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# The Interconnected Nature of Family Indebtedness: The Halliday Family of Frome, Somerset (1733–1752)

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This article analyzes a single bankruptcy case—*Hancock v Halliday* (1742–1752)—as it was litigated in the Court of Chancery across a ten-year period. By incorporating local sources, the work attempts to move away from assumptions surrounding the “implicit contract” of family, and to provide a more nuanced analysis of “family strategies” in action. I argue that business historians—looking at networks—and economic and social historians—analyzing the use and implementation of credit—should continue to explore the divisions within families, which will help to reemphasize the role of women within business transactions and the wider credit-based economy. Ultimately, this article makes a significant contribution to the burgeoning scholarship on the negative aspects of familial networks of credit and debt, demonstrating how the complex and multifaceted nature of family indebtedness has been overlooked, and misunderstood, in the existing literature.

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**Keywords:** bankruptcy, chancery, family, debt

## Introduction

On December 8, 1733, the creditors of Edward Halliday—a clothier from Frome, Somerset—petitioned the lord chancellor to execute a commission of bankruptcy. A meeting of the creditors was arranged and “assignees”—usually the largest creditors—were elected to collect and distribute the bankrupt’s estate in order to satisfy Edward’s debts. If this legal process went smoothly, then the entire procedure would have been conducted and completed without recourse to any other legal jurisdictions. However, in the case of Edward Halliday, the initiation of a commission of bankruptcy led to a protracted process of debt recovery, in which several legal disputes were enacted in both the common-law courts and equitable jurisdictions. This single case—*Hancock v Halliday* (1742–1752)—is used here as a case study through which to analyze the breakdown of a family business.<sup>1</sup> By incorporating the surviving

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1. The National Archives (hereafter TNA), C11/549/27 “Hancock v Halliday” (1742–1752).

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private papers of Edward's friend and solicitor, Jarrit Smith, this article will demonstrate how the complex and multifaceted nature of family indebtedness has been overlooked, and misunderstood, in the existing literature.<sup>2</sup>

This article has emerged from a larger research project that analyzed how the procedure of bankruptcy was litigated in the court, paying close attention to the individuals involved in legal disputes, the construction of language submitted at each stage of proceeding, and the decision-making processes of the lord chancellor.<sup>3</sup> Although Edward Halliday was involved in at least thirty-five cases—in Chancery alone—this article analyzes a single case that centered around the failings of one family unit.<sup>4</sup> Bankruptcy proceedings lasting twenty years, and Chancery cases lasting ten years, were not uncommon.<sup>5</sup> Although *Hancock v Halliday* is not a particularly notorious or exceptional suit, it is unusual for the amount of documentation that survives.<sup>6</sup> Furthermore, it is rare to find private correspondence that explicitly discusses the failure of an individual bankrupt. In official bankruptcy records—notices in the *London Gazette*, bankruptcy commissioners' files, and Chancery proceedings—debtors were not required to explain how and why they had failed.<sup>7</sup> Therefore, the direct causes of individual bankruptcies are difficult to uncover. By utilizing local sources alongside this particularly detailed case, it is possible to link the legal difficulties of the Halliday family to everyday life, refocusing attention on those involved in a complex and protracted process of debt recovery.<sup>8</sup>

The historiography surrounding the role of family, friends, and kin in educating and helping individuals in trade is well established.<sup>9</sup> Similarly, there is a growing literature on the activities of women and the role of the wider family in eighteenth-century business networks.<sup>10</sup> Far less attention has been given to the effects on family enterprise when things went wrong. In 1980, the sociologist Yoram Ben-Porath argued that the connection of family members helped to increase trust and reduce risk in trade, in what he termed the “implicit contract” of family.<sup>11</sup> Whereas sociologists have promulgated the notion of the family as a single economic and social unit, several historians have implemented this assumption in their research.<sup>12</sup> Peter Mathias has described this as a “general law,” and claimed that “the higher the level of uncertainty and risk in the context of enterprise then the greater premium there is

2. Bristol Record Office (hereafter BRO), “Records of the Smyth family of Ashton Court: Jarrit Smith Papers,” full reference range, AC/JS/45/1-10. I would like to thank Robert Nantes for informing me about the existence of these papers.

3. Collins, “Bankruptcy in the Court of Chancery.”

4. Although Edward Halliday was involved in numerous cases—both within and outside Chancery—only one case named his mother and son as defendants; for a similar approach, see Patterson, “Story of Lucy Browne,” 30–39.

5. Nantes, “English Bankrupts,” 199; Horwitz and Polden, “Continuity or Change,” 24–57.

6. Seventy-nine separate documents survive; a brief overview is provided in [appendix one](#).

7. Hoppit, *Risk and Failure*, 43; Nantes, “English Bankrupts,” 115–116.

8. See Churches, “False Friends, Spiteful Enemies,” 52–74; Churches, “Business at Law,” 937–954.

9. See Tadmor, *Family and Friends*; Haggerty, “You Promise Well,” 267–282; Hunt, *Middling Sort*, 22–19; Grassby, *Kinship and Capitalism*, 217, 286–287; Hancock, “Trouble with Networks,” 467–491.

10. Jones and Talbott, “Sole Traders?” 1–30; Lee and Hudson, “Women's Work and the Family Economy”; Erickson, “Married Women's Occupations,” 267–307; Capern, McDonagh, and Aston, *Women and the Land 1500–1900*.

11. Ben-Porath, “F-Connection,” 1–30.

12. See Barker, *Family and Business*, 78–81.

upon kinship links.”<sup>13</sup> Richard Grassby has argued that familial capitalism—rather than possessive individualism—was the spur to economic growth and capitalist development in the early modern period. For Grassby, uncertain and risky trades were best financed within family units, as “siblings and kin were less likely to imprison for debt.”<sup>14</sup> Within the cotton industry, Mary Rose has claimed that family firms can be viewed as “a network of trust” that helped to reduce “transaction costs and the dangers and uncertainties of business activity.” Rose goes on to suggest that with “the spectre of bankruptcy ever present ... businessmen preferred to be associated with their family connections than with outsiders.” Such a strategy was employed to “ameliorate the worst effects of uncertainty.”<sup>15</sup> Much of the scholarship on family enterprise continues to refer to the ideal that family, kin, and perceived likeness—ethnic identity, religion, and natural allegiances—created bonds of trust that enabled a competitive advantage in trade.<sup>16</sup>

But as Hannah Barker has shown, the reality is more complex. If families are “assumed to act as single units whose members are united in their aims,” it means that “internal fractures are overlooked, and the ways in which familial decision-making operates are obscured.”<sup>17</sup> Using the concept of “family strategy,” Barker complicates the notion that families act with shared ambitions and as a single economic and social unit. While some scholars employ terms such as “family strategies” to analyze families as a coherent unit that undertakes a single approach to business, others do not.<sup>18</sup> Although there were certainly examples of closer ties reducing risk and uncertainty, greater attention needs to be paid to the specific actions of individuals when financial and personal failure threatened the stability of a family business. Douglas Hamilton, for example, has argued that the scholarship surrounding such networks has been “dominated by narratives of success ... only infrequently has the assumption of success been challenged.”<sup>19</sup> By analyzing the breakdown of a family unit within a local trading environment, this article will contribute to the ongoing debate surrounding the usefulness of family and kin in the wider credit-based economy.

Defining the boundaries of the family unit is a difficult task. Ben-Porath defined the family as “a group of individuals related by blood, marriage, or adoption,” which formed “the basis of almost all economic transactions.”<sup>20</sup> Ralph Houlbrooke has argued that this type of nuclear family was the dominant social construct in the early modern period. So much so, that between the fifteenth and eighteenth centuries, England saw “no fundamental changes in familial forms, functions and ideals,” meaning that outside of the nuclear family, kinship ties were “relatively weak.”<sup>21</sup> Moving away from conceptions of the nuclear family, Naomi Tadmor has used the term “household family” to demonstrate how contemporaries often thought about their families

13. Mathias, “Risk, Credit and Kinship”; McCusker and Morgan, 17; Mathias, “Business History,” 10–11.

14. Grassby, *Kinship and Capitalism*, 286.

15. Rose directly references Ben-Porath and other “theorists” to illustrate her point. Rose, *Firms, Networks and Business Values*, 9, 58.

16. Trivellato, *Familiarity of Strangers*, 3–4.

17. Barker, *Family and Business*, 78.

18. *Ibid.*, 226, 81.

19. Hamilton, “Local Connections, Global Ambitions,” 284.

20. Ben-Porath, “F-Connection,” 3.

21. Houlbrooke, *English Family*, 15–16, 253.

in terms of household residence, rather than marriage or blood relations.<sup>22</sup> As the main economic unit of assessment, Craig Muldrew has argued that it became essential for households to be able to judge the trustworthiness of one another before extending credit or entering into contracts.<sup>23</sup> According to Matthew McCormack, throughout the eighteenth century, “the *household* and the *householder* were the basic units of social conceptualisation.”<sup>24</sup> When individuals encountered financial trouble, their first port of call was very often their immediate family. Louise Tilly and Joan Scott have argued that when individuals in families dealt with economic and demographic pressures, they seemed to act as coherent units. However, the authors recognize that insufficient attention has been given to the “contention, bargaining, negotiation, and domination” that was involved in this process, and the specificities of how the unit responded to such external pressures.<sup>25</sup> By unravelling the numerous debts that the Halliday family dealt with across a twenty-year period, we can analyze the actions and words of individual family members, illuminating the particular details of such negotiations, tensions, and power dynamics, as well as the emotional turmoil that came with interconnected indebtedness.

Such an analysis complicates not only the notion of the “implicit contract” of family but also the boundaries and definition of a family unit. We will see Edward working in collaboration with his family and friends to prioritize and work through complex and multifaceted debts, providing further evidence of the specific elements of “family strategy” in action. However, we will also see the conflict and breakdown of close familial relationships as certain debts remained unpaid and were litigated in lengthy and costly legal battles. Analyzing the family as an economic or legal unit—or even as a social or emotional community—is unhelpful, as the way in which individuals navigated specific debts and legal procedures cut across these boundaries and definitions. Therefore, the family was not just a safety net and source of comfort for bankrupt traders, it was also an arena in which complex credit arrangements existed and were played out in the court.<sup>26</sup>

Edward and his wider family were comfortably part of the aspiring middling sort involved in eighteenth-century manufacturing. It has been suggested that an income of £50 per annum was the threshold for the middle rank, whereas individuals worth between £500 and £5,000 could enjoy a comfortable and pleasant life.<sup>27</sup> Ephraim Lipson has described clothiers as early “capitalist employers” and entrepreneurs, who directed others to undertake specific duties relating to the completion of cloth, and who were engaged in buying, selling, and utilizing credit on a substantial scale.<sup>28</sup> In 1717, Edward Halliday took an apprentice named Edward William Acort for a premium of £55, and when things were going well he was part of the more affluent ranks of the middling sort.<sup>29</sup> An established scholarship has demonstrated that

22. Tadmor, *Family and Friends*.

23. Muldrew, *Economy of Obligation*, 148–150.

24. McCormack, *Independent Man*, 25; italics in original.

25. Tilly and Scott, *Women, Work, and Family*, 9.

26. For discussions of families as “emotional units,” see Broomhall, “Emotions in the Household,” 1–37; Barclay, “Family, Memory and Emotion,” 100679.

27. Earle, *Making of the English*, 14–15; Langford, *Polite and Commercial People*, 62.

28. Lipson, *History of the Woollen and Worsted Industries*, 34–42.

29. TNA, IR 1/45, “Board of Stamps: Apprenticeship Books” (1710–1811), f.53. I would like to thank Alannah Tomkins for providing me with this reference.

aspiration, improvement, and the accumulation of wealth were defining characteristics of such families.<sup>30</sup> Nevertheless, although there were opportunities for success, several individuals experienced downward mobility or severe social and economic failure. Tawny Paul has argued that “insecurity was the defining feature of commercial experience” for middling people.<sup>31</sup> Throughout the eighteenth century, all levels of the middling sort became increasingly dependent upon the market, and although family businesses retained ownership of capital assets—such as their house and workshop—they were reliant on credit to maintain their raw materials and trading stock.<sup>32</sup> Because of the unlimited nature of personal liability, Paul Langford has argued that bankruptcy was seen as the “nightmare” of the eighteenth-century middling sort.<sup>33</sup>

Edward Halliday was just one of some thirty-three thousand businesses that went bankrupt throughout the eighteenth century, and although categorization according to specific occupations is a difficult task, some indicative examples will demonstrate the realities of this fear in the West of England. Julian Hoppit has estimated that one in four bankrupts were from the textile and clothing industries, with Somerset accounting for 2.7 percent of that total. Between 1741 and 1760 there were at least seventy-eight known bankrupts in Somerset, averaging around four per year.<sup>34</sup> In neighboring Gloucestershire, there were eighteen bankruptcies between 1746 and 1756, with one contemporary estimating that £50,000 was lost to “bankruptcies, fall of goods, and want of sales” between 1751 and 1756.<sup>35</sup> The nightmare of bankruptcy could quickly become a reality, and Edward and his family were just one of several members of the aspiring manufacturing trade who experienced financial, personal, and business failure during the period.

This article is divided into three sections. The first section provides an overview of the legal interventions that took place between Edward’s bankruptcy in 1733 and the completion of the Chancery case in 1752. This section contextualizes the documentation utilized in the article and provides background for the analysis that follows. It is crucial to have a firm understanding of the legal procedures and the range of debts that Edward faced in order to analyze the actions of individuals within the broader concept of family strategy. The second section demonstrates the complexities and ongoing negotiations between debtors, creditors, and assignees. Although certain creditors exhibited resentment at not being repaid, others were portrayed as part of Edward’s friends and family in the process. Only by unravelling these complex and multifaceted transactions can we gain an insight into the interpersonal relationships within debt recovery. The third section analyzes the interconnected and complex web of debts within the Halliday family itself, providing a detailed overview of the breakdown of a mother-son relationship. This section will illustrate how, why, and when the family got embroiled in financial difficulties, and the paths they attempted to take to secure

30. Earle, *Making of the English*; Earle, *City Full of People*; French, *Middling Sort*; Langford, *Polite and Commercial People*; Marshall, *Eighteenth-Century England*; Davidoff and Hall, *Family Fortunes*, would add the centrality of religious beliefs to the ordering of the family.

31. Paul, *Poverty of Disaster*, 4; see also, Wakelam, *Credit and Debt*.

32. French, *Middling Sort*, 26.

33. Langford, *Polite and Commercial People*, 76.

34. Hoppit, *Risk and Failure*, 75, 182–185.

35. Mann, *Cloth Industry*, 42.

their individual and collective stability. Ultimately, this article makes a significant contribution to the burgeoning scholarship on the negative aspects of familial networks of credit and debt, providing a more nuanced understanding of the role of the family in early modern business activity.

### Legal Interventions in Edward Halliday's Bankruptcy

In order to initiate a suit in Chancery, the plaintiff(s) needed to submit a written bill of complaint, outlining the pertinent facts of the case and explaining that it was impossible to secure a remedy without the court's action. Bills needed to show that the suit fell within the equitable jurisdiction of the court, and the defendant(s) had somehow acted against conscience.<sup>36</sup> As such, Chancery bills provide a clear, chronological description of the path that the commission of bankruptcy had taken, and the specific details of how this procedure had failed.

In *Hancock v Halliday*, the first bill of complaint was submitted on May 1, 1742. The plaintiffs were three assignees—Jonathan Hancock, Richard Hooper, and Abraham Clavey—and two further creditors—Nathaniel Mortimer and Stephen Skurray—of Edward Halliday. The named defendants were the bankrupt Edward Halliday, his mother Mary Halliday, John Phelps, and Robert Mears, all of whom resided in Somerset. The plaintiffs accused John Phelps—who was an attorney and the original clerk of the commission of bankruptcy—of having some documents relating to the commission in his possession. Similarly, they accused Robert Mears of having some of the bankrupt's goods in his possession. However, the suit centered around the dealings of the Halliday family, and a family tree is provided in [appendix 2](#).<sup>37</sup>

The complaint stated that several "Writts of Extent" were issued out of the Court of Exchequer against the lands and goods of the bankrupt for "a large sum of His Majesties Money" in December 1733.<sup>38</sup> Subsequently, the sheriff "Extended Inventoryed and appraised His household goods Dyeing Intensills Dye Stuff Wool Yarn Lint Oil Soap and other Materials for Dyeing and making Cloth," which were in the bankrupt's dwelling house in Frome, Somerset, estimated to be worth £8,000. To prevent the estate from being sold, Mary Halliday asked several family members—George Locke, the bankrupt's uncle, and Jane and Elizabeth Hippie, the bankrupt's aunts—to give their bond to pay the Crown. The sheriff subsequently released the goods back into the custody of these three family members, who provided an inventory of all the "goods chattles wares and merchandiz" that had come into their possession.<sup>39</sup>

Although limited information survives regarding George Locke, both Jane and Elizabeth Hippie left substantial estates to their immediate and extended families in 1752 and 1755. For example, Elizabeth Hippie had purchased a large estate in Frome, and left her "Messuage

36. Horwitz, *Guide to Chancery Equity Records*, 3–4.

37. TNA, C11/549/27, "Hancock v Halliday" (1742), Bill of Complaint.

38. *Ibid.* A Writ of Extent is defined as "a writ to recover debts of record due to the Crown, under which the body, lands, and goods of the debtor may be all seized at once to compel payment of the debt," OED.

39. BRO, AC/JS/45/9c.

Tenement or Tenements with the Outhouses Gardens and Appurtenances” to her widowed niece, Elizabeth Edgell.<sup>40</sup> Jane Hippie left a farm called “Bagberrie” to Samuel Whitchurch and James Wickham, and instructed them to sell the premises and pay specific sums to certain individuals: including £1,000 to Elizabeth Edgell; £100 to Edward Halliday’s daughter, Jane Halliday; and £5 to his daughter, Elizabeth Allen.<sup>41</sup> Furthermore, Edward’s Grandfather, John Hippie—also a clothier from Frome—left a £4,000 marriage portion to his children in 1717, which was witnessed by George Locke, Elizabeth Hippie, and Mary Halliday.<sup>42</sup> Therefore, the Halliday family held substantial estates, lands, goods, and even the means of production. They were part of the higher end of the middling sort and could have lived a comfortable life for several generations. However, as Tawny Paul has argued, although such households would appear successful and prosperous, “they lived on the edge ... the fragility of the credit economy meant that these types of households could easily fall under.”<sup>43</sup> Although part of a substantial family, it was Edward’s engagement in a market that was reliant on credit, which led to his eventual failure.

By the eighteenth century, Frome was a well-established trading center for the production of woollen cloth, with a history of international trade and political activism emerging from the area.<sup>44</sup> In 1711, a petition was signed by clothiers citing distress in their local business, and in 1713, fifty-four clothiers from Frome signed a petition to the House of Lords against the implementation of the Treaty of Utrecht. Julia Mann has claimed that when spinning machines began to be introduced in the area, “it was a mob outside the town, mainly from Frome and Warminster,” which destroyed the first machine introduced in Wells, Somerset. In the latter decades of the eighteenth century, it was estimated that approximately 5,300 cloths—roughly 160,000 yards—per annum were being produced and sent out from Frome.<sup>45</sup> The Halliday family were established clothiers from a well-known trading center. In the early stages of his financial difficulties, Edward was able to call on his family to prevent his estate from being seized by the Crown. As George Locke, and Jane and Elizabeth Hippie, were now creditors of the bankrupt, Mary persuaded them to take out a commission of bankruptcy against Edward on December 8, 1733.<sup>46</sup> This action set in motion the events that followed, as the commission was executed, and began to be controlled by, Edward’s immediate family.

Official bankruptcy procedure was just one of several routes available to early modern creditors. Under the insolvency laws, creditors acted individually against the goods and body of the debtor. Common-law litigation in the three main civil jurisdictions—King’s Bench, Common Pleas, and Exchequer of Pleas—provided a relatively low-cost, quick, and predictable recovery for creditors, covered by a “loser pays all costs” rule and a process of pretrial arrest and imprisonment.<sup>47</sup> However, once a commission of bankruptcy had been initiated, then creditors could not pursue individual actions against debtors, and their only option was

40. TNA, PROB 11/795/420, Will of Jane Hippie, 25 June 1752.

41. TNA, PROB 11/806/374, Will of Elizabeth Hippie, 16 February 1754.

42. TNA, PROB 11/560/340, Will of John Hippie, 16 November 1717.

43. Paul, *Poverty of Disaster*, 240.

44. One clothier in the 1620s had a customer in France; Mann, *Cloth Industry*, xiv.

45. *Ibid.*, 33–35, 123, 55.

46. TNA, C11/549/27, “Hancock v Halliday” (1742), Bill of Complaint.

47. Francis, “Practice, Strategy, and Institution,” 811.

to join the commission to form a collective action in order to receive dividends on a pro rata basis.<sup>48</sup> A bankrupt who truthfully and honestly conformed to the procedure was safeguarded from imprisonment and could receive a certificate of conformity, which enabled creditors to discharge a bankrupt from future liability, as long as four-fifths by number and value agreed.<sup>49</sup> If the estate paid eight shillings in the pound, the bankrupt was entitled to 5 percent of the estate recovered—provided this did not exceed £200 in value—so as not to leave their family destitute throughout the proceeding.<sup>50</sup> Therefore, there were several incentives to encourage the bankrupt and their associates to fully cooperate with the proceedings.

Assignees were named to identify and distribute the bankrupt's estate to all creditors who came forward to prove their debts. However, the plaintiffs described the assignees as George Locke the bankrupt's uncle, William Gaifford his brother-in-law, and three "friends" of the bankrupt. The "One Great cause of Complaint" against these friends and family members, was that they

permitted the Bankrupt and his family to keep the possession of and live in the same house use the same household Goods and carry on the same Trade with the same Utensills and in the same manner after his Bankruptcy as he had done before whereby the said household Goods and Utensills were worn out and greatly lessened in Value and they the said assignees refused or neglected to sell the same and turn them into money so as a Dividend thereof might be made.<sup>51</sup>

The bill claimed that the initial commission of bankruptcy was executed in a fraudulent manner, with the assignees colluding to keep the goods and equipment within the family. The bankrupt was allowed to carry on his trade as before, either trading in his own name, in the name of his mother, or in the name of his thirteen-year-old son, John Halliday. The plaintiffs appeared as disgruntled creditors outside of the family dynamic, and argued that the assignees should have sold the bankrupt's goods for the benefit of all of the creditors, which was the common practice.

It was not uncommon for close acquaintances to initiate a "friendly" commission of bankruptcy to shield a debtor from the harsher penalties associated with the insolvency laws. It was unusual that a bankrupt could find no family members to assist them when they failed.<sup>52</sup> To use but one example, perhaps the most famous bankrupt of the period, Daniel Defoe, had to be bailed out by his mother-in-law on one occasion.<sup>53</sup> In the case of Halliday, the family initially acted as a coherent unit and as a safety net for Edward, shielding him from imprisonment and ensuring that the goods and estate stayed within the family. The original inventory made by

48. In order to be declared a bankrupt, a debtor had to have owed more than £100, been a merchant or trader making their living through "buying and selling," and committed a criminal "act of bankruptcy"; 21 James I c.19 (1624); 13 Elizabeth I c.7 (1571); 34 & 35 Henry VIII c.4 (1543); for a fuller discussion of the implementation of these stipulations, and particularly the trading distinction, see, Collins, "Bankrupt Traders in the Court of Chancery," 65–82.

49. 4 & 5 Anne allowed the commission to decide on discharge, 6 Anne made this a decision of the creditors, 4 & 5 Anne I c.4 (1706); 6 Anne c.22 (1707).

50. Legal statute of 4 & 5 Anne I c.4 (1706).

51. TNA, C11/549/27, "Hancock v Halliday" (1742), Bill of Complaint.

52. Nantes, "English Bankrupts," 121.

53. Backscheider, *Daniel Defoe*, 50.



the sheriff in December 1733 included a combination of household goods, stock, trading utensils, and primary materials that you would expect to see with a clothier. These included “eight Vessells of Copper as of the value or price of £57 12s”; ten tonnes and forty gallons of oil, £279 9s; fifty tonnes of log wood, £750; five furnaces worth £130 in total; forty pairs of sheers, £45; a teakettle and lamp, 9s.; and finally, in the nursery, “a Bedstead Flock bed and Bolster a Rugg One sheet and two Blanketts of the value or price of £1, 7s., 6d.”<sup>54</sup> It is clear that Edward and his mother lived on the same estate, engaged in the same trade, and worked on the same premises. Margaret Hunt has argued that the distinction between business liability and family liability was “extremely vague” in eighteenth-century England.<sup>55</sup> The inability to distinguish between Edward’s stock and trade and that of the wider family led to debates and disagreements surrounding the separation of Edward and Mary’s goods. This was a crucial element of the debt-recovery process, as creditors were unable to effectively identify and seize Edward’s goods in order to satisfy his debts.

Although Halliday, with help from his family, was able to satisfy four writs of extent, several more remained outstanding. This led to a complex situation of debt recovery, as the commission of bankruptcy was ongoing alongside several debts due to the Crown. Put simply, a writ of extent could be taken out directly on behalf of the Crown, or it could be initiated by a private individual against another private individual, to satisfy a debt to the Crown.<sup>56</sup> Crucially, writs of extent took precedent over bankruptcy proceedings, as the king was not bound by the laws of bankruptcy. This meant that, although creditors in a commission of bankruptcy received a proportion of their debt—so many pence in the pound—on a pro rata basis, debts to the Crown needed to be satisfied first, and in full. Although bankruptcy procedure protected the bankrupt from imprisonment, an extent could override this privilege and imprison the bankrupt until repayment was made.<sup>57</sup> This led to several creditors exhibiting frustration, confusion, and resentment at not being repaid.

On March 25, 1740, the creditors involved in the commission of bankruptcy—who were outside of the family dynamic—lost their patience and petitioned the lord chancellor, “complaining of such their Misbehaviour and thereby Prayed” to have the commission superseded and a new commission executed. The lord chancellor agreed, and a new commission of bankruptcy was taken out on April 26, 1740, naming the plaintiffs as the new assignees.<sup>58</sup> The fact that a new commission was granted demonstrates the division between creditors within the Halliday family—who were accused of fraud and collusion—and creditors outside of this dynamic who demonstrated frustration at their inability to be repaid. On May 27, 1740, an assignment was made of the bankrupt’s goods and estate to the plaintiffs, who took possession of the bankrupt’s house, warehouse, and dyehouse shop on August 12, 1740. In 1741, Mary Halliday brought an action in Common Pleas against the new assignees for “breaking and Entering her Dwelling house Dye house Warehouse.” According to the case in Common Pleas,

54. BRO, AC/JS/45/5; A similar inventory can be seen when these goods were handed over to George Locke and Jane and Elizabeth Hippiie, totalling approximately £8,000, BRO, AC/JS/45/9c.

55. Hunt, *Middling Sort*, 23.

56. Tidd, *Practice of the Courts*, 2:1088–1090.

57. Burrill, *Law Dictionary and Glossary*, 591–92; Blackstone, *Commentaries on the Laws of England*, 3:419–420.

58. TNA, C11/549/27, “Hancock v Halliday” (1742), Bill of Complaint.

the plaintiffs illegally took possession of the goods of Mary. She received a verdict for £175, as the plaintiffs could not gain possession of the documentation relating to the first commission of bankruptcy, and therefore made no defense. Mary gained a verdict for damages “without giving any Evidence.”<sup>59</sup> The assignees sought an injunction against any further common-law proceedings so they could prove their right to the goods in Chancery. This led to the initiation of the Chancery case on May 1, 1742.

As the suit progressed in Chancery, the case narrowed to focus on Mary as the main defendant, despite the fact it was her son who was at the center of bankruptcy proceedings. Edward Halliday only provided a brief answer on March 18, 1743, whereby he denied that the bonds given as a security to the sheriff were at the request of himself or his mother. He also denied that assignees were chosen by him or his friends:

This Defendant saith that he doth not know that the Creditors in General Ever complained that the former assignees permitted this Defendant and his family to keep possession of the house he lived in and for he and his family to make use of the same household Goods and carry on the same Trade with the said Utensills and in the same manner as was done before he became Bankrupt whereby the said household goods and Utensills were worn out and greatly lessened in Value for that the house he lived in was his mothers and so were the Goods and denies that he carryed on the same Trade or with the same Utensills and in manner as he did before his Bankruptcy.<sup>60</sup>

In contrast, Mary Halliday submitted three answers—dated June 26, 1742, October 19, 1743, and September 4, 1744—and sought to address “the many Errors Untruths Uncertaintys and Insufficiencys in the Complainants said Bill and Amended Bill of Complaint.”<sup>61</sup> The back-and-forth between the plaintiffs and Mary demonstrates that the plaintiffs had begun to focus their attention on Mary as the main defendant. Once the pleadings had been finalized, the case came to be heard in open court on April 16, 1746. The court summarized the pertinent facts of the case and ordered all parties to provide any documentation relating to the bankruptcy of Edward Halliday to a Chancery master, who acted as a fact finder to inform the decision-making process of the court. This led to the evidentiary stage of proceeding, whereby two forms of evidence were presented to the master. The first was a set of questions—known as interrogatories—produced by the plaintiffs, which were to be put to Mary by a master. The second can be seen in masters’ exhibits, whereby several individuals brought a range of documentation for examination by the master.

The final judgement of the court occurred on June 4, 1752, and explained that the case never returned to the common law, as “the Partys have Agreed to refer the terms in difference to

59. TNA, C33/385, “Hancock v Halliday,” 16 April 1746, f.559–561.

60. TNA, C11/549/27, “Hancock v Halliday” (1742), Answer of Edward Halliday. A further bill of complaint was submitted on April 30, 1745, naming the bankrupt’s son, John Halliday, as a new defendant. This seems to have been done to gain an injunction against John proceeding against the plaintiffs at common law. It appears that John never answered the bill, as a decree dated May 13, 1745, stated that after three subpoenas demanding John appear and answer, an injunction was granted, and no reference was made to John Halliday for the remainder of the suit; TNA, C33/383, “Hancock v Halliday,” 10, 11, 13 May 1745, f.347, f.415, f.415.

61. TNA, C11/552/25, “Hancock v Halliday” (1743), Answer of Mary Halliday. See [appendix](#) for further details.

arbitrators.”<sup>62</sup> After ten years of litigation in Chancery, and nearly twenty years since the bankruptcy of Edward Halliday, both sides had agreed to meet with arbitrators to settle their outstanding financial accounts. This complex and lengthy case provides further proof that Chancery was a court in which the procedures were focused not on finalizing a case, but rather on mediating in social and financial affairs.<sup>63</sup> Steve Hindle has shown how there was a “spectrum of outcomes to dispute in early modern society.” Courts of equity worked alongside informal agreements and arbitration in a wider pattern of conflict.<sup>64</sup> At the initial point of Edward’s failure, the Halliday family appeared to act as a single economic and social unit to keep the goods and estate of the business within family control. However, by analyzing the extant documentation in greater detail, we can begin to provide a more nuanced understanding of the actions of the Halliday family, and to unravel the complexities and specificities of debt recovery.

### The Interaction Between Creditors, Debtors, and Assignees

Although the fragmented nature of the surviving documentation makes it difficult to calculate an exact amount, in December 1733 Halliday still owed over £5,500 to the Crown and private individuals. For example, he owed Jeremiah Burroughs, the collector of customs, £3,050 plus interest and charges, Ethelred Davy £200, and a Master Derby two separate debts of £1,100 and £1,425 respectively.<sup>65</sup> Between January and April 1734, Halliday wrote several letters to his friend and solicitor, Jarrit Smith, seven of which survive. The correspondence demonstrates the complex, multifaceted, and desperate circumstances that Halliday found himself in, and alludes to the aid received from his family and friends.

On January 18, Halliday thanked Smith for lending him money to satisfy the debt due to Burroughs. He asked Smith, “Pray favour me with a line how long your Goodness can stop receiving it of the Assignees for God sake let me know the longest day the Assignees and other friends will I dare say give you any security in their power.” He goes on to describe an extent in London as “vile treatment a thing never heard of before when there was treble security given and taken.”<sup>66</sup> Here, we can see that Halliday referenced the securities provided by his family, describing the assignees alongside his “friends.” In contrast, he speaks of his treatment at the hands of the Crown in unflattering terms. Halliday is more concerned with the outstanding extents, and in a second letter dated just six days later, he explained “for that in Less than a Month, I can raise it in London, and could even in Less time, had I not been embarr[assed] by a Double Extent.” If they were able to remove the extent in London, then “all Difficulties will Vanish.”<sup>67</sup> Halliday seemed to separate the debts in terms of the creditors themselves and

62. TNA, C33/397, “Hancock v Halliday,” 4 June 1752, f.428.

63. Horwitz, *Guide to Chancery Equity Records*, 25–26.

64. Hindle, “Micro-Spatial Dynamics of Litigation,” 140–163.

65. BRO, AC/45/9d; AC/45/9a-b; BRO, AC/JS/45/3; this amount is confirmed by a partially damaged Memorandum dated October 12, 1746, taken from an assignee, which stated that Burroughs was owed £3,050.

66. BRO, AC/JS/45/7a.

67. BRO, AC/JS/45/7b.

takes a more favorable view of the commission of bankruptcy, seeing it as something that will naturally conclude.

Halliday wrote two more letters in January, asking the longest Smith could go without repayment:

I ask your pardon for the numberless letters and trouble I give you on my unlucky affair but as all my Estate and happiness is in your hands [I] can't be easie without often hearing from you tho your Goodness and unparreled treatment to my family fully satisfy me that shall have every thing done that can reasonable ask or in your power to do my Assignees and other friends will give you any security you shall ask if your Goodness can forbear having your money immediately.<sup>68</sup>

In these first three letters, the desperation from an unanswered Halliday is palpable. We also see Halliday bring together notions of family unity alongside his description of friends and the assignees; all of whom were creditors. He demonstrates appreciation that Burroughs had managed to support his family throughout his failure, and we gain an implicit insight into the impact this was having on himself and his family.

On March 2, 1734, Halliday wrote with more encouraging news, and explained that a Master Price's extent was "taken care of, and the money Deposited and Baker will be made Easy about his next Week." Halliday again asked for more time to pay off the money advanced to Burroughs until Lady Day, "at which time you shall be Paid Principal and Interest with abundance of Thanks." He stated that he will "Receive of my Lady Orrery at that time £7000 ... and therefore can then Pay it with pleasure."<sup>69</sup> Despite being severely indebted, Halliday was himself a creditor, and the surviving documentation shows that he was owed at least three more substantial sums. Richard Chaffin owed Halliday £500, Edward Marton owed him £1,400, and Lionel Seaman owed two separate debts of £3,000 and £2,000 respectively.<sup>70</sup> These statements demonstrate the extent to which Halliday was reliant on credit. Tawny Paul has shown how imprisoned tradesmen were not poor, but rather lacked the means to transfer assets to their creditors.<sup>71</sup> Here, we can see how Halliday was a substantial creditor but became insolvent as he lacked the ability to effectively call in his debts. Throughout the correspondence, Halliday frequently mentioned the occasions when he travelled from Frome to Bristol to see Smith in person but was never successful. Similarly, he mentioned his dealings in London and several occasions when he travelled to see Phelps, the lawyer who was dealing with the commission and outstanding debts in the capital.

At the beginning of the eighteenth century, it has been estimated that the value of exports of woollen manufacturing totalled £3 million per year, accounting for roughly half of all exports. As Ephraim Lipson has claimed, "There was probably not a town, village, or hamlet throughout the length and breadth of the country which was not connected at some time or other with the manufacture of cloth."<sup>72</sup> It is not surprising that Halliday had significant dealings in

68. BRO, AC/JS/45/7c, letter dated January 28, an earlier correspondence was dated January 24, 1734.

69. BRO, AC/JS/45/7d.

70. BRO, AC/JS/45/3a-b.

71. Paul, *Poverty of Disaster*, 76.

72. Lipson, *History of the Woollen and Worsted Industries*, 6.

London and Bristol, the two major centers of trade for woollen cloth. As Peter Earle has shown, London accounted for two-thirds of all cloth exported overseas, and was the city where most of the finishing trades—such as pressing, shearing, packing, and dyeing—were undertaken. London was also the biggest center for the domestic consumption of wool and was also used in the preparation and distribution of raw materials, whereby wool would be cleaned, combed, and spun before being sent back to the provinces. Earle has estimated that 40 percent of the labor force in London were engaged in manufacturing, and around 20 percent were engaged in the textile industry. Overall, as much as one-quarter of the national income was spent on clothing.<sup>73</sup> Therefore, it is likely that Halliday's dealings in London were multifaceted, involving wholesale, retail, and the employment of others to finish cloth along the manufacturing line.

Bristol was the largest port on the West Coast and had a long and established history of cloth production dating back to the twelfth century.<sup>74</sup> Throughout the eighteenth century, Bristol saw the level of its business rapidly grow, and even when the importance of local markets began to dwindle in the middle of the century, Bristol maintained its importance as a place where news could be heard, prices indicated, and customers sought.<sup>75</sup> We can see the degree to which Halliday relied on credit and how he was both a creditor and a debtor in Frome, Bristol, and London. Although Edward and his mother had access to a substantial estate and fixed capital, he had become reliant on the vagaries of trade and the unpredictable nature of the market. Initially, Edward's indebtedness effected his solvency and credibility, but this quickly spread to members of his wider family. When family members assisted debtors, they became detrimentally affected by individual failures. The possibility existed that such individuals only continued to offer assistance as long as there was a realistic possibility of their financial investment being returned, or at least secured in the future.<sup>76</sup> In the case of the Halliday family, we see that during the initial crisis several individuals were bound as personal sureties, demonstrating an extended network of support. Hannah Barker has argued that even a fractured family still adhered to certain ideals: "Cooperation, duty, and affection were seen as the ideal basis for familial relationships, and that this belief seems to have influenced individual actions."<sup>77</sup> However, as time passed and debts remained unpaid, the family unit began to unravel, pushing and testing these ideals to the limit.

Smith was inundated with letters and requests from Halliday's creditors, both from officers of the Crown and private individuals. On March 28, 1734, a Master Chandler from the Excise Office wrote a letter outlining the current situation. He explained that the deposit made for the payment of Halliday's debt could not be used to discharge the arrears except by an order of the court, which could only be obtained in the next legal term, "if the assignees will move for that purpose; & the attorney General consents." Chandler stated that there were existing charges to be paid to himself, and to the sheriffs in Somerset and London. He concluded, "This affair seems to be of great Consequence to you all, both relating to this office & as private Creditors

73. Earle, *Making of the English*, 21–22; Mann, *Cloth Industry*, 19–22

74. Lipson, *History of the Woollen and Worsted Industries*, 221; Langford, *Polite and Commercial People*, 167–168.

75. Mann, *Cloth Industry*, 263.

76. Nantes, "English Bankrupts," 126; Hoppit, *Risk and Failure*, 41.

77. Barker, *Family and Business*, 14.

and I can't find out any person that is employed for you here; nor is one step taken towards concluding the affair but by my self."<sup>78</sup> Halliday directly referenced this letter on April 1, 1734, talking of the

hard fortune I still labour under ... by Master Chandlers letter I apprehend that interest will be required for Master Prices money which is as you know nearer £5000 ... tho all the money is paid to a farthing and a receipt given by the Collector ... the Assignees the persons bound for me and my self are greatly surprized at this barbarity.<sup>79</sup>

Despite providing securities, Halliday, the assignees, and his family were frustrated by the outstanding extents. The reference to barbarity appears to be linked to the need to pay interest and is an allusion to usury. The continued charge of interest is a significant barrier to Halliday being able to settle his debts and speaks to concerns surrounding morality and debt recovery. Around the same time and in a letter dated March 31, 1734, a Master Bennett—who was a friend and creditor of Halliday—informed Smith that Halliday's affairs were "at a stand still." He described the situation with the extents as "very odd," as the money had already been paid and the assignees were "really in Earnest to pay us off as soon as that is done."<sup>80</sup> Even friendly creditors were exhibiting frustration at the delay in repayment, as they were forced to wait for the extents to be satisfied before assignees could release any funds via the commission of bankruptcy. Halliday demonstrated further annoyance at not being able to access one thousand cloths in London that were "lockd up and Money enough" to pay off Burroughs. He claimed that he needed to sell the cloths within a month as they were "growing worse and worse," which he estimated could cost him £1,000 in damaged stock. Despite being "almost ashamed," Halliday again requested an extension of repayment to Smith.<sup>81</sup>

Ethelred Davy took it upon himself to demand the repayment of £200 and wrote seven letters to Smith between November 1734 and November 1735. On January 10, 1735, Davy stated that when he "waited on you at Bristoll Fair about Hallidays Extents, you thought the money would be in a month ... but not hearing from you since makes me give you this trouble to request a line how that affair stands and whether you are ready to pay mine because I must soon pay a Sum in Bristoll." On February 12, 1735, Davy complained that the "assignees have took an Extravagant time already for paying the money" he was due, and encouraged Smith to "press them not to Defer it much longer."<sup>82</sup> We again see the interconnected nature of indebtedness, as private individuals were pressing Smith to make a swift repayment. Not being involved in the family dynamic of the ongoing commission of bankruptcy, Davy appears as an outsider, desperately trying to speed the process along. There are clear disparities between debts due to the Crown, debts due to family and friends, debts due to private individuals, and finally, debts due to legitimate creditors within the commission of bankruptcy. Although scholars such as Craig Muldrew have demonstrated the levels of indebtedness in early modern society, these studies have largely relied on the quantitative

78. BRO, AC/JS/45/9g.

79. BRO, AC/JS/45/7e.

80. BRO, AC/JS/45/9h.

81. BRO, AC/JS/45/7e.

82. BRO, AC/JS/45/8d.

aspects of legal records, presenting the recovery of debts in a straightforward and simplistic manner.<sup>83</sup> Here, we not only see the complexities of bankruptcy and debt recovery, but we also see how debtors prioritized and worked through multifaceted debts with help from family and friends.

On May 24, 1735, Davy again demonstrated his frustration at the delay, “but hearing nothing from you I took Froom in my way hither and spoke with the assignees who say they can’t tell what to do with me, but shall attend your Directions.” Davy had heard that the assignees had £500 in their hands and that a Master Baker was “paid off and all the other Extents the greatest part of their Debts.”<sup>84</sup> Smith responded to Davy on May 26 and explained that he had been in London for ten weeks and was unable to speak with the assignees or with Phelps, but once he made contact, he expected to settle his debt in full. In October 1735, there was a final exchange between the pair, whereby Smith stated:

I am sorry that you have been delayed so Long which I do assure you have not been owing to any neglect in me, for I have expected Mr Phelps the Sollicitor for a long time, but have not seen him I had a Letter from him the Last week in which he writes that he will settle all matters forthwith in order to discharge the Extents this next term, which I think you may depend on for the assignees are very uneasy and will Certainly press matters so as to Come to some Conclusion.<sup>85</sup>

In the final reply of Davy, dated November 8, 1735, he stated that he would “attend a little longer,” hoping that Smith would press those concerned to discharge the debt.<sup>86</sup> In October 1746, Smith signed a memorandum that confirmed that he had paid the £3,050 owing to the Crown and the £200 due to Davy.<sup>87</sup> This is an important correspondence because it highlights how private creditors, outside of the family dynamic and separate from the debts due to the commission of bankruptcy, were seen to be frustrated by complex and interconnected debt-recovery processes. The complexities of bankruptcy procedure are highlighted throughout the narrative of the assignees and Davy, as it is unclear which debts should be satisfied in which order. Legal theory and process did not always translate into the practical realities of debt recovery.

Finally, in two undated letters, Halliday wrote, “I need the favor of a copy of the Inventory which my mother has and thanks you for it and all favors.” He referenced a bond, “which you thought would be no good to send my Mother’s easie without it as long as [it] remains in your hands and only begs it may remain with you if its deliverd to the Assignees or Clerks of the commission she fears the consequence if any should be said disagreeable.”<sup>88</sup> Halliday showed his appreciation, and because of the “unparalleled treatment on my late misfortune ... my wife and family obliges me in gratitude to return my best thanks ... to repeat if had every body acted towards me with the same Candor and tenderness as you have,” it would have been “much

83. Muldrew, *Economy of Obligation*.

84. BRO, AC/JJS/45/8d.

85. BRO, AC/JJS/45/8f.

86. BRO, AC/JJS/45/8g.

87. BRO, AC/JJS/45/10b.

88. BRO, AC/JJS/45/7f.

better for me I hope to live and have it in my power to shew my utmost gratitude.”<sup>89</sup> In these letters, we see an explicit reference to Halliday’s mother and family. It appears that Mary Halliday was concerned about a specific bond and the impact this could have on the debt-recovery process and perhaps her own personal circumstances. As Robert Nantes has argued, “Families were not always being simply dutiful or compassionate in their efforts to assist kin in trouble.”<sup>90</sup> Mary clearly held a stake in the outcome of her son’s affairs, and we begin to see her self-interest in the private correspondence, which became amplified in the later Chancery proceedings.

Halliday was in serious financial trouble and had sought the help of his immediate and extended family to fend off the initial assault from creditors. Margaret Hunt has made the important point that although the landed classes could mortgage estates on favorable terms, this option was not available to traders of the middling sort. When financial failure occurred, Hunt argues there was a “moral onus” on family members to intervene, not only to prevent the seizure of goods and the imprisonment of the debtor, but to ensure that they maintained their own position in “the network of mutual assistance.”<sup>91</sup> At the early stage of proceeding, this appears to have been the case as the Halliday family recovered the trading utensils and equipment from the sheriff, demonstrating the interrelatedness of family with the experience and process of bankruptcy.<sup>92</sup> However, as we analyze the correspondence between Halliday and Smith in greater detail, we gain an insight into the specific details of how these debts were negotiated, as well as the emotional strain placed on Edward and his family. These implicit, private frustrations became explicitly narrated and amplified in the Chancery suit several years later.

Returning to one of Mary Halliday’s answers, she did “Confesseth” that a commission of bankruptcy was issued against her in October 1740. However, her sister, Elizabeth Hippie, “paid the Debt for her due to the Petitioning Creditor and the said Creditor thereupon consented and agreed that the said Comission should be superseded.” Mary claimed that the goods inventoried by the sheriff, under the original writ from the Exchequer, were appraised in a hurry, and many of the goods were in fact hers, as she had seized goods from her son for rental arrears. Similarly, Mary claimed that George Lock, Elizabeth Hippie, and Jane Hippie were all legitimate creditors of the bankrupt and gave a bond to the sheriff to prevent the hasty sale of goods. She denied “all manner of unlawfull Combination and Confederacy in the complainants said bill of Complaint.”<sup>93</sup> We can see further complexities surrounding the debt-recovery process. A separate commission of bankruptcy was executed against Mary, and again, she enlisted the help of her sister to pay the outstanding debt. In both instances, the complex and interconnected network of family indebtedness, and family support networks, come into play.<sup>94</sup> As Albane Forestier has shown, “Family members could represent as much a liability as an asset.”<sup>95</sup> As the suit progressed, we see a definitive breakdown in the mother-son

89. BRO, AC/JS/45/7g.

90. Nantes, “English Bankrupts,” 153–154.

91. Hunt, *Middling Sort*, 23–24.

92. Nantes, “English Bankrupts,” 121.

93. TNA, C11/549/27, “Hancock v Halliday” (1742), Answer of Mary Halliday.

94. See Broomhall, “Emotions in the Household,” 1–37; Muldrew, *Economy of Obligation*, 148–150.

95. Forestier, “Risk, Kinship and Personal Relationships,” 918.



relationship, as it appears that Edward had failed to act in a credible and responsible manner. Certainly, Edward had become a liability to his elderly mother, which had serious repercussions for the family business, and his place within it.

### The Breakdown of a Mother-Son Relationship

As the Chancery case progressed and began to focus on Mary as the main defendant, we gain greater insights into the interconnected nature of the family business. The plaintiffs took aim at the structural components of the dwelling house and the work premises. They claimed that

the greatest part of the Dwelling house and the Dye house Warehouse and shop were Built and Erected by the said Edward Halliday himself at the expence of One Thousand pounds and upwards and he lived in and held and Enjoyed the same for thirty years and upwards before your Orators Entered upon and took possession thereof and the same were always Esteemed called and Reputed to be his and the said Mary Halliday his mother never was in possession thereof or ever Claimed any Right or Interest therein before her son became Bankrupt nor did he ever pay her any Rent for the same.<sup>96</sup>

Again, we see the ambiguity and the inability to separate business liability from family liability. During this period, Pat Hudson and W. R. Lee have claimed that the household was the “major unit of production,” as most individuals worked as part of a “family production unit.”<sup>97</sup> In this instance, such a unit provided problems for the plaintiffs, as they were unable to identify and separate the individual contributions to the overall business. The plaintiffs appear to be suggesting that Edward undertook substantial improvements to the house in which he lived for his own, personal benefit. They sought to make Mary come to an account over the lands and goods in her possession, to establish which goods were Edward’s and therefore liable to be seized and sold under the commission of bankruptcy. For example, they accused Elizabeth Hippie of pretending that “the Dye house Warehouse and other Buildings which the said Halliday Built and held and Enjoyed” belonged to her or her sister, Mary. As the plaintiffs concluded, “All which actings and doeings of the said Confederates are contrary to Right, Equity and good Conscience and tend to the Manifest Wrong and Injury of your Orators.” The defendants should be “Decreed to come to a fair and Just account with your Orators.”<sup>98</sup>

Interestingly, the plaintiffs stated that Mary was too old to still be involved in the family business: “Edward Halliday the Bankrupt proceeded in the said Dyeing Trade and Trade of a Dry Salter in his said mothers name and by her Consent and approbation (she herself being antient and incapable of managing the Trade) in the same manner in the same house and with the same Utensills.”<sup>99</sup> The plaintiffs, “in a friendly manner,” applied to Mary to come to account with them, so that she

96. TNA, C11/549/27, “Hancock v Halliday” (1742), Bill of Complaint.

97. Lee and Hudson, “Women’s Work,” 5.

98. TNA, C11/549/27, “Hancock v Halliday” (1742), Bill of Complaint.

99. TNA, C11/549/27, “Hancock v Halliday” (1742), Amended Bill of Complaint.

may setforth how long before your Orators entered theron the said Halliday lived in the said Dwelling house and how long he used the said Dye house Shop and Close called the Backside and whether he did not Build all or part and what part of the said Dwelling house and the said Dye house and shop or any and which of them and what other Buildings now Claimed by her the said Mary Halliday.<sup>100</sup>

The plaintiffs were attempting to secure specific information regarding the property, and asked questions relating to the motivations behind the improvements of the house, any rent that was agreed and paid between Edward and his mother, and finally, whether any wages were owed to Edward for the improvements.<sup>101</sup>

In her responses, Mary acknowledged that she paid £20 to a solicitor to execute the original commission of bankruptcy, helped to choose the assignees, and gave her bond to indemnify the bankrupt's aunts and uncle against any debts. She claimed that the goods specified in Common Pleas were not part of the goods seized by the sheriff, and estimated that at the time of his bankruptcy, her son owed her £1,245 3s in rent and other debts, which was still due. Mary asserted that she lived in the same estate as her son and the plaintiffs had illegally entered her property and seized several of her own, personal goods. Mary provided the will of her mother—named Elizabeth Hippie and dated April 15, 1723—which she claimed proved that the furnaces and several utensils had been inherited by her upon her mother's death in 1725. Mary claimed that any trade that was carried on by or for her son was done “out of charity” to him and that she cannot make a true account, as the plaintiffs have seized all her books and paper writings that would prove her debts.<sup>102</sup> She estimated that about 170 cloths were made after her son became a bankrupt, “but none of them were made with the Stock or Effects belonging to the said Edward Halliday the Bankrupt.” Instead, roughly fifty pieces were made “with her own wool and materials.” Finally, Mary made “a very full and sufficient allowance and satisfaction to her said son Edward Halliday for all the Buildings and Improvements which he made in or upon the premises which he held ... such Improvements were made by him for his own Convenience and for the better Carrying on his Trade.”<sup>103</sup> Despite her age and the financial position of her son, Mary continued to engage in the linen trade and attempted to separate her own dealings from that of Edward as she attempted to look after her own interests.

In their interrogatories, the plaintiffs drew attention to several discrepancies between Mary's three answers. They asked why, in her first answer, she claimed to have “made about Twenty pieces of Broad Cloth after your son became Bankrupt in which he assisted you,” whereas in her third answer this had risen to fifty. They also claimed that although Mary specified that she sold 170 cloths to a Richard Holmes, a Blackwell Hall Factor, they produced several documents, “purporting to be the said Richard Holmes's account,” which specified that the number of cloths received was 204.<sup>104</sup> In response, Mary claimed to be eighty-two years old, and the difference between the two answers “was occasioned ... by reason of this examinant not having her said Books to refer to at the time of putting in her said Answers and

100. *Ibid.*

101. *Ibid.*

102. TNA, C11/552/25, “Hancock v Halliday” (1743), Answer of Mary Halliday.

103. TNA, C11/555/35, “Hancock v Halliday” (1744), Answer of Mary Halliday.

104. TNA, C12/1115/5, “Hancock v Halliday” (1746), Plaintiffs' Interrogatories.

the decay of this Examinants memory and Understanding by reason of this Examinants said great Age.” When trying to explain why she “did not forbid the Sherriffe” from taking and appraising her own goods, Mary claimed this was “because of the great Concern and Affliction which this Examinant was then in on Account of the Misfortunes of her said Son which at that time had so great an Effect upon this Examinant as to prevent her from taking the proper precautions necessary.”<sup>105</sup> This is a rare reference to the personal circumstances of Mary, as we gain an insight into her emotional state, as she claimed to be unable to act in the correct and proper manner. It is also interesting to see the initial accusations of the plaintiffs—namely that Mary was “antient”—turned into an informal defense, as Mary used her age as a way of explaining the discrepancies in her answers.

Further items of evidence were submitted in this case by Stephen Skurray—a plaintiff and solicitor to the renewed commission of bankruptcy—three of which speak directly to the mother-son relationship:

1. A paper writing marked (no.1) purporting to be a Case with Questions about the Defendant Mary Hallidays Distraining her Son the Bankrupts Goods for Rent ...
3. A paper Writeing marked (No.3) Entitled Pools Case and purports to be a Case concerning a Distress for Rent of Goods fixt ...
19. A paper marked (No.19) Entitled an Inventory of the Goods seised and Distrained by me Mary Halliday of Frome Selwood in the County of Somerset widow this 9th day of July 1735 in the house of Edward Halliday in Frome aforesaid Clothier being 210:16:0 for arrears of Rent due to me the said Mary Halliday at Midsummer last past for the Rent aforesaid.<sup>106</sup>

The third document is a summary of a legal case by William Salkeld, serjeant-at-law and renowned legal reporter, titled “Poole’s Case.”<sup>107</sup> It stated, “Things Set up Lessee for years for the Convenience of Trade are Removable during the term and Seisable.” A tenant for several years made an “under lessee” of a house in Holbourn to J.S who was a soap-boiler by trade. For the convenience of his trade, J.S put up “Vales Coppers Tables Partitions and Paved the Backside.” Upon an action for debt issued against J.S, the sheriff seized these items and left the house “stripped and in a Ruonous Condition So that the first lessee was Liable to make it Good.” The first lessee then brought a special action against the sheriff for the damage done to the house. It was held that the soap-boiler could remove the structures he set up in relation to trade and that he might do it by the common law: “But after the term they become a Gift in law to him” and were therefore not removable.<sup>108</sup>

The main point of this case is that there is a difference between what the soap-boiler did to carry on his trade, and what he did to complete his house (i.e., installing hearths and chimney pieces that were held not removable by the sheriff to satisfy an outstanding debt). This case has a striking resemblance to *Hancock v Halliday* and seems to have been utilized as a form of evidence to inform the master. Although the lord chancellor had an equitable discretion to

105. *Ibid.*, Examination of Mary Halliday.

106. TNA, C120/854, “Chancery: Master Tinney’s Documents. Unsorted. See IND 1/6617” (dates unknown).

107. *Poole’s Case* (1703) 1 Salkeld 368; 91 Eng. Re320.

108. TNA, C104/221, “Hancock v Halliday” (c 1734 – c 1740).

mold remedies to the facts of individual cases, throughout the eighteenth century, equity was beginning to harden into a precedent-based system.<sup>109</sup> We have previously seen how the plaintiffs suggested that “the greatest part” of the estate was “built and Erected by the said Edward Halliday” for the benefit of his trade.<sup>110</sup> It seems that the plaintiffs included this document as a type of informal precedent to inform the master of the actions of the bankrupt in relation to his family home and workhouse. This summary is a rare addition to a Chancery case in an attempt to identify and separate business liability from family liability.

In contrast, the two other documents had been submitted as evidence for the defendant, Mary, and outlined how she sought to collect rental arrears from her son. The first document was described as “a Case with Questions about the Defendant Mary Hallidays Distraining her Son the Bankrupts Goods for Rent.”<sup>111</sup> This document explained that Edward had rented the house he lived in from his grandmother, Elizabeth Hippie, until her death in 1725. Since that time, Edward continued “in possession of the house and Grounds on the Same footing as he held it of his Grandmother without making any fresh Contract with his Mother.” A computation was made of the value of the property, and it was agreed that Edward would pay his mother £30 16s. rent per year. As Edward had paid this rent until 1728, Mary was owed over £150 for the five years of rental arrears. The document asked four questions regarding Mary’s legal rights and the distress she had made of her son’s goods, as well as the bond she had provided to the sheriff, for example, “whether Mary Halliday might lawfully detaine for the whole five years Rent Due at the time the Extents Came to the Sheriffe or Could she do it only for One year or as all the Extents are now Discharged and the goods Destrained are still in the hands of Mary Halliday whether she may Detaine the same till her whole five years rent is Satisfied.”<sup>112</sup>

The nineteenth document was a “notice of distress” taken out by Mary against her son. This explained that she had

seized upon the Goods in this Inventory Mentioned in your House in Frome Sellwood for two Hundred Ten Pounds and Sixteen Shillings for Arreares of Rent Due to me att Midsomer Last past and Locked part of the same up in a Chamber Called the best Chambers in your House and if you do not pay or Cause to be paid the said Rent due ... I shall in five days make sale there of according to the Directions of the Statute in that case made and provided of.<sup>113</sup>

An inventory dated July 9, 1735, is also provided, which detailed the goods seized for rental arrears.<sup>114</sup> The notice of distress and the questions relating to Edward’s rent are dated 1735, two years after Edward’s bankruptcy and seven years before the initiation of the Chancery suit. During a period when Edward was severely indebted, the documents allow us to trace the breakdown of a mother-son relationship in fairly emotional terms. Although it is possible that Mary and her son were colluding in an attempt to complicate matters and keep the overall

109. Lobban, *Common Law and English Jurisprudence*, 1.

110. TNA, C11/549/27, “Hancock v Halliday” (1742), Bill of Complaint.

111. TNA, C104/221, “Hancock v Halliday” (c 1734 – c 1740).

112. *Ibid.*

113. TNA, C104/221, “Hancock v Halliday” (c 1734 – c 1740).

114. *Ibid.*

estate out of the hands of the plaintiffs, this seems unlikely. Rather, the sheer weight of evidence appears to document the tangible breakdown—in financial and familial terms—of a mother-son relationship. Returning to the will of Elizabeth Hippie, she gave Edward’s wife, Mary, the sum of £50, “to be paid into her own hands, to and for her own sole and separate use and not to be liable to, or effected with, or subject to the Debts controul or Power of her present or any future husband.”<sup>115</sup> This clause helps to illuminate familial relationships and arrangements, as family responsibility often took precedent over wealth accumulation in the decision to create a will.<sup>116</sup> We can see that Elizabeth Hippie wanted to keep the inheritance away from Edward’s creditors and in the control of the family.<sup>117</sup>

Such a breakdown had serious repercussions for Edward’s status, honor, and reputation within the family. Matthew McCormack has claimed that independence was a “fundamental aspect” of male identity in eighteenth-century England.<sup>118</sup> Similarly, John Smail argues that a universal and fundamental element of eighteenth-century masculinity was independence.<sup>119</sup> Whereas a family business could provide an opportunity to achieve patriarchal authority, financial failure could lead to the subordination of men who were unable to establish and maintain independence.<sup>120</sup> Although legal cases always involved some form of fictional storytelling in order to add weight to claims, these documents demonstrate that Mary was a legitimate creditor to her son and was seeking advice on how to recoup her debts.<sup>121</sup> By this point in the case, Mary is a solid creditor to her bankrupt son, and is portraying herself as a strong and independent member of the trading family who continued to produce goods and enter the marketplace on her own terms. Throughout the twenty-year period, Edward’s masculinity, independence, and status had seriously declined, both in private correspondence and in the public setting of a drawn out and public court case.

Mary was a widow, and the prescriptive literature of the period suggested that women administered their estate and trade for the sole benefit of their children, especially their sons. When their children came of age, women were expected to relinquish control of their trade so that a man could take control.<sup>122</sup> However, the reality was far more complex, and Hannah Barker has argued that generational hierarchies often took priority over gendered hierarchies, “so that widows were more likely to seize the reins upon the death of a husband, even when they had adult sons.”<sup>123</sup> Within the Halliday family, there seems to be an ongoing and complex conflict between the male patriarchal position of Edward on the one hand, and the experience, seniority, and ownership of the estate that were assigned to Mary on the other. The stability of the family trade depended on a wide network of support and was built upon the energies and success of women. As Margaret Hunt has concluded, trading families of this nature were

115. TNA, PROB 11/806/374, Will of Elizabeth Hippie, 16 February 1754.

116. Spufford, “Peasant Inheritance,” 170–171; Barker, *Family and Business*, 48–50.

117. TNA, PROB 11/806/374, Will of Elizabeth Hippie, 16 February 1754.

118. McCormack, *Independent Man*, 7.

119. Smail, “Coming of Age in Trade,” 237.

120. Paul, *Poverty of Disaster*, 181.

121. See Davis, *Fiction in the Archives*; Collins, “Narratives of Bankruptcy, Failure, and Decline,” 1–17.

122. Hunt, *Middling Sort*, 137–138.

123. Barker, *Family and Business*, 103.

“thoroughly embedded in the marketplace, intimately connected to questions of money and power, and pregnant with the potential for serious familial conflict.”<sup>124</sup> In this case, complex notions of power relations were played out in the court, as the process of aging and financial difficulties had shifted the power dynamic across generations and throughout the wider family.<sup>125</sup> It is unclear who was the head of the household, who was in charge of the family business, and how this changed over time.

## Conclusion

This article has analyzed private correspondence alongside a single case in Chancery to highlight the complex and multifaceted nature of family indebtedness in eighteenth-century England. In doing so, the work has attempted to move away from assumptions surrounding the “implicit contract” of family, which has maintained a strong foothold in the existing literature. Family members did not always act in an honest, reliable, and trustworthy manner, and obligations based on close familial ties were not always fulfilled.<sup>126</sup> In many instances, family obligation meant it was difficult to collect debts and enforce contracts, leading to individuals dragging other family members further into debt and into legal battles, either on their behalf or as a proxy to the wider dispute.<sup>127</sup> As Douglas Hamilton has shown, things could, and did, go “spectacularly awry.”<sup>128</sup> In this manner, business historians—looking at networks—and economic and social historians—analyzing the use and implementation of credit—should continue to explore the divisions within families, which will help to reemphasize the role of women within business transactions and the wider credit-based economy. Indeed, the concept and boundaries of a family unit are complex. Hannah Barker has argued that even when families did fall out and enter into disputes, they still adhered to the ideals of cooperation, duty, and affection, which influenced individual actions. Although it is essential to analyze the actions and words of individuals within the broader context of family and family strategy—rather than simply as individual agents—the failure of credit networks and the onset of bankruptcy seriously tested these ideals, and altered the way in which family members behaved.<sup>129</sup>

This article has demonstrated the limitations of analyzing the family as a single coherent unit, and has provided a more nuanced interpretation of the ways in which families dealt with financial and personal failure. When discussing commercial credit, John Smail has argued that a purely economic analysis would “ignore the contingent experience of economic actors in the interval between the granting of credit and its repayment and focus instead on the final result.”<sup>130</sup> Only focusing on the initial reaction of the Halliday family to the commission of bankruptcy in December 1733 would add further evidence to assumptions surrounding the

124. Hunt, *Middling Sort*, 150.

125. Harvey, “Oeconomy and the Eighteenth-Century House,” 378.

126. Haggerty, *Merely for Money?*, 52.

127. Forestier, “Risk, Kinship and Personal Relationships,” 918.

128. Hamilton, “Local Connections, Global Ambitions,” 284.

129. Barker, *Family and Business*, 81.

130. Smail, “Credit, Risk, and Honor,” 440.

“implicit contract” of family. Indeed, the Halliday family would appear as one extended unit working together to maintain control over the family trade and to keep Edward out of prison. In private correspondence, Edward speaks of his family alongside his friends and the assignees, giving the impression of a concerned but ultimately close-knit group. However, when we work through the Chancery case, we see the complexities of this situation emerge in greater detail. Mary Halliday had herself been the subject of a commission of bankruptcy, whereby she again enlisted the services of her sister to pay off creditors and have the commission superseded. As the suit progressed, Edward receded to the periphery and the creditors took aim at Mary, possibly because she was a more realistic target for the satisfaction of their debts.

Nominally, this was a case about men. The plaintiff-creditors were all men, and the main bankrupt defendant was a man, who was named alongside two other males who assisted him in bankruptcy proceedings. Legally, this would appear to be a relatively straightforward case of debt recovery, highlighting the need to identify and assign goods that belonged to Edward that would be sold to satisfy the creditors’ demands. Factually, the case is far more complex and demonstrates that eighteenth-century family life was intricately connected to commerce and the wider credit-based economy. As Margaret Hunt has argued, “When failure came it struck straight at the heart of family survival.”<sup>131</sup> In this example, it appears that Edward had destroyed a family business that rested upon the energies and success of women. Mary Halliday claimed to have inherited furnaces and other utensils from her mother; it is her sisters—alongside Edward’s uncle—who provided several bonds to pay the Crown, and Mary takes out a formal “notice of distress” against Edward to reclaim rental arrears. Edward was a significant and consistent debtor to his mother, and we see a practical example of the inability to collect debts and enforce contracts within families. This has wider ramifications for Edward’s status and honor, as well as his independence and patriarchal standing within and beyond the family. A single failure had caused friction and upset the balance of power within the family and across generations, illuminating the breakdown of a mother-son relationship.

Ultimately, this article has paid closer attention to how, when, and why family members got embroiled in financial difficulties, and the paths they took to secure their individual and collective stability. This twenty-year case study occurred during a period of commercial expansion, capitalist development, and credit networks becoming increasingly complex.<sup>132</sup> This article has provided a new perspective on the family economy and shown how unravelling a large and protracted process of debt recovery has wider ramifications for our understanding of the family as an economic unit, and how family enterprises were themselves engaged in complex credit arrangements and modes of debt recovery.

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131. Hunt, *Middling Sort*, 32.

132. Smail, “Credit, Risk, and Honor,” 446.

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## Supplementary Materials

To view supplementary material for this article, please visit <http://doi.org/10.1017/eso.2023.16>.

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