners who appear before the civil court were too poor to be included in the poll tax and therefore did not make it into the written record. We find them in the Baillie Court because they had enough money and credit to secure a loan or sales credit, but they lived close enough to the edge of subsistence that they might commonly have to default on a loan. This seems especially likely given the seasonal nature of their work and the unpredictability of their income. In this instance the Baillie Court is able to give us some insight into the lives of those people otherwise absent from the official records.

Of course, women form another working group largely ignored by the poll tax. There are many women named on the list, but there is virtually no information on their work outside the domestic roles of wife and mother. There are 767 female servants listed in the poll tax record and that number forms about 26% of the total number of people named on the list.⁴¹ Their numbers may be inflated somewhat because of the exclusion of poorer families from the list, but these women formed a large proportion of the population. Unfortunately, the poll tax does not include the occupations of many other women. While the Baillie Court provides few details about women's occupations, there are some instances where we can look at clues within the records to deduce the type of work these women were doing. These clues therefore give insight into the role of women in the economic life of the town that we cannot gain from other records.

³⁹ There were also a further 15 cases in which the main defender's occupation was listed as a farmer.

⁴⁰ Whyte, "The Occupational Structure of Scottish Burghs in the Late Seventeenth Century," 224-25.

⁴¹ This figure should be viewed differently than Ian Whyte's numbers since it deals with female servants as a proportion of the *entire* polled population of New Aberdeen while Whyte deals with the *male* pollable population of both New and Old Aberdeen.

The town council strictly regulated all these economic activities and the market itself and one element of this control was the court system. The Baillie Court was especially important in regulating how people interacted with one another in matters of debt and credit. The physical location of the court itself was the town's tolbooth, located in one of Aberdeen's most important public gathering places, the market square. The tolbooth served a number of functions including watchtower, town council meeting place, courtroom, and town jail.⁴² It was also very connected to the town's economy. For one, the tolbooth was located very near the market cross, the place where people went to make fair and open market dealings. It also housed the town weights and acted as a place for people to pay their dues to attend the market.⁴³ The Baillie Court was held in the tolbooth because it was the seat of civic government, but it seems a natural place for Aberdonians to take their credit disputes, since it was so closely connected to the market.

The authority of the court (along with its name) was derived from the town baillies, who took turns presiding over it. The Town Council consisted of seventeen merchant burgesses⁴⁴ and two craft deacons. The merchants held more power and from their seventeen members an inner council of seven was chosen. The most important of the seven were the five magistrates, the provost (ie. mayor) and four baillies.⁴⁵ These men were, therefore, among the most powerful in the town and were involved heavily in the economy and the community at large as merchants and office-holders. The authority

⁴² Dennison, et. al., 19.

⁴³ Dennison, et. al., 19.

⁴⁴ The Dictionary of the Scots Language defines "burges" as "A citizen or freeman of a burgh." "The Dictionary of the Scots Language," n.d., <<http://www.dsl.ac.uk/dsl>> (15 January 2006). It is a term of status indicating that the person was a citizen of Aberdeen with all the rights and privileges that go along with citizenship.

⁴⁵ DesBrisay, "Authority and Discipline in Aberdeen 1650-1700," 118.

and power of their position is evidenced in the words that began each new session of the Baillie Court records. It almost always began as it did in this example from December 10, 1687: "The baillie Court of the burgh of Aberdene holden within the Tollbuith of the same upon the tenth day of December 1687 By an honorable man George Aedie one of the Baillies of the said burgh".⁴⁶ Emphasis was placed on George Aedie's honour and position within the town (as well as his gender). The baillie is the only person mentioned in this introduction, though there was likely at least one other person who recorded what transpired. This was probably either the town clerk, or one of his two deputies.⁴⁷

Ideally, the Baillie Court would be held one or two mornings a week and the baillies presided in a monthly rotation.⁴⁸ For the years in this sample, it was slightly less regular. In 1687-88 the court usually convened once a week. There was a break from December 17, 1687 to January 17, 1688 and no cases were recorded for the month of April in 1688. These breaks might be explained by poor weather, which may have prevented people from attending the court. The baillies appear to have taken monthly rotations, though they might preside for as much as two months or as little as one week. For 1673-74 there was an even less regular routine for the baillies. The court might take month-long breaks, as it did from September 13 to October 14, 1673 and then might meet three times in one week, as it did on October 14, 17 and 18, 1673. The baillies also rotated more often in this year than they did in 1687-88. They usually presided over one

⁴⁶ ACA, BCR Vol. XIV, December 10, 1687.

⁴⁷ DesBrisay mentions these people as the only clerical staff hired to help the town council, but it is not clear who was involved in recording the court proceedings: "Authority and Discipline in Aberdeen 1650-1700".

⁴⁸ DesBrisay, "Authority and Discipline in Aberdeen 1650-1700," 119.

and sometimes two weeks, though, since the court sometimes met several times in one week, the baillies sometimes worked quite a few sessions in that short period of time.⁴⁹

These differences might be explained by the increasing regulation and organization of the court over these years, and by 1687-88 the Baillie Court may have been more focused and regimented than it was fourteen years prior. It might also be explained by weather or economic circumstances. 1673-74 was a particularly bad year for the people of Aberdeen with numerous winter storms and many people on poor relief.⁵⁰ Adverse weather could easily keep people from attending the court, particularly if one or more parties to the suit lived outside of the town. In addition, a bad crop year and economic difficulties might have meant that the baillies and the rest of the town council were occupied with more pressing concerns than the small-scale civil suits generally brought before the Baillie Court. That is not to say that the business of the Baillie Court stopped, just that it was not as regular as one might imagine it would be in more usual circumstances. It would be interesting to know if the Burgh Court, also known as the Court of Regraters and Forestallers, was busier during this period since it generally dealt with issues of price regulation and economic exploitation in the marketplace.

It is also important to note one other change that might account for differences between the two years under study. In July 1672 the Scottish Parliament passed the Act

⁴⁹ There are even two instances in 1673/74 in which two baillies are listed for different cases on the same date. On November 25, 1673 Baillie George Leslie presided over one unusual case in which a woman was giving up her liferent rights to a piece of land. Under the same date there were three separate cases in which Baillie Alexander Alexander was listed as the presiding official. ACA BCR Vol. XII, November 25, 1673.

Similarly, on January 31, 1674, William Divie was listed as the presiding baillie in two cases and Alexander Alexander was listed as the baillie for another two on the same date. Again, there appear to be extenuating circumstances as one of the cases for which Alexander Alexander was listed involved William Divie himself as a persuer. ACA BCR Vol. XII, January 31, 1674.

⁵⁰ DesBrisay, "Authority and Discipline in Aberdeen 1650-1700," 125.

Anent Trade of Burghs. This legislation extended the privilege of trade beyond royal burghs and allowed smaller burghs of barony and regality to engage in overseas trade. This meant that New Aberdeen no longer held a monopoly over trade in its region. Old Aberdeen became a much more attractive place since it now had the same privileges without the heavy taxation of a royal burgh. While this action may not have hurt all the merchants in Aberdeen, it was very detrimental to the town as a whole, which lost a good deal of its population and tax base to Old Aberdeen.⁵¹ While we may not see the effects of this Act in 1673/74, it is apparent that it was affecting the town by the mid-1680's. Alexander Skene noted in 1685 that "whereas there are heavy burdens of Taxations lyes on the Royall-Burghs, so that many Inhabitants remove from them, and others set up in these other Burghs, seeing they enjoy so great Priviledges of Trading to the great decay of the Royall-Burghs."⁵² This loss of privilege was hard on New Aberdeen and would certainly have impacted business and the way that merchants dealt with their customers.

Regardless of the differences, the form of the cases seems to be essentially the same over the two years in the sample. A typical case might look something like this one from December 2, 1673:

“Decreit⁵³
Lang
contra
Debtors

The said day the Baillie forsaid decerns the persons under writin to pay and delyver to Elspet Lang, relict [ie. widow] of the deceist Patrick Annand, barber burges, of the

⁵¹ DesBrisay, "Authority and Discipline in Aberdeen 1650-1700," 57.

⁵² Skene, 108.

⁵³ The Dictionary of Scots Language defines "decreit" as "a decision, judgement, decree, esp. of a civil, ecclesiastical, or divine authority." <<http://www.dsl.ac.uk/dsl/>>

said Brughe the sums of money after specified each one of them for their owne parts for the causs under debydit. Viz, William Peirie, taylour burges there, twelve pounds scots money as two yeirs maill [ie. rent] of ane hous possest by him perteing to hir the yeirs of God 1671 and 1672 yeirs. Item William Cragnyll, in the same, ten pund money forsaid as the maill of ane hous possest by him pertaing to hir the yeir of God 1672, which he promist to pay. Item Andro Meane ther ten pounds restand [ie. owed] by him to hir mor sextein pund for two yeirs maill of ane hous possest by him pertaing to hir the yeirs of God forsd. Item Margaret Davidstone ten pund sevintein shilling money forsaid for hous maill restand by hir to the persuer the yeirs of God above writin. Item William Smart there one pound ten shilling as the pryce of ane coat bought and receavit by him from hir which he promist to pay. Within time of law under the paine of poynding with thrie pund money forsaid for expenss of plea proportionallie among them. Becaus the claime being referrit to their oaths and they being personallie sumondit to depone thereon did not compeir⁵⁴

The suit commonly begins with the title, placed in the margin, which in this case reads, “Decreit Lang contra Debtors”. In this example, Elspet Lang, the widow of a barber burgess, was suing five debtors for various amounts and causes. It was very common for a persuer to sue several debtors at one time, presumably to save him or herself the cost and time involved with multiple trips to court. The suit begins by stating the authority of the baillie who “decerns the persons under writin to pay and delyver” to the persuer the specified amounts. It then goes on to give information about the persuer with regards to occupation, in the case of most men and some women. It also gives information about marital status, in the case of most women. In this instance we learn that Elspet Lang was a widow and that her deceased husband was a barber burgess. For married women the husband’s name was quite commonly followed by the phrase “for his entres”, which meant that the husband was being named for his interest in the case as

⁵⁴ ACA, BCR Vol. XII, December 2, 1673.

the litigant's spouse and not because he was originally involved in the debt relationship. A woman's name is never followed by that particular phrase because she was not considered responsible for her husband's debts.

Each debtor is then listed separately with his or her occupational and/or marital information. The location of both persuers and defenders is also very commonly listed along with their occupation. In this example "William Peirie taylour burges there" means William Peirie, tailor burgess of Aberdeen. This information is followed by the amount of the debt which the persuer claimed the defender owed to him or her. In some cases we also get information pertaining to the cause of the debt. William Peirie owed Elspet Lang for two years "maill" or rent for a house he was living in during 1671 and 1672. The record lists each debtor in this manner and often ends the same way as this example. The defenders were ordered to pay the specified amount to the persuer under "paine of poynding". These meant that, if they did not pay, a town official would be sent to their home to "poynd" or confiscate goods in order to settle the debt. In addition, the defenders are usually ordered to pay a certain amount for "expenss of plea" which was meant to cover the legal costs of the persuer. This amount was often divided evenly amongst the defenders. Finally, the case commonly ends with a note about the litigant's attendance at the court. Occasionally we read that a defender appeared in court and confessed that they owed the money alleged by the persuer. There is also the occasional case in which a lawyer appears to present their client's case. Most often, however, the court notes that the defender or defenders were summoned to court to present their case and "did not compeir". This last statement is a puzzle since one would think that people would want to defend themselves, especially given the importance of

maintaining a good reputation in the community. Yet, for whatever reason, defenders rarely appear in the Baillie Court.

Since people rarely appeared to defend themselves it is not surprising that the individuals in these records were almost always found guilty. In a case from February 1674 a flesher named Alexander Forbes was absolved of his alleged debt to a man named James Marshall. This suit immediately follows another in which Marshall successfully sued ten other defenders for payment of their debts. Alexander Forbes was absolved apparently because “he deponit and denyed the same” when called to court.⁵⁵ The situation is unique because it is the only case among the hundreds studied in which the debtor is specifically found not guilty. Every other case ends in one of two outcomes: the people either do not appear and are subsequently ordered to pay their debts, or they appear, confess the allegations to be true and are ordered to pay their debts. It is not likely that every creditor who came to court in Aberdeen had a valid and strong case against his or her debtors. Rather, because litigation was a serious and time-consuming venture for these people, the threat of it would have been enough to make many people settle outside of the court structure. As well, in order to get to court the litigants would have to go to one of the baillies, who were available each weekday morning to hear complaints and examine evidence to decide if a case should proceed and to which court it should be directed.⁵⁶ Presumably, many frivolous and vexatious cases would have been dismissed at this point and only those with a reasonable chance of success would have actually gone to court. Since it was the same group of people judging both stages of the process (and indeed, might even be the same individual) it is

⁵⁵ ACA, BCR Vol. XII, February 10, 1674.

⁵⁶ DesBrisay, "Authority and Discipline in Aberdeen 1650-1700," 119.

possible that the case was decided before it even made it to the Baillie Court and any debtors that came before that court were already judged as guilty.⁵⁷

This practice would also explain why so few people actually appeared before the court. Perhaps the real dispute process took place in the initial meeting with the baillie and most defenders saw it as a foregone conclusion once it got to the official court. If we accept this interpretation we might see those who did appear as trying to make a statement of protest against the judgment. They may also have been trying to make a show of their cooperation, either for the benefit of their creditor or the authorities. Another explanation might be that those cases in which the defender was not ordered to pay the debt were simply not recorded. It is quite reasonable to think that an overworked clerk with limited time and resources would not bother to create a written record of those cases in which there were no orders given by the baillie. Regardless of the reasons, we need to be aware that these cases only represent those in which the creditor was successful in demanding repayment of the debt.

Much is made in early modern novels of the idea of the debtor's prison in which those unable to pay their creditors might languish hopelessly for years on end.⁵⁸ Yet, this does not seem to have been an issue for people in Aberdeen. No one in the Baillie Court records in the period under study was sent to jail for failure to pay their debts. In every case the guilty party was ordered to repay the debt, and most often a share of the

⁵⁷ S. J. Connelly claims that people in eighteenth-century Scotland were quite likely to be found guilty when they got to court because the Scots believed that being brought to court was itself a sign of guilt, and the community already felt you had done something wrong. Connelly is discussing criminal cases, but it might be possible that this was a societal belief that could extend, even if only subconsciously, to civil cases. S.J. Connelly, "Albion's Fatal Twigs: Justice and Law in the Eighteenth Century" in *Economy and Society in Scotland and Ireland 1500-1939*, edited by Rosalind Mitchison and Peter Roebuck (Edinburgh: John Donald Publishers Ltd., 1988), 121.

⁵⁸ For a discussion of debt and credit in English literature, see Margot Finn, *The Character of Credit: Personal Debt in English Culture, 1740-1914* (Cambridge: Cambridge University Press, 2003).

court costs as well. The popular image of the debtor's prison is based more on the English experience, which, according to Lorna Ewan, differed greatly from Scottish attitudes towards debt. English law stated that a debtor would remain in prison until he or she could repay the debt, and many people subsequently stayed in jail for the rest of their lives.⁵⁹ Scottish law, on the other hand, seemed to discourage creditors from putting their debtors in prison and provided loopholes which a person could use to avoid the debtor's prison entirely or at least shorten one's stay there.⁶⁰ This attitude is not all that evident in Aberdeen and the Baillie Court certainly does not seem like a place compassionate to the needs of the debtor. There are no provisions mentioned for those unable to pay the debts and, as we will see in chapter 3, the court was willing to charge women on poor relief with children to support. Yet, there is no mention of jail and presumably the method and schedule of payment would be worked out between the litigants behind the scenes. If a debtor did not pay, the persuer did have the option of poynding the defender's movable goods. Lorna Ewan argues that the state preferred this method because it avoided overcrowding the prisons with debtors who might never be able to repay their debts and free themselves.⁶¹ While debtors themselves most likely preferred this option to prison, it was still a much-dreaded humiliation for an early modern person attempting to maintain good credit. Garthine Walker argues that it was

⁵⁹ Lorna A. Ewan, "Debtors, Imprisonment and the Privilege of Girth," in *Perspectives in Scottish Social History: Essays in Honour of Rosalind Mitchison*, edited by Leah Leneman (Aberdeen: Aberdeen University Press, 1988), 58.

⁶⁰ L. Ewan, 57-62. The Act of Grace, passed in 1696, stated that creditors needed to provide for debtors while they were in prison. Creditors also had to pay for the warrant to apprehend the debtor. Through the process of *cessio bonorum* a debtor could be set free after one month if he or she gave up all his or her possessions to be divided among his or her creditors. Another loophole, the privilege of girth, provided sanctuary for debtors from their creditors for a period of time while they went through the proper legal channels. See also, Elizabeth C. Sanderson, *Women and Work in Eighteenth-Century Edinburgh* (London: MacMillan Press Ltd., 1996), 160.

⁶¹ L. Ewan, 58.

not shameful to be taken to court in early modern England, but if it went beyond that, to having one's household goods seized by the authorities, it was very harmful to the household's reputation.⁶² Either way, the punishment must have been effective because there were no cases in which a person was called to court for failing to obey the original judgment.

As effective as it apparently was, the Baillie Court was not the only place in town which dispensed justice. Once a week the Justice of the Peace court was convened to deal with "uncleane persons, drunkards, cursers and swearers, and breakers of the sabbath."⁶³ Similar kinds of cases were heard at the kirk session, which sought to punish those people believed to be committing immoral acts in the town. Another court was the Burgh Court, also known as the Court of Regraters and Forestallers. This court dealt with criminal cases such as assault and slander as well as crimes related to the market. It provides an interesting counterpoint to the Baillie Court because it was also involved in regulating economic relationships. The Burgh Court sought to prevent merchants and entrepreneurial townspeople from exploiting their customers by buying goods before they came to market or buying and then reselling goods at inflated prices. It also sought to protect the monopolistic rights of merchants and craftsmen. Very serious criminal cases such as murder, theft, witchcraft and adultery were not dealt with by the town at all, but were sent to the High Court of Justiciary, which met in Edinburgh and

⁶² G. Walker, 252. Walker also claims that women, because of their connection to the household and domestic goods, were especially active in trying to stop someone who came to poynd their goods and these confrontations could turn violent. It would be interesting to examine criminal court records in Aberdeen to determine if any of the women from the Baillie Court turn up later in assault cases such as this.

⁶³ By "uncleane persons" the court referred to the person's moral cleanliness, rather than physical hygiene since they dealt commonly with fornicators and adulterers. From Justice Court, quoted in DesBrisay, "Authority and Discipline in Aberdeen 1650-1700," 119.

sometimes dispatched judges to a circuit court in Aberdeen.⁶⁴ It is important to recognize that debt and credit disputes involving greater sums or more complex issues may have ended up in places other than the Baillie Court. This is especially true of the Court of Session in Edinburgh, which acted as a central civil court for all of Scotland.⁶⁵ Many of the debt suits involving larger sums and more prestigious litigants as well as those disputes between Aberdonians and merchants from other towns may have ended up here. While it does not represent the entire credit network that existed in Aberdeen, the Baillie Court does give a good sampling of what were probably more common, everyday types of credit relationships between townspeople.

These everyday types of credit relationships were common to towns across Europe and, in most ways, Aberdeen was much like any other early modern town. People worked, traded for goods, loaned money to help their neighbours and borrowed when they could not pay their bills. The most remarkable thing about Aberdeen is the multitude of records that have survived for historians to examine. Robert E. Tyson has called the records of Aberdeen's council and its courts "a jewel in the crown of Aberdeen's, and indeed, Scotland's medieval archives."⁶⁶ The centuries of documentation that has survived in Aberdeen provides information on nearly every aspect of life in an early modern town. As a result, historians are able to study things and people in Aberdeen that are virtually invisible in other cities. The women who appear in the Baillie Court are just one example of how the records of this Scottish burgh are able to shed light on what is an otherwise impenetrable subject. In the next

⁶⁴ DesBrisay, "Authority and Discipline in Aberdeen 1650-1700," 119.

⁶⁵ Michael C. Meston, W. David H. Sellar and Lord Cooper, *The Scottish Legal Tradition* (Edinburgh: The Saltire Society and The Stair Society, 1991), 44-45.

⁶⁶ Tyson, "People in the Two Towns," 137.

chapter we will explore how these extraordinary records can inform our understanding of a very ordinary part of early modern life.

CHAPTER TWO

MAKING AND BREAKING CONTRACTS: NUMBERS, TRENDS AND SURPRISING REVELATIONS

Debt and credit were ubiquitous in early modern Europe but thus far there has been no substantial analysis of women's roles within that system. Most studies have been unable to find women involved in either the court system or the legal documents of seventeenth-century towns. In contrast, many women appeared as litigants in debt cases in the Baillie Court of Aberdeen. While there are reasons why Aberdeen might have more women in the courts, their involvement does not likely signal that Aberdeen was an especially enlightened or unusual town with regards to gender relations. Instead, the Aberdeen courts simply provide a record of activities that likely happened, but were usually hidden from the historical record, in other towns. What we see are women involved in the Baillie Court as both plaintiffs and defendants as well as women at various stages of life acting both in their own interests and for their families. Many of these figures from the Baillie Court are surprising and seem to challenge some long-held beliefs about women in the early modern economy. We can also study how women and men differed in their debt and credit relationships through an examination of debt amounts and how they varied by gender and marital status. Finally, we can see how women's involvement may have been changing over time if we compare the differences between the first year in the study, 1673/74 and the second, 1687/88. All of this evidence of women in Aberdeen's Baillie Court suggests that women were most likely

involved in the debt and credit systems of towns across Europe, and by studying records such as these we can hope to better understand how their involvement helped to shape the way that the early modern economy functioned.

The sample of records studied yielded 671 cases involving debt. Of these cases, there were 310 that involved women in some way or another, which works out to roughly 46% of the total number of debt-related cases.¹ These numbers are impressive, but they are even more surprising when we consider that studies of women and credit cases from other medieval and early modern towns have found much less significant numbers of women involved. Most studies are able to cite only isolated examples of women pursuing debts in early modern towns but cannot give any solid figures from court cases. Scott Taylor, for example, argues that women were important in the debt and credit system of early seventeenth-century Castille, Spain. He gives examples of married women with independent debts acting on their own to collect them, but he is unable to give quantitative data about how often this occurred.² In another context, Hilde Sandvik gives examples of Norwegian wives appearing in eighteenth-century court records as defendants in debt cases in spite of laws prohibiting women from trading.³ Unfortunately, Sandvik does not provide a systematic study of these court records that we could compare to what we see in Aberdeen. For a Scottish example we can turn to Margaret Sanderson, who claims that women were involved in debt cases in

¹ It is important to note here that women did not replace men in the court. We cannot say that because 46% of cases involved women that the remaining 54% involved men. In fact, nearly 100% of the cases involved men in some way or another (especially if we consider that every case was presided over by a male baillie and probably attended by at least one male clerk). Rather, these figures for female involvement indicate that women were participating, but that it was still a largely male-dominated court.

² Taylor, 21-22.

³ Sandvik, 118.

Edinburgh's Commissary Courts, but does not give information on who was involved and how often.⁴

Some work has been done on medieval European towns and the numbers of women involved in the formal records of debt and credit are usually quite small. In a study of Montpellier, France for the years 1293 to 1348, Kathryn L. Ryerson has found 7.6% of loans had a female lender and 7.8% of loans had a female borrower.⁵ Similarly, Elaine Clark's examination of the courts of Writtle, Essex from 1382 to 1490 found 808 men and 61 women involved in these cases.⁶ This, too, works out to about 7% of the cases involving women. Another study, this one from fourteenth-century Ghent, found roughly 16% of the town's moneylenders were women.⁷ These studies all look at a time before the late fifteenth-century explosion in litigation that lasted through the sixteenth and seventeenth centuries,⁸ but the trend seems to hold true into the early modern period. Alexandra Shepard's study of Cambridge from 1580 to 1640 found that 90% of all litigants in the university court's debt litigation were men.⁹ Unfortunately, little work has been done on finding quantitative data for Scottish towns, but scholars such as Margaret H.B. Sanderson and Elizabeth Ewan suggest that there was very little difference between Scotland and the rest of Europe with regards to women's

⁴ M. Sanderson, 102. See also, Spufford, 142; E. Sanderson, 143-145; David Levine and Keith Wrightson, *Poverty and Piety in an English Village: Terling, 1525-1700* (London: Academic Press, 1979), 100-101.

⁵ Ryerson, 132.

⁶ E. Clark, 252.

⁷ Nicholas, 85-90.

⁸ Muldrew, "Culture of Reconciliation", 915. See also J. A. Sharpe, "Such Disagreement Betwyx Neighbours': Litigation and Human Relations in Early Modern England," in *Disputes and Settlements: Law and Human Relations in the West*, edited by John Bossy (Cambridge: Cambridge University Press, 1983), 171.

⁹ Shepard, 90.

participation in debt and credit.¹⁰ The following table lists figures from these and other studies of debt and credit. They are an interesting contrast to the Aberdeen figures, but the parameters for the studies and the methods employed in counting cases means that they often cannot be compared directly to the Baillie Court.

¹⁰ M. Sanderson, 102, 106-107.; Ewan, "For Whatever Ales Ye': Women as Consumers and Producers in Late Medieval Scottish Towns," 127.

TABLE ONE

PREVIOUS STUDIES SHOWING WOMEN PARTICIPATING IN THE CREDIT SYSTEM

Town	Source	Date	Number of Women Involved
Montpellier, France	Notarial Registries	1293-1348	7-8% of loans involved women ¹¹
Ghent, Flanders	City Accounts	1382-1490	6-30% of moneylenders were women
Writtle, Essex	Court Rolls	1382-1490	7% of litigants were women ¹²
Cambridge, England	Litigation over debt and injury	1580-1640	10% of litigants were women ¹³
Panmure Estates, Forfarshire, Scotland	Commissary Court testaments	17 th Century	10% of widows and single women had debts ¹⁴
King's Lynn, England	Guildhall Court Records	1680's	15% of litigants were women ¹⁵
Great Yarmouth, England	Borough Court Records	1552-1700	10-18% of litigants were women ¹⁶
Bristol, England	Tolzey Court Records	1655	15% of litigants were women ¹⁷
Langbaugh, Wapentake	Hundred Court Records	1660	15% of litigants were women ¹⁸
Andover	Hampshire Hundred Court Records	1670	21% of litigants were women ¹⁹
Exeter, England	Mayor's Court Records	1690-92	26% of litigants were women ²⁰
Bristol, England	Court of Conscience Records	1692	27% of litigants were women ²¹
Westminster, London	Palace Court Records	1686	36% of litigants were women ²²

¹¹ Reyerson.

¹² E. Clark.

¹³ Shepard.

¹⁴ Whyte and Whyte, "Debt and Credit, Poverty and Prosperity in a Seventeenth Century Scottish Rural Community," 1988.

¹⁵ Muldrew, "Credit and the Courts: Debt Litigation in a Seventeenth Century Urban Community," 28.

¹⁶ Muldrew, "A Mutual Assent of Her Mind?" Women, Debt, Litigation and Contract in Early Modern England," 55.

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ Ibid

Craig Muldrew has been the leader in studying this topic, but most of his work has found significantly lower numbers of women in the courts. The majority of his research focuses on King's Lynn, a city very close in size to Aberdeen. It is here that he finds in the 1680's that nearly all those involved in the suits brought before the court were men. He counts about 9% of plaintiffs as female and 6% of defendants.²³ In a later article Muldrew was able to find much more significant numbers of female participation in other English towns around the same period. The highest percentage for these cases was in the Bristol Court of Conscience where 27% of cases involved female participation.²⁴ Also, in a very focused study of the Palace Court of Westminster in London for June 1686, Muldrew found that 36% of the suits involved at least one woman. Muldrew suggests, however, that London may be an exceptional case in that women were probably more involved in business there than elsewhere.²⁵ Even in these exceptional circumstances, the numbers do not equal those of Aberdeen and it is easy to see why the topic of women and debt has been so little studied. The Baillie Court records point towards a conclusion that women were involved heavily in the world of debt and credit and these findings cannot be ignored if we hope to understand the early modern economic world.

Muldrew's figures need some explanation in this case. In most instances, like those of the Bristol Court cases, Muldrew counts the percentage of female plaintiffs and the percentage of female defendants. My figures, however, are based on the total

²² Muldrew, "A Mutual Assent of Her Mind?" Women, Debt, Litigation and Contract in Early Modern England," 56.

²³ Muldrew, "Credit and the Courts: Debt Litigation in a Seventeenth Century Urban Community," 28.

²⁴ Muldrew, "A Mutual Assent of Her Mind?" Women, Debt, Litigation and Contract in Early Modern England," 55.

²⁵ Muldrew, "A Mutual Assent of Her Mind?" Women, Debt, Litigation and Contract in Early Modern England," 56.

number of cases involving women. Since many cases involve both a female debtor and creditor, there is a great deal of overlap. If I calculate using Muldrew's methods, the number of cases involving women persuers equals 21% and those with female defenders is 34%, all for a total of 55%. This method explains why Muldrew's numbers are generally higher than others and the calculation allows for a better comparison between the Aberdeen records and those of the English towns Muldrew studies.

Aberdeen was not completely alone in its documentation of women and debt. There are some studies which suggest we are on the right track. The most notable of these is Beverly Lemire's article "Petty Pawns and Informal Lending: Gender and the Transformation of Small-Scale Credit in England, *circa* 1600-1800".²⁶ Lemire looked at the ledgers of a pawnbroker living in a London suburb from 1666 to 1671 and found that 84% of pawns and 62% of loans involved women.²⁷ According to Lemire, women were important agents in arranging credit for their neighbours and acting as cautioners for both men and women. Lemire's source is unique in that the pawnbroker did not have the legal impediments that a civil court had in allowing women to participate. It is also a record of all the transactions that went through the pawnbroker, not simply those which went awry. As will be discussed, there are several reasons why women might be less inclined to take a debtor to court and the pawnbroker's ledger may therefore be a better source for the total number of women's debt transactions. Unfortunately, few pawnbroker's ledgers survive from anywhere in the early modern period and especially from Scotland, where organized pawn broking was not nearly as prevalent as in a large city like London. The Aberdeen records, therefore, stand out as an important source for

²⁶ Lemire.

²⁷ Lemire, 118.

getting closer to understanding women's credit relationships and demonstrate that the women of London were not the only ones involved in large numbers in the debt and credit system.

In a recent article, Chris Briggs used some of these earlier studies which find low levels of female participation in debt courts to argue that there is little evidence to support the idea that women were involved in the system of debt and credit in any meaningful way.²⁸ Though he is dealing with an earlier time period, the evidence from Aberdeen suggests that Briggs should re-evaluate his stance on the hidden involvement of women in debt and credit. He would be hard-pressed to argue that Aberdeen was unusual enough in its attitudes towards women and the economy to have such a significant difference in female participation. What these cases suggest, rather, is that women were involved in the world of debt and credit and the degree of their participation in the civil suits reflects more on the particular court's attitudes and practices than it does on the actual involvement of women in the economic life of their community. So, while women in King's Lynn rarely went to court, this was more a function of accessibility and attitudes towards litigation rather than an indication that the women of that town were less involved in debt transactions.

We must consider, however, that a difference in methods could yield different results. My findings include cases where women were not actually suing or being sued, but they were mentioned as an original creditor or debtor who passed the debt on to another person. Conversely, I also included those women to whom a debt was passed, such as the female executor of a will. Briggs, in his study, excluded any cases where

²⁸ Chris Briggs, "Empowered or Marginalized? Rural Women and Credit in Later Thirteenth- and Fourteenth-Century England," *Continuity and Change* 19, no. 1 (2004).

women might not have been involved in the original debt transaction. This meant that any cases involving women as executors of wills would not be counted. Women executors did not make up a large proportion of those involved in the Baillie Court: there was only one such woman in all the cases and she brought six defenders to court. These six cases would lower my total number of cases involving women by less than one percent. I would argue, however, that these women should be counted because it is necessary to view debt and credit as a continuing system rather than an isolated relationship centred around the moment the debt is contracted. If we accept Craig Muldrew's model of interconnected webs of credit, then we need to understand that a debt was not simply a linear relationship between two people that ended when the debt was paid back, but rather a series of continuing and dynamic relationships among the entire community. A woman or a man may not have been involved originally in the crediting process, but the moment that she or he inherited a debt they became involved in the *system* of debt and credit. Likewise, those women who did not actually bring a debt to court but were involved in the original debt must be seen as a part of the continuing relationship between members of a society centred on credit.²⁹ This idea is further supported by the fact that the court saw these women's roles as important enough to mention them in the official record of the case. If their involvement in the case was insignificant it is unlikely the clerk would have mentioned their names in such a barebones account of the case. In any event, cases with an extra woman are rare, and most of the 310 cases involve either a women persuer or defender, and in many cases

²⁹ If we subscribe to the logic that those women not directly involved should not be counted, then many of the women from Beverly Lemire's pawnbroker's ledger would be excluded because they acted as a sort of intermediary between the debtor and creditor. Lemire, "Petty Pawns," 120. While their role was not as either borrower or lender one cannot deny that they were an important part of the process and deeply integrated into the debt and credit system.

both. Also included in the 310 cases are those in which a woman was not listed as the main persuer or defender, but was listed as a spouse to either. Some scholars might consider these women as peripheral to the case, but their mere mention is significant. Since it was not necessary for a wife to be listed in order for the case to proceed, it is likely that they were involved in the original credit relationship because they would otherwise simply be ignored. At the very least, the court considered them important enough to be listed alongside their husbands.

When reading studies done on debt and credit it is remarkable how similar Aberdeen is to other early modern towns. Elaine Clark discusses how the litigants in her study would often bring several debtors to court at one time in order to streamline the judicial process, a practice which was very common in the Baillie Court of Aberdeen.³⁰ Beverly Lemire notes that women were listed in the pawnbroker's ledger not by their occupation, but by their stage in the life-cycle because it was their place within the community that was important, just as it was in Aberdeen.³¹ We also certainly see the webs of credit that Craig Muldrew identified in King's Lynn and there are many examples in the Baillie Court of a debt being passed from generation to generation. In one such case, John Clerk, a fisherman from Futtie was called to court in May 1688 and ordered to pay 18 shillings to a cordoner [ie. shoemaker] named William Durkeson. Clerk originally owed the debt to Jean Booth, a servant in the town who apparently passed the credit on to Durkeson, possibly to settle a debt of her own.³² As Muldrew explains in his work, debts could get incredibly complicated, as with the case of William

³⁰ E. Clark, 251.

³¹ Lemire, "Petty Pawns", 117.

³² ACA, BCR Vol. XIV, May 22, 1688.

Smith and William Moir from the Baillie Court in March 1688.³³ Smith was suing Moir for £387 which a man named George Keith had borrowed from the persuer's father, James Smith, and for which Moir had acted as cautioner. In this case the debt relationship had evolved to such a degree that neither of the two litigants in court were part of the original debtor-creditor relationship. The basic assumptions about gender, law and order appear to be the same in these towns; it was simply the presence of women in the court that differed.

Neither was Aberdeen so different in its general structure than some of the other towns studied with regards to debt and credit. King's Lynn is the best-studied town and it also provides the most direct comparisons with Aberdeen. The two towns were similar in size at around 7 000 to 8 000 people in the period under examination and, like Aberdeen, King's Lynn was a chartered borough whose economy was based largely on water transport.³⁴ Muldrew's description of the Guildhall Court sounds remarkably similar to the Baillie Court of Aberdeen. It was held twice a week with the mayor and a recorder in attendance to hear "suits of debt, trespass, detinue, account and covenant". While there were nearly twice as many cases brought before the Guildhall Court than the Baillie Court, they both seem to deal with similar cases of debt based on trust rather than formal contract.³⁵ Much of Muldrew's research focuses on the late seventeenth century and the two towns seem to have a great deal in common over this period.

Why, then, is Aberdeen so different when it comes to the participation of women in the civil court process? Since the vast majority of debt studies look at England, we will focus our comparison there. There seems to be very little in English and Scottish

³³ ACA, BCR Vol. XIV, March 6, 1688.

³⁴ Muldrew, "Credit and the Courts: Debt Litigation in a Seventeenth Century Urban Community," 25.

³⁵ Ibid

law that would explain why a Scottish study would find a greater degree of participation among women in the courts. In both Scotland and England women lost their legal persona upon marriage and were considered to be one with their husbands. Women were, therefore, not legally able to enter into contracts or pledge their own credit. The only exception to this rule lay in the fact that women were considered responsible for the domestic arrangements and were therefore permitted to contract debts in order provide for the household. In these instances the woman was trading on her husband's credit, not her own. Her husband would therefore be held responsible in cases where the debt was not repaid.³⁶ This basic legal principle, called coverture, applied to both English and Scottish women.³⁷ Amy Louise Erickson argues that there was a great deal of difference between the legal status of English women and the women in the rest of Europe. She claims that European husbands controlled their wives' property, but did not own it while an English wife "lost the great majority of her property to her husband."³⁸ If Erickson is correct it might explain why we do not see married women participating heavily in the English courts and, since the majority of the studies done on women's debt and credit are English, it could explain why there has been so little studies done on the topic. It is not clear, however, that this was the case. James, Viscount of Stair wrote in 1693 that in Scotland there was a "communion of goods betwixt the married persons...so that, through the husband's economical power of government, the

³⁶ For an explanation of coverture see: Stair; Walker; R.A. Houston, "Women in the Economy and Society of Scotland, 1500-1800," in *Scottish Society, 1500-1800*, edited by R.A. Houston and I.D. Whyte (Cambridge: Cambridge University Press, 1989).; Muldrew, "A Mutual Assent of Her Mind."; Margot Finn, "Women, Consumption and Coverture in England, C. 1760-1860," *The Historical Journal* 39, no. 3 (1996).

³⁷ The principle extended beyond Britain as well since Scandinavian women lived under the same types of laws. In Finland, for instance, laws enacted in the 1680's deemed women to be "legally incompetent minors". Pylkkänen, 81. In Norway husbands had legal control over all assets of the marriage. Johansen, 181.

³⁸ Amy Louise Erickson, "Coverture and Capitalism," *History Workshop Journal*, no. 59 (2005), 3.

administration during the marriage of the whole is alone in the husband.”³⁹ The Scottish legal scholar, David Walker, however, argues that Stair got it wrong and that Scottish husbands enjoyed the “right of full property, not of shared right or of mere administration”.⁴⁰ Walker attributes this misinterpretation to Stair’s mistaken introduction of the phrase “*communio bonorum*”.⁴¹

Helen Dingwall argues that Scottish law allowed women to have more control over property after marriage than English law did. She claims that, as a result, Scottish women were more economically active after marriage than their English counterparts.⁴² Yet, in general, the laws regarding women and property were remarkably similar in Scotland and England. In both places women lost control of all movable property upon marriage, excluding more personal items like jewellery and clothing. Both Scottish and English husbands controlled and retained profits from any immovable property that the wife brought into the marriage, but it could not be sold without her permission. Women in both countries were barred from acting as witnesses in most court cases. There were some differences which suggest that Scottish women might have more privileges before the law, such as more relaxed divorce laws or the fact that married women in Scotland were able to write their own wills⁴³ while English women were not, but their rights were

³⁹ James, Viscount of Stair, *The Institutions of the Law of Scotland* (Edinburgh: The University Presses of Edinburgh and Glasgow, 1693), 111.

⁴⁰ David M. Walker, *A Legal History of Scotland*, Vol. IV (Edinburgh: T & T Clark, 1996), 661.

⁴¹ D. Walker, 662.

⁴² Helen Dingwall, "The Power Behind the Merchant? Women and the Economy in Late Seventeenth Century Edinburgh," in *Women in Scotland 1100-1750*, edited by Elizabeth Ewan and Maureen M. Meikle (East Linton: Tuckwell Press, 1999), 156.

⁴³ According to Amy Erickson, European women (other than English women) were able to will property, even if they predeceased their husbands, because the inherited property a woman brought into marriage remained her own and was expected to be returned to her family at her death. A wife was also entitled to a certain portion of the joint property of the marriage. Erickson, "Coverture and Capitalism," 3-4.

substantially the same.⁴⁴ John Finlay claims that the law limited Scottish women, but that they continued to be involved in the courts in spite of these rules⁴⁵ but many English historians have made this claim as well.⁴⁶ It is quite possible that there was a different attitude in Scotland that allowed women freer access to the courts and possibly even to the credit and debt system. Yet, none of the studies done on Scotland thus far have found such a significant difference in the way that Scottish women behaved in comparison with the rest of early modern Europe.

Beyond the law, there were several things about Aberdeen that might make the town more likely to allow women to be involved in legal proceedings. Aberdeen was a port town and it might be surmised that many women would be left to attend to household finances while their husbands were away at sea. John Finlay argues that, while married women were supposed to be represented in court by their husbands, a woman whose husband was absent would have to act for him in court (and therefore presumably for herself as well).⁴⁷ Early modern Norway experienced a similar phenomenon. Because of an economy based on a combination of agriculture and export trade, men were often away from home fishing, trading or cutting lumber and wives were therefore able to contract debts, though we do not know how often they pursued

⁴⁴On the position of women before the law in Scotland and England see: Houston; John Finlay, "Women and Legal Representation in Early Sixteenth Century Scotland," in *Women in Scotland 1100-1750*, edited by Elizabeth Ewan and Maureen M. Meikle (East Linton: Tuckwell Press, 1999).; Amy Louise Erickson, *Women and Property in Early Modern England* (London: Routledge, 1993).; Meston et.al.; Elizabeth Ewan, "Scottish Portias: Women in the Courts in Medieval Scottish Towns," *Journal of the Canadian Historical Association* 3 (1992).

⁴⁵ Finlay, 165. Elizabeth Ewan makes the same argument for a slightly earlier period in her article "Scottish Portias", 29.

⁴⁶ See Finn, 707; Judith M. Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock before the Plague* (Oxford: Oxford University Press, 1987), 108-109. For a non-English example we can look to Norway where women were able to contract debts in spite of legal restrictions. Hanne Marie Johansen argues that social norms in Norwegian communities usually prevented a husband from making economic decisions without the consent of his wife. Johansen, 181.

⁴⁷ Finlay, 170-172.

those debts in court.⁴⁸ In the Baillie Court, women like Issobell Melles were sometimes sued because, in their husbands' absence they were put in charge of "expediting his other urgent and necessar affair".⁴⁹ It might be noted that the single most common occupation listed for the spouses of defenders in the Baillie Court was mariner, an occupation which would no doubt have taken men away from the town and their families quite often. One might guess from this information, that either the women did more borrowing and lending themselves because their husbands were gone, or that they were called to court to deal with matters while their husbands were away. This second scenario is doubtful, though, because in most cases defenders did not actually physically appear in court. It would therefore be more likely that if a woman was listed as the primary defender then she was probably the person who contracted the debt in the first place. This leads to another possible reason why Aberdeen's Baillie Court involved more women than the courts in towns of similar size and economic situation. Judging by what was written in the court books, the Baillie Court did not often see defenders appear in the courtroom. There were only 26 cases (or 4% of the total number of cases) where it was noted that someone appeared in court (either the defender him or herself or a lawyer in exceptional cases). Of these cases there were only 5 (or 0.7%) where women were involved and, of these, only 3 cases (or 0.4%) where women were the defenders and appeared.⁵⁰ Due to the nature of the court and the fact that women, in practice at least, were not expected to physically appear in court it might have been easier for people to actually list a woman as a defender in a civil suit. If Aberdeen was more accepting of women in the court, and

⁴⁸ Sandvik, 117.

⁴⁹ ACA, BCR Vol. XIV, December 17, 1687.

⁵⁰ This does not mean that women did not appear, as the records only note whether or not the defender appeared in court. Persuers likely appeared to plead the case.

men were often unable to attend, it might mean that husbands were simply less likely to appear instead of their wives if it was the wife's debt in the first place.

Possibly the most convincing reason that Aberdeen might be different from other early modern towns is the attitude of the court. It has been noted that women were often listed alongside their husbands as either joint persuers or defenders. These cases are important to study because they suggest that the court (and the community) considered a debt to belong to the entire household, not just to the male head of that household. Garthine Walker's observation that the criminal courts held only heads of household responsible⁵¹ does not seem to apply to the civil cases of the Baillie Court of Aberdeen, and, therefore, more women would have been permitted to participate in the court process. This attitude might be explained in part by the way that the Scottish legal system developed. Ian Whyte argues that "[m]uch of the law of early-modern Scotland had evolved from within communities, tailor-made to fit their needs, rather than being imposed from above."⁵² Similarly, S. J. Connolly argues that Scottish law emerges from a tradition that emphasized a "society of small, close-knit communities."⁵³ This might explain why the courts of Aberdeen would allow women to take part in the legal process when other towns would not. A community-based legal system might be more lenient towards the position of women and less concerned with maintaining the patriarchal structure than a more centralized legal system would be. Elizabeth Ewan argues that, although much of Scottish law was formally based on English law, there is reason to believe that Scots may have altered it in practice. Ewan claims in her study of Scottish women's legal position that "[t]he *Burgh Laws* were used as the basis for the laws of the

⁵¹ G. Walker, 12.

⁵² Whyte, *Scotland before the Industrial Revolution: An Economic and Social History, c1050-c1750*, 210.

⁵³ Connolly, 121.

towns but they too could be modified, in this case by individual communities.”⁵⁴ If Scottish communities were in the habit of adapting conventional legal practice to suit their own needs it is reasonable to think that a port town like Aberdeen might be inclined to allow more women to participate in the courts in order to expedite the system. This does not mean, however, that women in Aberdeen were necessarily any more involved in the debt and credit system than women in the rest of Europe, but just that Scotland’s legal system allowed them the freedom to include women in the legal process.

Given laws that severely limited women’s legal rights and knowing the generally marginalized position of women in early modern society, it seems natural to expect that women would tend to be defenders rather than persuers in debt cases. One would think that women would be the ones borrowing in order to survive or taking more store credit because they were doing the majority of the household purchasing. Yet, the few studies that have looked at such issues have found that women were actually more likely to be persuers in the court case than defenders. In every single one of the towns Muldrew has studied women made up a larger percentage of plaintiffs than defendants. Usually the numbers were within a few percentage points of each other, but there could be as much as a 10-13% difference in the two figures. So, while the Hundred Court of Langbaugh Wapentake showed in 1660 that 9% of the plaintiffs and 7% of the defendants were female, records from the Hampshire Hundred Court in Andover in 1670 indicate that 17% of the plaintiffs and only 4% of the defendants were female.⁵⁵ Similarly, Elaine Clark’s study of Writtle uncovered 7% of the total number of litigants were women, but

⁵⁴ Ewan, “Scottish Portias”, 31. Ewan argues, in this article, that post-Reformation Scottish women lost legal status, but her point with regards to local law refers to the roots of Scottish law, which is equally applicable to a discussion of seventeenth-century courts.

⁵⁵ Muldrew, ““A Mutual Assent of Her Mind,”” 55.

a full 14% of all lenders were female.⁵⁶ Muldrew credits this phenomenon to single women who were more likely to lend than to borrow or to the idea that women were less likely to be sued⁵⁷ but a more common explanation is that women, and especially widows or older single women, used moneylending as a means of income when they had few other options for investment or employment.⁵⁸ The situation in Aberdeen, however, was quite different. Of the 671 cases I examined, 138 involved women persuers (or 21%) and 230 (or 34%) involved women as defendants. The 13% difference in this case means a 26% turnaround from some of Muldrew's figures.

Why is there such a significant difference between Aberdeen and other early modern towns in this respect? An examination of the number of people appearing before the court may provide some answers. There were roughly 683 different individuals who appear before the Baillie Court in this two-year sample,⁵⁹ a figure which breaks down to 444 men and 239 women.⁶⁰ By looking at the main litigants in the cases we can see an interesting pattern emerging. Of the 104 cases in which a woman is listed as the primary persuer we can identify 27 separate women. In contrast, there were 185

⁵⁶ E. Clark, 263.

⁵⁷ Muldrew, "A Mutual Assent of Her Mind," 54.

⁵⁸ See: Holderness, "Credit in a Rural Community, 1660-1800," 101-102; Holderness, "Credit in English Rural Society before the Nineteenth Century," 105; Robert Tittler, "Money-Lending in the West Midlands: The Activities of Joyce Jeffries, 1638-49," *Historical Research* 67, no. 164 (1994): 254.; Whyte and Whyte, "Debt and Credit, Poverty and Prosperity," 75; Michael Zell, "Credit in the Pre-Industrial English Woollen Industry," *The Economic History Review* 49, no. 4 (1996): 675.; William Chester Jordan, *Women and Credit in Pre-Industrial and Developing Societies* (Philadelphia: University of Pennsylvania Press, 1993), 59.

⁵⁹ We must say "roughly" here because the identity of some litigants is unclear. Names are often left out by the clerk or are illegible because of poor handwriting, an ink smudge or degeneration of the paper. There are also many names which were very common in the town so that it is hard to be sure whether a William Gordon was the same William Gordon seen in an earlier record unless we have additional information such as a spouse's name or a distinctive occupation. This is more of an issue with men's names, since women usually have a husband's name listed alongside theirs which distinguishes them. Women's names, however, are more likely than men's to be left blank. In most cases I have been conservative for the purposes of counting and assumed that a repeated name without additional information was the same person.

⁶⁰ There were an additional 40 men who were named in the cases as the deceased spouses of widows. They have been factored out of the calculations.

cases in which a woman was listed as the primary defender and we can identify roughly 150 separate women. On average, then, the primary women persuers were involved in 3.85 cases each while the average for primary women defenders was 1.23 cases each. The situation with men was quite similar. There were 136 men acting as the main persuer in 567 cases, which works out to an even higher average per person than women with 4.17 cases per man. For male defenders I identified 396 different men in a total of 486 cases. This works out to 1.22 cases each, which is virtually the same as the figure for female defenders. The distribution of these cases, however, shows a very significant difference between men and women. Of the 27 female persuers we can further narrow the group down to 5 women (all married) who actually made up 67% of the cases in which a woman was the primary persuer. In contrast, there were 13 men with 10 or more cases each and they only account for 32% of the total number of cases.

From this data we might infer that there existed a small group of women who loaned money professionally or were involved in some sort of trade that necessitated a great deal of consumer credit to be extended. It is probable that these types of women existed in most early modern towns; they are the small percentage that we see appearing in the court records of places like Writtle, Cambridge and King's Lynn. While these types of women may have gone to the Baillie Court more readily and more often than other women in Aberdeen, what was really different about that town was the large number of women being called as defendants or named as the spouses of men pursuing and defending cases. These women were likely involved in a much more casual, everyday type of lending and borrowing for which only men would have gone to court in most towns. In Aberdeen, however, it was more acceptable for women to be listed as

participants in civil suits and we therefore get a much better glimpse of how the credit system operated.

A great deal of the literature on early modern women's roles in the economy tends to focus on marital status and life-cycle changes as an indicator of a woman's place in the economy. In their influential book Women, Work and Family, Louise A. Tilly and Joan W. Scott argue the importance of the anthropological idea that women's power and status changes with life-cycle changes like marriage and widowhood.⁶¹ Many scholars following this line of reasoning claim that it is more important for historians of women's history to look at life-cycle changes for women rather than their social standing to understand their position in the economy.⁶² In the context of debt and credit, then, historians often apply a model in which women make their first foray into the economy as young, single women who may loan money out at interest in order to increase their dowry and then retreat as they marry and become involved in bearing and raising children. They come back into the economy as widows who often loan money or, at the very least, act on their own behalf in financial transactions. At the same time, married women are usually seen as either uninvolved in the credit system or impossible to understand because their participation is hidden by the involvement of their husbands. Margaret Spufford, in her pioneering work on rural English villages gives examples of young women lending out their dowries at interest and elderly people (both men and

⁶¹ Louise A. Tilly, and Joan Scott, *Women, Work and Family* (New York: Holt, Rinehart and Winston, 1978), 4-5.

⁶² See, for example: Natalie Zemon Davis, "Women in the Crafts in Sixteenth Century Lyon," *Feminist Studies* 8 (1982): 48.; Merry Wiesner, *Working Women in Renaissance Germany* (New Brunswick, New Jersey: Rutgers University Press, 1986), 4; Sheila McIssac Cooper, "Family, Household, and Occupation in Pre-Industrial England: Social Structure in King's Lynn, 1689-1702" (PhD diss., Indiana University, 1985), 83-87; E. Sanderson; Martha C. Howell, *Women, Production, and Patriarchy in Late Medieval Cities* (Chicago: University of Chicago Press, 1986), 179; Peter Earle, "The Female Labour Market in London in the Late Seventeenth and Early Eighteenth Centuries," *The Economic History Review* 42 (1989): 343.

women) lending at interest to support themselves in their old age.⁶³ She makes little mention of the role of married women in the debt and credit system, presumably because they just do not appear in her records.

The Aberdeen records contradict these ideas in that married women were far more involved than either single women or widows in the Baillie Court. 214 of the cases studied involved married women while only 67 cases involved widows and 52 involved single women. Married women therefore accounted for 32% of the total number of cases and 69% of all cases involving women. These numbers are surprising and tend to be different from what we see in other studies. Most scholars studying civil court cases do not break the numbers down by marital status, so there is very little with which to compare these figures. Craig Muldrew mentions that there were no married women in the courts of King's Lynn and that the few women who did participate were either widows or spinsters.⁶⁴ Ian and Kathleen Whyte note in their study of seventeenth-century rural Scottish debt that 10% of widows and single women had debts, but there is no mention of the debts of married women.⁶⁵ Elaine Clark mentions that women in the courts of Writtle either stood with their husbands or their husbands stood for them alone, but she gives no indication of what proportion of her defendants were married women.⁶⁶ Presumably this information is so elusive either because it was not available in their records or the numbers were too small to indicate a significant difference.

⁶³ Spufford, 142, 80.

⁶⁴ Muldrew, "Credit and the Courts," 28.

⁶⁵ Whyte and Whyte, "Debt and Credit, Poverty and Prosperity," 72.

⁶⁶ E. Clark, 252.

One possible reason for the lack of married women in these studies is the sources most scholars utilize. The two main sources for studying debt and credit are court records and testaments. We have already discussed how married women were excluded from most courts, but the issue of wills is slightly more complex. In seventeenth-century Scotland, a woman could make a will but she was really only disposing of her own personal effects.⁶⁷ Her husband controlled any movable property she brought with her at the time of their marriage and upon her death would have attained total control over her immovable property. One might imagine, then, that few married women would have control over enough to goods to warrant writing their own will. For those women who did, there would be little need to include information about their debts and credits, since their husband was technically responsible for the family credit in the first place. In most of these studies, then, married women are not being ignored, they are simply not accessible through their records. It is remarkable that the records of the Baillie Court not only include married women, but show them participating at rates three and four times greater than their not-married counterparts. In order to understand this phenomenon we might look at each group individually.

⁶⁷ Houston, 129.

TABLE TWO

NUMBER OF WOMEN PARTICIPATING IN THE BAILLIE COURT, BY MARITAL STATUS

	Single Women			Married Women			Widows			Unknown
	# of cases	% of total	% of women	# of cases	% of total	% of women	# of cases	% of total	% of women	# of cases
Total	52	8%	17%	214	32%	69%	67	10%	22%	
Persuers	13		9%	109		80%	14		10%	1
Defenders	42		18%	137		60%	50		2%	
Others	1			0			2			

*note that the numbers do not add up because there may have been an overlap

Single Women

Single women form a surprisingly low number of litigants.⁶⁸ It is also surprising, given the literature on women and debt, that the proportion of single women defenders exceeded that of single women persuers. Scholars have generally seen single women, along with widows, when they are acknowledged at all, as sources of credit in a community. Ian and Kathleen Whyte’s grouping of single women and widows together

⁶⁸ This is especially surprising considering the fact that, if a woman’s marital status was not mentioned I assumed that she was single. In most cases this tactic probably produced accurate results since the identification of a woman with her marital status appeared to be very important to the court, but it may have inflated the numbers of single women somewhat. There were times that several female defenders in a row were listed without any marital identification, which would either suggest that the creditor preferred to deal with single women or that the clerk decided not to include their marital status, for whatever reason.

is telling of how early modern scholars view this segment of society.⁶⁹ These two groups of women are seen as possessing capital and very few other options for investing, so they naturally turn to moneylending.⁷⁰ Holderness discusses widows and single people as “the most intriguing group of moneylenders” who left few records “but who must nevertheless have played a not inconsiderable role.”⁷¹ In most of the literature their role as debtors is very rarely acknowledged. Yet, the never-married women in this sample were twice as likely to be named as defenders than as persuers. The problem here is less likely that earlier scholars got it wrong about single and widowed moneylenders, but more likely that women’s other activities as borrowers were hidden by the sources. Single and widowed women in this sample were still involved in lending, but only in comparatively smaller numbers than were involved in borrowing. These borrowing activities, then, simply do not appear in other records from the time, though they likely occurred in every town. It takes a unique record, like that of the Baillie Court, or Beverly Lemire’s pawnbroker accounts to bring these activities to the surface.

The court identified a good number of the women classified as single either as servants or as daughters. This implies that they were probably younger single women who were perhaps saving money in order to get married or set up their own house. Another small but significant group of single women are those who were identified as “indwellers,” a term meaning they were living in the town without any of the privileges of being part of the town or associated with a male citizen such as a guild or craft member. It also suggests that they were probably older women who never married and

⁶⁹ Whyte and Whyte, “Debt and Credit, Poverty and Prosperity,” 72.

⁷⁰ Jordan, 59, 71.

⁷¹ Holderness, “Credit in English Rural Society,” 105.

were not wealthy or influential in any way. There is only one female persuer identified as an indweller while 13 single women defendants were so recognized. This imbalance would suggest that older single women either were not loaning money or were not going to court to settle their debts. The one female persuer listed as an indweller took her married female debtor to court to demand the repayment of borrowed money. Most of the defender indwellers for whom a cause of debt was listed owed money for various necessities of life. The most common debts were for rent, malt and food.

There was a much greater balance between persuers and defenders when we look at servants, with roughly the same number on each side. What is particularly interesting are the causes of these debts. In all but one case in which there was a servant woman as a persuer they sued their debtors for the return of borrowed money. Female servants on the defender's side, on the other hand, were most often sued for money owed for merchandise. These debts suggest that single women, if they were acting as creditors, were usually loaning cash rather than extending sales credit. While older single women generally owed money for survival-related items like housing and food, younger women owed for the less essential consumer goods implied in the term merchandise. Stana Nenadic has found in her research on eighteenth-century Scottish consumer behaviour that young, unmarried women were heavy consumers of luxury goods.⁷² Since younger women's work as servants provided them with meals and lodging they were likely more able to go into debt for non-essential consumer goods. It is unclear in the court records whether young women were buying the sort of frivolous luxury goods that the

⁷² Stana Nenadic, "Middle-Rank Consumers and Domestic Culture in Edinburgh and Glasgow 1720-1840," *Past and Present* 145 (1994): 129.

authorities fretted over in the eighteenth century, but it is clear that they possessed more disposable income than women named as indwellers.

Craig Muldrew has argued that we see more women involved in litigation later in the seventeenth century because there were more women in the population and therefore more single women and opportunities for them to engage in business.⁷³ The Aberdeen records examined to date do not support this theory, since the proportion of single women was one of the only figures to significantly decrease from 1673/74 to 1687/88. In 1673/74 there were 18 cases with single women, which made up 24% of the total number of cases involving women for that year. In 1687/88 we see only 34 cases with single women out of a total of 234, which works out to only 15% of the total for women. Perhaps the records for which Muldrew has no marital status information, but which he assumes to include a large proportion of single women, might also have a significant number of married women that are simply not identified. These numbers make it difficult to argue, as many scholars do, that most female involvement in debt and credit was widows and single women looking for investment opportunities. For single women this was more likely a less common activity than casual, neighbourly lending.

Widows

Widows were more commonly seen at the Baillie Court than single women, but their participation is still surprisingly low. We see widows involved in 10% of all cases brought before the court. While this number is quite consistent with what has been seen in other early modern towns, it is quite low compared to the 32% of cases involving married women. To put this in perspective, widows appear as defenders roughly once

⁷³ Muldrew, ““A Mutual Assent of Her Mind””, 56.

for every three married women and as persuers only once for every eight married women. One explanation for this discrepancy is that, because most early modern debt courts did not allow married women to participate, the only women who did appear in court were widows and a few single women. Because they barred married women from participating in the courts, the roughly 10% female participation we see in towns like Cambridge and King's Lynn was composed almost entirely of widows and single women. Since widows formed a much smaller portion of the population than married women we might guess that the Baillie Court records simply show a more representative cross-section of the town's female population than we have seen in most other studies of debt and credit litigation.

Another figure that challenges conventional thought on early modern widows is the number of widows coming to court as borrowers rather than lenders. Widows make up only 10% of the total number of female persuers and 22% of the total number of female defenders. It has long been argued that widows were important sources of credit within any early modern community. The capital they possessed along with their need to create income for themselves in old age made them ideal moneylenders in the eyes of many early modern historians. Michael Zell named common creditors in the pre-industrial period as yeoman, farmers and graziers, rural clerics, widows with capital, and rural and urban tradesmen.⁷⁴ Robert Tittler argues that widows and spinsters were very often involved in moneylending because their legal status predisposed them to it.⁷⁵ B. A. Holderness claims that women in pre-industrial societies had most power and

⁷⁴ Zell, 675.

⁷⁵ Tittler, 254.

influence when they became widows.⁷⁶ To historians searching for a place for women in history, widows were the loophole of women's limited economic and legal participation. While married women were oppressed by the patriarchy of the male-dominated household and single women lacked the resources to fully participate in the economic system, widowhood was seen as the one time in a woman's life when she gained control over her own affairs and the ability to participate in areas of society that were usually off-limits to women.

More recently, however, many scholars have begun to re-evaluate the position of widows in early modern society. These historians tend to see widows as generally poor and in need of either work or charity in order to survive.⁷⁷ For sixteenth-century Scotland Margaret Sanderson argues that, while widows seem to have had more freedom in terms of the law, they were usually limited by a lack of economic resources.⁷⁸ Elizabeth Sanderson extends this argument to eighteenth-century Edinburgh where she notes that widows were one of the few groups of people who might actually end up in jail for their debts.⁷⁹ Lyndal Roper argues that in Reformation-era Augsburg widows gained rights in theory but in practice powerful institutions such as guilds still kept widows from gaining power or economic advantage.⁸⁰ How do we reconcile these theories with the numbers of widows we find participating in the Aberdeen courts?

⁷⁶ B. A. Holderness, "Widows in Pre-Industrial Society: An Essay Upon Their Economic Functions," 427.

⁷⁷ See Claire S. Schen, "Strategies of Poor Aged Women and Widows in Sixteenth-Century London," in *Women and Ageing in British Society Since 1500*, edited by Lynn Botelho and Pat Thane (Harlow, England: Pearson Education Limited, 2001).

⁷⁸ Margaret Sanderson, 116. Bridget Hill claims the same thing for eighteenth-century England and Laurence Fontaine argues this happened across pre-industrial Europe. Bridget Hill, *Women, Work and Sexual Politics in Eighteenth-Century England* (Montreal & Kingston: McGill-Queen's University Press, 1994), 257; Laurence Fontaine, "Women's Economic Spheres and Credit in Pre-Industrial Europe," in *Women and Credit: Researching the Past, Refiguring the Future*, edited by Beverly Lemire, Ruth Pearson and Gail Campbell (Oxford: Berg, 2001), 20.

⁷⁹ E. Sanderson, 160.

⁸⁰ Lyndal Roper, *The Holy Household: Women and Morals, in Reformation Augsburg* (Oxford: Clarendon Press, 1989), 49-53.

Certainly, there were widows involved as plaintiffs and they were probably loaning money at interest in some cases. More commonly, though, they were being called to court as defenders and ordered to pay their debts or face having their goods taken from them. There were, possibly, exceptional cases of widows with a great deal of capital for investment and power within their community and it is these women that we see lending and demanding repayment in court.⁸¹ More common, however, was the widow who had to borrow money in order to make ends meet or who might not be able to repay her debts in times of dearth. It is this woman who appeared as a defender. The more traditional view of the powerful, moneylending widow is not incorrect, but evidence such as that from Aberdeen suggests that these women were not typical of the early modern widow's experience. There were many more women who found themselves on the receiving end of the credit and debt system.

Married Women

Married women formed by far the largest group of female litigants. Married women were involved in 32% of all debt cases in Aberdeen for the period studied and 69% of all cases involving women involved at least one married woman. These numbers are staggering when we consider that, as was discussed earlier, married women technically had legal persona and were expected to be represented by their husbands in all legal matters. Yet, despite these restrictions, married women were the majority of both female persuers and defenders by a considerable margin in both cases. These figures include both women who were listed first as the primary litigant in the suit and

⁸¹ Lyndal Roper claims that wealthy women in Augsburg were able to maintain their businesses, but poorer women were often overwhelmed by their debts. Roper, 51.

those who were named second as the spouse of the primary litigant.⁸² Some might argue that the inclusion of these women inflates the figures of married women in the court. Yet, the majority of the cases involved a woman as the primary litigant. Of the 138 cases of women plaintiffs the woman was listed first in 104 (or 75%) of the cases. Even more impressive is the figure for defenders. In fully 185 of the 230 cases where women were involved on the side of the defense a woman was listed first. This figure works out to 80% of cases in which women were the primary defenders. It was therefore far more likely that a woman going to court would have the case listed under her own name than to go in the capacity of the main litigant's spouse.

This apparently unusual situation might be explained by Margaret Sanderson's argument that it was common in Scotland for the person who made the promise to pay a debt to be the person who was called to court.⁸³ For household goods, this person was very often a woman since the concept of coverture stated that wives were meant to do much of the bargaining for a family's purchases⁸⁴ and we know from the studies of Muldrew and others that most things in an early modern town were bought on credit.⁸⁵ It is also likely that a woman who was named as a spouse was involved in the original debt transaction, possibly more so than her husband. There was at least one case where the wife was listed as the second persuer but the case explicitly stated that the female defender owed the debt to her.⁸⁶ This situation might be more common when a number

⁸² It is important to note that no distinction was made here between those cases that simply mentioned a husband's name and those that listed him "for his entres". There may be a difference in how the court perceived the case, but it appears to be at the discretion of the clerk.

⁸³ M. Sanderson, 111.

⁸⁴ Houston, 130.

⁸⁵ Muldrew The Economy of Obligation.

⁸⁶ ACA, BCR Vol. XII, October 25, 1673: "The said day the Baillie forsaide decerns Grissall Duncan spous to Thomas Andersone flesher in the said Burgh and the said Thomas for his entres to pay & delyver to Alexander Troup writer there and Helen Innes spous eight pounds scots money as the pryce of ane stone

of defendants were brought to court at one time. The husband might be the main lender in most of the cases, but his wife might be in others and that is not acknowledged in the records. In all of these cases the wife was either involved in the original debt transaction or took a leading role in the family finances so that she was named in court alongside her husband.

Given the limited legal status of married women, why do we see so many in the Baillie Court? Margaret Sanderson argues that it would be easier for married women to go to court because they would have the support and knowledge of their husbands as well as the money necessary to pay legal fees.⁸⁷ This argument is based on the idea that women participated less often in the courts because they had a limited knowledge of how the law operated while men were more exposed to it and were therefore more willing to go to court to settle a dispute. It may be true that women in general were less exposed to the law than men, but it is difficult to believe that single and widowed women did not have their own male connections with whom they could consult about the law, such as fathers, sons, brothers, friends or neighbours. William Chester Jordan argues that married women were less conservative than widows or even men in how they chose to invest their money. Jordan sees that married women were not dependent on the income generated by their investment and so were able to put their money into more high-risk ventures.⁸⁸ It is possible that a less conservative investment is more likely to lead to court than one made by someone more cautious about their choice of debtor. Yet, many scholars have argued that early modern families worked as a unit to

of wooll bought & receavit by the said Grissall from the said Helen. Within terme of law under the paine of poynding. With eighteen shilling or expenss of plea. Becaus the claime being referrit to the said Grissell hir oath and she being personallie summondit by Alexander Murray officer did not compeir.”

⁸⁷ M. Sanderson, 105.

⁸⁸ Jordan, 69-70.

provide for their own survival.⁸⁹ Perhaps more wealthy women could dispose of their own income freely, but it is difficult to see how women of the lower and middling sorts could make risky investment decisions without concern for how it would affect the family and without consultation with their husbands. As noted earlier, Scottish women sometimes had to act for their husbands in court when they could not be there.⁹⁰ It is possible that some of these women were acting on behalf of their husbands, but since they did not have to physically appear in court, it is doubtful that they were called in place of their husbands and had nothing to do with the debt. They were obviously involved enough to be recognized by the court.

The most compelling explanation for married women's participation in the court is that they were participating in large numbers in the economy. This argument is strengthened by Anne E.C. McCants' study of probate inventories from eighteenth-century Amsterdam, which found that married men and women were the people most likely to have debts.⁹¹ It is only reasonable to think that, in a society centred on credit, the women with the greatest access to resources and the largest group to care for (the family) would be the group most involved in the credit system. Though these married women do not make it into the records of many early modern towns, they too had the responsibility of providing for their families and were likely just as involved in the debt and credit systems as the women who show up in the Baillie Court.

⁸⁹ See Martha C. Howell, 9; E. Sanderson, 125; Susan Dwyer Amussen, *An Ordered Society: Gender and Class in Early Modern England* (New York: Columbia University Press, 1988), 68.

⁹⁰ Finlay, 170-172.

⁹¹ Anne E.C. McCants, "Petty Debts and Family Networks: The Credit Markets of Widows and Wives in Eighteenth-Century Amsterdam," in *Women and Credit: Researching the Past, Refiguring the Future*, edited by Beverly Lemire, Ruth Pearson and Gail Campbell (Oxford: Berg, 2001), 39.

While we have seen that women found a place for themselves in the debt and credit system just as men did, it is important to note that they did not experience the system in the same way. One difference that we can observe from these records is the amounts of male and female debts and credits. Most of the cases, though not all, list the amount of money owing to the persuer. The amount of the debts is quite varied and can range from one exceptional case of £2650 and 1000 merks (or £3316.13s.4d.) to several cases under 10 shillings.⁹² The average for all the cases is £19.2s.4d per case. This number is slightly skewed by the one extremely high figure and if that is factored out the result is an average of £13.12s.8d per case. What is most interesting is how these numbers break down by gender. The average debt for cases involving women was £11.14s.5d while the average debt for cases involving only men was £25.9s.6d. The difference here is significant, but if we factor out the one large case (which did not involve women) the average comes down to £15.18s.8d per case for men. We can see that cases without women involved had higher debts on average than those involving women. It is perhaps slightly unfair to compare the two figures because men were involved in all the cases, but it is apparent that cases where women were involved were for smaller sums than those in which women were not involved. These sorts of figures are not really surprising considering the limited role women had in the most important economic institutions of the town, such as the guild or craft associations.

We might presume that women were loaning and borrowing smaller sums than men, which could be for a number of reasons. First, perhaps the credit transactions of women were more casual or neighbourly than those of men. Women may have been

⁹² The pound Scots was only worth about 1/12 the value of the English pound at this time. There are 20 shillings to a pound and 12 pennies to a shilling. A merk is a unit of monetary measurement, used only for accounting purposes, which equalled 2/3 of a pound or £0.13s.4d.

more likely to borrow from a friend or acquaintance while men's transactions may have been based more in the realm of impersonal market transactions.⁹³ Secondly, women, in general, lived closer to the basic subsistence level than men. The amounts they needed for day-to-day transactions might have been smaller than those needed by men. Thirdly, while much research has been done to show that early modern women were involved in the economy and did possess jobs outside the home, as Judith M. Bennet has noted, these jobs were generally the least paid and least respected jobs in the economy.⁹⁴ Their work did not involve large sums of money or extensive trading networks and so the loans of women involved in sales would have operated on a much smaller scale than men who held a much more privileged position in the economy. It is also interesting to note here that women did not just sue for less money, but they also *were sued* for smaller amounts. This means that women were not simply poorer than men, but rather, that they were operating on a smaller scale economically than many men in the town.

We have established that there was a difference in the debts of men and women, but what sort of difference can we detect between various groups of women? First of all, there does not seem to be a great deal of difference between the average debts of women persuers and those of women defenders. Cases involving a female persuer average £11.8s.4d while those with a female defender average £11.17s.5d. Even though women in Aberdeen were more likely to be defenders than persuers, the total amounts of their debts were not significantly greater than their credits. We might also note that there is even less of a difference when we look at women as the main defenders

⁹³ This may also help to explain why fewer women than men were in court records—women's transactions were more neighbourly and therefore less likely to go to court.

⁹⁴ Judith M. Bennett, *Ale, Beer, and Brewsters in England: Women's Work in a Changing World, 1300-1600* (Oxford: Oxford University Press, 1996), 146. See also Roper, 50; Earle, 346.

compared to women named as the defender's spouse. Main female defenders average debts of £11.12s.1d per case while cases involving the wives of main defenders average £11.15s.8d. A more significant difference appears when we examine the cases of women as the main persuer and as the main persuer's spouse. Cases in which a woman is listed as the main persuer average £10.11s.9d while ones in which they are listed as a spouse average £14.0s.9d per case. This difference is interesting because it suggests that loans in which women act on their own are likely to be smaller than those that a husband and wife initiate together. It is possible that debts contracted by the couple were more likely to be business-related while those that involved the woman alone may have been more personal or casual. Yet, when a couple was borrowing money it did not seem to matter whether a woman acted on her own or with her husband because the average debt was roughly the same. We might infer then, that people were willing to lend to a woman whether her husband was involved or not.

One interesting thing to note in this situation is the occupations of the main litigants. The single most common occupation for defenders was a "gardner" while "merchant" was most commonly listed for persuers. This difference suggests that, first of all, it was more likely to be sales credit than borrowed money, but also that male defenders were more likely to be people in less privileged positions (much like women) while male persuers were more likely to be more prominent members of the economic community. We might also note that women who were named as main litigants were often not in the same economic situation as those named as spouses. So, while "merchant" was the most common occupation for the main persuer, men named as the persuer's spouse belong to a wide range of occupations and there are only two cases of

merchants' wives acting as the primary persuer. Similarly, there are a few cases of gardeners' wives being named as the main defender, but it was much more likely that these women would be the wives of mariners and merchants. So, while people from all levels of society were involved in the debt and credit system, your place within that system and whether you would be able to repay your debts was greatly influenced by factors such as social standing and gender.

These were not the only factors that affected one's place in the economy, either. The marital status of the women in the Baillie Court seemed to affect the amount of their debts. To begin with, married women had an average debt that was slightly higher than the average for all women. £12.2s.5d was the average amount for a debt involving a married woman. The higher number might be partly explained by the fact that married women were the only ones counted in those higher debts of merchants mentioned in the previous paragraph. In comparison, cases involving widows had an average debt of £10.14s.8d.⁹⁵ This figure is predictable in light of the revised view of widows as women on the brink of subsistence in any early modern community. Widows and single women also likely belonged to smaller households and therefore had smaller monetary needs. It is surprising, then that single women actually had the largest amount of debt. The average amount for a case involving a single woman was £13.11s.11d. This figure is more alarming when you consider that single women were twice as likely to owe money than to be owed money. These numbers might be partly explained by the fact that there were much fewer cases involving single women and even one or two large amounts might seriously skew the results. If you factor out one case involving a single women

⁹⁵ This figure supports Anne E.C. McCants' study where she found widows in her sample from eighteenth-century Amsterdam were least likely to have large debts. McCants, 42.

persuer for £240 we are left with an average around £9 for single women, which would actually make them the group with the smallest average debt. The sample for single women may simply be too small to yield reliable results in this instance. There is enough evidence, however, to suggest that, while women and men experienced the debt and credit system in different ways, there was also a great deal of difference in the way that women of differing ages and marital status lived the system as well.

Since these records come from two years, which are separated by a span of fourteen years, it is important to consider any changes that may have happened over time. Below is a table illustrating the figures for both years.

TABLE 3

COMPARISON BETWEEN 1673/74 AND 1687/88

	1673/74	1687/88
Total # of cases	170	501
Total number of cases involving women	76	234
% of cases involving women	45%	47%
women persuers – total number	30	108
women persuers - % of total	18%	22%
women persuers - % of cases with women	39%	46%
women defenders – total number	56	174
women defenders - % of total	33%	35%
women defenders - % of cases with women	74%	74%
single women – total number	18	34
single women - % of cases with women	24%	15%
married women – total number	47	167
married women - % of cases with women	62%	71%
widows – total number	14	53
widows - % of cases with women	18%	23%
Woman named as spouse – total number	29	46
Woman named as spouse - % of total	17%	9%
Woman named as spouse - % of cases with women	38%	20%

We might note that 1673/74 has much fewer cases than 1687/88, partly because it was a shorter sample of records (the cases for 1673/74 extended from September 13, 1673 to February 17, 1674 while the 1687/88 records stretched from October 26, 1687 to the following September 11) and partly because there were fewer debt cases. In order to better compare the two years we might look at a similar block of time. The common period for the two years is October to February. So, for 1673/74 we can examine cases from October 25, 1673 to February 17, 1674 while the analogous cases from 1687/88 stretch from October 26, 1687 to February 14, 1688. For this nearly four-month period there were 151 cases in 1673/74 and 231 cases for 1687/88. The difference here is substantial and might suggest a less litigious period in Aberdeen history except for the fact that there are many non-debt related suits in 1673/74 that do not appear in the records of the later year. By 1687/88 the court records were devoted almost entirely to cases involving debt and credit and there are only a few examples of suits involving land disputes. While extenuating circumstances, such as the poor weather of the winter of 1673/74, might have had an impact on the number of cases that appeared before the court, that year generally dealt with a lower proportion of debt cases. There were many more cases in 1673/74 that dealt with land, inheritance or general economic disputes related to town business than in the later year. While it is possible that these two years could be anomalies, this data suggests that the Baillie Court was becoming more involved with the regulation of debt and credit over time.

While we see the number of debt cases increasing from the first to the second year, demographers tell us that the population of Aberdeen was decreasing over this

period.⁹⁶ The proportion of people taking their debt disputes to court was therefore rising over time. In comparison, Craig Muldrew found that the Guildhall Court in King's Lynn saw an average of 1000 cases per year during the Restoration period.⁹⁷ It is important to note that this was the total number of cases and they did not all deal with debt and credit, but a large proportion did. This means that, while the roughly 300 to 500 cases the Baillie Court saw in these two years would have represented a large portion of the town's roughly 7 500 person population, the town was perhaps not exceptional in the number of lawsuits it saw. We cannot claim, then, that Aberdeen was exceptionally litigious or that women made it into the court simply because everyone was suing everyone else.

Neither was the participation of women in the Baillie Court an anomaly that could be credited to the strange circumstances of a single year. Though the number of cases involving women varied greatly over these two years (76 cases for 1673/74 and 234 for 1687/88) the percentage of the total number of cases was very consistent (45% and 47% respectively). The figures do not change substantially if we look only at the common months in the two years. For 1673/74 there were 64 cases involving women from October to February while there were 108 cases for the same period in 1687/88. This works out to 42% and 47% for the respective years, figures very close to what we see for the entire sample. The percentage of women defenders was almost identical, but there was a slight increase in the proportion of women persuers from 1673/74 to 1687/88. We might guess from this figure that women were either becoming more involved in the credit system or they were becoming more aggressive in collecting their

⁹⁶ See Tyson, "People in the Two Towns."

⁹⁷ Muldrew, "Credit and the Courts", 25.

debts. Interestingly, while we see an increase in the participation of both married women and widows over the fourteen-year period, single women actually became less involved in the court. The only other figure that decreased substantially was the percentage of women being named as a spouse of the main litigant. In 1673/74 we see this situation in a full 38% of all cases involving women. While this number still indicates that women were more likely to be named as a main litigant than as a spouse, it is very striking to see the percentage drop by nearly half in 1687/88. It is especially surprising when one considers that the percentage of married women involved increased by 9%, thereby increasing the number of people who might be named as a spouse. It is possible that the clerk for 1673/74 simply preferred to list the husband first, but perhaps this figures indicates that it was becoming more common for women to be named as litigants in their own right or even that women were becoming more involved in contracting debts themselves.

The fact that most early modern European towns did not allow women to participate in large numbers in the civil court process has almost certainly obscured the role of women in debt and credit. The numbers from Aberdeen, however, indicate that these women were likely heavily involved in the credit system and by studying records such as these we can hope to better understand how their involvement helped to shape the way that the economy functioned. It is important to recognize that women acted as both borrowers and lenders in Aberdeen's economy and that they experienced the system differently depending on their role as either plaintiff or defendant. Their marital status and the legal and practical rights that went along with that lifestyle also helped to shape their experiences of debt and credit. Many of the stereotypes scholars have

created around the role of widows and spinsters in the early modern urban economy are challenged by these findings from Aberdeen. While much has been written about the economic role of unmarried women, very little has been addressed as to how married women fit into this picture. The strong presence of married women in the Baillie Court necessitates a reappraisal of how women used credit to survive in an early modern town and how their interaction with credit changed the way that the debt and credit system functioned. The fact that the types and amounts of the debts we see in the court records vary greatly depending on the gender and marital status of those involved illustrates just how vital these categories are to a complete understanding of early modern credit.

CHAPTER THREE

DEALS GONE AWRY: SEARCHING FOR THE INDIVIDUAL EXPERIENCE

As a whole this sample from the Baillie Court records has a great deal to tell us about the role of women in the early modern economy. Each individual case, though, provides us with a story about a particular individual in the court and it is valuable to examine those stories to understand how different people experienced the debt and credit system. These stories offer great insight into the recurring scholarly debate about the nature of the early modern economy and how people viewed borrowing and lending. Was it a charitable action or a business deal? Cases from the Baillie Court suggest that these two extremes may not be the only ways to understand how people viewed the extension of credit. The number of times someone was sued suggests a great deal about his or her place in the economy and the reasons a creditors brought him or her to court. Studying a particular case can allow us to see how one person ended up in the court and how their issues with debt impacted on them in the long term. Unfortunately, the records of the Baillie Court are not limitless. They provide only a narrow window onto the debt and credit system in Aberdeen and often leave out important details about the lives of the men and women involved. We can, however, use that information, in conjunction with other early modern records, to extrapolate further information about how people interacted with the system of credit. Though women's occupations were not typically listed in the Baillie Court records we can use additional sources as well as clues within the records themselves to understand the economic roles of the various women

appearing before the civil court. Again we can look at two specific cases as examples of how occupational information can be gleaned for these women. Finally, we can use the Baillie Court information to study broad trends of how women and men interacted and formed webs of credit that allowed the early modern economy to function. In their work on women's crime in early modern England Jenny Kermode and Garthine Walker argue that historians need to "stop holding up typicality as a yardstick of historical worth" because, according to them, even atypical human experiences are valid.¹ In the previous chapter we established that involvement in debt and credit was a typical experience for the women of seventeenth-century Aberdeen. In this chapter we will look at individual stories, regardless of their typicality, in order to understand how debt and credit influenced people and how their experiences shaped the system itself.

Among academics there has been considerable debate about the nature of lending and the economy in general in early modern Europe. Was it, as Adam Smith suggested, an economy based on the market, in which each individual acted in his or her own best interests in order to maximize profit?² Or was it closer to E. P. Thompson's model of the moral economy in which people acted to ensure fairness, a balance of resources, and survival for the entire community?³ With regards to debt and credit this debate focuses on whether lending was seen as a charitable transaction in which the lender attempted to help the borrower through his or her economic difficulties or whether it was seen as a business transaction in which the lender hoped to profit at the expense of the borrower.

¹ Jenny Kermode and Garthine Walker, ed. *Women, Crime and the Courts in Early Modern England* (London: UCL Press Limited, 1994), 5.

² Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, edited by Edwin Cannan, 2 vols. (London: Methuen & Co., 1904).

³ E.P. Thompson, "The Moral Economy of the English Crowd in the Eighteenth Century," *Past and Present* No. 50 (1971).

Classical economists, like Adam Smith, have long argued that people naturally act to improve their own situation. These economists see that debt relationships were based on individual interests and were contracted in order to benefit the lender without regard for the borrower. Joyce Appleby claims that because economic liberalism is the current dominant ideology, it therefore seems natural to us that this was how early modern people would have acted as well.⁴ Yet, there is considerable opposition to this idea among some segments of the academic community. One of these competing ideologies is the anthropological perspective in which people are most often seen as motivated by social and cultural values and traditions. Scholars like Marcel Mauss and Marshall Sahlins have focused on gift-giving and reciprocal obligations and they tend to see debt and credit as part of a give-and-take system in which people loan without the stipulations of repayment but with the idea that it will be reciprocated eventually.⁵ Another opposing viewpoint comes from some social historians who argue that human behaviour cannot be explained simply through economic reasoning. E. P. Thompson, in his pioneering essay “The Moral Economy of the English Crowd in the Eighteenth Century”, argues that we need to look beyond “crass economic reductionism”⁶ to see the multitude of motivations for human behaviour. Thompson’s research focuses on food riots and he argues that people rioted, not simply because they were hungry, but because they felt the moral economy was being violated. They were acting to protect what they felt was their right to an equitable distribution of food resources. This argument can be

⁴ Appleby, 7-8.

⁵ Marcel Mauss, *The Gift: Forms and Functions of Exchange in Archaic Societies*, translated by Ian Cunnison (Glencoe, Ill.: Free Press, 1954); Marshall Sahlins, *Stone Age Economics* (Chicago: Aldine-Atherton Inc., 1972).

⁶ Thompson, 78.

extended to the study of debt and credit by arguing that early modern people loaned money to their neighbours in order to secure their right to survival.

Yet, all of these ideas are often seen as belonging to a certain era or culture. The classical economist perspective is seen as indicative of the modern, industrial era where capitalism and personal profit were a dominant part of public discourse. The anthropological idea of reciprocal gift-giving is most often relegated to pre-industrial societies which tend to be described as primitive, less-evolved economic structures. The idea of a society centred on morals and community values is most often attributed to the medieval period. Many scholars argue that medieval Europeans were much more charitable than later periods because they viewed good works as a way into heaven. To these scholars, the Reformation meant a downplaying of these ideas and charity became a less important cultural value.⁷ As a result, the early modern era is seen as a period in flux. For many scholars it was a time in which people were shifting from a community-based ideal to a market-based mindset. Robert Tittler's study of a female moneylender in seventeenth-century England sees the subject as a transitional figure who was still community centred, but was beginning to see beyond that.⁸ Similarly, Michael Macdonald's analysis of Richard Napier, a seventeenth-century defender of usury, is that he was caught between the traditional moral economy and the "aggressive commercial milieu".⁹ If we accept the idea that people were moving from an economy based on

⁷ See, for example: Schen, 13, 18-20; Jordan, 58; Natalie Zemon Davis, *The Gift in Sixteenth-Century France* (Madison, Wisconsin: The University of Wisconsin Press, 2000). For a counterpoint to this argument, see Illana Krausman Ben-Amos, "Gifts and Favors: Informal Support in Early Modern England," *Journal of Modern History* 72, no. 2 (2000).

⁸ Tittler.

⁹ Michael Macdonald, "An Early Seventeenth Century Defence of Usury," *Historical Research* 60, no. 143 (1987), 355. On the early modern period as a time of change see also: Lynch, 90; Appleby; Alice Clark, *Working Life of Women in the Seventeenth Century*, 2nd ed. (London: Frank Cass and Company Ltd., 1968); Jan de Vries, "Between Purchasing Power and the World of Goods: Understanding the

community support and morality towards one based on individualism and personal gain, then where does early modern Europe fit? What stage in the process of transition do we find the people of Aberdeen in 1673/74 and 1687/88?

There is actually very little evidence within the Baillie Court records that people loaned as a form of charity. This does not mean that they did not, but rather that we cannot see that from the Baillie Court. Of course, one charitable action would be to avoid bringing a debtor to court at all. This might mean allowing the debtor a longer time to repay the loan or forgiving it entirely. It is also possible that some creditors loaned without expectation of repayment, not as a form of explicit charity, but with the knowledge and acceptance that the loan might not be repaid. These situations are, obviously, not discussed in the records of a small-claims court. We could interpret, however, the smaller number of widows and single women debtors as evidence of a greater leniency towards the less-advantaged members of society. Historians who study crime and criminal courts often face the same issues of uncertainty and speculation. For every case that appears in court an untold number of infractions never make it into the justice system and the extent of crime in a community can therefore never be known with any certainty.¹⁰ The same sort of principle applies to these debt cases, since we can never really know how many debts were forgiven or extended in order to help someone unable to repay. Other sources do provide some evidence that lending was viewed as charity in at least some instances. Scholars who study wills and probate

Household Economy in Early Modern Europe," in *Consumption and the World of Goods*, edited by John Brewer and Roy Porter (London: Routledge, 1993); Roberta Hamilton, *The Liberation of Women* (London: George Allen & Unwin, 1978); Julian Hoppit, "Attitudes to Credit in Britain, 1680-1790," *Historical Journal* 33, no. 2 (1990); Lemire, "Petty Pawns", 118; Wrightson, 301.

¹⁰ John Beattie, "Crime and Inequality in Eighteenth-Century London," in *Crime and Inequality*, John Hagan, and Ruth D. Peterson (Stanford: Stanford University Press, 1995), 118; Kermod and Walker, 4.

inventories often find examples of creditors forgiving their poorer debtors or writing off many debts as hopeless.¹¹ Other scholars, like Robert Tittler and Neal R. Shipley have looked at the records of individual money-lenders and have found examples of them forgiving loans to people unable to pay them back.¹² Yet, even with these examples it is unclear whether the creditor forgave the debt because they wanted to help their debtor or because they saw it as a lost cause which was not worth the effort to pursue.

We do have some evidence within the Baillie Court that people acted in uncharitable ways towards their debtors. One example is the case of a woman named Issobell Kellie, a married woman who was taken to court twice as a defender in 1673/74. The first instance was in November 1673 when James Taylour, a burgher, sued her for £16 for "the superplus [remainder of loan still owing] and the pryce of ane web of serge [measure of woollen fabric] bought and receavit by her from the persuer".¹³ This debt, which was the only one in our records brought to court by James Taylour, would have been about 1 or 2 months pay for Issobell's husband, who was a peddler.¹⁴ The second case was brought to court in January 1674 and involved a pursuer named James

¹¹ See, for example, Jennifer I. Kermode, "Money and Credit in the Fifteenth Century: Some Lessons from Yorkshire," *Business History Review* 65, no. 34 (1991): 482; Muldrew, *Economy of Obligation*, 175-76.

¹² Tittler, 261; At his death some of the loans extended by Thomas Sutton, the moneylender in Shipley's study, were twenty to forty years past due. Neal R. Shipley, "Thomas Sutton, Tudor-Stuart Moneylender," *Business History Review* 50, no. 4 (1976): 466.

¹³ ACA, BCR Vol. XII, November 25, 1673.

¹⁴ The Justice Court names Issobell's spouse as Alexander Gordon (the same man listed in the Baillie Court case brought by James Taylour), a "chapman," a sort of peddler. In the article "Wages and Comparative Development in Ireland and Scotland, 1565-1780" L. M. Cullen, T.C. Smout and A. Gibson established that the average wage of a day labourer in Aberdeen in our period was just over 6 pence Stirling per day, or 6 shillings Scots money. L.M. Cullen, T.C. Smout and A. Gibson, "Wages and Comparative Development in Ireland and Scotland, 1565-1780," in *Economy and Society in Scotland and Ireland 1500-1939*, edited by Rosalind Mitchison and Peter Roebuck (Edinburgh: John Donald Publishers Ltd, 1988). The monthly salary for this type of work, therefore, was approximately £9 Scots money. While Alexander Gordon was not a day labourer, we might accept this as a sort of standard low wage for unskilled men in Aberdeen. In the 1669 Stent tax there were only 9 chapmen who made it onto the tax list and all were in the lowest tax bracket of 0-£5. DesBrisay, "Authority and Discipline in Aberdeen 1650-1700." In any case, the work of a peddler was not lucrative.

Johnstoun, also a burgess, who sued Issobell Kellie along with six other people, four of whom were women. Issobell's debt to James Johnstoun was listed as £1.10s.0d. for apples and onions.¹⁵ The seemingly mundane case becomes more interesting when we look at some further evidence on Issobell. The town's poor relief records show that she was on pension for 1673/74 and it is here that we learn she had 4 young children.¹⁶ This case suggests that, in some instances at least, charity was not terribly important to the people of Aberdeen. After all, Issobell's creditors were willing to sue a poor woman with four children to support.

But, perhaps viewing debt relationships as either charitable or exploitative is not very useful. Early modern people may have had other criteria for deciding whether or not to pursue a debt in court. Issobell Kellie serves as an excellent example, as further evidence reveals that she may not have been the most well respected member of the community. She appeared again in February 1675, this time in the Aberdeen Justice of the Peace Court, a local secular court usually referred to as the Justice Court, that dealt with petty crimes and moral infractions.¹⁷ Since her last appearance before us, her husband died and she was charged with adultery with a married man named Patrick Bowman. She was fined 40 merks and sentenced to be "whypit by the hand of the

¹⁵ ACA, BCR Vol. XII, January 17, 1674.

¹⁶ National Archives of Scotland [NAS], Aberdeen St. Nicholas Kirk Session Minutes, CH2/448/13. Reference courtesy of Gordon DesBrisay.

¹⁷ For more on the Justice Court, Gordon DesBrisay, "Menacing Their Persons and Exacting on Their Purses' the Aberdeen Justice Court, 1657-1700," in *From Lairds to Louns: Country and Burgh Life in Aberdeen, 1600-1800*, edited by David Stevenson (Aberdeen: Aberdeen University Press, 1986).

hangman with fourtie strypes and to be removed and banished”,¹⁸ a sentence which was eventually commuted to 2 months in the women’s prison.¹⁹

It was not simply Issobell’s moral credit that was at stake here, but her economic credit. Reputation was incredibly important to early modern people. Craig Muldrew calls credit a “public means of social communication and circulating judgement about the value of other members of communities.”²⁰ By choosing not to loan to a particular person, one made a statement about the potential debtor’s character. By suing your debtor in the town’s court you were also making a statement about your belief in his or her ability to repay their loans. These decisions were not always based entirely on the debtor’s financial situation. Their perceived morality and honesty were also taken into account. Therefore, in the case of Issobell Kellie, being labelled an adulteress would have a serious impact on her credit in the community. Then again, it was not simply a one-way relationship. Financial difficulties can lead people to do immoral or dishonest things in order to pull themselves out of trouble. We do not know whether Issobell’s inability to pay the £16 debt started this whole chain of events that led to her loss of respectability and ultimate downfall, or whether she was considered of doubtful character long before we meet her in the Baillie Court. If that is the case, perhaps it explains why James Taylor made a special trip to court to sue Issobell alone – because he feared she was unreliable and would never repay her debts or because her conduct negated any charitable impulses he may have felt towards her. We need to view

¹⁸ Aberdeen City Archives, Justice Court Records, I; NAS, CH2/448/13. Reference Courtesy of Gordon DesBrisay. The interpretation of the case is my own.

¹⁹ The 40 merk fine was a reduction of 1/3 from the normal fine of £40 levied on adulterers in Aberdeen, an action which suggests at least some measure of charity or leniency for the poor. Of course, that leniency only went so far, as the town was willing to whip Issobell when she was unable to pay the reduced fine.

²⁰ Muldrew Economy of Obligation, 2.

reputation and financial situation as a complex relationship that informs each other and not simply a straightforward cause and effect correlation where action “A” leads to consequence “B”. A person’s good reputation, therefore, might lead people to be more charitable or understanding towards his or her financial difficulties or a reputation as a good business person might lead people to ignore some moral shortcomings that would be less forgivable in a poor person.

Unfortunately, the Baillie Court records do not make mention of the debtor’s reputation or perceived honesty. There is no dialogue between the persuer and the defender that explains exactly why the debtor is being sued or allows the defendant to give their side of the story. We must, therefore, piece together information from what we have to help us understand what motivated persuers in bringing someone before the court. One way that we can do this is to look at how many times a person was sued. There were roughly 150 different women who appear in the Baillie Court records as primary defenders. Of these women 23 appear twice, 7 three times and only 2 appear more than three times. The remaining 118 women, therefore, appeared once within the year of records. For these people there may have been a multitude of reasons why they were brought to court. The debt may have been long overdue and the lender sensed the debtor had no intention of repaying. This was likely the case for Elspet Smith, a widow who was sued in October 1673 for £3 she owed to Patrick Ferguson for a stone of wool she bought in 1670.²¹ Three years is a long time to allow a debt to remain unpaid and Patrick must have realized that there was very little chance for him to recover his money without taking the case before the court.

²¹ ACA, BCR Vol. XII, October 25, 1673.

Quite often, suing a debtor may have had more to do with the financial situation of the lender than anything else. A lender who was living on the edge of subsistence, or in financial trouble him or herself, could not afford to allow a debt to remain unpaid for long. Craig Muldrew notes that it was quite common for a lender to also owe money to someone else and that the lender would then be dependant on the repayment of the initial loan in order to settle his or her own accounts.²² One example of this is the case in which Walter Shirrone, a merchant, and his wife Margaret Webster sued William Howart of Denburne for £4, which Howart originally owed to Elspet Tellie, a servant of Walter and Margaret.²³ The case states that the debt was for “four pound restand be him[William Howart] to Elspet Tellie sometyme servant to the said Compleiner which she orderit him to pay to them and which he accordinglie promist to do”.²⁴ This case illustrates how complex the system of debt and credit was. Elspet Tellie was able to satisfy her creditors by passing this loan along to them to collect, but we can guess that many people were not able to do this and had, therefore, to collect their credits through the courts in order to pay off their debts.

There are also many reasons that we might never know about that might cause a lender to bring their debtor to court. The relationship between the two parties may have become strained because of an argument or some sort of conflict within the community over which the borrower and lender took different sides. One might imagine that political opinions or personal disagreements would have influenced one’s estimation of another’s credit and might have driven some people to pursue their cases in court. Unfortunately, this kind of information is not included in the records and we can only

²² Muldrew, *Economy of Obligation*, 174.

²³ ACA, BCR Vol. XII, October 18, 1673.

²⁴ ACA, BCR Vol. XII, October 18, 1673.

guess at the circumstances that would bring two people who originally trusted each other to court.

There were several situations, like that of Issobell Kellie, in which a person appeared two or three times and in very rare circumstances a single debtor was sued many times within the same year. For these people we might be able to deduce the reason why they were brought to court. One example is the case of Issobell Gordon, a widow whose Baillie Court appearances are listed in the table below.

TABLE FOUR

ISSOBELL GORDON'S BAILLIE COURT APPEARANCES

Date	Persuer	Debt	Cause of Debt
January 21, 1688	Margaret Melville, spouse to William Ferrier, skipper.	£6.12s	
February 4, 1688	James Dempster, flesher	£10.13s.4d	House rent for one year
February 14, 1688	John Hardie, merchant	£5	
March 6, 1688	Andrew Leith, merchant	£2.3s.0d.	
August 14, 1688	Margaret Home, spouse to James Adam, weaver burgess	£0.13s.6d.	wine, ale, barley and borrowed money

TOTAL DEBTS = £25.1s.10d.

We can note, here, that Issobell Gordon was called to court five times in eight months and the first four times were within a span of six weeks. This kind of activity was certainly atypical and suggests that Issobell was in serious trouble through the early months of that year. Though there is no mention in any of these cases why Issobell was being sued so often, we might guess that her credit was in question. Marjorie McIntosh

chronicles a similar case in her study of Havering in which one man was called to court as a defendant eight times within a year because all his neighbours had decided he was no longer creditworthy.²⁵ There were most likely similar situations in Aberdeen. Issobell Gordon certainly seems to have been targeted as a high-risk debtor within her community, though at one time she was presumably seen as credit-worthy. The second debt, which she owed to James Dempster, was actually called in before it was technically due. Issobell owed 16 merks (£10.13s.4d.) for house maill and she appeared in court and “confest the claime payable at fasterns even [ie. Shrove Tuesday] nixt”. The fact that James Dempster felt the need to bring her to court so early suggests that he had real concerns about her ability to pay on time. James was Issobell’s landlord and would have presumably known about her financial situation and her position in the community. The fact that he felt the need to demand early payment of her rent suggests that Issobell’s hardships were well known.

Even more interesting than all of Issobell’s debts is her ability to rebound from such troubles. Even though she seemed to be going through a difficult time in 1688, she appeared in the Poll Tax of 1696, still a widow and obviously still solvent and able to pay her taxes.²⁶ Her case illustrates how volatile the debt and credit system was in early modern towns. A person could be completely overwhelmed by debt at one point and yet still be able to make ends meet later. This suggests that there were safeguards and community measures in place to allow people to repair the damage done to their reputation and financial position. Even though the popular conception of the credit

²⁵ Marjorie K. McIntosh, *Autonomy and Community: The Royal Manor of Havering, 1200-1500* (Cambridge: Cambridge University Press, 1986), 561-62.

²⁶ Stuart, ed., *List of Pollable Persons*, 612. “Issobell Garden, relict of William Law, whose stock, if in lyfe, wes under 5000 merks, no child or servant...£1.4s.8d.”

system imagines debtor's prisons where those who were unable to pay their creditors would wallow for years without hope of ever regaining their position, it was obviously possible to recover from debt. We might argue that this was only possible if the person was only plagued with financial problems and not moral ones. Possibly, then, Issobell Gordon was having trouble repaying her debts but was not seen as a dishonest or immoral person and so was able to regain what she had lost.

Another interesting element to Issobell Gordon's case is the fact that she actually physically appeared in court. Four out of the five times Issobell was sued the case either states that no one compeired or no information is given. In her case with James Dempster the record states, "[a]nd they [the defenders] being personallie summondit to depone did not compeir except the said Issobell Gordon who compeired and confest the claime payable at fasterns even nixt".²⁷ The other three defenders, who all happened to be male, did not appear in court but the lone female in this case did. As was noted in chapter 2, there were very few instances where defenders actually appeared in the Baillie Court. Issobell Gordon is one of only three women defenders whom we know actually appeared before the baillie at the town's tolbooth and stated her case. She is also the only unmarried woman to do so. The other two cases involved married women whose husbands were listed alongside them. It is interesting that it was even possible for a person like Issobell Gordon, the widow of a stabler and in serious financial difficulties, to appear before one of the town's top officials and plead her case. Actions such as this may have contribute to a positive reputation for Issobell as an honest and upstanding citizen simply in financial trouble and morally troubled as well. This may explain how Issobell could recover from her debts and loss of credit.

²⁷ ACA, BCR Vol. XIV, February 4, 1688.

Lest we begin to see Aberdeen as a feminist utopia, it is important to recognize the limitations placed on women in this period as well as on historians attempting to study them. Christopher Friedrichs has argued that in early modern towns “rank is normally determined by masculine activity or prestige – for women and children are assumed to share the social status of the adult male head of their family.”²⁸ For the records of the Aberdeen Baillie court, this means that women were generally identified by their marital status while men were identified only by their occupations. Thus, an entry such as “Margaret Hervie spous to Walter Melvill goldsmith burges of the said burgh and him for his entres”²⁹ or “Margaret Gordon relict of the deceast George Cumeing merchant there”³⁰ were quite common. There are ways, however, that we can learn more about women’s occupations through the Baillie Court.

There are some identifiers that seem to be acceptable for women in the court. First, servant was a fairly commonly listed as an occupation for women. There were eleven instances of this in the Baillie Court and, though this number accounts for only 2% of all cases, it is still the second most common occupation listed for women. This small number is in spite of the fact that female servants made up a huge proportion of Aberdeen’s population in the seventeenth century. In the 1696 poll tax, female servants account for 23% of the pollable population of Aberdeen.³¹ The general entry for a female servant appearing in the Baillie Court records was similar to this one from March 1688: “Jealls Scott servant to John Allardes elder merchant there”.³² Notice that the

²⁸ Christopher R. Friedrichs, *The Early Modern City, 1450-1750* (London: Longman Group Ltd., 1995), 140.

²⁹ ACA, BCR Vol. XIV, December 13, 1687.

³⁰ ACA, BCR Vol. XIV, November 22, 1687.

³¹ Whyte and Whyte, “The Geographical Mobility of Women”, 97.

³² ACA, BCR Vol. XIV, March 3, 1688.

husband has been replaced in this instance with the employer. It was usually less important for early modern people to know what a woman did for a living than to know how she fit into a household within the town.

The one instance where women do not seem to be associated with a male household head is when they are given the title of indweller. This was the most common designation given to women that was not related to their marital status. There were sixteen cases in which a woman was named as an indweller over the two years of records. An indweller is defined as an inhabitant, but it was really a more negative term which meant that someone lived *in* the town but was not *of* the town. They did not have ties with any of the more important town organizations like the guild or craft associations. Gordon DesBrisay has suggested that “[o]nly unemployed immigrant women of low status and unknown origins were normally referred to in the civic records solely by their own names.”³³ Marital status was never mentioned for these women and, while the title indweller refers only to a person’s civil status, for the purposes of counting, these women were assumed to be single. There was, however, at least one case in which a widow was listed as an indweller. Issobell Massie was sued by a merchant named William Meldrum in November of 1673. One of her debts to him was for £3.1s.4d., which he loaned her to pay for her husband’s burial.³⁴ We therefore know that Massie was once married, but she was listed simply as an indweller and the name of her deceased husband was never mentioned.

Perhaps the reason for this and the other women listed as indwellers is because they were themselves heads of households. A woman living without men was an

³³ DesBrisay, “Authority and Discipline in Aberdeen 1650-1700,” 95.

³⁴ ACA, BCR Vol. XII, November 8, 1673.

anomalous situation in early modern Europe, and one which was discouraged by the authorities. As Natalie Zemon Davis explains, the relationship of a woman to her husband was used to symbolize the relationship of all subordinates to their superiors and that of the subjects to the King.³⁵ Merry Weisner-Hanks argues that this thinking led to a general suspicion of all “masterless persons” and especially of unmarried women living alone, who were seen as subverting the natural order of society.³⁶ The research of Ian and Kathleen Whyte confirms that young women in early modern Scotland were usually not able to set up house on their own both because of the concern of authorities over disorderly women and because their wages were generally too low to support them alone.³⁷ Yet, all this concern meant that there were, in fact, some women who did live on their own or with other women. Margaret Sandersen found many of them in sixteenth-century Scotland³⁸ and in Aberdeen there were many women listed in the poll tax of 1696 as heads of their households and responsible for the tax. For the most part, women who headed households were either older or at least widowed women who were not seen as a threat to the patriarchal order. The fact that some women were named as indwellers without marital information may have been up to the discretion of the clerk at the time. One case lists three of William Alexander and Jannet Simpson’s seven debtors as indwellers.³⁹ While it is quite possible that William and Jannet simply lent to many women living on their own and without any discernable occupation,⁴⁰ we cannot

³⁵ Natalie Zemon Davis, *Society and Culture in Early Modern France: Eight Essays* (Stanford: Stanford University Press, 1975), 127.

³⁶ Merry Wiesner-Hanks, *Women and Gender in Early Modern Europe* (Cambridge: Cambridge University Press, 1993), 99.

³⁷ Whyte and Whyte, “The Geographical Mobility of Women,” 94.

³⁸ M. Sandersen, 133.

³⁹ ACA, BCR Vol. XIV, May 22, 1688.

⁴⁰ This is plausible since all three women owed money for house mail and William and Jannet may have owned a tenement that housed women likely to be indwellers.

discount the possibility these women could have been listed as indwellers because the clerk lacked either the information or the inclination to identify them otherwise. The designation of indweller is an especially problematic one since it did not actually signify a specific economic activity so it likely would have been up to either the self-identification of the litigants or the judgement of the court officials.

Similarly, identifying a woman with any other occupation likely would have been up to the discretion of the clerk or the litigants themselves. We know from recent research that most women were actively involved in the economy and many had occupations outside their home. Yet, this work would likely have been ignored in favour of identifying the woman by her marital status. Ian Whyte complains that one issue with studying occupational structures in early modern towns is that people very often had several occupations, but they were only identified with one.⁴¹ Thus, someone who was a weaver might also be involved in making candles on the side, but they were only listed as a weaver. The same is true, then, for women. A married woman may have worked in her husband's shop or a widow may have sold ale, but the most important element to identify them, in the eyes of the authorities, was their marital status. Thus, it is not surprising that we do not find any women named as brewers or merchants in the Baillie Court, but it does not mean that they did not exist.

Brewing is one very interesting example when looking at women. Most scholars recognize the importance of brewing in the town, and especially as an occupation for women. Ian Whyte argues that in Scotland ale-selling is often under-represented in the records because it was a part-time occupation for many people, and especially for

⁴¹ I. D. Whyte, "The Occupational Structure of Scottish Burghs in the Late Seventeenth Century," in *The Early Modern Town in Scotland* (London: Croom Helm, 1987), 221.

women.⁴² Elizabeth Ewan notes that late medieval Scottish women were involved in all aspects of the trade, from consumption to production to retailing.⁴³ Though women were not listed as brewers, there is evidence within the Baillie Court records that there were female ale-sellers or brewers operating within the town and that they were involved in the debt and credit system. For example we can look at the case of “Robertson contra Debtors” brought to court the 13th of December 1687. The plaintiff was Christian Robertstone, a widow suing three defenders. The first debt listed was that of James Skein, burgess, and Jean Hay, his spouse, who owed £23.10s.0d. for malt. The second belonged to Jean Duff, another widow who owed Robertstone £8.16s.0d. “for meall and malt”. The third debtor was a glasier named Robert Burnet who owed £12 for house maill.⁴⁴ The fact that two-thirds of her debtors owed her for malt suggests that Robertstone was likely some sort of brewster or perhaps that Jean Hay and her husband or Jean Duff were involved in brewing. None of these women are identified as brewers but it is evident that they were involved in some sort of trade. Outside sources can also help illuminate the situation. A list of Aberdeen brewers from 1693 shows 113 men and 29 women involved in the trade (in a town of roughly 7,500!).⁴⁵ In this list we can identify several female names also seen in the Baillie Court. One such woman was Anna Fraser, the widow of a wright named James King. Anna was sued in February 1688 for “timber bought and received be her from the persuer since her husbands

⁴² Whyte, “Occupational Structure”, 232.

⁴³ Ewan, “For Whatever Ales Ye”, 125. On women and brewing see also: Nicholas Mayhew, “The Status of Women and the Brewing of Ale in Medieval Aberdeen” *Review of Scottish Culture* 10 (1996/97): 16-21; Judith Bennett, *Ale, Beer and Brewsters*.

⁴⁴ ACA, BCR Vol. XIV, December 13, 1687.

⁴⁵ Brewing was often done within the home on a small scale with women making large batches and selling the excess and then buying from other brewsters in between brewings. Ewan, “For Whatever Ales Ye,” 126. “Ane list of the brewers that gave over brewing in June 1693...” National Archives of Scotland, CS96/1/113.

deceas”.⁴⁶ While Anna’s debt tells us nothing about her occupation, it does inform us about other areas of her life. By putting together the information from the Baillie Court with the brewer’s list, we begin to see a picture emerging of the economic activities of a brewster in an early modern town.

We find a similar situation when we look at women and wool. Much historical research tells us that spinning was an important occupation for women in the early modern economy. R. A. Houston even estimates that by the middle of the eighteenth century roughly 80% of adult women in Scotland worked at spinning.⁴⁷ This work was especially important in Aberdeen, where plaiding was a vital part of the economy throughout the seventeenth century, and women and children did most of the spinning and carding necessary to keep the industry going.⁴⁸ Yet, we see no women in this sample of the Baillie Court records with an occupation listed in the spinning and weaving trade. We cannot assume, however, that this means that spinsters were not involved in debt and credit. Many women were sued for wool, which suggests they were spinning the wool to be sold back to a weaver or merchant. Let us take, for example, the case of John Innes, a merchant in Aberdeen, who brought 11 cases to court on January 24, 1688, nine of which involved women. At the end of the case it is stated that the debts are “[a]ll restand by the foirnamed persons for wooll bought and received be them from the said persuer”.⁴⁹ It seems clear that these women received the wool from Innes with the expectation that they would spin it and sell it back to him and he would sell it at market. Conflicts over this type of situation were probably fairly

⁴⁶ ACA, BCR Vol. XIV, February 28, 1688.

⁴⁷ Houston, 124.

⁴⁸ See Blanchard, 157-58.

⁴⁹ ACA, BCR Vol. XIV, January 24, 1688.

common since many women were working within their homes as part of the putting-out system. This system left many opportunities for misunderstandings and broken contracts and this is probably why we see so much about it in the Baillie Court. Like brewing, spinning was often a part-time occupation, so it does not appear in many records. Yet, these debt cases show many women both buying and selling wool and participating in the debt and credit system in the process.

In addition to looking at the most common types of debts in order to understand women's occupations, we can also look at specific cases to try to deduce how women were involved in the economy. The case of Elspet Lang is a good example of what can be gleaned from these records. Elspet was a widow who, in December 1673, sued five of her debtors in the Baillie Court. Four of these debts were listed as being for house maill, so we might assume that Elspet owned some sort of property which she rented to various tenants. The fifth debtor was a man named William Smart who owed her £1.10s. for a coat.⁵⁰ Elspet Lang may have been a merchant who sold William Smart a coat from her shop on credit. Since £1.10s. was very inexpensive for a coat, it is possible that this amount was actually for the remainder of the coat for which he had already paid a portion. More likely, she may have been part of the very common early modern trade in used clothing. Perhaps she was pawning an old coat of her own to help her pay her bills, which seems unlikely since she sold it on credit, or she may have been selling some of her deceased husband's clothing to make some extra money. This may have been a casual one-time transaction, or Elspet may have been a regular peddler of clothing. In either case, her appearance in the Baillie Court shows that she took an active role in the debt and credit system of Aberdeen.

⁵⁰ ACA, BCR Vol. XII, December 2, 1673.

Another very interesting case involves a woman named Margaret Home.

Margaret appears before us only once, but the impression she leaves is significant. We learn from her entry that she was married to a man named James Adam, a weaver burgess of Aberdeen. We also learn that Margaret was a serious actor in the debt and credit network since on one August day in 1688 she sued 16 debtors at once, a list of whom is given below. It was not uncommon for a persuer to bring several debtors to court at a time, but 16 was well above average, especially for a woman.

TABLE FIVE

MARGARET HOME'S DEBTORS

DEBTOR'S	DEBT
Patrick Gordon, cordoner (shoemaker)	£2.9s.0d.
William Collie, cordoner	£3.6s.2d
Issobell Scot, spouse to William Bartlet, waiter (custom's official at the shore)	£0.22s.0d.
John Archibald, messenger	£4.15s.0d.
James Robertstone, wright	£1.17s.0d.
Adam Mark, wright	£0.27s.0d.
Robert Burnet, glasser	£0.16s.0d.
Jeane Cashell, spouse to George Farquhat, cordoner	£0.12s.6d.
Issobell Gordon, relict of William Law, stabler	£0.13s.6d.
George Robertstone, burgess	£0.29s.0d.
Alexander Donaldsone, mettster (official measurer of goods or land for sale)	£0.36s.6d.
William Lorans, hat maker	£0.23s.0d.
William Donald, baxter (one who makes bread, cakes, or pastries)	£0.6s.0d.
Jannet Thomstone, spouse to William Watstone, cooper	£0.14s.0d
John Ritchie, town serjand	£0.19s.0d.
William Archie, taylor	£5

TOTAL CREDITS = £28.5s.8d.

The defenders listed in the suit came from a variety of backgrounds from cordoners to the widow of a stabler. At the end of the case it is stated that all the debts

were “resting be them for wyne aile bear and borrowed money.”⁵¹ This likely does not mean that each debtor owed her for each of these items, but rather that these items encompassed all the debts for which she was suing. The reasons for these debts also suggest that Margaret Home may have been an innkeeper, individuals whom historians single out as common moneylenders.⁵² There is no mention of Margaret’s occupation in the records and I have found no other documents that list her as an innkeeper. Yet, it seems quite possible that a woman who had 16 debtors owing her for wine, ale, barley and borrowed money would be someone involved in the victualling trade. It is not likely that she worked alongside her husband, since a weaver does not generally have reason to sell these types of items. We might conclude, then, that Margaret Home was like many other women for whom the official record obscures the most basic details of their lives. We cannot assume that women for whom no occupational information is given were simply not active in the economy. Margaret Home shows that many women had work and economic transactions beyond the scope of the home and their husband’s trade.

Another activity that was likely quite common but never explicitly discussed in the sources is moneylending. We know that there must have been many people, including women, who made a living, or part of a living, from loaning money at interest. B. A. Holderness claims that there were always willing and capable lenders in any community.⁵³ Considering the case of Joyce Jeffries, a gentlewoman living in seventeenth-century England, who loaned money to her friends and business associates, Tittler claims that widows and spinsters were often involved in moneylending because

⁵¹ ACA, BCR Vol. XIV, August 14, 1688.

⁵² Jordan claims that it was common for alewives, innkeepers and widows to lend money because they often had cash. Jordan, 20.

⁵³ Holderness, “Credit in English Rural Society”, 105. See also: Shipley; Marjorie K. McIntosh, “Money Lending on the Periphery of London,” *Albion* 20, no. 4 (1988).

of their economic freedom and lack of alternatives for income.⁵⁴ Throughout the seventeenth century there were reformations to the usury laws which made it more acceptable,⁵⁵ yet, the social stigma attached to usury remained. Joyce Appleby argues that people were opposed to the idea of usury because it suggested the lender was not being charitable towards the poor. Thomas Wilson saw it as a moral, as well as economic issue and was opposed to the idea of one person profiting from another person's misfortunes.⁵⁶ Yet, there were many cases from the Aberdeen courts that suggest people were involved with this type of activity. We might turn again to Margaret Hoame as an example of a possible moneylender.

A pint⁵⁷ of ale in Aberdeen in the late seventeenth century would probably have cost 2 shillings.⁵⁸ Thus, someone like William Archie would have owed Margaret Home for fifty pints of ale. Wine was a luxury item which would have cost more than ale, but £5 is still a significant amount to owe for something of that nature. It is unlikely that someone like a tailor or a cordoner would be able to spend that amount on a luxury like wine. It therefore seems doubtful that these more significant debts could be accumulated in a short period of time. Yet, it also seems doubtful that Margaret could loan money out for any extended period. Margaret's husband was a weaver and the Aberdeen Stent tax of 1669 shows 89% of all weavers in the lowest tax bracket.⁵⁹ Indeed, James Adam appears in the 1696 Aberdeen poll tax in the lowest category of

⁵⁴ Tittler, 254.

⁵⁵ Appleby, 65.

⁵⁶ Wilson.

⁵⁷ A Scots pint was roughly equal to 2 and $\frac{3}{4}$ Imperial pints (about 1.7 Litres). Scotland On Line Ltd., "Scotlands People," n.d., <http://www.scotlandspeople.gov.uk/content/help/index.aspx?r=551&425> (19 February, 2006).

⁵⁸ DesBrisay, "Authority and Discipline in Aberdeen 1650-1700," 218.

⁵⁹ DesBrisay, "Authority and Discipline in Aberdeen 1650-1700," 224.

persons pollable at 6 shillings Scots money.⁶⁰ This information leads one to believe that James and Margaret probably did not have a great deal of capital to loan out for long periods of time, especially since Margaret loaned to so many people. We might conclude, therefore, that these debts, especially those that are larger, were more likely to include at least some amount of borrowed money. Given the early modern attitude towards moneylending and usury it would not be surprising if Margaret and her husband chose to emphasize the wine, ale and beer element of the debts over that of borrowed money, even if the money was more prominent. For Margaret Home and many other early modern people moneylending was an important part of their livelihood. Though the official records do not acknowledge it, there are hints throughout the Baillie Court records that reveal the otherwise hidden activities of the litigants.

In The Economy of Obligation Craig Muldrew has shown the intricacies of the debt and credit system in early modern England and how the many debt relationships created webs of credit which bound people together and made them dependent on one another.⁶¹ These webs are certainly evident in the records of the Baillie Court of Aberdeen. Take, for example, a case brought to the Baillie Court on October 17, 1673. The main litigants in the case are James Dunlop, a minister, and Jeane Forbes, a married woman. It is interesting to note that the case specifically states that Jeane came to court “outwith the presons of hir said husband and willinglie of hir owne frie motive will and deliberat mynd”.⁶² This is not a typical case in which a persuer is suing a defender. Rather, Jeane Forbes is handing over her rights to some tenements to James Dunlop to satisfy a debt incurred by her husband. The debt appears to have been between Jeane's

⁶⁰ Stuart, ed., 609.

⁶¹ Muldrew, Economy of Obligation.

⁶² ACA, BCR Vol. XII, October 17, 1673.

husband, John Seatoun (with the now deceased William Douglas as cautioner) and Henrie Pantoun and was contracted on July 10, 1665. Since Pantoun died the debt passed to James Dunlop as his heir and he appears to have pursued it. This is interesting in that neither James Dunlop nor Jeane Forbes appear to have been involved in the original debt contract, yet they are the ones who end up in court.

While these webs of credit existed in Aberdeen, they were certainly not made up of only one gender. William Chester Jordan argues that in the Middle Ages there was a great deal of “woman-to-woman” exchange in early modern European towns.⁶³ Certainly, there are examples in the Aberdeen records of this situation. Elspet Cleirihew, an indweller from Old Aberdeen, sued Issobell Melles and her husband for 145 merks of borrowed money and one year’s annualrent (a year’s rent on a home).⁶⁴ This was obviously a contract between two women, but these sorts of cases were certainly in the minority. For the most part, women do not appear to loan more often to other women than to men. There are 62 cases in which a woman was involved as both a persuer and a defender. Therefore, only 20% of all cases involving women had women on both sides of the court. More often than not, women were either suing or being sued by men. To further illustrate this point, there were only 33 cases, 11% of the total, in which women were listed as both the main persuer and the main defender. This means that women were suing other women in only 15% of the cases where women were the main litigants. A more common case, then, is that of Issobell Adam. Issobell was married to a mariner named Robert Forbes and she brought four debtors to court in

⁶³ Jordan, 25.

⁶⁴ ACA, BCR Vol. XII, October 29, 1687.

February of 1688: three men and a female servant named Jean Davidson.⁶⁵ Women certainly loaned to one another, but these records give no evidence that women preferred to borrow from other women or that women were the only source of credit that other women could find.

Though there is no evidence of all-female lending networks, it was relatively common for a male plaintiff to sue mostly women. This seems to be especially true when the debt is for something like wool or malt. Take, for example, the case of William Lumsden, for whom all seven of his debtors were women, evidently brewers, who owed him for “malt, excyse and borrowit money”.⁶⁶ Or, William Meldrum, a merchant who came to court in November 1673 to pursue seven cases, five of which involved women and four of the five were at least partly for wool.⁶⁷ We might imagine that quite a few of the credit relationships in Aberdeen originated as part of the putting-out system, with the raw material only becoming a debt when it was not made into the product the merchant expected. William Chester Jordan has suggested that medieval women may have preferred to go to women pawnbrokers, in part because they specialized in women’s goods such as aprons.⁶⁸ The same might have been true for merchants in Aberdeen who may have specialized in goods women wanted or needed to carry on their business. These merchants would have been more likely to loan to women because it was women they dealt with on a regular basis. Conversely, in the case of Margaret Home there were four female debtors and twelve male debtors. This situation can probably be explained less by gendered preferences for borrowing and more by the

⁶⁵ ACA, BCR Vol. XII, February 11, 1688.

⁶⁶ ACA, BCR Vol. XIV, February 7, 1688.

⁶⁷ ACA, BCR Vol. XII, November 8, 1673.

⁶⁸ Jordan, 33.

fact that Margaret, as an innkeeper, likely had more male customers than female and was more likely to enter into a debt relationship with them. Interestingly, the last of William Meldrum's debtors was a widow named Issobell Massie, who owed her creditor for wool, onions, and a loan to pay for her husband's funeral.⁶⁹ One might imagine that Massie's business dealings with Meldrum gave her the opportunity to borrow money from him at the time of her husband's death. People like Margaret Home and William Meldrum had a certain type of client and gender probably played a big part in who they came into contact with and therefore who might ask them for a loan. Thus, though moneylending was probably not determined entirely by gender and there was no established network of female lenders and borrowers, many financial transactions were determined by the places and activities that were considered appropriate for men and women in an early modern town.

It is possible that these records are not telling the whole story, however. Beverly Lemire found in her study of a south London pawnbroker in the seventeenth century that men were forming partnerships with both men and women, but that women were mostly partnering with other women.⁷⁰ Because Lemire's records view the credit system from a different angle, she sees at least some cases that would not appear in the Baillie Court. It is possible that Aberdonian women followed the same pattern as the women of Lemire's study in terms of borrowing and lending, but that a transaction between two women was simply less likely to make it to court. This could be attributed to women being less likely to possess the knowledge and resources to take a case to court or to women having a greater ability to resolve disputes outside court. William Chester Jordan also suggests

⁶⁹ ACA, BCR Vol. XII, November 8, 1673.

⁷⁰ Lemire, "Petty Pawns", 121-22.

that women had a “distinct outlook”⁷¹ towards economic problems, which might have meant that women were more likely to approach a debt conflict so as to avoid the male-dominated structures of the court. At the same time, it seems highly unlikely women would have been able to form credit networks that excluded men, even if they wanted to. Just as Muldrew noted that the intricacies of early modern debt relationships meant that people of different stations and confessions might be drawn together⁷², the credit system was too far-reaching and complex to be made up of only one group (or gender) of people. Women may have been more comfortable dealing with one another, especially with regards to casual lending, but they were involved with men as well. The Baillie Court records make it clear that women and men both took an active role in borrowing and lending in the town and that, while gender was always an important division in early modern life, it did not immediately exclude women from joining in the system and shaping it to their own needs and wants.

Each case we read in the Baillie Court represents one individual’s encounter with the debt and credit system. While each entry is quite short, and even formulaic, there is a great deal behind those few short words. We might imagine that both suing and being sued would be very trying for an early modern person struggling to maintain his or her credit within the community. If we look beyond the bare facts written on the page we begin to see stories emerging of how people dealt with this challenge and what people thought about the debt and credit system. We find that charity and business were not mutually exclusive and that early modern people had unique ways of viewing a loan. A person’s reputation and financial situation were intricately entwined and townspeople

⁷¹ Jordan, 30.

⁷² Muldrew, *Economy of Obligation*, 251. Here he notes that poor people sued less often and for smaller amounts than rich people, but they sued both rich and poor people.

must have taken a myriad of facts into consideration before either extending credit to someone or deciding to take a debtor to court. We also find that credit was always changing and it was possible for at least some people to rebound from credit difficulties and regain their standing in the community. Though contemporaries viewed the most important element of a woman's identity as her marital status, it is clear from the clues in the Baillie Court that women were involved in the economic life of the town beyond their roles as wives, widows and single women. We can find women working as servants, brewsters, knitters, petty merchants, innkeepers and moneylenders as well as women heading their own households and engaging in the economy in spite of the restrictions of both gender and citizenship. Finally, we find that women were not limited to borrowing and lending from other women. Debt and credit was such an important part of economic life that credit relationships were formed across the very strict and divisive gender lines of early modern society. The stories of the men and women in the Baillie Court of Aberdeen help us begin to understand how people, and especially women, interacted with the debt and credit system and dealt with the challenges and rewards the system had to offer.

CONCLUSION

All the rules of early modern society dictate that the women we see in the records of Aberdeen's Baillie Court should not be contracting debts for themselves, they should not be heading households, they should not be moneylenders, merchants, innkeepers, brewsters, or adultresses, and they certainly should not be appearing in court to defend themselves or pursue their own debts. Yet, they are and they do. The evidence from these records points to Aberdonian women's significant role in the debt and credit system and their obvious participation in the court structure despite legal and social strictures preventing them from doing so. In fact, the records of the Baillie Court challenge much of the conventional wisdom on the early modern period. The image of a restrictive, patriarchal society centred on capitalistic profit (or a moralistic, cooperative economy) in which women were not welcomed in either the market or the local courts is thrown into question by these records. This is not to say that there were not elements, or in fact large segments, of early modern society that were restrictive and patriarchal, but that there were exceptions. Women and men found ways to circumvent the system and in so doing created a world better suited to their needs than the one implied by stated societal norms. As a result, these unique records can provide valuable insight into old debates about economic history and the role of women in early modern society.

These records offer interesting evidence for the study of patriarchy in the early modern period. While the principle of coverture, stating that a woman's legal identity was subsumed by her husband upon marriage, seems to be the quintessential example of

patriarchy at work, these court records show that it was not an impenetrable system. The law allowing married women to contract debts in the course of providing for their household seems to be a loophole that women were able to exploit and expand until women were suing for debts in the Baillie Court beyond their domestic role and related to their activities as moneylenders,¹ landlords,² and victuallers.³

While popular opinion may see early modern women as uninvolved in the workforce, academics have long realized their important role and have instead debated their status within the economic system. The main positions of this debate were established in the early part of the twentieth century as Alice Clark argued in her 1919 study that the rise of capitalism damaged social relationships by removing husbands from the home and “sinking [wives] to the position of [their husbands’] unpaid domestic servant.”⁴ Clark paints an idyllic portrait of life before capitalist encroachment and claims that “husband and wife were mutually dependent and together supported their children.”⁵ Ivy Pinchbeck in her 1930 work *Women Workers and the Industrial Revolution 1750-1850* provided the counterpoint to this argument by claiming that:

in spite of much distress which accompanied the transition...the Industrial Revolution has on the whole proved beneficial to women. It has resulted in greater leisure for women in the home and has relieved them from the drudgery and monotony that characterized much of the hand labour previously performed in connection with industrial work under the domestic system.⁶

¹ See the case of Bessie Lawson who appeared with her husband to sue two other women for the return of borrowed money in August 1688. ACA, BCR Vol. XIV, August 21, 1688.

² See the case of Margaret Hervie, a woman who, along with her husband, sued seven people for payment of rents due to her. ACA, BCR Vol. XIV, August 14, 1688.

³ See the case of Margaret Home. ACA, BCR Vol. XIV, August 14, 1688.

⁴ A. Clark, 10.

⁵ A. Clark, 12.

⁶ Ivy Pinchbeck, *Women Workers and the Industrial Revolution 1750-1850*, 1981 ed. (London: Virago Press, 1930), 4.

This debate has taken on various incarnations over the years, but scholars continue to ponder the status of early modern women and work. Unfortunately the women appearing before the Baillie Court did not explain whether or not they felt that their lives were full of “drudgery and monotony”, but there are some clues as to how women experienced the seventeenth-century economic system. It could be argued that women such as Agnes Couch, who appeared before the court as a co-plaintiff with her husband, a merchant named William Wright, to sue three people for debts owing to both of them for borrowed money, ale and house mail⁷ would see themselves as “mutually dependent” with their husbands. The same might be said of Jeane Forbes, who appeared in the Baillie Court records handing over the liferent of some tenements she owned in order to settle a debt incurred by her husband.⁸ Others, such as Issobell Melles, who was called before the court three times between October and December of 1687 for various debts totalling £373.16s.8d plus one year’s rent, may in fact have found her life to be one of drudgery (though hardly monotonous) as she struggled to deal with the family debts in the absence of her husband.⁹

Both Clark and Pinchbeck claim that early modern women’s work was centred on the home and domestic pursuits¹⁰ and the evidence in the Baillie Court supports this claim. Women in Aberdeen were evidently involved in domestic work since the majority of their debts involved things such as food and provisions for the home as well as supplies for home-based occupations such as brewing, knitting and spinning wool. At

⁷ ACA, BCR Vol. XIV, February 28, 1688.

⁸ ACA, BCR Vol. XII, October 17, 1673.

⁹ ACA, BCR Vol. XIV, October 29, 1687.

ACA, BCR Vol. XIV, November 12, 1687.

ACA, BCR Vol. XIV, December 17, 1687.

¹⁰ A. Clark, 4-5; Pinchbeck, 1.

the same time it is important to recognize that the line between the domestic world and the market was rather fluid. A great deal of male work was being carried on the home at this time and women were a part of that. But it was also their traditionally feminine role of providing for the family that allowed the women we see in the Baillie Court to become involved in the market and the economy at large. And while Ivy Pinchbeck may have been right when she stated that, “[f]or centuries, under the handicraft and domestic systems, the greater part of [women’s] work was carried on in the home and there taken for granted”¹¹ it is important that we recognize that, though their work may not have been acknowledged as important, it was an integral part of the economic system and it helped to shape the way that the economy functioned.

Beyond illuminating women’s role in the economy, these records also draw attention to the role of women in the family. While a study of the law leads us to believe that married women were in charge of provisioning the household, it is possible that this did not reflect the whole of early modern experience. To what degree did married women share this responsibility with their husbands, older children, extended family members or even neighbours? While there certainly were not many men being sued for debts related to milk¹² or “aples and onyons”¹³ as women often were, experience with women’s history has taught us that the absence of a written record does not mean men were not involved in these sorts of purchases. If women did shoulder this responsibility alone, as undoubtedly some women did, to what degree did they gain status or power from their roles as household managers and procurers of the necessities of family life?

¹¹ Pinchbeck, 1.

¹² See the case of Janet Steill. ACA, BCR Vol. XIV, November 12, 1687.

¹³ John Johnstoun sued five women for payment related to these items in January 1674. ACA, BCR Vol. XII, January 17, 1674.

Many scholars have argued that maintaining a household's credit was the responsibility of the entire family¹⁴ and we can see that women would have been important both in projecting a moral image of the family and in ensuring a positive relationship with creditors. To what extent were skills related to bargaining or securing an extension of credit, which would have been so necessary to a family's survival, respected and valued in early modern society? Were these traits seen as feminine or masculine? We must also recognize that the family and household sometimes involved more complex arrangements than a married couple and their young children. How then did single or widowed women experience this system differently? What was expected of them as heads of households or as subordinate members of another woman's household? How exactly did a servant's credit impact on the credit of the household in which she or he lived? These kinds of questions have not received the attention they deserve and this topic is just one of many which would benefit from the further exploration of the role of women and credit in general and the Baillie Court records in particular.

The absence of a discussion of women from most debt and credit literature is curious. Since debt and credit was such a critical part of early modern life it must have impacted people regardless of gender, age, occupation, wealth or social standing. It must be noted, however, that, while it affected all these people, it did not affect them in the same ways. A wealthy elderly woman would not likely have experienced credit relationships in the same way that a young man of low social standing would have. Consequently, while we see a wide variety of people passing through the Baillie Court, we cannot claim that there was a uniform experience of all of them, much less that there was a uniform experience for all those involved in the credit system. Many people were

¹⁴ See Shepard; Muldrew, *Economy of Obligation*, 149.

probably never involved in debt litigation, though we can see that it was not an entirely uncommon experience and it did transcend many of the societal boundaries mentioned above. While each individual experience is unique, there are some common trends we can identify. Women's experience differed significantly according to their marital status. Married women were far more involved in the court than their unmarried counterparts and generally participated in cases involving larger sums of money than widows and single women. Men, on the other hand, were more likely to sue or be sued for larger debts than women. Men were more often involved in transactions for merchandise and commercial credit, while women seemed to be involved in transactions related to household provisioning, though many single women were sued for debts related to consumer goods. All of these divisions indicate that the debt and credit system was very complex and was negotiated differently by different members of society.

Gender and marital status were two categories identified in the records and were therefore more easily compared than some other categories that might provide further evidence of how the debt and credit system worked. I suspect, for example, that an in-depth examination of occupations (and subsequent categories of wealth) might yield interesting information as to how people of different social standing experienced the credit system. In spite of their limitations, the records of the Baillie Court are unique and interesting for what they can tell us about how debt and credit functioned and how different groups of people interacted with that system. They provide evidence of the economy and women's participation in it that is unavailable in nearly any other source previously studied from the seventeenth century. While there are some reasons that

might explain why Aberdeen's courts were willing to include women, none of them suggest that Aberdeen itself or its credit system were significantly different from any other town in seventeenth-century Europe. What we are left with, then, is a set of records that is a unique and enlightening source with regards to the history of women, legal systems and the economy in the early modern world.

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