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Arrest for Debt in Late Elizabethan and Early Stuart London

Arrest on civil process, especially for debt, became an increasingly important motif in late Elizabethan and early Stuart literature, especially Jacobean drama. In the second half of the sixteenth century, rates of litigation skyrocketed, arrest on first instance became common, and a series of bankruptcy acts exacerbated the inequities of debt proceedings. Moreover, the crown's efforts to mitigate problems of imprisonment for debt made arrest a flashpoint between competing movements for legal reform. In these contexts, dramatists paid new attention to arrest practices, regularly representing them as illegitimate and open to abuse. The motif of arrest for debt had particular power in dramatic works because the legal act itself was inherently performative.

Arrest on civil process was an increasingly important motif in late Elizabethan and early Stuart literature, especially Jacobean drama. Such scenes often demonized the serjeants who carried out arrests, particularly for debt, and depicted these officials facing much violent resistance. This pattern is striking because, notwithstanding the stock antipathy to lawyers, early modern English society highly respected the authority of law itself. How then can we account for a growing tendency to represent such arrest as illegitimate? People might resent arrest for debt for a number of pre-existing reasons, including permanent imprisonment, the use of penal bonds, and the deceptive practices of serjeants. But the development was also bound up with the changing legal context of the late sixteenth and early seventeenth centuries. First, the frequency of arrest grew dramatically as litigation skyrocketed in the period and efforts to increase the efficiency of the legal system made arrest the initial step in most personal civil suits, with unintended but often oppressive consequences for defendants. Second, the implementation of a series of bankruptcy statutes exacerbated the extent to which arrest appeared inequitable in its incidence and effects. And third, efforts by the crown to mitigate the social problems of imprisonment for debt made arrest a flashpoint between competing movements for reform of legal process. In the context of these public debates,

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dramatists increasingly represented the legal process of arrest as subject to abuse and exploited the inherently performative nature of arrest to expose its need for reform.

Arrest was an important aspect of three distinct but interrelated cultural contexts in the period. Late Elizabethan and early Stuart literature was obsessed with debt and its consequences.¹ Debt serves as the principal driver of the plot in many of the period's plays, such as Middleton's *Michaelmas Term* (1604). Debtors' prisons are also an important theme in city comedy, and the complex interaction between financial, social, and sexual 'credit' runs deeply throughout the genre.² Arrest deserves attention in its own right, however, because it was the preliminary step in many suits for debt and was experienced far more widely than actual imprisonment. Additionally, its growing frequency made arrest an important element in wider cultural constructions of law itself. As Paul Raffield and others have shown, both playwrights and their audiences were deeply versed in the language of the law; literature of the time treated law and its relationships to art, nature, and society as major preoccupations.³ In line with this approach, this essay illustrates that Jacobean dramatists closely followed the legal technicalities of arrest and used its operations to reflect on the legitimacy of the process. In this regard, we must also see the motif of arrest in the context of the more specific discourse of legal reform that emerged as an important strand of contemporary thought. At a moment of tension in the dynamics of the English legal system, literature provided a crucial sphere for observing and critiquing the behavior of its officers.⁴ To the extent that the legal system was a point of contact between individuals and the abstract authority of the state, officers carrying out arrests on civil process were among the sharpest edges of such confrontation.

A remarkable feature of the period's literature is its demonization of the public officers who carried out such arrests. This topic became an obsession in early Stuart drama, and this attitude differed from the depiction of constables, who were sometimes seen as bumbling but also as supported by the community in their efforts to arrest felons, prevent crime, and mediate external authority.⁵ By contrast, Jacobean works commonly depicted serjeants in animalistic or diabolical terms. In *The Puritan* (1607) they are 'hungrie Devils', while in both *The Blacke Booke* (1604) and *The Virgin Martir* (1622) they are Lucifer's 'heirs'.⁶ *The Devil's Charter* (1607) likened them to demons summoned by satanic ritual, and in *The Miseries of Inforst Marriage* (1607) they appear as unchristian as Jews, or even, according to *Taylor's Motto* (1621), as Saracens.⁷ Their rapacity for the weak and vulnerable led *A Woman Never Vext* (1611–25) to picture them as wolves, while for *The Woman-Hater* (1620) they are worse than hangmen or informers.⁸ In *Monsieur d'Olive*

(1606), they must be avoided as something ‘monstrous’, and ultimately they were a ‘hellish rabble’, as *The English Traveller* (1627) put it.⁹ In the late Elizabethan text *A Quip For an Vpstart Courtier* (1592), one character says of a serjeant that ‘his conscience is consumed, and his harte robd of all remorse and pitie, that for monie he will betray his owne father’.¹⁰

Playwrights also represented the act of arrest as possessing little legitimate authority, often depicting arrests as meeting with resistance, even violence. To judge by the drama of the late sixteenth and early seventeenth centuries, resisting arrest had become a pervasive problem. The forceful rebuffing of officers was like throwing away a used tankard: ‘now, just now I see pottle pots throwne downe the stayres, just like Serieants and Yeomen, one i’th necke of another’.¹¹ In *The World Tost at Tennis* (1620), the armed injury of a serjeant in the line of duty was noteworthy but common enough: ‘I’ll warrant thee thou shalt never want subject to write of: one hangs himself to day, another drowns himself tomorrow, a serjeant stabbed next day, here a pettifogger a’the pillory’.¹² Serjeants were not only stabbed, but killed. In *If This Be Not a Good Play, the Diuell Is In It* (1612), Pluto reviews the recent arrivals into hell, saying, ‘Cutlar the Serieant: ha! he come’, whereon he is informed that Cutlar was ‘sent in by a carman’, i.e. killed — and justly it seems, for the serjeant descends to hell. But even here the evil nature of a serjeant means ‘he cannot rest’, and ‘his sterne lookes the feindes did so displease, / Bound hand and foote, he houles in little ease’.¹³ The very mention of a serjeant seems enough to cause people to draw their weapons. In *The Fayre Maide of the Exchange* (1607), Cripple asks Fiddle, ‘whats the best newes abroad?’, prompting a jest with Barnard:

FIDDLE The Serieants are watching to arrest you at maister Berries sute.

BARNARD Wounds, where?

FIDDLE Nay, I know not where; alas sir, there is no such matter, I did but say so much, to make you warme the handle of your rapier.¹⁴

In *A Faire Quarrell* (1616), a serjeant escapes violence only because the creditor bringing the arrest has deviously organized that the party and their friends be disarmed ahead of time.¹⁵ But the officers in *Henry IV, Part 2* (ca 1599) meet with strong resistance, and they are certainly aware of the risks. When Serjeant Fang says to his yeoman, ‘Snare, we must arrest Sir John Falstaff’, he replies ‘It may chance cost some of us our lives: he will stab’, and indeed, Falstaff reacts violently when confronted: ‘Away varlets! Draw Bardolph! Cut me off the villain’s head!’.¹⁶ A fight ensues, though the lord chief justice intervenes before anyone is injured. Such scenes drew on existing traditions. For instance, in the autobiographical

'Churchyardes Dreame' (1575), the author recounts a prescient vision of what would later befall his friend. Upon walking out into the streets one morning he is confronted by a serjeant in a case of mistaken identity, and as a result, 'He drue his sword and maed a fray', so 'Clobbs cried the sargant all in fear'. Faced with the serjeant's reinforcements, he ran into the church at the end of St Lawrence Lane, 'Yet cowld not skaep, the sargants hands', and got dragged out. Luckily, though, his friends notice, and 'Among the sargantts all on heap', managing to overpower them, drag them to the Goat in Cheap, and eventually prove the officers' mistake.¹⁷

Fighting officers was not just a literary conceit, as reflected in archival records. In the early sixteenth century, sheriffs' officers were often maimed or incapacitated in the line of duty, and a series of royal proclamations in the 1530s and 1540s imposed much stricter penalties for such resistance.¹⁸ The erection of a gibbet in Cheapside was one of the city's most dramatic displays of force; John Stow recounts such an episode when in 1580 Francis Marmaduke was hanged for killing Serjeant Grace during an arrest.¹⁹ Violent resistance to sheriffs' officers continued to be common in the following century, with almost one incident on average to be found at any provincial quarter sessions.²⁰ The records of the city of London make it impossible to quantify such events over time in the sixteenth century, but forceful action against serjeants was evidently a pervasive part of life across the period.

People might have seen arrest by serjeants on civil process so negatively for three pre-existing reasons. Arrest threatened potentially dire outcomes. From the mid-fourteenth century onwards, after judgment awarded in a suit for debt, any creditors could choose to have their debtors imprisoned as a means to encourage prompt payment.²¹ If the debtors claimed to have insufficient money with which to pay, they were liable to permanent imprisonment at their own cost. Because it was not possible to liquidate a debtor's real property, imprisonment might be the only way to compel debtors to sell of their own accord. At the same time, there was also a long-standing fear that people could hide their assets, which only imprisonment would force them to reveal. But once creditors had ordered the arrests and imprisonment of their debtors, they had no incentive to release them, even if they turned out to have nothing, because in doing so the creditor lost the power of the legal judgment and could not easily recover it. Waiting for someone else to find the cash on the debtor's behalf remained a better strategy. Conditions in prison were equal to whatever one could afford. Those without the means to pay for decent food and board had to rely on the mercy of the prison keepers and the charity of others.

Such a great penalty for becoming indebted beyond one's means might suggest only those in the most desperate circumstances would take the risk. The continuing use of the penal bond as a means to secure loans counterintuitively made it easier to become irreparably indebted.²² Under this practice, a borrower who was marginally late in making repayment, or short by the slightest amount, became indebted for double the original sum. The penal bond offered an easy formula for scribes to follow and made it easier to prosecute than a debt secured in some more specific way. Moreover, because church courts could punish a creditor for lending money at interest, the penal bond became a necessary tool for compensating against the risk of default or, depending on your point of view, for circumventing the prohibition on usury.²³ Official attitudes to the charging of interest had softened by 1571, when only rates above ten percent were singled out for special punishment. Continued reliance on the penal bond after that date, therefore, was liable to be seen as particularly unreasonable, and scholars have noted a growing antipathy to the practice in this period.²⁴ But the penal bond itself was already well-established and had long been seen as unfair, in the sense that equity courts often granted relief from its penalties where failure to meet the terms was not the debtor's fault.²⁵ In fact, in London policies made it impossible to recover the penalty of a bond. The court would only award the original sum owed and made its own assessment as to what actual loss the creditor had suffered, if any, as a result of late payment.²⁶

Further, many had long seen arrest on civil process itself as a duplicitous act. To some extent this stemmed from the fear that debts upon bond, and their penalties, could be used to entrap the innocent and unsophisticated.²⁷ But more important was the fact that city serjeants often lay in ambush or disguised themselves in order to execute their office. It was illegal for an officer to force entry into a house to make an arrest,²⁸ so they had to wait in the streets or some other public place to catch the defendant. Arrest scenes in plays, therefore, almost always take place in the streets. One might cite any number of examples, from the attempted arrest of Jack Dapper in *The Roaring Girl* to the seizure of Monopoly in *Westward Ho*. In those rare cases where an arrest occurs inside a building, it is a public place of some kind, usually a tavern or church. In *Henry IV, Part 2*, for instance, the hostess confronts Falstaff in her inn on Eastcheap, and in *Ram-Alley* (1611), Francis gets arrested (or re-arrested) in the room of a tavern.²⁹ One's house was a sanctuary or castle. As Barterville says in *If This Be Not a Good Play, the Diuell Is In It*:

Here lyes Serieants Leaguer: about my doores:
 My house to me is an hospitall, they the sores
 Which run vpon me vily, (peepe I but out).³⁰

Likewise, characters often connect the open streets with the potential for arrest. In *Ram-Alley*, for example, William Smallshanks exclaims ‘I dare not walke the streets, / For I dwindle at a Sargeant in buffe’, and in Jonson’s *Epicoene* (1616), True-Wit wonders to Amorous La Foole, ‘How will you get out o’ the house, sir? He knows you are i’ the house, and he’ll watch you this sennight but he’ll have you. He’ll out-wait a sargeant for you’.³¹ In 1615, Richard Brathwaite asked rhetorically of an author’s creditors,

is it fit that swads of such desert
 Should stay the very quintessence of art
 For a non-payment? or make Sergeants stand
 In a crosse-lane to laie vnhallowed hand
 On Albions Mercuries?³²

In 1622, Samuel Rowlands bewailed, ‘How am I vex’t, that must keepe in a dore, / Only for feare to pay a Tapsters score!’³³ Similar sentiments appear earlier, too. In ‘Whetstones Invective Against Dice’ (1576), for instance, the main character leaves his creditors unanswered, ‘He keeping home when debtes were due, / And payment none was made’ until after he had secured more cash, so that ‘Now hee [who] for feare of sergeants sauce, / That sicknes late did faine, / In euery streete, which sight presents, / His presence you may gaine’.³⁴

Creditors, however, were not left without a course of action. As upheld by subsequent case law, a duly authorized officer could enter a house if they could get entry without the use of force, either because the door was open or they were granted entry — even if this involved deception. The legal principle was not quite that the home is sacred but rather that an officer could not justify damaging the home’s defenses in the service of legal process where the case was between two litigants and did not involve the crown, either as a party or in a case of felony. If an official could gain entry without physical damage to property, the process of the king’s law ought to proceed. Contemporary complaint literature highlighted this use of deception to get into people’s houses. William Fennor, in a tract of 1617, recounted several episodes where serjeants disguised themselves as porters, lawyers, coopers, and ‘other such dog trickes’ in order to fool their way into debtors’ houses.³⁵ Archives of sixteenth-century London offer similar illustrations of

serjeants conspiring with neighbouring shopkeepers to give them signals when a debtor's door stood unlocked.³⁶

In this regard, we often find in plays of the period similar plots and stratagems to get people out of their houses and into public. In *Michaelmas Term* (1604), for example, when Quomodo wants Easie arrested, Shortyard has his boy, pretending to be the servant of his alter ego Master Blastfield, arrange a false meeting for Easie in Paul's Walk. This way, Shortyard can intercept Easie in the streets on his way there, even though he himself intends to impersonate the serjeant making the pretended arrest.³⁷ Some years earlier in the Elizabethan play *The Tjde Taryeth no Man* (1576), Corage asks Mayster Greedinesse 'whether do you walke?', whereto he replies 'Towardes Powles Crosse, from hence I doe goe, / Perchance some profite there I may meete'. Corage is surprised he enjoys the sermons so much, and Greediness corrects him as to the nature of the profit:

You know that many thether doe come,
Wherefore, perchance, such may be my hap
Of my ill debtors there to spye some,
Whome without delay, by the heeles I will clap.³⁸

Several changes in the late sixteenth and early seventeenth centuries intensified issues concerning serjeants and arrests. To begin with, arrest on civil process, especially for debt, became more frequent in this period. First, the frequency of civil litigation, in both absolute and per capita terms, grew dramatically in the second half of the sixteenth century. In the two main courts at Westminster, the volume of business rose from 5,278 cases in 1560 to 23,147 cases in 1606 — an almost fivefold increase.³⁹ Moreover, litigation in the central courts was only a fraction of the national total. In the courts in London, provincial towns, and other local jurisdictions, creditors initiated over a million suits each year in the early 1600s, more than one for every household in the country and perhaps the highest level at any time in English history.⁴⁰ This rise primarily resulted from growth of the economy and wider extension of credit, and, indeed, litigation for debt made up the vast majority of all suits.

Second, arrest increasingly became the first step in the legal process, rather than summons or distraint, and this meant that an ever-expanding proportion of litigation involved arrest. The development of this practice was slow and complex, but it reached a tipping point in the first decade of the seventeenth century. One element was the rise of an action of trespass on the case, in the form of *assumpsit*, for debts not involving written bonds.⁴¹ The defendant accused of trespass was not entitled to an initial summons, and a statute of 1504 had authorized arrest in

such cases both before and after judgment.⁴² Trespass also offered a more attractive avenue for plaintiffs because it precluded wager of law, the traditional defense for debts without a sealed obligation, which required only a sworn statement against the charge by a certain number of the defendant's friends. More significant, however, was the recourse to fictional suits of trespass as the preliminary charge for any kind of suit, including debts on written bond. Fictional suits were an accepted practice from the early sixteenth century onward by means of the Bill of Middlesex in the court of King's Bench.⁴³ While the Bill of Middlesex grew to be a major form of litigation by the end of the sixteenth century, it was still only a minority of the litigation in the central courts.⁴⁴ The sea change occurred when the Court of Common Pleas developed a similar mechanism in the 1590s and early 1600s allowing plaintiffs to enter a fictional action of trespass, usually in the form of *quare clausum fregit*, which could then be prosecuted in a different form such as debt when the defendant appeared in court.⁴⁵

Significantly, the development of the fictional trespass made arrest on first instance available against anyone, even freeholders. For some time, those without real property had been liable to immediate arrest because the sheriff's deputy (and later the plaintiff's attorney himself) could return the original writ to the court without actually serving it and claim that the defendant had nothing by which he could be compelled to appear.⁴⁶ Arrest then followed immediately. If defendants suffered loss because of this abbreviated process, they could sue separately for deceit, but that did not stop the original suit and was difficult to prove unless the defendant was a freeholder.⁴⁷ If the initial writ was for a fictional trespass, however, that document could place the alleged act in a county where the defendant had no property so that arrest would follow immediately regardless of status.⁴⁸ When the legal process transferred to the county of the defendant's actual residence, there was no need to start again. The writs of *testatum capias* and *latitat* authorized immediate arrest because historically defendants had moved from county to county to escape suits against them. Fictional trespass made it possible to begin any personal civil suit by arresting defendants before ever notifying them of a case against them.⁴⁹ Once this practice had taken hold, the original writ calling for summons or distraint ceased to have any function prior to a defendant's appearance in court, and the clerks of the court were willing to issue process to compel appearance without any such original.⁵⁰ This practice greatly facilitated legal action because it delayed the payment for an original writ until the defendant's appearance had been assured.

Plays of the time make clear the speed with which a creditor could procure arrests. For instance, in *Westward Ho* Mistress Tenterhook beseeches her husband

to 'enter your action, and make hast to the Lyon presently' to catch the indebted Monopoly. Her husband reluctantly agrees and tells her to 'buy a linck and meet me at the Counter in Woodstreete', where such actions could be entered day or night and a serjeant provided to make the arrest for a fee. The Tenterhooks are able to proceed immediately and catch Monopoly as he is leaving the Lyon tavern.⁵¹ As in other boroughs with courts of record, London did not require a chancery writ to commence a suit; an oral plaint or written bill entered into the sheriffs' registers at the counter was sufficient as long as it roughly conformed to one of the established 'forms of action' available at common law.⁵² And as demonstrated above, creditors now commonly skipped the act of summons or attachment and made arrest the first step, even against citizens and freeholders.⁵³ But the fact that arrest on first instance side-stepped the due process required — in theory — by the common law brought the legitimacy of such arrests into question. As one of the judges stated in a case in King's Bench in 1609, borough courts 'always use such process of *capias* [ie arrest] as the second process in such actions; but if they commence there with a *capias*, as the first process, without summons or attachment, it is not good, but *continue* adjudged error'.⁵⁴

Immediate arrest certainly made the pursuit of justice more efficient for plaintiffs, but it was oppressive for defendants due to the fact that the legal process was open to abuse. Because everyone had the right to bail and could not be held in prison if they offered security for their appearance in court, arrest itself, even without warning, ought not to have generated complaint, but legal loopholes in the bail system undermined such rights. Statute law guaranteed the right to bail; however, the law had been designed to protect against extortion by prison keepers, not the serjeants making arrests.⁵⁵ Its protections only applied once a defendant had been delivered to the keeper, who then had to accept bail without a fee. But because the act of being led to prison for debt carried such opprobrium and damage to one's credit,⁵⁶ most people would pay extortionate 'fees' to the serjeants to make bail before going to the counter. The serjeants could charge what they pleased for the service of waiting for bail to arrive or for taking the arrestee to find bail.

Such facts served as the bones for many a scene in Jacobean drama. In *The Puritan* (1607), two serjeants and a yeoman go to arrest Pyeboard for a debt to his landlady. Upon making the arrest, the serjeant calls, 'Come, come away', but Pyeboard asks for 'so much time as to knit my garter'. In obvious caricature, the playwright has the serjeant respond, 'Well, we must be paid for this waiting upon you'. He is now on the hook, and in order to give himself a chance to escape, Pyeboard begins to negotiate with the serjeants, who suspect nothing, for bargaining

was the common practice. He tells them that he is owed five pounds by a gentleman, to whose house he was just now going:

PUTTOCK Why how far hence dwells that Gentleman?

RAVENCLAW I, well said serieant, tis good to cast about for Mony.

PUTTUCK Speake, if it be not far—

PYEBOARD We are but a little past it, the next street behind vs.

PUTTOCK Slid we haue waited vpon you grieuously already, if youle say youle be liberall when you [have it], giue us double fees, and spend vpon's, why weele show you that kindness, and goe along with you to the Gentleman.⁵⁷

Likewise, in *If You Know Not Me, You Know No Bodie, Part 2* (1605), a rapacious serjeant and his yeoman discuss their plans:

HONESTIE Fellow Quicke, pray thee haue a care if thou canst see Iohn the Vpholster, I must needs arrest him.

QUICK How much is the debt?

HONESTIE Some 50. li.

QUICK Dost thou thinke he is able to put in bayle to the action?

HONESTIE I thinke scarce ynough.

QUICK Why then, wee'le arrest him to the popes-head, call for the best cheere in the house, first feede vpon him, and then if he wil not come off, carry him to the counter.

More illegally, they propose to solicit a bribe to let him go: 'if he wil stretch some 4. or 5. li. being the sums so great he shal passe, weele make him sweare he shall not tell he was arrested, and weele sweare to the creditor we cannot meet with him'.⁵⁸ In *Ram-Alley* (1611), a serjeant extorts sexual favours from his female prisoner in return for release.⁵⁹ According to the social commentator William Fennor's account of his own arrest, the serjeants pretended to sympathize with him and offered to serve as his bail after stopping at a tavern near the counter at his cost. But civic ordinances specifically forbade them from serving as bail, and once they had delivered Fennor to the keeper, they simply abandoned him.⁶⁰ Greene's *A Qvip For an Vpstart Courtier* sums up the situation succinctly, saying of a serjeant that:

when hee hath laid hold vpon him, he vseth him as courteously as a Butchers cur would doe an oxe cheeke when he is hungrie: if hee see the gentleman hath mony in his purse, then straight with a cap and knee he carries him to the tauerne and bids him send for some of his friends to bale him, but first he couenants to haue some brase of angels for his paines, and besides he cals in for wine as greedily as if the knaues mother had bene broacht against a hogshead when he was begotten, but suppose the Gentleman wants pence he wil either haue a pawne or else dreg him to the counter without respect of manhood or honestie.⁶¹

Meanwhile, on the other hand:

marry they are so cruell in their office, that if they arrest a poore man, they will not suffer him (if he hath not monie) to stay a quarter of an hower to talk with his creditor, although perhaps at the meeting they might take composition, but only to the counter with him, vnless he will lay his pewter, bras, couerlets, sheets, or such houshold stuf, to them for pawn of paiment of some coine for their staieng.⁶²

Worse than this potential for extortion, arrest took on an even greater image of illegitimacy because of the popular perception that spurious or vexatious suits could be the basis for arrest. In *The Roaring Girl* (1607–10), Jack Dapper's father enters a spurious action 'in a false name' against his son, whose prodigal ways he hopes to curb by a stint in the counter.⁶³ In *If You Know Not Me, You Know No Bodie, Part 2* (1605), when Jack Gresham realizes he is being trailed by his uncle's factor, he simply casts about the street, finds the rapacious serjeant Quick and his yeoman Honesty, and instructs the former:

Heare Quicke, runne thou before and enter the action,
Ther's money, an action of an hundred pound
Against Timothy Thin-beard, M. Greshams Factor.

At the same time, he orders the yeoman, 'Here Honestie, there's money for thy arrest, / Be sure to take good Bayle or clap him fast'.⁶⁴ Unbeknownst to Jack, the factor has been stealing from his uncle and believes the arrest legitimate. The action Jack has the serjeant enter at the counter is, nevertheless, entirely fictitious. Likewise, in *A Faire Quarrell* (1616) a wealthy father seeks to discredit a young and less wealthy man from pursuing his daughter, so he conspires to have him spuriously arrested while in her company and charged with an outrageous debt to discredit him in her eyes. As he says:

This houre, snaps him; and before his mistress,
 His saint, forsooth, which he inscribes my girl,
 He shall be rudely taken and disgraced.
 The trick will prove an everlasting scarecrow
 To fright poor gallants from our rich men's daughters.⁶⁵

More legally, but with equal guile, Shafton uses the element of surprise to extort lands from his debtor Sir Charles in *A Woman Kilde With Kindnesse* (1607). With Charles overdue on his debt, Shafton sues out execution against him without even calling on him for the cash first. Charles objects 'An execution sir, and never tell me / You put my bond in suit? You deal extremely', but Shafton retorts, 'Sell me the land and I'll acquit you straight'.⁶⁶ As noted earlier, the penalty of the bond would have made this bad enough, but Shafton's ability to proceed to arrest without prior process exacerbates the situation. Charles is loath to part with his family's lands, but Shafton can push him to do so with the advantage of having him in prison:

Arrest him at my suit. Actions and actions
 Shall keep thee in perpetual bondage fast.
 Nay, more, I'll sue thee by a late appeal,
 And call thy former life in question.
 The Keeper is my friend; thou shalt have irons,
 And usage such as I'll deny to dogs.
 Away with him!⁶⁷

Late Elizabethan precedents offer similar examples. In *A Knacke To Knowe a Knaue* (1594), a greedy man uses fraud to vexatiously arrest two poor elderly men, whom he knows will pay him off rather than be carried to prison, pay fees, attempt to find bail, and pay lawyers to defend themselves.⁶⁸ The many steps in the process of the law, these plays suggest, could be exploited by those who knew how, and such exploitation undermined the legitimacy of arrest on civil process.

In theory, to commence an action for debt the plaintiff had to put in pledges as a guarantee for prosecuting the suit and to cover the defendant's costs if the court ultimately judged against the plaintiff.⁶⁹ By the early modern period, such pledges had long been fictitious,⁷⁰ and if the case did not reach judgment because it was nonsuited, the defendant could not recover costs. A 1531 statute remedied the latter problem but only applied after the defendant had appeared in court and did not cover situations where plaintiffs actively withdrew their suits.⁷¹ In 1538, civic authorities in London went one step further, providing the same protections

prior to appearance in court to anyone arrested on an action (other than trespass *vi et armis*) and awarding costs on withdrawal of suit.⁷² Thus, if the intention was to harass someone by having them arrested without real cause, vexatious litigants would ultimately have to pay costs and damages the defendants suffered. Because the fees payable upon arrest were fixed by law, however, defendants could recover very little in that regard. Legitimate costs did not include anything paid to a serjeant for the privilege of putting in bail without first being led to prison and suffering the associated opprobrium.⁷³ A malicious individual willing to suffer some costs therefore could still put their enemy to a disproportionate amount of trouble. That said, plaintiffs publicly put their names to suits, and to fail at law because of a spurious case would damage one's social credit as much as the legal fees might hurt one's purse.⁷⁴ Seriously fraudulent arrest for debt was likely rare, but the complexity of the system left significant room for abuse and, at the very least, for a growing public perception of its arbitrary and illegitimate use.

In addition to the increasing frequency of arrest, and the attendant potential for the legal process to be abused, the late sixteenth and early seventeenth centuries also saw the development of bankruptcy laws that made the process of arrest appear increasingly inequitable. Even if they were arrested, the gentry had greater ability to avoid paying their debts immediately, which often allowed them to right their affairs without much disturbance, while others could be brought to ruin unnecessarily. Statutes on bankruptcy in 1570 and 1604 provided stronger measures for recovery of debts from those who had assets or future revenues but were refusing to pay. In such cases, a commission of bankruptcy allowed for any assets to be seized and divided among creditors. But this provision applied only to those who lived by 'buying and selling', like city merchants, and not to the gentry who lived on landed revenues.⁷⁵ The distinction caused much complaint:

How many of them have been since, and at this hour are, earthed in the King's Bench, the Fleet and that abused sanctuary of Ludgate! Here they play at bowls, lie in fair chambers within the Rule, fare like Dives, laugh at Lazarus, can walk up and down many times by *habeas corpus* and jeer their creditors. There they lie barricadoed within King Lud's bulwark against gun-shot; there they strut up and down the prison like magnificos in Venice on the Rialto, brave in their clothes, spruce in ruffs, with gold-wrought night-caps on their heads. They feed deliciously, plenteously, voluptuously, have excellent wines to drink, handsome wives to lie with when they please, who come in not like the wives of prisoners but of the best and wealthiest citizens. These men command the stone walls, not the walls them.⁷⁶

The fact that those with influence and connections at court were also better able to procure royal protections, which prevented them from being arrested in the first place,⁷⁷ exacerbated the inequity and was railed upon in city drama. In *A Woman Never Vext*, we find the following exchange:

STEPHEN See, Master Alderman, these two crackt Gallants are in severall
bonds to my Predecessor for a debt of full two thousand apiece. Cozin,
fetch me a Serjeant straite.

ROBERT Yes Sir.

SPEEDWELL O let him, I have a protection, Sir.⁷⁸

Likewise, in Dekker's *If This Be Not a Good Play, the Diuell Is In It*, Barterville explains to the innocent Lurchall the nature of a protection:

It is a buckler of a large fayre compasse
Quilted within with Fox-skinnes: In the midst
A pike sticks out, (sometimes of two yeeres long,
And sometimes longer.) And this pike keepes off
Serieants and Bailiffs, Actions, and Arrests:
Tis a strong charme gainst all the noisome smels
Of Counters, Iaylors, garnishes, and such hels;
By this, a debtor craizde, so lustie growes,
He may walke by, and play with his creditors nose.⁷⁹

The issue of protections carried on the tradition of sanctuary, which had long been a cause for complaint, but this time at the suit of the crown rather than the church. Although increasingly attenuated, some legal sanctuaries persisted in the early Stuart period.⁸⁰ Debtors often remained able to claim sanctuary even when the legal right had been extinguished because boundaries were a matter of custom, and officers were wary of overstepping their jurisdiction. The traditions of sanctuary at St Martin le Grand, for instance, lived on in popular tradition, and the issue of debtors' sanctuaries remained an important element of the literary imagination into the eighteenth century and beyond.⁸¹ In the early seventeenth century, however, those who lived and worked at court, such as government officials, held the widest immunity to prosecution for debt because 'privilege of court' excluded sheriffs' officers from serving process in the entire area surrounding the palace of Westminster. *When You See Me You Know Me* specifically attacks this exclusion by showing a corrupt officer of the royal household shielded from arrest while he lets his own guarantor rot in prison on his behalf.⁸²

In the late Elizabethan and early Stuart periods, the crown increasingly attempted to reform the social problems caused by imprisonment for debt, and this effort provides a final context for understanding changing attitudes to arrest in this period. As early as 1542 the privy council had issued a commission to the mayor, aldermen, and others to negotiate settlements between creditors and their poor debtors in Ludgate, the prison reserved for citizens of London.⁸³ At the beginning of Elizabeth's reign, a new commission was issued in much more forceful, yet hopelessly vague, terms, insisting that they 'punish any creditor disobeying the commissioners' decrees'.⁸⁴ The mayor and aldermen were immediately concerned that this was 'not agreeable with the common law of this realm', and little was done until the huge pressures of rising litigation sparked the city into a drive for reform, distinctly noticeable from 1568 onwards.⁸⁵ In 1575, the mayor and aldermen secured a new commission giving them authority to summon creditors and arbitrate concerning debtors held not only in Ludgate but also the two counters. This commission importantly lacked any language regarding 'punishment' and specifically stipulated that the commissioners had no power to make compositions without the creditor's consent.⁸⁶

The following year, the privy council decided to extend this mechanism to the prisons belonging to Queen's Bench, and later elsewhere, but reinserted the instruction to punish creditors refusing to cooperate and, with dubious legality, authorized the commissioners to unilaterally free a prisoner if they found the creditor 'unreasonable'.⁸⁷ This development quickly provoked resistance in both Westminster and the city of London, and when a renewal of the commission for Ludgate and the counters was issued including similar terms in 1581, the mayor and aldermen sought to have it replaced with a new one, 'in such manner as the old was'.⁸⁸ But the privy council was determined to continue, even as it encountered ever-growing resistance. Even after debtors and creditors agreed to compositions, judges of the common law courts often saw them as conflicting with the rights of creditors under statute law and ignored them, allowing the debtors to be re-arrested and re-imprisoned. In response, the commissioners themselves increasingly turned to arrest as the only viable means of compelling creditors to comply with their orders and remit of arbitration.⁸⁹ Since the privy council established and charged the commissions, they derived their authority from the council as an extension of its own powers, such as they might be.

It was, therefore, hugely problematic when, in 1587, a series of judges in separate cases nullified royal protections by upholding arrests, and freed other individuals on *habeas corpus* who had been arrested and imprisoned on the orders of the commission.⁹⁰ An alarming number of similar cases appeared in the following

years, as judges gradually arrayed themselves to square off against the privy council and its delegation of powers held by virtue of the royal prerogative. In response, the privy council continued to press for commissioners to fully execute their charge and from September 1589 explicitly instructed them to proceed by arrest if the creditor refused to cooperate. When the first test cases began to emerge, the situation reached a crisis point. Rather than fight out jurisdiction in individual judgments, the entirety of the judges of Queen's Bench, Common Pleas, and the other central courts signed a unanimous letter in 1591 which, while upholding the privy council's right to arrest by virtue of the royal prerogative, strongly remonstrated against the delegation of this power and any use which might be considered arbitrary or in conflict with the rights of individuals at common law.⁹¹ As a result, when the commissioners were again enjoined to act in 1592, the language empowering arrest was dropped.⁹² Though policy makers saw a clear need to continue the commissions, the difficulties of actually enforcing these arbitrated compositions led to their demise thereafter, along with the issuing of royal protections.⁹³ London reverted to its earlier practice of facilitating arbitration, but without mention of commissions or conciliar authority.⁹⁴

Upon his ascension to the English throne, however, James I directed his own masters of requests to start hearing such petitions again and began a vigorous campaign of direct royal arbitration, often getting personally involved. Petitions from poor debtors made up the lion's share of the caseload of this court.⁹⁵ This royal intervention is a crucial context in which to consider the counter scenes in Samuel Rowley's *When You See Me You Know Me*, first performed in 1604, and published the following year. As Jean Howard rightly points out, the play, like many others, presents a social critique of the problems of the debtors' prisons while the remedy it proposes falls into the category of a 'hand of god' solution, relying on royal justice from on high to set the problems of society to right rather than pointing to reform of the economy or the law of debt and insolvency. Importantly, the play is set in the reign of Henry VIII, who goes in disguise to view how London is governed and discovers how incompetent officers and corrupt courtiers abuse his people. On this basis, Howard suggests that while the play 'registers an awareness of a pervasive social problem and calls for reform' at the start of a new reign, it is 'insufficient as social analysis' because in reaching 'back in time for the image of a powerful ruler' it 'indulges in the populist fantasy that under such a monarch justice will somehow prevail'.⁹⁶ The insufficiency of the play's analysis may well hold true, but the fantasy it offers had been indulged as recently as the preceding decade before encountering a reality check, and the role of royal intervention in the counters was at the very moment of the play's composition being revived

by James. Those scenes showing Henry's intervention are therefore difficult to consider without seeing them as explicitly voicing support for a more forceful and personal attempt by James, in the image of Henry's kingship rather than Elizabeth's privy council and its commissions, to overcome whatever resistance might be encountered to discharging poor debtors upon petition.⁹⁷

Arrest on personal civil process therefore became a battleground between two competing movements for legal reform in the late sixteenth and early seventeenth centuries. On the one hand, plaintiffs, their attorneys, and certain groups of court clerks worked hard to make the process of getting a defendant into court as quick and as cheap as possible, maintaining the terror of permanent imprisonment as the best means to extract payment from debtors. To do so, they used fictions created within the process of the common law itself. On the other hand, the crown sought to alleviate social ills and reform the perverse incentives of the legal process by facilitating negotiation and equitable settlements, enforcing such arbitration where necessary through arrest on prerogative authority. In addition to the sheer increase in the frequency of arrests and the increasingly inequitable consequences of the bankruptcy acts, this struggle over law reform brought new attention to the legal process of arrest itself. As shown above, playwrights like Samuel Rowley actively commented on contemporary debates concerning this issue, calling for the crown to intervene and reform elements of common law process.

In doing so, many playwrights also exploited the inherent performativity of arrest for debt, which, as noted, usually took place in the streets and was always a public act. In this context, it is important to remember that the streets of the city already functioned every day as a kind of public stage. In its most extreme form, the city's thoroughfares served as the performance space for the spectacle of Tudor-Stuart monarchy, hosting coronations and royal entries.⁹⁸ Not only did the city provide the setting, but the multitudes lining the streets played an important role as audience by showing approbation crucial to the construction of royal legitimacy.⁹⁹ Pageantry and dramatic performance further highlighted the theatrical dimension of these events.¹⁰⁰ Royal entries were great occasions, but the city also had its own more regular events, giving performative expression to the transfer of power on Lord Mayor's Day, the spiritual unity of the city's parishes in the Whitsuntide procession, or the military strength of the city's wards in the midsummer watch.¹⁰¹ On a daily basis, the city's streets bore witness to processions celebrating the feast days of trade companies or parish saints. More prosaically, streets and marketplaces served as sites for public proclamations; some of these were performed by heralds and performed with great fanfare, like declarations of war and peace or the birth of an heir, while others were carried out by the city's common

crier.¹⁰² But any proclamation paid great attention to location and ceremony, for Londoners were highly sensitive to the meanings embedded in the city's different public spaces.¹⁰³

In the context of the current discussion, perhaps the most important form of street performance was that of public punishment. London civic authorities carefully orchestrated the performance of such punishments to give symbolic expression to the nature of the offence and to assert their own jurisdiction over such matters.¹⁰⁴ Much public punishment involved visual and material symbolism, but another important element was the practice of leading certain classes of offenders on penitential processions. In such cases, the procession route could be carefully composed to distinguish the offense, while the dress of the offender, the manner of proceeding, and the nature of the accompaniment all had symbolic import.¹⁰⁵ In this sense, a group of liveried officers confronting someone in the street and accompanying them through the city was precisely the kind of thing people watched as spectators and parsed for social meaning. Indeed, people attached considerable shame to the experience of being led by a serjeant to prison in the public eye of those in the street. Arrest, therefore, was very much a performative act, and its terror lay as much in this threat as it did in the prospect of actual imprisonment. Although debt involved a relationship between two private individuals, its function in society was inherently public because all members of the community were enmeshed in a mutually reliant network of debt and credit.¹⁰⁶ The judges may have glossed the liberty of the home against forcible arrest in terms of protecting the private sphere of 'man's repose', but this principle simply underlines the fact that debt was not a private but a public matter. If a credit situation required the force of the law, the action against the debtor ought to take place in public, where one's neighbours and business associates might bear witness to the arrest and give social reality to this public accusation.

In city drama, however, the public street is figured upon the stage, and the play's audience necessarily becomes the body of witnesses who cast social judgment upon the accused. Yet almost all the plays of this period are unanimous in their efforts to expose the deception, rapacity, and extortion of creditors, serjeants, and prison keepers. Playwrights invert the expected function of this performative act, expose it as illegitimate in one way or another, and condemn those who would abuse the law, even if the debt itself is truly in arrears.

In this sense, many arrest scenes in the plays of the period involve a metatheatrical invitation to the audience to take on the role of social judgment, with the officers rather than arrestees as the object of determination. This dynamic is particularly evident in *The Puritan* (1607). In this play, an out-of-work scholar schemes to

marry a wealthy puritan widow by exploiting the ignorance and hypocrisy of her and her family. The arrest of the play's main character, George Pyeboard, involves almost all the features discussed so far — demonized serjeants concerned about violent resistance, laying an ambush in the street to carry out an unexpected arrest, and exploiting their position as temporary escorts to extort fees and potentially more. The function of the arrest scene interestingly is entirely extraneous to the plot, serving rather as a metaphor for the play's larger theme, which is to expose the dangers of corruption hidden behind self-righteous authority. Pyeboard can return to his scheme against the puritans because he escapes the attempted arrest by likewise relying on the ignorance and hypocrisy of the officers. As quoted earlier, he tricks them into believing he will collect money from a nearby gentleman and pay them double fees, but the gentleman, pitying the injustice of his situation and admiring his refusal to submit, ultimately aids his escape.

The play first introduces the metatheatrical function of the arrest scene as the officers discuss their plans. The officers insist that there is a 'naturall' enmity between serjeants and scholars because the latter 'publish our imperfections, Knaueryes and Conuayances vpon Scaffolds and Stages'. This line not only highlights the scene's self-referential dramatic context but also establishes the officers as direct analogues for the play's villains — hypocritical puritans — who have earlier been said to resent such publicity. Scholars like Pyeboard pull off the veil of authority that covers the officers' oppressions, exposing to their dismay the dirty secrets hidden in 'our brests', even though 'our doublets are buttoned with Pewter'. Because of their corruption, the role of defending the law must be taken from them and placed in the hands of critical observers who can 'search more with their wits than a Cunstable with all his officers'.¹⁰⁷

Critics have commented on the important spatial dimensions of the play as a whole and this scene in particular. As Andrew Gordon rightly points out, the contradiction of the puritan family socially withdrawing itself from the community while standing embedded in the urban fabric drives the action of the play. Pyeboard's scheme is enabled precisely because he overhears the widow and her daughters' vows through a hole in the wall of their garden. Moreover, Pyeboard repeatedly ensures that he and his fellows penetrate and publicize the family's private domestic space, including the summoning of a demon in their parlor, where previously the widow's late husband had hosted his exclusive coreligionists.¹⁰⁸ Middleton's stage directions in the arrest scene likewise carefully attend to both the urban space of the play as well as the metatheatrical space of the playhouse stage. As Paul Yachnin argues, the play shows that the polarities of public/private and inside/outside are inherently invertible by the way the external public street

of the arrest transforms via clever stage directions into the interior of the gentleman's house; in this inverted space, the power of the officers likewise gets turned on its head.¹⁰⁹ To this I would add that the transformation of space underscores how the audience, too, has been transformed into the judges of social worth, and the opprobrious judgment of arrest for debt is transformed into an exposé of the failures of legal process.

Late Elizabethan and early Stuart literature increasingly represented arrest on personal civil process as illegitimate. Although backed by the authority of the law, which itself was little questioned, the execution of these arrests seemed deceptive, arbitrary, extortionate, open to abuse, and inequitable. The growth of litigation and the increasing resort to arrest on first instance exacerbated existing flaws in the legal process and left it vulnerable to such perversion. The failure of the bankruptcy acts and the resistance the crown faced in its campaign to reform elements of the common law made the process of arrest a deeply divisive issue. These legal developments are an important context for understanding the obsession with serjeants and the increasing appearance of personal civil arrest in the literature of the period.

Notes

- 1 Theodore Leinwand, *Theatre, Finance and Society in Early Modern England* (Cambridge, 1999), <https://doi.org/10.1017/cbo9780511483677>.
- 2 Jean E. Howard, 'Credit, Incarceration, and Performance: Staging London's Debtors' Prisons', *Theater of a City: The Places of London Comedy, 1598–1642* (Philadelphia, 2009), 68–113, <https://doi.org/10.9783/9780812202304>; Richard Waswo, 'Crises of Credit: Monetary and Erotic Economies in the Jacobean Theatre', in *Plotting Early Modern London: New Essays on Jacobean City Comedy*, ed. Dieter Mehl, Angela Stock, and Anne Julia Zwierlein (Aldershot, 2004), 55–73, <https://doi.org/10.4324/9781315246659>.
- 3 Paul Raffield, *The Art of Law in Shakespeare* (Portland, 2017).
- 4 Virginia Strain, *Legal Reform in English Renaissance Literature* (Oxford, 2017).
- 5 Theodore Leinwand, 'Negotiation and New Historicism', *PMLA* 105.3 (1990), 477–90, <https://doi.org/10.2307/462896>; Phoebe Spinrad, 'Dogberry Hero: Shakespeare's Comic Constables in their Communal Context', *Studies in Philology* 89.2 (1992), 161–78.
- 6 *The Puritaine or The Widdow of Watling-Streete* (London, 1607; STC: 21531), E4r; Thomas Middleton, *The Blacke Booke*, in *Thomas Middleton: The Collected Works*, ed. Gary Taylor & John Lavagnino (Oxford, 2007), 207–18, 684–740, <https://doi.org/10.1093/actrade/9780199580538.book.1>; Thomas Dekker, *The Virgin Martir* (1622), in *The Dramatic Works of Thomas Dekker*, ed. Fredson Bowers, vol. 3 (Cambridge, 1958), 365–480, 3.3.177.
- 7 Barnabe Barnes, *The Devil's Charter*, ed. Jim C. Pogue (New York, 1980), Prologue.40–8; George Wilkins, *The Miseries of Enforced Marriage*, ed. Glenn H. Blayney (Oxford, 1963), 1.15–16; John Taylor, *Taylor's Motto* (1625), in *The Works of John Taylor the Water-Poet, Comprised in the Folio Edition of 1630*, vol. 1 (Manchester, 1869), 203–18, 214.
- 8 William Rowley, *A New Wonder, a Woman Never Vext: An Old-Spelling, Critical Edition*, ed. George Cheatham (New York, 1993), 4.1.162–5; *Swetnam the Woman-Hater: The Controversy and the Play*, ed. Coryl Crandall (Lafayette, 1969), 5.2.224–8.
- 9 George Chapman, *Monsieur d'Olive*, in *The Plays of George Chapman: The Comedies*, ed. Allan Holaday (Urbana, 1970), 397–471, 3.2.26–31; Thomas Heywood, *The English Traveller*, in *Thomas Heywood: Three Marriage Plays*, ed. Paul Merchant (Manchester, 1996), 105–86, 4.5.17.
- 10 Robert Greene, *A Quip for an Vpstart Courtier* (London, 1592; STC: 12300), E1v.

- 11 *A Critical Old-Spelling Edition of A Match at Midnight*, ed. Stephen Young (New York, 1980), 1.2.86–8.
- 12 Thomas Middleton, *The World Tost at Tennis*, in *Thomas Middleton: The Collected Works*, 1408–30, 28–31.
- 13 Thomas Dekker, *If This Be Not a Good Play, the Diuell Is In It*, in *Dramatic Works of Thomas Dekker*, vol. 3, 113–223, 5.4.95–100.
- 14 Thomas Heywood, *The Fayre Maide of the Exchange*, in *A Critical Edition of The Faire Maide of the Exchange*, ed. Karl Snyder (New York, 1980), 3.3.133–8.
- 15 Thomas Middleton, *A Faire Quarrell*, in *Thomas Middleton: The Collected Works*, 1212–50, 1.1.168–87.
- 16 William Shakespeare, *Henry IV, Part 2*, in *The Norton Shakespeare*, ed. Stephen Greenblatt (New York, 1986), 1319–20, 2.2.8–11, 2.1.39–40.
- 17 Thomas Churchyard, *The Firste Parte of Churchyardes Chippes Contayning Twelue Seuerall Labours* (London, 1575; STC: 5232), 75v.
- 18 For example, London Metropolitan Archives [LMA], COL/CA/01/01/2, f. 23r, 9, f 205v, 12, f 159r–v; *Tudor Royal Proclamations*, ed. P. Hughes & J. Larkin, 3 vols (New Haven, 1964–69), 1.262–3 (no. 179), 404 (no. 288); *Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII*, ed. John Brewer, 22 vols (London, 1862–1932), 13.1.265.
- 19 John Stow, *The Annales of England* (London, 1605; STC: 23337), 1163.
- 20 Craig Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (Basingstoke, 1995), 402 n 25, <https://doi.org/10.1007/978-1-349-26879-5>.
- 21 Jay Cohen, ‘The History of Imprisonment for Debt and its Relation to the Development of Discharge in Bankruptcy’, *The Journal of Legal History* 3.2 (1982), 153–71, <https://doi.org/10.1080/01440368208530762>.
- 22 Alfred Simpson, ‘The Penal Bond with Conditional Defeasance’, *Law Quarterly Review* 82.3 (1966), 392–422.
- 23 Richard Helmholz, ‘Usury and the Medieval English Church Courts’, *Speculum* 61.2 (1986), 364–80, <https://doi.org/10.2307/2854044>.
- 24 Tim Stretton, ‘Written Obligations, Litigation and Neighbourliness, 1580–1680’, in *Remaking English Society: Social Relations and Social Change in Early Modern England*, ed. Steve Hindle, Alexandra Shepard, and John Walter (Woodbridge, 2013), 189–210.
- 25 John H. Baker, *An Introduction to English Legal History*, 4th edn (London, 2002), 325–6.
- 26 Penny Tucker, *Law Courts and Lawyers in the City of London, 1300–1550* (Cambridge, 2007), 81, <https://doi.org/10.1017/cbo9780511585845>.

- 27 Stretton, 'Written Obligations', 198.
- 28 In fact, it was unlawful to do so to execute any civil process between private individuals, except with an aim to 'deliver the seisin or possession' of the house itself — see *The English Reports*, ed. A.W. Renton (Edinburgh, 1900–32), 77.194 (5 Co. Rep. 91a).
- 29 Shakespeare, *Henry IV, Part 2*, 2.1.38; Lording Barry, *Ram-Alley, or Merrie-Trickes*, ed. Claude Jones, (Louvain, 1911), 4.1.1745–9.
- 30 Dekker, *If This Be Not a Good Play, the Diuell Is In It*, 5.2.30–2.
- 31 Barry, *Ram-Alley*, 4.1.1693–4; Ben Jonson, *Epicoene*, in *The Complete Plays of Ben Jonson*, ed. G. Wilkes, vol. 3 (1982), 121–222, 4.5.166–8.
- 32 Richard Braithwaite, *A Strappado for the Diuell* (London, 1615; STC: 3588), 5.
- 33 Samuel Rowlands, *Good Nevves and Bad Nevves* (London, 1622; STC: 21382), Flv.
- 34 George Whetstone, *The Rocke of Regard Diuided into Foure Parts* (London, 1576; STC: 25348), 55–6.
- 35 William Fennor, *The Compters Commonwealth* (London, 1617; STC: 10781), 41–5.
- 36 For example, LMA COL/CA/01/01/03, ff 25v–27r.
- 37 Thomas Middleton, *Michaelmas Term*, in *Thomas Middleton: The Collected Works*, 337–72, 3.2.1–24, 3.3.1–34.
- 38 George Wapull, *The Tyde Taryeth No Man* (London, 1576; STC: 25018), E3v.
- 39 Christopher Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge, 1986), 51, <https://doi.org/10.1017/cbo9780511560385>.
- 40 Muldrew, *Economy of Obligation*, 234.
- 41 William Holdsworth, *A History of English Law*, vol. 3 (London, 1903–97), 428–54.
- 42 Trespass on the case was granted process of *capias* by 19 Henry VII, c. 9, though judicial practice had already made it available; see Margaret Hastings, *The Court of Common Pleas in the Fifteenth Century* (Ithaca, 1947), 170.
- 43 Marjorie Blatcher, *The Court of King's Bench, 1450–1550: A Study in Self-Help* (London, 1978), 111–37.
- 44 Baker, *English Legal History*, 43; Brooks, *Pettyfoggers and Vipers*, 48–57.
- 45 Brooks, *Pettyfoggers and Vipers*, 127–9; Louis Knafla, *Law and Politics in Jacobean England: The Tracts of Lord Chancellor Ellesmere* (Cambridge, 1977), 278, <https://doi.org/10.1017/cbo9780511896415>.
- 46 Hastings, *Court of Common Pleas*, 171; *Calendar of Plea and Memoranda Rolls*, ed. A.H. Thomas and P.E. Jones, vol. 3 (Cambridge, 1926–61), xxiii–xxiv; Tucker, *Law Courts*, 75–8, 180–1.
- 47 Y.B. Hil. 48. E. 3. 1a; Mich. 3. E. 4. 20a; Mich. 5. E. 4. 93b.

- 48 Side-stepping the process of attachment was one of the specific complaints which William Lambarde raised in a tract of 1590 — see Norman G. Jones, ‘The Bill of Middlesex and the Chancery, 1556–1608’, *Journal of Legal History* 22.3 (2001), 11 and n 67, <https://doi.org/10.1080/01440362208539632>.
- 49 *The Practick Part of the Law* (London, 1652; Wing: T7A), 8–9.
- 50 Thomas Powell, *The Attourney’s Academy* (London, 1647; Wing: P3068), 5.
- 51 Thomas Dekker, *Westward Ho*, in *Dramatic Works of Thomas Dekker*, vol. 2, 311–403, 3.1.24–30, 3.2.40–73.
- 52 Tucker, *Law Courts*, 33, 124, 165, 177–9.
- 53 *English Reports*, 77.829 (9 Co. Rep. 65b).
- 54 *English Reports*, 80.106 (Yelv. 158); the law did require summons or attachment prior to arrest, but its absence was undetectable in practice as long as the court roll recorded that the sheriff returned an original writ or bill, even if the writ was fictional or had not actually been carried out.
- 55 23 Henry VI, c. 9.
- 56 Muldrew, *Economy of Obligation*, 274–98.
- 57 *The Puritaine*, E2r–v.
- 58 Thomas Heywood, *If You Know Not Me You Know Nobody, Part 2*, in *If You Know Not Me You Know Nobody*, ed. Madeleine Doran, vol. 2 (Oxford, 1934), 1.5.670–81.
- 59 Barry, *Ram-Alley*, 4.1.1745–65.
- 60 Fennor, *Compters Commonwealth*, 3–4; LMA COL/CA/01/01/09, f 233v.
- 61 Greene, *Quip for an Upstart Courtier*, 44–5.
- 62 *Ibid*, 45–6.
- 63 Thomas Middleton, *The Roaring Girl*, in *Thomas Middleton: The Collected Works*, 726–77, 7.77.
- 64 Heywood, *If You Know Not Me, You Know No Bodie, Part 2*, 1.5.711–17.
- 65 Middleton, *A Faire Quarrell*, 1.1.20–4.
- 66 Thomas Heywood, *A Woman Killed with Kindness*, ed. Richard W. Van Fossen (Cambridge MA, 1961), 7.31–33; Shafton is pressuring Sir Charles to offer the land because he cannot acquire the freehold via debt proceedings.
- 67 *Ibid*, 7.57–63.
- 68 *A Knack to Know a Knave, 1594*, ed. G.R. Proudfoot (Oxford, 1964), 8.986–1028.
- 69 11 Henry VII, c. 15 (1495); Anthony Fitzherbert, *Offyce of Shyreffes* (London, 1541; STC: 10985), B6r–v.
- 70 Tucker, *Law Courts*, 180; Hastings, *Court of Common Pleas*, 159.
- 71 23 Henry VIII, c. 15.
- 72 LMA COL/CC/01/01/14, f 102r; in 1516, the schemes of some vexatious litigants prompted a new ordinance, that if a defendant was in prison for lack of bail and the

- plaintiff was dilatory in prosecuting their case, he could be nonsuited at no cost to the defendant — COL/CC/01/01/11, f 260r–v.
- 73 *Practise of the Sheriffs Court, London* (1658; Wing: H158A), 45.
- 74 Muldrew, *Economy of Obligation*, 264; in *Ram-Alley*, Dash denounces Francis's arrest as baseless, insists that the case will be removed by *habeas corpus* to a higher court, and threatens the serjeant with a suit of false imprisonment, damages, and the attendant legal costs; Barry, *Ram-Alley*, 4.1.1706–12, 1726–29.
- 75 Cohen, 'History of Imprisonment for Debt', 156 and n 33.
- 76 Eric D. Pendry, ed., *Thomas Dekker: Selected Writings* (London, 1967), 275–6; Dekker first attacked 'politic bankrupts' in his *Seven Deadly Sinnes of London* (1606) and returned to the issue here after his own time in debtors' prison; as this text specifically mentions the first three Bankruptcy Acts, but not the fourth of 1623, I take that as *terminus ante quam* for this part of his text; it may have been written contemporaneously with the other sections on prisons, which first appeared in the edition of 1616; see Pendry, *Thomas Dekker*, 324–6.
- 77 John Dawson, 'The Privy Council and Private Law in the Tudor and Stuart Periods: I', *Michigan Law Review* 48.4 (1950), 393–428, 404–6, 413, <https://doi.org/10.2307/1284783>, and 'The Privy Council and Private Law in the Tudor and Stuart Period: II', *Michigan Law Review* 48.5 (1950), 627–56, 650–2, <https://doi.org/10.2307/1284845>.
- 78 Rowley, *A New Wonder, a Woman Never Vext*, 4.1.137–41; Speedwell is in fact bluffing, and Stephen suspects this.
- 79 Dekker, *If This Be Not a Good Play*, 4.1.59–67.
- 80 James Hertzler, 'The Abuse and Outlawing of Sanctuary for Debt in Seventeenth-Century England', *Historical Journal* 14.3 (1971), 467–77, <https://doi.org/10.1017/s0018246x00007512>.
- 81 John Stephens, 'The Verge of the Court and Arrest for Debt in Fielding's *Amelia*', *Modern Language Notes* 63.2 (1948), 104–9, <https://doi.org/10.2307/2909516>; Nigel Stirk, 'Arresting Ambiguity: The Shifting Geographies of a London Debtors' Sanctuary in the Eighteenth Century', *Social History* 25.3 (2000), 316–29, <https://doi.org/10.1080/03071020050143347>.
- 82 Samuel Rowley, *When You See Me, You Know Me, 1605*, ed. Frank P. Wilson (Oxford, 1952), 7.1261–72.
- 83 *Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII*, 17.565.
- 84 *Calendar of the Patent Rolls Preserved in the Public Record Office: Elizabeth [I]*, 9 vols (London, 1939), 1.29–30.
- 85 LMA COL/CA/01/01/16, f 126v.

- 86 *Calendar of the Patent Rolls*, 6.61–2, 6.566–7; LMA COL/CA/01/01/19, ff 240v, 451r.
- 87 *Calendar of the Patent Rolls*, 7.17–18.
- 88 *Acts of the Privy Council*, ed. John Dasent (London, 1894), 9.209; LMA COL/CA/01/01/21, ff 193v; 22, 323r; National Archives, SP/12/147, ff 179r, 181r.
- 89 Dawson, ‘The Privy Council and Private Law: II’, 647–8.
- 90 *Ibid.*, 648–50
- 91 *Ibid.*, 415–16, 640–2.
- 92 *Ibid.*, 650.
- 93 *Ibid.*, 416, 647–48, 650; as early as July 1589, the Council was admonishing the mayor and aldermen of London for failing to assist their efforts — LMA COL/CC/01/01/23, f 306v.
- 94 LMA COL/CA/01/01/26, ff 47r, 119v.
- 95 Dawson, ‘Privy Council and Private Law: II’, 629–32, esp. 631 n 128.
- 96 Howard, ‘Credit, Incarceration, and Performance’, 93.
- 97 In fact, the king in the play, after revealing himself to the prisoners, specifically says: ‘Send your petitions to the Court to me. / And doubt not but you shall haue remedie’ — Rowley, *When You See Me, You Know Me*, 7.1351–2.
- 98 R. Malcolm Smuts, ‘Public Ceremony and Royal Charisma: The English Royal Entry in London, 1495–1642’, in *The First Modern Society: Essays in English History in Honour of Lawrence Stone*, ed. A.L. Beier, David Cannadine, and James M. Rosenheim (Cambridge, 1989), 65–93.
- 99 Kevin Sharpe, *Selling the Tudor Monarchy: Authority and Image in Sixteenth-Century England* (New Haven, 2009), 6–7.
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- 101 Lawrence Manley, *Literature and Culture in Early Modern London* (Cambridge, 1995), 212–94.
- 102 Rudolph Heinze, *The Proclamations of the Tudor Kings* (Cambridge, 1976).
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- 104 Martin Ingram, ‘Shame and Pain: Themes and Variations in Tudor Punishments’, in *Penal Practice and Culture, 1500–1900: Punishing the English*, ed. Simon Devereaux and Paul Griffiths (Basingstoke, 2004), 36–62, <https://doi.org/10.1057/9780230523241>.
- 105 Stuart Minson, ‘Public Punishment and Urban Space in Early Tudor London’, *London Topographical Record* 30 (2010), 1–16.

- 106 Muldrew, *Economy of Obligation*, 95–312.
- 107 *The Puritaine*, E1r–v.
- 108 Andrew Gordon, 'The Puritan Widow and the Spatial Arts of Middleton's Urban Drama', in *Middleton in Context*, ed. Suzanne Gossett (Cambridge, 2011), 37–44.
- 109 Paul Yachnin, 'Playing with Space: Making a Public in Middleton's Theatre', in *The Oxford Handbook of Thomas Middleton*, ed. Gary Taylor and Trish Thomas Henley (Oxford, 2012), 32–46, <https://doi.org/10.1093/oxfordhb/9780199559886.001.0001>.

