Managing domestic consumption in nineteenth century England was a tricky business. Married women were often in charge of homes, yet women had limited property and even more limited contractual capacity. Their formal contractual venue for obtaining consumer goods without property or capacity was the common law doctrine of necessaries. Under the doctrine, women had a presumed authority to contract for commodities qualifying as necessaries – as opposed to luxuries – by pledging their husbands’ credit. This essay examines the doctrine of necessaries, viewing it as part of a broader cultural framing of consumption, and asking about its logic, and implications of change in that logic, for the history of consumer capitalism.

Developments in the doctrine of necessaries in the closing decades of the nineteenth century reveal the emergence of a new way to evaluate consumption, that of domestic budget rationality. The new paradigm displaced an older assessment of the luxuriousness of commodities. The shift was achieved in two moves. First, a reframing of men's agency: The construction of a binding contract for necessaries shifted from a hierarchic conceptualization of a man's observable "degree and estate," to a determination based on a man's means-to-ends rationality, in which husbands were assumed to be the knowledgeable agents about commodities appropriate for their budgets. Second, a reframing of women's agency: Agency previously premised on the assumption that a married woman's action was controlled (and therefore sanctioned) by her husband, was reframed on an assumption that budget rationality encompassed daily household routines.

The shift to budget rationality in routines was driven by a complexity of motivations; predominant among them were fears of consumption. In a broader atmosphere of increasingly blurred lines of traditional hierarchies, working-class and female consumption in particular posed a threat to a sense of order, countered by the new rationality. Though neutrally framed, budget rationality was suited to contain the consumption of marginalized groups: Workmen were constrained by small budgets more than other classes, and women by domesticity. As with many historical ironies, however, the shift exceeded the timid motivations which drove it. Law now required consumers to self-police their commodity choices through budgeting daily life, but left them freed from the critique of luxury which carried enormous historical weight; the new paradigm was politically indifferent to the content of commodity choices. This move effectively opened the door to modern consumer capitalism.

The cultural history of consumption has exploded in the last two or three decades, yet treatments of law within this context are, with few exceptions, overly neglected despite law’s central role as a site of social meaning-making in late modernity. This essay offers one contribution in that direction. It is part of a broader project of writing a cultural legal history of consumption.

Methodologically, the discussion draws on a wide array of sources, from parliamentary debates to fin de siècle literature – specifically Gissing’s 1895 Eve’s Ransom which was deeply insightful about the meaning of the shift to budget rationality. The analysis also moves between “mandarin” legal sources and a social history immersed in debates about consumer credit provided by the drapery trade. The essay does not seek to weave all of these into a seamless whole, but rather to bring them into dialogue which is significant enough to expose and explain the historical shift in legal treatments of consumption through the doctrine of necessaries.