

WHERE THERE'S A WILL: GENDERED PATTERNS
OF INHERITANCE IN EARLY MODERN
OXFORDSHIRE

by

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TABLE OF CONTENTS

| | Page |
|--|------|
| ACKNOWLEDGMENTS | iv |
| ABSTRACT | vii |
| CHAPTER | |
| I. INTRODUCTION..... | 1 |
| II. “PROVIDED SHE MARRIES:” PRIMOGENITURE, INHERITANCE, AND THE EARLY MODERN LIFECYCLE | 23 |
| III. “MY BEST RED PETTICOAT:” MARRIAGE, INHERITANCE, AND WOMEN’S BEQUESTS | 49 |
| IV. “[I]F MY WIFE REMARRIES:” STEPFAMILY FORMATION AND REMARRYING WIDOWS IN OXFORDSHIRE’S WILLS | 81 |
| V. CONCLUSION..... | 110 |
| BIBLIOGRAPHY | 118 |

ABSTRACT

This study utilizes will and administrative bonds from early modern Oxfordshire, 1535-1700, to examine the relationship between gender, patterns of inheritance, and the bequests found in wills. This thesis argues that patriarchal cultural attitudes and societal norms in early modern England shaped both individual testators' decisions in their wills and Oxfordshire's overall inheritance patterns. A system of primogeniture and patriarchal inheritance practices drove the testamentary decisions of patriarchs and limited the types of property available to women. As a result, wills and inheritance acted as an arena for perpetuating patriarchal attitudes and norms. Despite this, women will authors found ways to exercise power over goods and heirs within their wills, leaving bequests to a wide network of family, neighbors, godchildren, friends, and servants. This thesis uses gender as a historiographical methodology by analyzing how the perceived differences in the sexes contributed to the social order in early modern England and consequently shaped the power dynamics between men and women. This thesis explores the legal implications of patriarchy for women and will making, as well as the participation of women in the inheritance process. This study also examines gendered patterns of inheritance in early modern wills by analyzing the differences between men and women's bequests, as well as the impact of patriarchal legal structures beyond wills on the inheritance process.

I. INTRODUCTION

In the winter of 1626 Mabell Sadler, the widow of an Oxfordshire gentleman, authored her will. As Sadler wrote her will and as male officials later inventoried her possessions, they document the widow's comfortable living and well-appointed house. As Sadler wrote her will, she also reflected on her active involvement in her community, extended family, and with a network of friends. Within her will, Sadler's bequests include legacies to multiple cousins, godchildren, neighbors, servants, and number of women, both related and unspecified. She left extensive bequests of furniture, cash, and household goods. Sadler hinted at the closeness of her personal relationships, first with her deceased husband, whom she requested to be buried near, as well as affinity to "...my loving neighbor," Mr. Thomas Danvers whom she entreats to oversee her will along with her kinsman George Butler.¹ Sadler's will allows a glimpse into the types of property available to her, as well as her relationships with other people. Sadler's choices are representative of the inheritance process for early modern women: as a widow, she had the legal ability, property, and the means to author a will. However, her gender limited her bequests to household goods and cash.

This thesis argues that patriarchal cultural attitudes and societal norms in early modern England shaped both individual testators' decisions in their wills and Oxfordshire's overall inheritance patterns. A system of primogeniture and patriarchal inheritance practices drove the testamentary decisions of patriarchs and the property

¹ *Will & Inventory of Mabell Sadler, February 20, 1626*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/sadler_012.html (accessed February 18, 2020). (hereafter cited as Oxfordshire Wills). Early modern British names often changed (sometimes within the same document) without standardized spelling. I will use the modernized spelling of common names to avoid confusion.

available to women. As a result, wills and inheritance acted as an arena for perpetuating patriarchal attitudes and norms. Despite this, women will authors still found ways to exercise autonomy and authority over goods and heirs within their wills. This thesis uses gender as a historiographical methodology by analyzing how the perceived differences in the sexes contributed to the social order in early modern England and consequently shaped power dynamics between men and women. This thesis explores the legal implications of patriarchy for women and will making, as well as the participation of women in the inheritance process. This study also examines gendered patterns of inheritance in early modern wills by analyzing the differences between men and women's bequests, as well as the impact of patriarchal legal structures beyond wills on the inheritance process as a whole.

Each chapter approaches Oxfordshire's patterns of inheritance from a different angle in order to illuminate the ways patriarchy shaped the relationships between the sexes and created gendered inheritance patterns. The first chapter argues that the inheritance given to male and female heirs differed based on the gender. The difference between the sexes is highlighted by their treatment in bequests centered on important events within the early modern lifecycle. Chapter two analyzes women's inheritance patterns using two distinct approaches. The first half of the chapter contends that marriage shaped the property available to female testators as husbands limited the types of property available to their widows due to gendered conceptions about property. The second half of the chapter argues that women's bequests followed distinctive patterns due to women's inability to access real property and that these bequests provide important insight into women's inner lives and relationships. The third and final chapter argues that

the patriarchal system of early modern England had direct bearing on the bequests of Oxfordshire's male testators, who limited legacies to remarrying widows out of fear of losing familial property and children's legacies to stepfathers.

This work uses gender as a method of historical analysis. Gender history analyzes the sexual or gender roles in a historical period that arise from perceived differences in the sexes, as well as the symbols associated with those roles. Gender history is also concerned with the dynamics of power within social and political institutions that result from these perceived differences. The genesis of using gender as a method of historical analysis began with the new social history movement of the 1960s and 1970s, which emphasized the study of previously overlooked historical groups, including women and minorities. Initial gender histories attempted to fill in the historical gaps left by the traditional history focused on male subjects by exploring women's experiences, institutions, and spaces. The historiographical approach of the new social history inspired subsequent historians to incorporate gender into their historical analyses. In her 1976 essay, Natalie Zemon Davis offered a theoretical framework for women and gender historians as the discipline moved beyond the initial studies of women in the early twentieth century. Concerned with sex roles and sexual symbolism throughout history, Davis asserted that, "the study of the sexes should help promote a rethinking of some of the central issues faced by historians-power, social structure, property, symbols, and periodization."² As social history developed, historians disagreed about the best methodologies for historical analysis of gender, approaching the study of women and

² Natalie Zemon Davis, "'Women's History' in Transition: The European Case." *Feminist Studies* 3, No. 3/4 (1976), 90.

gender using feminism, Marxism, post structuralism, and psychoanalysis among others. In her 1986 essay, Joan W. Scott describes the theoretical approaches that previous historians used to develop gender as a category of analysis. Scott criticized these theories and contended that in order to create a historiographical paradigm using gender, historians must scrutinize their methods of analysis, clarify assumptions, and focus on identifying change.³ Scott offered her own definition of gender as an analytical tool: “gender is a constitutive element of social relationships based on perceived differences between the sexes, and gender is a primary way of signifying relationships of power.”⁴ Like Davis, Scott’s method placed importance on cultural symbols, politics, social institutions, and organizations when analyzing gender. Scott also described women as a “subjective identity,” and divorced women as a category from biological characteristics of sex. The historiographical issues around defining women as a category continue to be debated. In her 2006 book, Judith Bennett addressed this discussion noting that the idea of, “a social category imposed on a sexed body,” poses definitional problems for historical analysis.⁵ Bennett concluded that women as a category in practice acts, “as a stable category-for its time and place-that can critically determine a person’s life chances.”⁶ Bennett’s emphasized a “patriarchal equilibrium,” the idea that women’s low status relative to men remained unchanged through time.⁷ Historicizing the relationship

³ Joan W. Scott, “Gender: A Useful Category of Historical Analysis.” *American Historical Review* 91, No. 5 (1986), 1053-1075.

⁴ Scott, “Gender: A Useful Category of Historical Analysis,” 1067.

⁵ Judith Bennett, *History Matters: Patriarchy and the Challenge of Feminism* (Philadelphia: University of Pennsylvania Press, 2006), 16.

⁶ Bennett, *History Matters*, 9.

⁷ Bennett, *History Matters*, 4.

between power and gender continues to be an important aspect of gender history.⁸

Bennett's patriarchal equilibrium is one way to define that power dynamic.

Social histories published in the 1990's focused on filling in gaps in the predominately male historical narrative. Anne Laurence asserted that early modern women had been hidden from history and deserved to be studied.⁹ To counter the dearth of information about women, publications in the 1990s and 2000's focused on general information about women, including women's experiences in daily life.¹⁰ At the same time historians began to address how patriarchy shaped relations between the sexes and societal structure in early modern England. Anthony Fletcher's 1995 work is concerned with the dynamics of relations between the sexes and argued that the fluid early modern patriarchy became solidified as men's anxieties about women led to the creation of sharper lines between the sexes by the end of the seventeenth century.¹¹ More specific studies worked to counter the existing narrative of early modern women living restricted lives. Publications focused on the importance of women's contributions to areas previously considered men's spheres, such as public life and the economy.¹² Other publications explore female subgroups, including single women and widows and how

⁸ For criticism of male centric gender history, see Toby Ditz, "The New Men's History and the Peculiar Absence of Gendered Power: Some Remedies from Early American Gender History." *Gender & History* 16, No. 1 (2004), 1-35.

⁹ Anne Laurence, *Women in England 1500-170: A Social History* (New York: St. Martin's Press, 1994); Sara Mendelson and Patricia Crawford, *Women in Early Modern England* (Oxford: Clarendon Press, 1998); Barbara Harris, *English Aristocratic Women 1450-1550: Marriage and Family, Property and Careers* (Oxford: Oxford University Press, 2002).

¹⁰ Anne Laurence, *Women in England*; Mendelson and Crawford, *Women in Early Modern England*.

¹¹ Anthony Fletcher, *Gender, Sex and Subordination in England 1500-1800* (New Haven: Yale University Press, 1995), xix.

¹² Jane Whittle, "Enterprising Widows and Active Wives: Women's Unpaid Work in the Household Economy of the Early Modern England." *History of the Family* 19, No. 3 (2014), 283-300; Alexandra Shepard, "Crediting Women in the Early Modern British Economy." *History Workshop Journal* 79 (2015), 1-24; Bernard Capp, *When Gossips Meet: Women, Family, and Neighborhood in Early Modern England* (Oxford: Oxford University Press, 2003).

these women both experienced and undermined patriarchal norms.¹³

It is imperative that any study of masculinity in the early modern British world address the patriarchal power dynamic, the social and legal system whereby men held power and women experienced subordination, that influenced relations between the genders. Recent historical publications using gender as a method of historical analysis examine this gendered power dynamic head on. In her 2003 monograph, Laura Gowing asserted that patriarchal gender hierarchies and power structures informed the perception and treatment of women's bodies.¹⁴ Likewise, Amanda Flather's 2007 monograph examined how patriarchal attitudes towards gender shaped early modern uses of public and private spaces and contended that space served as the basis for the formation of early modern gender identities.¹⁵ Recent publications using gender as a historiographical method of analysis identify and address the effects of patriarchy and the resulting power imbalance between genders in the early modern era.

As part of this larger conversation, publications reexamined the relationship between women and the law in early modern England and challenged the narrative that patriarchy meant exclusion from legal spaces or tools for women.¹⁶ In her 1993 monograph focused on property ownership and inheritance across early modern England, Amy Erickson argued that despite primogeniture and limitations on their ability to own or

¹³ Amy Froide, *Never Married: Single Women in Early Modern England* (Oxford: Oxford University Press, 2005); Charles Carlton, "The Widow's Tale: Male Myths and Female Reality in 16th and 17th Century England." *Albion: A Quarterly Journal Concerned with British Studies* 10, No. 2 (1978), 118-129.

¹⁴ Laura Gowing, *Common Bodies: Women, Touch and Power in Seventeenth-Century England* (New Haven: Yale University Press, 2003).

¹⁵ Flather, *Gender and Space in Early Modern England*.

¹⁶ Mary Prior, "Wives and Wills 1558-1700," in *English Rural Society, 1500-1800: Essays in Honour of Joan Thirsk*, eds., John Chartres and David Hey (Cambridge: Cambridge University Press, 1990); Barbara Todd, "Freebench and Free Enterprise: Widows and Their Property in Two Berkshire Villages," in *English Rural Society, 1500-1800: Essays in Honour of Joan Thirsk*, eds., John Chartres and David Hey (Cambridge: Cambridge University Press, 1990).

transfer property, women did in fact exercise legal power through the passage of property and the probate process.¹⁷ Five years later, Tim Stretton argued that previous British women's legal historians had ignored the importance of women's interaction with the civil legal system and argued that women used civil litigation to exercise autonomy and authority.¹⁸ Within the last twenty years, scholars have published works that challenge the supposed legal primacy of coverture, the doctrine that a woman's legal identity merged with her husband's upon marriage, and the idea that common law limited women's abilities to avail themselves the legal system in early modern England.¹⁹

Likewise, studies of women's wills have addressed how the gendered power dynamic shaped women's wills. Mary Prior's 1990 essay on married women's wills acknowledged that few married women's wills existed due to the strictures of coverture.²⁰ The inability for married women to author wills means that the majority of historical work on women's wills focuses on widows, including the importance of widows in local economies.²¹ Recent works on women's wills focus on wills as a source of information about women's lives and perspectives, absent other primary source material for early modern women. In her 2015 work, Susan James argued that women's wills offered a rare opportunity to express themselves and as a result provide direct insight into women's

¹⁷ Amy L. Erickson, *Women and Property in Early Modern England* (New York: Routledge, 1993).

¹⁸ Tim Stretton, *Women Waging Law in Elizabethan England* (Cambridge: Cambridge University Press, 2005).

¹⁹ Joanne Bailey, "Favoured or Oppressed? Married Women, Property and 'Coverture' in England, 1660-1800," *Continuity and Change* 17, no. 3 (2002): 351-372; Judith M. Bennett, "Philippa Russel and the Wills of London's Late Medieval Singlewomen," *The London Journal* 32, no. 3 (2007): 251-269. Tim Stretton and Krista J. Kesselring, eds, *Married Women and the Law: Coverture in England and the Common Law World* (Ithaca: McGill-Queen's University Press, 2013).

²⁰ Mary Prior, "Wives and Wills."

²¹ Mary Hodges, "Widows of the 'Midding Sort' and their Asserts in Two Seventeenth Century Towns," in *When Death Do Us Part: Understanding and Interpreting the Probate Records of Early Modern England*, eds., Tom Arkell, Nesta Evans and Nigel Goose (Oxford: Leopard's Head Press Limited, 2000).

thoughts and feelings.²²

This thesis will continue the work of early modern historians who have used gender as a historiographical approach in the study of early modern English women. This thesis historicizes gender relations as they existed in the early modern period. The perceived sexual differences between men and women contributed to patriarchal gender roles that contributed to the subordination of women. This thesis contends that early modern English inheritance law and wills operated as sites of power and perpetuated patriarchal gender roles. Patriarchy created and led to the continuation of gendered patterns of inheritance in early modern Oxfordshire.

Early modern attitudes about women shaped inheritance patterns. The patriarchal society of early modern England adhered to religious and scientific beliefs that women constituted the, “weaker sex,” a reference to a biblical passage that referred to women as the “weaker vessel.”²³ The religious tenets of Christianity undergirded the patriarchal views of early modern society. Biblical ideals encouraged feminine subordination. Additionally, belief in the great chain of being placed men over women in the societal hierarchy.²⁴ In addition to long standing religious belief, new scientific texts bolstered theories of male superiority. These texts solidified the supposed physical and mental inferiority of women through analysis of the female body. The medicinal concept of humors informed perceptions about the rationality of each sex. Men’s hot and dry constitutions made them more rational than the cold and wet physical qualities of

²² Susan E. James, *Women’s Voices in Tudor Wills, 1485-1603: Authority, Influence and Material Culture* (Farnham: Ashgate Publishing Limited, 2015).

²³ Fletcher, *Gender, Sex and Subordination*, 61.

²⁴ Fletcher, 40

women.²⁵ These scientific studies concluded that the physicality and nature of women influenced their ability to be rational and made women more impulsive, including sexually. These cultural ideas informed attitudes about women, including their daughters and wives. Men reinforced societal gender roles and perpetuated the implied inferiority of women by limiting their access to land, requiring oversight of daughters, and questioning widow's abilities to make inheritance decisions.

Patriarchy and marriage informed a woman's legal status in early modern England. A *feme sole*, or single woman, possessed a unique legal identity.²⁶ *Feme soles* could enter into contracts, purchase land and goods, participate in systems of credit, and run independent businesses. The increased independence of *feme sole* status induced a portion of early modern women to remain unmarried.²⁷ Once a woman married, she became a *feme covert*. Common law coverture merged a wife's legal identity with her husband's. Upon marriage, a husband gained exclusive legal rights to their wife's movable goods, as well as the use of any rents or profits from her land.²⁸ Coverture limited married women's ability to participate in the legal system; thus, they could not independently enter into a contract, file litigation, or author a will. Marriage nullified any contract married couples agreed to with one another before marriage. This had important implications for pre-marital property arrangements, forcing women to use the law creatively to preserve property during marriage. Coverture also prevented women from participating in business and credit systems and presented serious obstacles for women to exercise legal power in the inheritance process. Nonetheless, women found informal and

²⁵ Fletcher, 33; Gowing, *Common Bodies*, 2.

²⁶ Mendelson and Crawford, *Women in Early Modern England*, 39.

²⁷ Amy L. Erickson, *Women and Property in Early Modern England* (New York: Routledge, 1993), 39.

²⁸ Bailey, "Favoured or Oppressed?" 352.

creative ways to navigate around coverture's restrictions.

Patriarchy in early modern England was not monolithic. The practice and application of patriarchy remained in flux during the early modern period in England, creating an uneasy equilibrium, rather than any type of stasis.²⁹ The instability of gender relations during the time had led some early modern English historians to describe a "gender relations crisis."³⁰ In her 2006 monograph, Mary Fissell attributes this crisis to an upset in authority stemming from both the Protestant Reformation and the English Civil War. Gender relations and domestic life echoed the supposed relationship between the government and the people. The monarch represented the "head" of the family that comprised the nation.³¹ Challenges to the authority of the monarch increased challenges to other forms of authority, including the existing patriarchal social order.

Gender relations and the family became a site for conflict with prevailing forms of authority. The order of the household sustained the societal gender hierarchy, yet during this time a tension of authority existed within households.³² While the husband remained the titular "head," of a household, the necessities of daily life required the delegation of power to women. Women who challenged their domestic roles, concerned men.³³ Female behavior that threatened men, including scolds or gossips, defied the patriarchal order.³⁴ As a result, an acute anxiety about how women could be best governed and controlled arose.³⁵ Despite this anxiety, Bernard Capp argues that women

²⁹ Capp, *When Gossips Meet*, 22.

³⁰ Mary Fissell, *Vernacular Bodies: The Politics of Reproduction in Early Modern England* (Oxford: Oxford University Press, 2006), 2.

³¹ Fissell, *Vernacular Bodies*, 2.

³² Gowing, *Common Bodies*, 7.

³³ Capp, *When Gossips Meet*, 22.

³⁴ Fletcher, *Gender, Sex, and Subordination*, 16.

³⁵ Fletcher, *Gender, Sex, and Subordination*, 27.

lacked the ability to challenge patriarchy in any meaningful way. Thus, a paradox of well-documented anxiety about gender relations existed in the absence of any significant pressure.³⁶ He concludes that men grossly exaggerated the threat of female subversion. Instead, women negotiated and compromised to individualized ways to function within a restrictive system.³⁷ The upheaval of the social order fomented by war and social transformation led to an uncertainty in gender relations during this time.

Between 1535 and 1670, a changing legal regime shaped men and women's inheritance choices in the county of Oxfordshire. The turmoil of the reformation and the English Civil War had far reaching effects on all aspects of early modern life, including wills and the inheritance process. The laws and courts that addressed wills experienced a slow transformation during this time. The years 1535 and 1670 represent important book ends in the development of English probate and inheritance law, and thus constitute the time parameters of this thesis. Henry VII introduced reforms to the probate process during his reign. Statutes in 1529, 1535, and 1540 addressed ecclesiastical court probate proceedings, land ownership, and the passage of land in wills respectively.³⁸ Prior to these reforms, will authors could not bequeath landed property in their wills. Instead, land passed between owners through life-time transfers, or intestate rules of inheritance. The probate system continued to change as the English reformation, formalized by an act of Parliament in 1534 reduced the role of ecclesiastical courts in England.³⁹ The slow decline of church power precipitated by the reformation over time eliminated the authority of the ecclesiastical courts until 1858 when ecclesiastical courts ceased

³⁶ Capp, *When Gossips Meet*, 22.

³⁷ Capp, *When Gossips Meet*, 22.; Gowing, *Common Bodies*, 7.

³⁸ 21 Hen. VIII, c.5; 32 Hen. VIII, c.1

³⁹ 25 Hen. VIII, c. 20

probating wills.⁴⁰ Likewise, the English Civil War disrupted the probate of wills, first transferring their jurisdiction from the county ecclesiastical courts to a single court in London, which quickly became overloaded.⁴¹ After over a century of turmoil, a newly empowered parliament looked to reform the probate process once again. In 1670 Parliament passed the *Act for the Better Settling of Intestate's Estates*, which codified the common law. This statute reduced the amount that widows could receive from their deceased husbands' wills, further impoverishing widows.⁴² Prior to this law, under custom and ecclesiastical law, widows were entitled to one third of moveable property and one third of a deceased husband's real property. The new parliamentary statute reduced a widow's portion to one third of the residue of her husband's estate. Parliament also granted inheritance rights to the siblings of the deceased for the first time, further dividing the portion due to widows with no surviving children. Parliament continued to reform probate with the passage of statutes in 1677.⁴³ These statutes reflected the trend toward codification of the common law.

The movement towards a streamlined national law attempted to simplify a complicated legal regime. In early modern England the legal system consisted of multiple jurisdictions, including ecclesiastical, manorial, common law, and equity courts. The common law represented the most rigid of these legal jurisdictions. Common law favored primogeniture, or the passage of property and goods to the oldest son, as well as increased limitations on women's legal agency. Ecclesiastical and equity courts often

⁴⁰ Jeff and Nancy Cox, "Probate 1500-1800: A System in Transition," in *When Death Do Us Part: Understanding and Interpreting the Probate Records of Early Modern England*, eds., Tom Arkell, Nesta Evans and Nigel Goose (Oxford: Leopard's Head Press Limited, 2000), 15.

⁴¹ Erickson, *Women and Property*, 21.

⁴² Cox, "Probate 1500-1800," 21.

⁴³ 17 C.II., c. 8. 22 & 23 C. II., c.10.

worked to temper the harsh strictures of common law. English law underwent a shift in the late sixteenth, seventeenth and early eighteenth centuries. Standardization of the national law created a preference for the common law. Ecclesiastical, manorial, and equity courts gradually lost their importance.⁴⁴ This shift had consequences for inheritance patterns in wills. Legal standardization disadvantaged women, as Parliament eliminated many of the mechanisms through which women, families, and communities alleviated the constraints of the common law. The slow transformation of the British legal system over the sixteenth and seventeenth century resulted in a changed landscape for will authors and the probate process. For this reason, wills beyond the late seventeenth century must be examined in a legal and social context that is outside of the scope of this thesis.

The contents of wills also shifted during the period from 1550 to 1700. Prior to the reformation, all legal documentation appeared in Latin. The form language of wills reflected reverence to the Catholic faith. In addition, wills contained typically Catholic bequests, including charitable contributions to abbeys, monasteries and church supported philanthropic endeavors. Likewise, will directives included masses to be said for the soul of deceased.⁴⁵ The reformation disrupted these customs as England pivoted to Protestantism. Increasingly, testators authored their wills in English, though some Latin form language remained in Oxfordshire wills from this time. Hybrid wills with both Latin and English illustrate the move away from Catholicism, until later wills appear entirely in English. Testators charitable bequests did not cease, instead they shifted towards local

⁴⁴ Erickson, *Women and Property*, 178.

⁴⁵ Ralph Houlbrooke, *Death, Religion, and the Family in England, 1480-1750* (Oxford: Clarendon Press, 1998), 112.

Anglican churches and new modes of community charity. When testators wrote their wills also experienced a shift during this time. Prior to the reformation common folk authored their wills during the final months of life. This created issues for the mental competency of testators, inspiring litigation over disputed probate. Anglican ministers counseled their flock to create a will in the health of life, to set their souls right with God, and avoid the confusion that arose from death bed wills.⁴⁶ As a result, wills better reflected decisions made in a more calculated way, rather than during health crises.

This study investigates both male and female wills to gain insight into larger patterns of gendered inheritance practices. Wills represent an optimal primary source for studying early modern women. Wills impart an abundance of information about women's lives, including their role in the economy including women's labor and occupations, kinship networks, and belongings. With lower rates of literacy than their male counterparts, women left a disproportionately small number of personal writings, with wealthy women disproportionality represented in these writings. Whereas few women wrote letters or diaries, a larger percentage of women left a will by hiring clerks, lawyers, and clergy men to transcribe their last wishes. Thus, wills allow historians insight into the lives of women from different socioeconomic backgrounds. Wills also provide a rare look into women's personal feelings about family members, friends, and material goods. For these reasons, the wills of early modern women yield important information that would be unavailable from other primary sources. However, it is also necessary to include Oxfordshire's male wills to achieve a full picture of the interplay of patriarchy on both men and women's testamentary choices. Unfortunately, a lack of records about early

⁴⁶ Houlbrooke, *Death, Religion, and the Family*, 82

modern women requires the use of male centric records to glean information about women. Including men's wills allows a fuller picture of the gendered inheritance practices of Oxfordshire.

Fortunately, a significant number of early modern English wills survive. By the fifteenth century, ecclesiastical courts required wills to be registered with the court.⁴⁷ According to estimates as many as two million early modern wills survive.⁴⁸ This represents a large body of source material available for historical study. However, there are some limitations to using wills as a primary source. Most people in early modern Britain died without writing a will. Amy Erickson determined that approximately a third of the early modern British population authored a will.⁴⁹ Even fewer women authored wills, constituting between twelve and seventeen percent of testators in the sixteenth century and increasing to twenty percent of testators in the seventeenth century. Most women's wills are those of widows. Widowhood gave women the unique ability to exercise legal authority and in many cases the wealth to yield significant influence in their communities. Never married women comprised a smaller percentage of the female population and thus left a smaller portion of the surviving wills. Of the thirty-four women's wills from Oxfordshire used for this study, only three as listed as never married, the remainder are widows.⁵⁰ Under the restrictions of coverture, a wife had to obtain her

⁴⁷ Nigel Goose and Nesta Evans, "Wills as a Historical Source," in *When Death Do Us Part: Understanding and Interpreting the Probate Records of Early Modern England*, eds., Tom Arkell, Nesta Evans and Nigel Goose (Oxford: Leopard's Head Press Limited, 2000), 38.

⁴⁸ Erickson, *Women and Property*, 204.

⁴⁹ Erickson, *Women and Property*, 15.

⁵⁰ *Wills of Wenefride Andrews, Alice Barnet, and Elizabeth Syms; Alice Abraham, Margaret Abraham, Elizabeth Alder, Jane Alder, Elizabeth Allen, Ursula Andrews, Elizabeth Anyon, Letice Backhouse, Alice Balden, Ann Barber, Anne Barons, Agnes Barr, Alice Bartlet, Joan Bartlett, Em Bennet, Anne Busby, Agnes Busby, Marian Freeman, Alice Hopkins, Alice Iddens, Elinor Langford, Ann Leake, Elizabeth Newport, Alice Payne, Dorothy Payne, Cecily Roberts, Mabell Sadler, Agnes Slatter, Jane Stonner, Maud Tisdale,*

husband's permission to author a will.⁵¹ Thus, married women represented less than one percent of testators.⁵² For this reason, any examination of women's wills primarily concerns widows.

Wills also have an inherent bias towards the middle class and wealthy. Only those with enough property to warrant a will authored one. The peerage is excluded, as individuals in the peerage held property across multiple English counties. Those of the "middling sort," represent the largest numbers of wills in this study. Difficult to define, the middling sort doesn't quite align with a middle class, it included individuals below the peerage, and "gentry," but above the laboring poor.⁵³ The middling sort worked for a living. Their occupations included artisans, yeomen, husbandmen, merchants, craftspeople, shopkeepers, professionals, and some laborers.⁵⁴ Their importance of this class distinction for this study is that the middling sort possessed enough land and wealth to pass on in their wills to subsequent generations.

Another issue is that any analysis of early modern wills is limited by what the wills themselves contain. Wills devised chattels, cash, and other moveable goods. Early modern English wills and inventories did not always include all of a will author's real property. Other mechanisms for transferring real property included deeds and lifetime transfers, which do not appear in wills themselves. The amount of real property in wills shifted after 1540, when Henry VIII's *Statute of Wills*, made bequests of real property in

Margaret Whistler. *Transcribed Wills and Related Documents*. From Oxfordshire Family History Society. <http://wills.oxfordshirefhs.org.uk/index.html> (accessed November 17, 2018).

⁵¹ Prior, "Wives and Wills," 202.

⁵² Goose and Evans, "Wills as a Historical Source," 46.

⁵³ Margaret Hunt, *The Middling Sort: Commerce, Gender and the Family in England, 1680-1780* (Berkeley: University of California Press, 1996), 15.

⁵⁴ J.A. Sharpe, *Early Modern England: A Social History 1550-1760* (London: Arnold, 1997), 206; Hunt, *The Middling Sort*, 15.

wills legal.⁵⁵ Oxfordshire's wills include bequests of both moveable goods and real property.

Wills are a rich source for studying material culture. This is especially true for gaining insight into the material worlds of women. Will authors not only listed objects of considerable value, such as jewelry and metal plate, but also included more mundane objects. Wills and probate inventories provide information about household items, including furniture, linen, and cooking utensils. Descriptions about the number of rooms and locations of furniture provides information about early modern domestic space.⁵⁶ The language of wills include clues about how early modern people conceptualized gendered space within the home.⁵⁷ Bequests and inventories of clothing supply details about early modern wardrobes and the types of material listed indicate the social status of will authors.⁵⁸ Unfortunately, wills excluded smaller household goods with little economic value, such as utensils made of wood or bone and cheap clothing items.⁵⁹ It would have simply been too difficult for will authors to list every household item in an inventory. Wills also detail moveable property outside the home, such as livestock and trade goods. Both male and female testators in Oxfordshire left livestock, especially sheep and cattle to heirs. Valuable property, animals provided income in the form of dairy or wool production, as well as potential rental income and the sale of offspring.⁶⁰ Given the many

⁵⁵ 21 Hen. VII, c.5

⁵⁶ Rachel P. Garrard, "English Probate Inventories and their use in Studying the Significance of the Domestic Interior, 1570-1700," in *Probate Inventories: A New Source for the Historical Studies of Wealth, Material Culture, and Agricultural Development*, eds., Ad Van Der Woude and Anton Shuurman (Utrecht: HES Publishers, 1980), 55-82.

⁵⁷ Flather, *Gender and Space*.

⁵⁸ Rachel Shulman, "Sumptuary Legislation and the Fabric Construction of National Identity in Early Modern England." *Constructing the Past* 8, No. 1 (2007).

⁵⁹ Erickson, *Women and Property*, 33.

⁶⁰ Jennifer L. Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (Philadelphia: University of Pennsylvania Press, 2004), 82-83.

kinds of property they contain, wills are a valuable source of information about many facets of early modern English life.

Oxfordshire's location, economy, and experiences with both the reformation and English Civil War make it an important county for study in the early modern era.

Comprised of a large urban center, villages, market towns, and rural farmland, Oxfordshire represents a cross section of both the economy and lived experiences of early modern English. Oxfordshire's rural and village populations are typical of the majority of England's early modern population and as a result, the patterns found in Oxfordshire are suggestive of broader trends in early modern England. The county's location and history coupled with the abundant records available make Oxfordshire a rich ground for the study of wills during this transformational time period.

The English County of Oxfordshire in South East England, is located approximately 80 miles west of London. The historical borders of the county encompassed 483,626 acres, and have remained relatively unchanged, with only a slight expansion during the reign of Queen Victoria.⁶¹ Estimates based on the Compton census approximate Oxfordshire's population in 1680 at about 67,671 individuals.⁶² Oxfordshire's population continued to grow with a total of 185, 240 individuals in the census of 1891.⁶³ Oxfordshire is comprised of a large civic center at Oxford University surrounded by smaller villages and rural hinterlands, with about half of the population

⁶¹ John Allen Howe, "Oxfordshire," in *Encyclopaedia Britannica: A Dictionary of Arts, Sciences, Literature, and General Information*, ed. Hugh Chisolm, 11th ed., vol. 20 (New York: The Encyclopedia Britannica Company, 1911), 416, accessed February 18, 2020, <https://babel.hathitrust.org/cgi/pt?id=uc1.b2900093&view=1up&seq=452>.

⁶² The Cambridge Group for the History of Population and Social Structure, "Transport, Urbanization and Economic Development in England and Wales, 1670-1911," *University of Cambridge*, accessed February 18, 2020, <https://www.campop.geog.cam.ac.uk/research/projects/transport/data/population1680.html>.

⁶³ Howe, "Oxfordshire," 416.

located in towns, villages, and the city of Oxford.⁶⁴ English kings kept a residence at Oxford beginning in the Anglo-Saxon period. It is unclear when the University of Oxfordshire formed, but it came into existence sometime before 1096. The economy of the city of Oxford relied heavily on the University. Outside of the city, Oxfordshire's rural hinterlands formed part of England's agricultural heartland. The county is situated almost entirely in the upper basin of the Thames river, and has numerous tributaries and waterways running through it. There are multiple market towns located on rivers, including Burford, Chipping Norton, Henley, Thame and Witney.⁶⁵ Prior to the reformation, as much as seven-eighths of Oxfordshire's land fell under cultivation, with barley, oats, wheat, beans, and turnips as the main crops. With an abundance of grain, brewing became a common trade in the region.⁶⁶ Likewise, dairy production remained popular throughout Oxfordshire's history. The wool trade however became Oxfordshire's most important industry. A mix of woodland in the foothills of the Cotswold range provided exemplary pastureland for sheep grazing. A producer of wool and cloth for the famous Cotswold and English wool trade, Oxfordshire became a wealthy county in the thirteenth century. However, Oxfordshire's prosperity experienced a steady decline beginning in the fourteenth century.⁶⁷

⁶⁴ Eleanor Chance et al., "The City of Oxford: Introduction," in *A History of the County of Oxford: Volume 4, the City of Oxford*, ed. Alan Crossley and C R Elrington (London: Victoria County History, 1979), 1-2. *British History Online*, accessed December 12, 2018, <http://www.british-history.ac.uk/vch/oxon/vol4/pp1-2>; Howe, "Oxfordshire," 416.

⁶⁵ "Social and economic history," in *A History of the County of Oxford: Volume 2*, ed. William Page (London: Victoria County History, 1907), 165-213. *British History Online*, accessed February 18, 2020, <http://www.british-history.ac.uk/vch/oxon/vol2/pp165-213>.

⁶⁶ A P Baggs et al., "Woodstock: Economic history," in *A History of the County of Oxford: Volume 12, Wootton Hundred (South) Including Woodstock*, ed. Alan Crossley and C R Elrington (London: Victoria County History, 1990), 360-372. *British History Online*, accessed December 12, 2018, <http://www.british-history.ac.uk/vch/oxon/vol12/pp360-372>.

⁶⁷ Howe, "Oxfordshire," 417.

The population of Oxfordshire remained mostly rural or in small villages. Few great families occupied the area. The great lords of the Anglo-Saxon period and Norman conquest abandoned Oxfordshire and their castles by the fourteenth and fifteenth centuries, leaving only ruins behind by the Tudor era. A few landed gentry families built notable manor homes in the Tudor and Stuart periods, including Stanton Harcourt famous for its pope tower, and Rycote Manor where Queen Elizabeth I was held in 1554.⁶⁸ Few noble families resided in the area, with the exception of Baron Saye and Sele, whose title the crown reinstated in 1603.⁶⁹ The majority of the population remained tied to agricultural production, either as husbandmen who owned and worked their own land, hired laborers, or as tradesmen and merchants in villages and market towns.

Both the reformation and the English Civil War had serious consequences for transforming Oxfordshire in the sixteenth and seventeenth century. The presence of Oxford University made Oxfordshire a stronghold for ecclesiastical institutions. Oxfordshire experienced turmoil during the reformation as these institutions were disbanded and the lay people that worked for the church were turned out of the land. Most of the arable land worked by the church became enclosed pastureland. This reflected a larger trend towards land enclosure in the seventeenth century that overturned feudal systems of land sharing in many cases impoverishing farmers.⁷⁰ The slow economic decline of Oxfordshire coupled with enclosure and famines created resentment with the farming and laboring population. Plans for a rebellion in 1596 included attacking

⁶⁸ Howe, "Oxfordshire," 416.

⁶⁹ James E. Doyle, *The Official Baronage of England: Showing the Succession, Dignities, and Offices of Every Peer from 1066 to 1855*, vol. 3, (London: Longmans Green and Co., 1886), 268, accessed February 18, 2020, <https://books.google.com/books?id=DO8IAAAIAAJ&pg=PA268#v=onepage&q&f=false>

⁷⁰ "Social and economic history," in *A History of the County of Oxford: Volume 2*, ed. William Page (London: Victoria County History, 1907), 165-213. *British History Online*, accessed February 18, 2020, <http://www.british-history.ac.uk/vch/oxon/vol2/pp165-213>.

murdering the gentry and seizing grain; however, the plot was discovered and quashed.⁷¹

The English Civil War had lasting ramifications for Oxfordshire, which acted as a royalist stronghold. The area experienced an economic depression following the war. Dissension over the price of bread in 1693 led to acts of rebellion, including poor women pelting millers and bakers with stones in April, and in May a mob seized grain from wagons.⁷² Oxfordshire never entirely recovered from its economic decline, eschewing much of the development of the industrial revolution, and remained a mainly agricultural area into the present day.

Inheritance practices and the content of wills held particular importance in Oxfordshire. In a rural economy, livestock, agricultural implements, and trade tools were important to family livelihoods. Thus, choices about how to bequeath those items were significant for families. The tools or cash one inherited from parents or grandparents often determined the trade or business an individual could enter. Inherited wealth increased in importance as the economic depression brought by war and the declining wool industry meant that opportunities for the young people of Oxfordshire to increase their wealth in other ways diminished. Inherited wealth in the form of land and dowries also had important implications for marriage, as young men could not establish households without the real property and dowry funds bequeathed in wills. As a result, the stakes were quite high for inheritance in Oxfordshire. Thus, inherited wealth held increased importance for early modern Oxfordshire, as it effected agriculture, business, and marriage.

Wills are an importance source for analyzing patriarchy and gender relations in

⁷¹ Ibid.

⁷² Ibid.

early modern Oxfordshire. The bequests that will authors left their heirs, their sons, daughters, wives, grandchildren, extended family, and friends provides invaluable information about how gender informed these relationships. Will authors wrote their testaments within the larger context of a patriarchal society and legacies of real property, dowries, trade implements, and household goods illustrate how gender determined inheritance. This thesis focuses on identifying localized patterns in the wills of early modern Oxfordshire with the goal of gaining greater insight into larger patterns of gendered inheritance across early modern England. Wills were a site for reinforcing gender norms and producing patriarchy, as patriarchal motivations drove male and female testators. The effects of these patriarchal choices had important implications for Oxfordshire's heirs. Will formation and the resulting inheritance patterns were one of the myriad ways that patriarchy shaped early modern life; however, its one that had far reaching implications for the men and women of early modern Oxfordshire.

II. “PROVDDED SHE MARRIES:” PRIMOGENITURE, INHERITANCE, AND THE EARLY MODERN LIFECYCLE

In 1635 Vicar William Loggin drafted his will. Loggin began with a common refrain, “In the name of God...I, William Loggin... do make this my last will and testament.”¹ A gentleman of considerable wealth, Loggin served as a vicar for thirty years. Unlike many of his peers, Loggin authored his will while still in good health. Loggin described himself as “being of sound and perfect memory and in good health of body” and motivated to write his will “considering the frailty of man’s life.”² During the early modern period, a shift towards earlier probate planning took place as the clergy urged parishioners to settle their estates before illness and infirmity struck.³ Perhaps his position in the Anglican clergy spurred Loggin to settle his estate earlier rather than later. Loggin had much to arrange in his will. During his life, Loggin had married twice and produced eight live children, four sons and four daughters. In addition to providing for his wife and many children, Loggin had a responsibility to designate his parsonage and many land holdings to successors.

Loggin’s will epitomizes the patterns of inheritance present in the early modern wills of English men. Loggin utilized both primogeniture and partible inheritance, where property is divided equally amongst heirs without regards to birth order, to divide his property and cash amongst his children.⁴ While Loggin’s sons inherited property, his

¹ *Will of William Loggin, July 25, 1635*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/loggin_006.html (accessed March 13, 2019).

² *Will of William Loggin*, Oxfordshire Wills.

³ Ralph Houlbrooke, *Death, Religion, and the Family in England, 1480-1750* (Oxford: Clarendon Press, 1998), 82.

⁴ Under primogeniture, the eldest son inherits first, with each successive heir inheriting according to gender and birth order, with male heirs inheriting before female heirs. Partible Inheritance divides property equally among heirs without preference for birth order or gender.

daughters received cash bequests tied to their future marriages.⁵ Loggin's will exemplifies the perpetuation of patriarchal gender norms in early modern English wills. Primogeniture, preference for male inheritance of land, and female inheritance as a function of marriage all shaped the types of bequests left to male and female legatees in wills.

Patriarchal gender norms created differences in the inheritance process for Oxfordshire's early modern men and women. The types of property available to male and female will authors and the property left in bequests diverged along gender lines. Thus, wills often reinforced patriarchal gender norms and created gendered inheritance patterns. This created a division in the inheritance system whereby women experienced will authorship, probate, and inheritance differently than their male counterparts. While we often view patriarchy as a system imposed by men upon women, women also participated in and maintained patriarchal norms and structures. Women's wills illustrate how women reinforced patriarchy through their bequests.

This chapter will look at the early modern inheritance landscape through a comparative lens by examining the types of bequests left by women and men and how they differed based on the gender of both the will writer and the individual receiving the bequest. The first section of this analysis provides context for understanding how patriarchy and gender shaped early modern testaments, specifically how the societal preference for male land inheritance and primogeniture influenced will formation. The next section identifies the key differences between male and female inheritance and explores why men and women received different types of property in wills. The final

⁵ *Will of William Loggin*, Oxfordshire Wills.

portion of this chapter examines gendered bequests through the lens of the early modern life cycle. Birth, adolescence, marriage, and death all represented important segments of early modern life. Significant life events, such as marriage or coming of age triggered specific types of inheritance and demonstrate how early modern men and women experienced life events differently based on their gender.

Interest in studying women's relationship with property in early modern England emerged within the last thirty years. In the early 1990's monographs analyzing the relationship between women's property ownership and inheritance practices appeared. Eileen Spring's 1993 monograph detailing English land and inheritance attempted to incorporate family into the discussion of real property.⁶ Spring argued that England's aristocratic families utilized "primogenitive devices" to ensure that property remained in the male line. In the same year, Amy Erickson's monograph also addressed women, property, and inheritance practices arguing that despite primogeniture and the legal limitations on women owning property, women still exercised power through the will making and inheritance process.⁷ Other studies have analyzed women's inheritance and the effects of primogeniture on the relationships within the early modern family. In his 2018 monograph, Bernard Capp asserts that primogeniture defined sibling relationships as patriarchal gender roles shaped parents' treatment of children and thus how siblings viewed each other.⁸ Other works explore the aspects of early modern England's patriarchal culture that drove attitudes about gender and property ownership. Margaret

⁶ Eileen Spring, *Law, Land, and Family: Aristocratic Inheritance in England, 1300-1800* (Chapel Hill: University of North Carolina Press, 1993).

⁷ Erickson, *Women and Property*.

⁸ Bernard Capp, *The Ties that Bind: Siblings, Family, and Society in Early Modern England* (Oxford: Oxford University Press, 2018).

Hunt argues that the role of marriage as a mechanism for accessing wealth drove its importance for early modern families.⁹ Early modern families used marriage as a means to tap into the wealth of other families, while the act of marriage itself triggered the acquisition of wealth for heirs in the form of dowries. In addition, that the scarce family resources available to middle class families caused friction between daughters and sons, as daughter's marriage portions came out of family working capital. In her 2007 monograph on the relationship between sex and domestic space, Amanda Flather argues that space helped form gender identities, creating concepts about gendered property within the domestic space.¹⁰

Any analysis of inheritance would be remiss without including the implications of land inheritance for wills. The preference for male inheritance in general, and male inheritance of land specifically manifested in the inheritance scheme of primogeniture. Primogeniture dictated that the oldest male heir inherited property, and particularly land, first. Primogeniture arose under feudal law as a method to maintain large landholdings. In contrast, partible inheritance, which divided land holdings equally among descendants, eroded family holdings over time. Land inheritance schemes had important implications for male power.¹¹ In early modern England, land holdings equaled wealth and political power as participation in government depended on land holdings. Only landholding men could hold office in parliament or local administrative positions. Thus, families had an increased incentive to utilize primogeniture in their inheritance customs as means to maintain land holdings.

⁹ Hunt, *The Middling Sort*, 152.

¹⁰ Flather, *Gender and Space*.

¹¹ Lloyd Bonfield, *Marriage Settlements, 1601-1740* (Cambridge: Cambridge University Press, 1983), 15.

Different customs of land inheritance existed alongside primogeniture, including ultimogeniture, where the last son inherited first, and partibility, which favored equal distribution among all children. Manorial custom further complicated land inheritance practices. Highly localized, manorial customs of land inheritance trends are difficult and labor intensive to trace. Historical land studies have worked to discern which areas followed which land inheritance customs, but there is still considerable work left in this field of historical inquiry.¹² Based on the information available in its wills, Oxfordshire will authors appear to have practiced a combination of primogeniture and partible inheritance, utilizing the system that best suited their individual testamentary goals.

Primogeniture created an unofficial hierarchy for children, the eldest son took primacy, while inheritance for younger sons and daughters descended in age and gender order. For wealthier families, a younger son might still receive land. Sons and daughters excluded from land ownership by primogeniture received bequests of cash or moveable property instead. Gender further differentiated the types of moveable property bequeathed to male and female children, with daughters more likely to inherit household goods.¹³ Families left daughters cash and household goods for a reason. Unlike their brothers, most women left their natal family. In a patriarchal society, women fell under the legal umbrella of paternal family until marriage. Upon marriage, women became the responsibility of their spouse under coverture. Similarly, any offspring of a woman's marriage belonged to her marital family.¹⁴ As a result, natal families remained hesitant to grant land or even large sums of cash to a daughter for fear of permanently alienating that

¹² Rosamund Jane Faith, "Peasant Families and Inheritance Customs in Medieval England." *The Agricultural History Review* 14, No. 2 (1966).

¹³ Goose and Evans, "Wills as a Historical Source," 69.

¹⁴ Mendelson and Crawford, *Women in Early Modern England*, 43.

property.¹⁵ Concerns about dividing family land holdings under partible inheritance and the alienation of property based on gender drove will authors to leave bequests of cash and moveable property to younger sons and daughters.

The stakes of inheritance were high for siblings in early modern Oxfordshire. Intergenerational wealth played a major role in an individual's socioeconomic status. Birth order and gender often determined one's emotional role in the family, as well as future livelihood. Primogeniture meant that the oldest son inherited the majority of family land and assets. Along with property, came a duty for the oldest son to take a paternal role over siblings, especially in the event of parental death.¹⁶ This could mean mortgaging property and liquidating assets to ensure that siblings were cared for. Primogeniture and birth order had serious consequences for the socioeconomic status of younger sons. Unlikely to inherit land, younger sons generally entered a trade. Over several generations, younger son's socioeconomic status different greatly from their ancestors as a result of downward social mobility.¹⁷ As a result, primogeniture created resentment among younger sons, damaging sibling relationships.¹⁸ Sisters, limited by the property available for dowries, especially in middle class families, also suffered as a result of primogeniture. Smaller dowries restricted marriage options, and sisters could suffer from the same downward socioeconomic mobility as younger sons. In the most extreme cases, the lack of resources meant that sisters did not marry at all.¹⁹ Competition for assets generated resentment and placed a strain on sibling relationships. The

¹⁵ Bonfield, *Marriage Settlements*, 22.

¹⁶ Capp, *The Ties that Bind*, 34.

¹⁷ Capp, *The Ties that Bind*, 38.

¹⁸ Capp, *The Ties that Bind*, 32.

¹⁹ Capp, *The Ties that Bind*, 61; Hunt, *The Middling Sort*, 152.

socioeconomic consequences of inheritance patterns had real effects on the socioeconomic status of children and relationship dynamics. Thus, the stakes of inheritance for Oxfordshire's siblings were high.

Even as parents left children different property based on their birth order and gender, they also attempted to be fair in distributing family wealth. In lieu of land, cash and household goods could level the playing field amongst siblings of both genders. Children of either gender who did not receive bequests of land or goods could be granted the cash equivalent. Most parents attempted to grant equal share to their children.²⁰ Equality meant a "fair," amount, rather than identical portions. Parents created equal shares by considering all the property and financial assistance given to a child, not just the property and goods listed in a will. Parents considered lifetime land transfers, bequests from grandparents, and apprenticeship fees that their children may have received during their lifetime when deciding how much to grant each child. Children who did not benefit from these other forms of property transfer usually received cash or moveable goods of roughly equal value. Gie Abraham's 1559 will illustrates how Abraham attempted to create equality amongst his four children.²¹ Abraham granted his son, John, the house and daughter, Alsaby, a spinning wheel. All four children received a bullock.²² Though Abraham could not possibly give each of his children a perfectly equal amount, Abraham made the effort to ensure that each of his children received a fair

²⁰ Erickson, *Women and Property*, 77.

²¹ Abraham only lists the names of his son, John, and daughter, Alsaby. In her will, Abraham's wife, Alice (Ales) Abraham lists two additional daughters-Isabel Chapman and Alice (Ales) Tomson. *Will of Gie Abraham, September 5, 1559*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/abraham_003.html (accessed 12/09/2018); *Will of Ales Abraham, October 10, 1587*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/abraham_002.html (accessed September 23, 2019).

²² *Will of Gie Abraham*, Oxfordshire Wills.

distribution of wealth. Despite gendered prescriptions for the division of property, parents attempted to be fair with children of both sexes.

Wills themselves provide an incomplete picture of parent's thought process. Without additional context, some of the bequests left in wills themselves would appear grossly unfair. Often older sons only received a nominal amount of cash or moveable goods, compared to larger amounts bequeathed to younger siblings. At first glance, this seems to contradict the common law preference for primogeniture. Yet, further investigation reveals that the preference for granting land to an oldest son remained intact, as transfers of real property took place during the father's lifetime. Both mothers and fathers followed these patterns. Jane Alder left her children different sums of cash in her will. Oldest son Henry only received £5, son John received £20, while son Richard did not receive a cash bequest at all.²³ Instead, Alder granted Richard the residue of her estate. Daughters, Mary, Elizabeth, and Jane all received £6 13s 4d in cash, but only daughter Jane Yeate received a bed, bolster and coverlet along with her cash. From this we can infer that Henry most likely received land or another bequest from his father or grandparent. Likewise, Mary and Elizabeth may have received a bequest or lifetime transfer of wealth that Jane did not. Alder used her will as a tool to level the wealth distribution amongst her children. Alder's son Richard followed in his mother's footsteps, using his will to distribute fair shares to his children. Richard left each of his unmarried children £20 pounds, but his married daughters, Jane Woodley and Elizabeth Broadwater both received the paltry amount of 3s 4d.²⁴ This does not reflect reduced

²³ *Will of Jane Alder, October 25, 1612*. Oxfordshire Wills.
http://wills.oxfordshirefhs.org.uk/az/wtext/alder_001.html (accessed December 9, 2018).

²⁴ *Will of Richard Alder, June 3, 1633*. Oxfordshire Wills.
http://wills.oxfordshirefhs.org.uk/az/wtext/alder_002.html (accessed December 9, 2018).

affection for Jane and Elizabeth, but more likely that Alder paid dowries for his daughters during his lifetime. Elizabeth Alder, Jane's daughter-in-law explicitly lists in her will that her daughter Susana Gunter's bequest is reduced as she "hath had a portion of me already."²⁵ Parents of both genders did their best to balance the amounts that children received from them in both life and death.

William Loggin followed primogeniture in dispersing his numerous land holdings to his four sons. Loggin had been a vicar for nearly thirty years and possessed considerable land holdings and cash when he authored his will in 1635. Loggin presumed that his oldest son William would inherit his estate, so the bulk of his will determined the additional land holdings for each of his three younger sons, John, Robert, and Edward.²⁶ Loggin granted his son John the remainder of the lease of his parsonage with the buildings, livestock, and tools associated with the parsonage, as well as an additional property. Loggin's third son, Robert and youngest son, Edward, both received plots of real property and accompanying livestock. To William, Loggin left the rectory. Of interest, the legacy to William will only take effect ten years after his father's decease, and only after William conveyed each of the above listed properties to his younger brothers upon their majority.²⁷ This implies that while Loggin's younger sons remained minors, William retained ownership and title to these properties as Loggin's presumptive heir. This presupposition meant that Loggin provided for his younger son's legacies out of the inheritance of his oldest son. Loggin's testament illustrates how a will author could

²⁵ *Will of Elizabeth Alder, May 19, 1653*. Oxfordshire Wills.

http://wills.oxfordshirefhs.org.uk/az/wtext/alder_004.html (accessed December 9, 2018).

²⁶ Loggin does not provide his oldest son's name in the body of his will. The 1682/83 Visitation of Warwickshire lists Loggin's oldest son as William; W. Harry Rylands, eds., *The Visitation of the County of Warwick, 1683* (London: Ye Wardowr Press, 1911), 178, <https://babel.hathitrust.org/cgi/pt?id=pst.000023822498&view=1up&seq=196>

²⁷ *Will of William Loggin*. Oxfordshire Wills.

combine primogeniture and partible inheritance to suit his personal desires. Loggin ensured that his oldest son received his preferential inheritance, while also providing land for his younger sons.

Primogeniture determined the testamentary capacities of successive generations. The 1604 will of Gentleman Francis Barry demonstrates the effects of primogeniture on a second son. Barry's older brother, Vincent Barry, inherited the family's real property. As a result, Barry's wealth lay in the cash and the annuities owed to him by Vincent. Francis left his cash and annuities to be divided equally among his three children, Elizabeth, Vincent, and Christopher. As a younger son, Barry did not possess the same landed property as his older brother. Thus, Barry utilized the property available to him, chiefly cash, in his legacies. A product of primogeniture, Barry instead chose partible inheritance for his own children, dispersing equal amounts of about £700 to each of his three children.²⁸

The preference for primogeniture and male inheritance of land extended to men without male heirs. In order to solve this problem, men left real property to their sons-in-law. Gentleman Richard Barons did not have a surviving son when he wrote his will in January of 1602. The father of six adult married daughters, Barons decreed that his land leases should pass to three of his sons-in-law, Michael Hugganson, Henry Clarke, and John Eveleigh. Barons's decision to leave interests in real property to male heirs is deliberate. Barons's bequests to his wife and six daughters reflect societal norms for

²⁸ *Will of Francis Barry, May 2, 1604*. Manuscript. Oxfordshire Wills. http://wills.oxfordshirefhs.org.uk/az/wtext/barry_001.html (accessed 04/04/2019). Barry's will itself does not provide the names of his children. A gentleman entitled to heraldic arms, further documentation of the Barry family reveals that Barry's children included Elizabeth, Vincent, and Christopher, see William Henry Turner, ed. *The Visitation of the County of Oxford, 1634* (London: Taylor and Co., 1871), 326, <https://babel.hathitrust.org/cgi/pt?id=hvd.32044055350425&view=1up&seq=346>

“feminine” legacies and include valuable silver plate and household goods.²⁹ Therefore, Baron’s bequests to his sons-in-law is reflective of a desire for familial property to remain in male control. Gendered conceptions of real property influenced male will authors desire to keep property under male control.

A preference for primogeniture extended beyond men. Some early modern women reinforced primogeniture when distributing their property. Patriarchy and primogeniture infiltrated women’s wills, with some women favoring male ownership in their bequests. Marian Freeman made her oldest son, William her executor, and the receiver of the residue of her estate. Freeman granted William’s oldest son, Richard, a bequest of ten sheep, two cattle, and valuable household goods, including bedding, a tablecloth, and a coffer and brass pot. Each of Freeman’s subsequent legacies to her remaining nine grandchildren decreased in value, signaling Freeman’s preferential treatment of William and Richard. Freeman’s bequests to William and Richard preserved intergenerational primogeniture in her will.³⁰ Influenced by the societal customs of patriarchy and primogeniture, women perpetuated them in their own wills.

Women also adhered to primogeniture in the passage of land. Early modern female will authors operating within this patriarchal system may have internalized or felt compelled to adhere to societal inheritance norms. Widow Dorothy Payne is a perfect example of a female landowner who prioritized male land inheritance in her 1667 will. Payne decreed that her grandsons inherit her landed wealth. Payne granted legacies to her four grandsons, Robert Payne, Jr., John Payne, Jr., Matthew Payne, and William Payne.

²⁹ *Will of Robert Barnes, January 1, 1601/02*. Manuscript. Oxfordshire Wills. http://wills.oxfordshirefhs.org.uk/az/wtext/barnes_004.html (accessed 12/11/2018).

³⁰ *Will of Marian Freeman, January 20, 1567*. Manuscript. Oxfordshire Wills. http://wills.oxfordshirefhs.org.uk/az/wtext/freeman_012.html (accessed 04/26/2019).

Payne's use of primogeniture is obvious in the types of bequests she left to each of her grandsons. For her elder grandsons, Robert and John Jr., Payne left two separate estates and the rents from those lands as their legacies. In contrast, third grandson Matthew is only to inherit the land of his older brother John Payne, Jr. if John and John's potential widow predecease him. Payne excluded her youngest grandson William from property inheritance altogether, choosing instead to bequeath him £10.³¹ Payne exemplifies female adherence to societal prescriptions regarding male inheritance of land. Even as a woman, Payne followed patterns of primogeniture in dispersing her property to her male heirs.

Payne's decision to employ primogeniture and prioritize male inheritance is interesting in light of Payne's own history of property ownership. Payne actively acquired property during her widowhood. In her will, Payne described the purchase of land she made from, "Henry Taylor of Sonning, a yeoman, and his son John Taylor."³² In addition, Payne purchased some leases from her son Robert, perhaps to reclaim property she had access to during her marriage. Despite Payne's own efforts to buy and manage property as a woman and widow, she does not leave any land outright to her female descendants. Instead, Payne bequeathed household goods and cash to her female descendants. Thus, Payne's testamentary choices stand in stark opposition to her own practice of owning land.

Payne declined to grant any of her female heirs land outright. Instead, Payne made female ownership of land both unlikely and contingent on the actions of her male heirs. For the land bequests to her grandsons, Payne built in a life interest in the property

³¹ *Will of Dorothy Payne, November 6, 1667*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/payne_006.html (accessed 03/06/2019).

³² *Will of Dorothy Payne*, Oxfordshire Wills.

for each of her grandsons' successive widows. A widow herself, Payne recognized the importance of providing for other women in their widowhood. However, Payne's provisions only provide a lifetime interest, ensuring that the land will remain within the male line of the Payne family. Payne also used land inheritance as an enforcement mechanism to ensure her female descendants' legacies. Payne decreed that her grandson Robert Payne, Jr. should pay each of his sisters, Sarah, Dorothy, and Mary £20 out of his own land bequest. If Robert failed to provide his sisters' their inheritance, he himself forfeited his land claim. Instead, the land would pass to his sisters and their heirs, "forever."³³ Such a hefty penalty encouraged Robert Payne, Jr. to fulfill his grandmother's wishes. While Payne exhibited concern for the financial security of other women, female inheritance of land in Payne's will is only as a life interest or as punishment for male heirs' failure to follow her testamentary directions. Payne declined to grant her female descendants land ownership outright. As a result, Payne preserved societal preference for male land inheritance. The Payne family illustrates the types of property granted to male and female heirs and how will writers of both genders maintained those property distinctions in their wills.

Early modern British life existed according to distinct life stages, including birth, adolescence, adulthood, and death. Specific events, such as marriage, or ages, including the age of majority, could trigger a transition from one stage to another.³⁴ Movement to a new stage in life could trigger a shift in an individual's status within society. Acutely aware of the importance of these stages and life events, decedents often made inheritance

³³ *Will of Dorothy Payne*, Oxfordshire Wills.

³⁴ David Cressy, *Birth, Marriage, and Death: Ritual, Religion, and the Life-Cycle in Tudor and Stuart England* (Oxford: Oxford University Press, 1997).

in their wills dependent upon legatees entering new life stages and reaching important markers like birth, marriage, and death. The way men and women experienced these life stages differed based on patriarchal expectations. In wills, authors reveal the different assumed roles for men and women, as well as the anxieties that arose when individuals failed to conform to patriarchal gender prescriptions.

After birth and infancy, adolescence represented the first transitional period in early modern life. During this time, children's lives shifted to education or career instruction. The age at which children began their education and their educations' content depended entirely on social class and gender. Children and adolescents with middle class or wealthy parents could expect to receive varying levels of academic instruction. However, early modern society placed differing importance on the education of boys and girls. Wealthy sons continued instruction all the way to the university level or in a professional capacity. In contrast, most girls only acquired enough knowledge to read religious texts, but not to write.³⁵ The education of most women focused on the ability to successfully raise children and run a household. Only the wealthy and upper middle class had the resources to educate female children. Gentleman Francis Barry explicitly directed his executors to utilize annuities to see to the education of his two sons and one daughter, "[t]hey [my executors] shall employ the annuities to the maintenance and education of my children equally until they reach 21."³⁶ Likewise, Barry charged his widow, Frances with seeing to the maintenance and education of their minor children. Barry did not expressly state how the children should be educated, nor did he include any provisions discussing the expectations for his children's education based on their gender. Well

³⁵ Mendelson and Crawford, *Women in Early Modern England*, 90.

³⁶ *Will of Francis Barry. Oxfordshire Wills.*

versed in the societal expectations of education for boys and girls, Barry's executors and widow would have been acutely aware of the appropriate education for the sons and daughter of a wealthy gentleman.

The type of instruction a child received depended heavily on gender. The heavy agricultural work of animal husbandry and tilling of fields remained a masculine undertaking. Thus, along with land, the inheritance of livestock and agricultural implements remained within male lines of inheritance. Yeoman Henn Aris evidenced this pattern. Aris had three legitimate sons, Thomas, Edward and John, as well as two daughters, Mary Aris and Anne Wilkins and an illegitimate son, William Aris. Aris's oldest son Thomas received his house and the tools of his trade, while Edward and Anne received household goods and cash in the amount of 12d a year.³⁷ Adequately provided for, Thomas likely continued his father's work, while as a third son, John Aris entered an apprenticeship. Henn Aris carved out money for his younger son's apprenticeship from his older son's legacy. Aris stipulated that John should be granted £5 pounds within the next three months, "...as part of the great expense [and] charge that I have been at to provide him tools [and] implements to set up his trade..."³⁸ Under primogeniture, older son Thomas inherited his father's land, while younger son John entered an apprenticeship for a trade. Aris's descriptions of his efforts to help set up his younger son in life indicates the time and care that Aris invested into ensuring that John would be well taken care of following his death. Primogeniture did not preclude parents from investing time, energy, or money into younger children.

³⁷ *Will of Henn Aris, April 10, 1683*. Manuscript. Oxfordshire Wills.
http://wills.oxfordshirefhs.org.uk/az/wtext/aris_002.html (accessed December 11, 2018).

³⁸ *Will of Henn Aris*. Oxfordshire Wills.

Men attempted to preserve lines of male inheritance for goods perceived as masculine. This preference for male inheritance extended to the transition between adolescence and adulthood where men inherited gendered occupational trade goods. A cordwainer, Robert Barr, lacked a male heir to pass on his occupational goods. Instead, Barr chose his son-in-law John Penner to receive the tools of his trade and his current inventory. This included, “all my shoes, leather, and the last in the shop,” as well as the tables and benches that Barr presumably used to conduct his work, and, “the press in the loft.” The remains of Barr’s property, including livestock, he divided between his three daughters, Alice, Frideswith, and Margery.³⁹ While Barr did not hesitate to grant his daughters an inheritance, Barr made a point to pass the tools of his trade to a male heir. Male occupations not only defined men’s roles within society, but they are served to create separate public male spheres of business and commerce. Early modern men worked to preserve these male spheres for male inheritors.

Like their male counterparts, girls also entered apprenticeships. However, gender limited the occupational options available to women. Women’s expected role within the household meant that feminine education focused on domestic maintenance. For this reason, many girls entered apprenticeships to learn housewifery skills, functioning as domestic servants for their masters.⁴⁰ A few trades remained exclusively feminine, while others accepted women, such as dairying, weaving, brewing, and tavern keeping.⁴¹ In recent years, research on the economic contributions of early modern women has produced voluminous scholarship on the importance of women as tradespeople and

³⁹ *Will of Robert Barr, January 10, 1570/71*. Manuscript. Oxfordshire Wills. http://wills.oxfordshirefhs.org.uk/az/wtext/barr_003.html (accessed 12/11/2018).

⁴⁰ Gowing, *Common Bodies*, 59.

⁴¹ Mendelson and Crawford, *Women in Early Modern England*, 256.

independent economic actors.⁴² Evidence of women's economic activity is apparent in the wills of both men and women from Oxford. Bequests of trade tools provide clues to women's participation in labor and trade. In 1559 Gie Abraham left his, "best wheel," to his daughter Alsaby.⁴³ Abraham is most likely describing a spinning wheel, used in the creation of thread or yarn. In the early modern era spinning remained an inherently feminine activity, thus Abraham preferred his daughter to inherit this feminine implement. Similarly, brewing originated as a female occupation and women's possession of brewing vats indicates that they continued to brew beer in the early modern period. Widow Ursula Andrews owned different brewing cisterns of varying sizes that suggest she engaged in the regular brewing of beer or other alcoholic beverages.⁴⁴ In her will, Andrews chose to leave her brewing equipment to two grandsons, John and Thomas Andrews. Andrews' testamentary decision reflects the evolution of brewing into a gender neutral and eventually masculine trade. While women's participation in the economy looked different than their male counterparts, as women participated in cottage industries. This has forced historical research on women's involvement in economic activity, including systems of debt and credit to utilize new primary sources, including wills. Women's and men's wills illustrate how women participated in labor and economic activity outside of traditional male occupations.

The transition to adulthood for early modern women often took place upon marriage. Under coverture a woman's father ceased to be her guardian and her husband

⁴² Martha C. Howell, *Women, Production, and Patriarchy in Late Medieval Cities* (Chicago: University of Chicago Press, 1986).

⁴³ *Will of Gie Abraham*. Oxfordshire Wills.

⁴⁴ *Will of Ursula Andrews, September 1, 1558*. Manuscript. Oxfordshire Wills. http://wills.oxfordshirefhs.org.uk/az/wtext/andrews_010.html (accessed November 17, 2018); The Andrews family name appears in several iterations throughout probate documents, spelled as both "Andrewes," and "Andrewes."

became legally responsible for her at the time of marriage. The legal significance of matrimony coupled with societal expectations of childbearing made marriage a pivotal moment in an early modern woman's life. Women, especially of the middle and upper classes, could marry in the teen years, while men generally did not marry until after reaching the age of majority of 21. For the working class the first instance of marriage usually took place in a person's mid to late twenties.⁴⁵ The discrepancy in marital age for men and women is reflected in wills. Inheritance clauses for young women provided that women could inherit at the time of marriage, before reaching the age of majority. These marriage exceptions for cash bequests to female legatees functioned as part of a dowry or marriage portion. In the most extreme form, marriage bequests made a woman's inheritance entirely dependent on marriage. The importance of marriage preoccupied will authors concerns for their daughters and granddaughters.

The importance of marriage for women is reflected in the clauses will authors often attached to female bequests. In contrast, will authors do not assign the same importance to marriage for male legatees. Gentleman Francis Barry attached specific gendered language to his daughter Elizabeth's legacy that is not present in the legacies to his sons. Barry stipulated that, "[i]f my daughter marries before 21, my executors shall pay her all her legacies (with profits) within one year after her marriage."⁴⁶ Barry's provision followed the common pattern of releasing Elizabeth's inheritance if she married before reaching the age of majority. In contrast, Barry did not place the same priority on marriage for his two sons, who were unlikely to marry before the age of majority. Barry's will highlights the different levels of importance of marriage for men

⁴⁵ Mendelson and Crawford, *Women in Early Modern England*, 129.

⁴⁶ *Will of Francis Barry*. Oxfordshire Wills.

and women.

The wills of fathers and male guardians encouraged their daughters and female heirs to marry. The 1551 will of Richard Fermer dealt extensively with legacies and marriage portions for his daughter and female wards. Fermer left his daughter, Mary Fermer, 700 marks towards the, “preferment of her marriage,” with the stipulation, “if she be ruled in her marriage by my executors.” Parents regularly required that their daughters seek the counsel and approval of executors in selecting a marriage partner. Parents wanted to be sure that their children made advantageous matches, and the counsel of trusted advisors acted as a safety net to prevent daughters from making an imprudent marriage. However, this also took already limited autonomy away from daughters, potentially leading to discord between female children and executors. Fermer also left £20 each to the two daughters of Robert Wilford, “towards their marriages.” Fermer granted his female ward Anne Briknell, “£20..towards her marriage,” and further provided, “£5 each to her sisters for their marriage.”⁴⁷ Marriage remained the chief concern of male guardians for unmarried daughters and female wards. The importance of providing money for a dowry is exemplified by male will authors.

In addition to providing dowries, patriarchs utilized male executors to supervise the marriages of female heirs. William Loggin appointed four men as his executors, including three male relatives to oversee his daughter’s marriages.⁴⁸

Loggin had at least four biological daughters, but it appears that his three youngest were not yet of marriageable age. Loggin decreed that the legacies for his youngest daughters,

⁴⁷ *Will of Richard Fermer, February 3, 1551/52*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/farmer_005.html (accessed 03/23/2019).

⁴⁸ *Will of William Loggin*. Oxfordshire Wills.

Alice, Sarah, and Martha, be paid out at the age of majority. Loggin exhibited anxiety in his will regarding his daughters' abilities to arrange suitable marriages and arranged for an additional control mechanism in the form of his executors, "[i]f any of them marry without the consent of the majority of my executors they are to have only £500, the other £500 being distributed to my other children." Under this arrangement, Loggin's executors were required to sanction the girls' choice of spouse. Alice, Sarah, and Martha stood to lose half of their significant inheritance if they married against the wishes of their father's executors. Thus, Loggin maintained male guardianship over his female relatives. Loggin exercised postmortem control over his daughters and placed greater faith in his male executors.

Loggin placed the most restrictive type of marriage stipulation on the legacy to his daughter Elizabeth. The product of Loggin's first marriage, Elizabeth, must have been near or past the age of majority, and Loggin expressed concern that she marry soon. Loggin left Elizabeth a bequest of £1500 pounds, a massive sum worth the equivalent of £176,319.00 in 2017. With such a figure, Elizabeth could have purchased 235 horses, or hired a skilled tradesman for 21,428 days.⁴⁹ However, Loggin qualified his bequest with the stipulation that Elizabeth only receive her legacy if she married within six months of her father's decease, and with the express consent of her father's executors. If Elizabeth failed to meet these conditions, Loggin provided that £500 of her legacy would instead pass to his three youngest sons. The possibility of losing a third of her inheritance created a stiff incentive for Elizabeth to marry quickly. Loggin utilized his legacy to place coercive pressure on his daughter. While Loggin's methods may seem harsh, marriage

⁴⁹ Currency Converter: 1270-2017. *The National Archives [UK]*, accessed 1 May 2019, <http://www.nationalarchives.gov.uk/currency-converter#currency-result>.

represented a path to economic stability for early modern English women, and Loggin's will may have stemmed from genuine concern for his daughter. Elizabeth would be completely disinherited if she chose not to marry at all. Elizabeth Loggin did in fact marry. In December of 1637, approximately a year and a half after the first probate of her father's will, Elizabeth married Richard Craft in St. Mary's, a large Anglican parish church located in Banbury, Oxfordshire, approximately five miles east of her father's parish in Swalcliffe.⁵⁰ Ultimately, the coercive pressure of her father's will won out and Elizabeth Loggin Craft met her father's expectations by marrying. Through his will, William Loggin posthumously dictated the major life decisions of his daughters using inheritance as a control mechanism. Loggin's will exemplifies the reality of continued male oversight for adult women. Elizabeth's situation reflects the reality of early modern expectations to both enter marriage and remain subordinate to men.

Female will authors reinforced patriarchal marriage expectations through marriage legacies. These legacies sought to provide the daughters and granddaughters of female will authors with a financial advantage for marriage. Dorothy Payne granted each of her six granddaughters and one great-granddaughter varying cash bequests between £5 and £20 pounds upon reaching the age of twenty-one, or marriage, with the intention of serving as a dowry for each female child.⁵¹ Ursula Andrews left her namesake granddaughter Ursulie Andrews £20 to be paid, "at the day of her marriage."⁵² Andrews gift functioned as a portion of Ursulie's dowry. These bequests illustrate how women

⁵⁰ *Anglican Parish Registers, Marriage of Richard Craft and Elizabeth Loggin, December, 1637.* Manuscript. From Oxfordshire Family History Society and Oxfordshire History Centre, *Oxfordshire, England, Church of England Baptism, Marriages, and Burials, 1538-1812.*

⁵¹ *Will of Dorothy Payne*, Oxfordshire Wills.

⁵² *Will of Ursula Andrews*. Oxfordshire Wills.

adhered to the same societal expectations surrounding gender and marriage. Female will authors with the means worked to ensure that their female descendants had the appropriate cash to make advantageous matches.

After marriage, procreation and the birth of children represented the most important life event for early modern women. Married women were expected to produce children. The validity of a marriage could hinge on fertility.⁵³ Thus, successfully birthing children held great significance for early modern women. Motherhood transformed women from a maid into a matron. In recognition of this milestone, adult daughters and granddaughters could receive their inheritance as birth portions. Married female legatees received cash bequests contingent upon the birth of a healthy child. Dorothy Payne is unique among the Oxford wills examined for granting her granddaughter Sarah Kemble £10, “to be paid within three months after the birth of her first child.” In contrast, Kemble’s sister Elinor only received £5 upon reaching the age of 21.⁵⁴ The difference in Payne’s legacy to her granddaughters is two-fold. Kemble’s status as a married woman, with a household and a child to care for warranted additional monies. In contrast, Elinor Kemble likely resided in either her family home, or the home of her master if she served as a domestic servant or apprentice. As such, others would still be responsible for Elinor’s care and expenses. Kemble’s impending childbirth likely precipitated her grandmother’s bequest. Motherhood marked an important transition as early modern women proved their worth as a child bearer and Payne may have wanted to celebrate this special occasion with a specific bequest acknowledging her granddaughter’s condition.

The specter of death lurks in early modern wills, not just for the will authors

⁵³ Gowing, *Common Bodies*, 114.

⁵⁴ *Will of Dorothy Payne*, Oxfordshire Wills.

themselves, but also for their heirs. In a society with a high mortality rate, will authors acknowledged that legatees often passed before they could receive their inheritance. Consequently, will authors provided clauses to account for the death of an heir. One of the more dangerous activities for women, childbirth often led to death for both mother and baby. One in five infants did not make it to their first birthday.⁵⁵ Thus, birth legacies came with a caveat. Dorothy Payne's birth legacy to her granddaughter Sarah Kemble is only payable three months after the birth of the child. Payne would have been acutely aware of the dangers of childbirth and made the legacy accessible only after the mother survived the dangerous birth and postpartum periods. Maternal mortality between 1657 and 1699 hovered around 21%, with maternal death taking place up to 46 days following childbirth.⁵⁶ This was also true for cash bequests left to unborn children. Ann Leake's bequest to her unborn great-grandchild comes with the stipulation, "if he or she is alive."⁵⁷ Leake acknowledged the uncertain outcome of childbirth in her bequest. Further, Leake commands that if the child is not born alive, "...the £10 is to be equally divided between [great-grandsons] John and Samuel Dunkin." Echoing a common practice in early modern wills, Leake was pragmatic in her bequests to her great-grandchildren. Common childhood illnesses and accidents also meant that even children who survived infancy died more frequently than adults. Death hung over many bequests and will authors regularly made contingency plans for bequests left to children. Margaret Whistler left legacies to her grandchildren, siblings Thomas, John, and Margaret to be paid out at

⁵⁵ Houlbrooke, *Death, Religion and the Family in England*, 7-8.

⁵⁶ Roger Schofield, "Did the Mothers Really Die? Three Centuries of Maternal Mortality in 'The World We Have Lost,'" in *The World We Have Gained: Histories of Population and Social Structure*, eds., Lloyd Bonfield, Richard M. Smith and Keith Wrightson (Oxford: Basil Blackwell, 1986), 233.

⁵⁷ *Will of Ann Leake*. Manuscript. Oxfordshire Wills.

http://wills.oxfordshirefhs.org.uk/az/wtext/leake_003.html (accessed 12/04/2018).

the age of majority, but with the stipulation that, “[i]f any of them die before 21 their portions are to go equally between the survivors.”⁵⁸ Death forced will authors to build alternatives to the legacies left to children in case they did not survive birth, infancy, or childhood.

Even within this common practice of providing for the death of children, decedents exercised a preference for male inheritance. Male will authors resisted alienating property from male lines of inheritance. In the event of a female legatee’s death, male will authors worked to ensure that female legacies returned to male lines of inheritance. William Loggin favored his male heirs should one of his daughters die. Loggin stipulated that if one of his three youngest daughters should, “...die before 21, their portions go to my son John Loggin.” Alice, Sarah, and Martha each received a bequest of £1,000; thus, John Loggin’s own legacy increased substantially in the event of one his sisters’ deaths. William Loggin crafted this clause with the intention that substantial cash portions remain within the male line.⁵⁹ Loggin’s testamentary choices illustrate the hesitance of fathers to alienate significant wealth from paternal lines of inheritance.

Early modern English gendered patterns of inheritance arose out of a patriarchal society heavily influenced by primogeniture. Even though wills rarely dealt with land inheritance, the effects of a preference for male inheritance of land shaped early modern inheritance practices. Primogeniture helped maintain large land holdings for first born males, limiting the property and resources available to younger sons and daughters.

⁵⁸ *Will of Margaret Whistler, January 25, 1638/39*. Manuscript. Oxfordshire Wills. http://wills.oxfordshirefhs.org.uk/az/wtext/whistler_004.html (accessed March 21, 2019).

⁵⁹ *Will of William Loggin*. Oxfordshire Wills.

Prevented from inheriting land, younger sons and daughters received bequests of cash and moveable property instead. Gender precipitated further division of the types of inherited property bestowed upon younger children. While men received unencumbered cash upon reaching the age of majority, will authors placed additional qualifications on women's cash bequests. Clauses focused on women's fertility and marriage illustrated the extra expectations placed on early modern women to marry and bear children. The types of moveable goods bestowed on men and women also diverged along gender lines. Will authors left gendered occupational goods to their heirs. Male labor expectations are reflected in the heavy agricultural equipment and specifically male trade goods passed down in wills. Likewise, the belief that women remain in the domestic sphere is indicated by female inheritance of household goods and distinctly feminine tools. These differences created a divided experience of inheritance for men and women. Ultimately, the inheritance system perpetuated ingrained gender differences.

Early modern English inheritance also centered around the principal life cycle events of birth, adolescence, marriage, and death. The significance of these events differed for men and women, as early modern society placed varying degrees of importance on life events based on gender. For women, society placed emphasis on childbirth and fertility. The successful birth of healthy offspring had increased significance for women, which is reflected in birth bequests. For children who survived birth and early childhood, adolescence represented the stage of development. Adolescence included a child's education. Whether a child received academic instruction or entered an apprenticeship to learn a trade depended entirely upon both the child's socioeconomic status and gender. The importance of marriage also varied for men and

women, with greater urgency placed on women to marry. This is evidenced in will authors' concern for their female descendants' marriages and how women will authors defined themselves by their marital status. Finally, even death in wills evidenced preferential treatment for male heirs. Will authors worked to protect male inheritance and stipulated that property return to the male line in the event of a female heir's death. Patriarchal preference reigned supreme in inheritance patterns.

The implications of patriarchy permeated all aspects of early modern life, including inheritance patterns. Will authors perpetuated patriarchal customs in wills. Consequently, men and women received inheritances categorized by gender. This resulted in a different inheritance experience for women. Analysis of early modern English wills reveals the disparate treatment of men and women and provides important insights into the influence of patriarchy on English society.

III. “MY BEST RED PETTICOAT:” MARRIAGE, INHERITANCE, AND WOMEN’S BEQUESTS

In a lengthy will drafted in September 1558, Ursula Andrews declared herself, “sick in body.” Andrews’ pronouncement of illness must have been more than simple form language, as probate of her will took place only two months later in late November of 1558.¹ The widow of a wealthy country gentleman, Andrews possessed considerable holdings of material goods and livestock. Andrews legacy to her son John reflected her household wealth:

“I give my son John Androwes the bed, etc. all of the other furniture in the great chamber at my decease, a great press standing in my closet, a great chest, three pairs of sheets, two pillows, a diaper tablecloth which was my grandmother’s, one dozen napkins, one great pewter charger, 6 pewter platters, a pewter ewer and basin, two great latten candlesticks, the biggest pot, my best broche [broach], a pair of andirons, my silver gilt goblet with the cover, two silver spoons with angels, my best silver salt with the cover, my gold ring called a hoop, 20 ewes with their lambs, two kine, my colt in Hatfield park and two calves there.”

Revealing a large network of familial and social relationships, Andrews’s voluble will also included bequests to her four children, nine-grandchildren, charity, godchildren, and female friends. Due to the wide range of property at her disposal, Andrews’s will exemplifies many of the testamentary strategies accessible to Oxfordshire’s early modern women. Andrews typifies the categories of property available to early modern women, mainly household goods, including bedding, furniture, kitchen implements, and jewelry along with moveable chattel, and livestock. Likewise, Andrews’s will highlights the important relationships for early modern English women, including children, grandchildren, godchildren, female relatives, and friends. The length and detail of

¹ *Will of Ursula Andrews*. Oxfordshire Wills.

Andrews's will is singular. Paired together, the wills of both Richard and Ursula Andrews provide a comprehensive example of early modern English women's testamentary patterns.

A patriarchal legal system and early modern societal attitudes about gender shaped feminine patterns of inheritance. The preference for male land inheritance, coupled with the reality that women generally received less familial resources, limited the types of property available to female testators.² Marriage and the distribution of property by a widow's late husband could significantly limit the property available to widows, who represented the majority of female testators.³ Instead of real property, female testators had access to household and other moveable goods. The types of goods available to women are exemplified by the types of bequests women made to their heirs. In addition, the categories of movable goods in women's wills represent early modern ideas about gendered property. Women's wills abound with bequests of linen, kitchen implements, gendered trade goods, and clothing, all items considered exclusively feminine in early modern society. Thus, the property present in early modern women's wills provides insight into the goods available to female testators and the basis for women's inheritance patterns.

Women also exhibited distinct patterns in the selection of heirs. Women drew on a wider social and familial network when bestowing legacies than men. The nuclear family held primacy in early modern English culture and extended family did not play a prominent role in daily life.⁴ Male will authors rarely strayed outside of the nuclear

² Hunt, *The Middling Sort*, 82.

³ Erickson, *Women and Property*, 204.

⁴ Ralph A. Houlbrooke, *The English Family: 1450-1700* (New York: Pearson Education, Inc., 1984), 18.

family in their bequests and focused on preserving male lines of inheritance within the nuclear family.⁵ Women left bequests to a wider familial and social network. In addition to the bequests made to their children, women also extended bequests to grandchildren, godchildren, non-nuclear relatives, and charity. Within this wider net, women stressed female networks of kinship and friendship, including in charitable giving to poor women.⁶ The practice of granting bequests to a wider social and familial base set female will authors apart from their male counterparts and created distinctive patterns of feminine inheritance.

Both marriage and inheritance have been covered at length by early modern British historians. Historiographical questions about the family and marriage became a topic of discussion among British historians in the twentieth century. As part of the new social history, Lawrence Stone published his 1977 survey of the early modern English family and argued that marriages during this time lacked affection, and that marriages and families evolved overtime to become companionate marriages.⁷ Stone received criticism for his assertion that early modern marriage generally lacked personal affection between partners. Ralph Houlbrooke's 1984 overview of the English family argues that the nuclear family occupied a central place in the lives of early modern English people and through the transformational early modern period, family life remained fundamentally the same.⁸ Houlbrooke included chapters on the life cycles of families, including the formation of marriages.

Marriage's influence on inheritance patterns has been approached in different

⁵ Houlbrooke, *The English Family*, 26.

⁶ Erickson, *Women and Property*, 86, 96.

⁷ Lawrence Stone, *The Family, Sex and Marriage, 1500-1800* (London: Weidenfeld & Nicolson, 1977).

⁸ Houlbrooke, *The English Family*.

ways. Historically, the study of inheritance initially occurred within strict legal histories. Legal surveys by R. H. Helmholz and Sir John Baker detail the laws that governed inheritance in early modern England.⁹ However, social historians have explored the effect of these laws on early modern people. In his 1986 article, Lloyd Bonfield bridges the gap between identifying the law and the real implications for the inheritance decisions of early modern English people, arguing that the methods will authors chose provide a more powerful indicator of kinship ties than a study of the law on its own.¹⁰ Likewise, Houlbrooke addresses the importance of inheritance and death for early modern families. Houlbrooke argues that a will author's socioeconomic status played the largest role in testamentary decisions. He also asserts that while will authors were able to leave property freely, constraints like primogeniture limited these decisions. At the same time, British historians of women and gender began to look at the experience of women within the inheritance system, particularly interrogating widow's wills and property.¹¹ Recent publications such as Susan James' 2005 monograph contend that wills are the best source gaining insight into what early modern women considered important in their relationships and material goods.¹²

This chapter explores the intersection of patriarchal gender roles, marriage, and their effects on inheritance patterns. This first half of this chapter argues that the patriarchal society and legal system of early modern England shaped the choices of male

⁹ R. H. Helmholz, *The Oxford History of the Laws of England: The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s* (Oxford: Oxford University Press, 2004); Sir John Baker, eds., *The Oxford History of the Laws of England* (Oxford: Oxford University Press, 2004).

¹⁰ Lloyd Bonfield, "Normative Rules and Property Transmission: Reflections on the Link Between Marriage and Inheritance in Early Modern England." *The World We Have Gained*. Eds. Lloyd Bonfield, Richard M. Smith and Keith Wrightson (Oxford: Basil Blackwell, 1986), 155-176.

¹¹ Todd, "Freebench and Free Enterprise."

¹² James, *Women's Voices in Tudor Wills*.

will authors and subsequently the types of property available to Oxfordshire's women, particularly widows. As a result, wills functioned as a mechanism for male testators to perpetuate patriarchal norms. The second half of this chapter focuses on women's wills and contends that the property available to women coupled with gendered conceptions of property shaped women's inheritance choices and ultimately created feminine patterns of inheritance.

The wills of early modern married couples provide a distinctive opportunity to uncover the impacts of gender and patriarchy on property ownership and inheritance patterns for women. Examining the wills of husbands and their widows in tandem allows for several types of direct comparative analysis.¹³ First, this method shows how marriage shaped the type of property available to men and women. Second, it shows how the gendered patterns of inheritance created by marriage precipitated the different kinds of bequests made by male and female testators. Finally, the wills of couples show evidence of a two-tiered system of inheritance for marriages of all socioeconomic classes. In this system, husbands dispersed land, cash, and some goods, while leaving the bulk of household and personal goods to their widows for later dispersal. Such a staggered system perfectly illustrates the gendered property in inheritance in early modern England.

Marriage shaped property ownership for both men and women. Coverture merged a woman's legal identity with her husband. Crucially, marriage also transferred a woman's legal identity from one family to another. As a result, women's natal families hesitated to leave large bequests of land or other valuables to daughters.¹⁴ Therefore, few

¹³ For purposes of this analysis, a married couple constitutes a husband and his widow. For reasons explained in the introduction, there are few surviving wills of married women.

¹⁴ Hunt, *The Middling Sort*, 82; Stretton, *Women Waging Law*, 119; Bonfield, *Marriage Settlements*, 22.

women entered marriage with landed property. However, marriage precipitated an important exchange of property between families and generations. Men and their families expected financial gain and advantageous social connections from a good marriage. Property exchanged at the time of marriage constituted one of the largest transfers of intergenerational wealth in early modern society.¹⁵ For this reason, dowries and marriage portions represented an important property transfer between families and generations. As shown in chapter one, wills evidence the importance of dowries for early modern women. However, wills offer incomplete evidence of the property transfers that took place as part of early modern marriage. The creation of marriage settlements, a type of pre-nuptial agreement, took place during a couple's engagement. These settlements served to set aside resources for a woman's widowhood, and possibly settle inheritance for future children.¹⁶ The property exchanged as part of marriage settlements perpetuated gendered patterns of inheritance for men and women.

The property available to husbands and their widows perpetuated gendered patterns of inheritance and influenced the bequests made by men and women. Preoccupied with land and male inheritance, husband's wills focused on real property and moveable property of significant value, such as large sums of cash, gendered trade goods, and livestock. In contrast, widows dispersed household goods and personal belongings in their wills. This gendering of property in married couple's wills created a two-step system of inheritance. The two-step system of inheritance responded to the demographic reality that a larger portion of husbands predeceased their wives in early modern England,

¹⁵ Hunt, *The Middling Sort*, 152.

¹⁶ Bonfield, *Marriage Settlements*, 22; Houlbrooke, *The English Family*, 100.

with one-fifth of the population widowed at any given time.¹⁷ In this system, inheritance became staggered with the husband dispersing property in his will first followed by a second dispersal of property in his widow's will, sometimes years later. The husband's bequests focused on the dispersal of any real property. In addition, a husband's will could include bequests of large sums of cash, trade goods, and rarely personal items. Generally, Oxfordshire men's wills contained less detail and left out specific bequests of household items. Evidence of men's personal belongings tend to appear in probate inventories, rather than as part of wills.¹⁸ This lack of detail can be attributed to the reality that a widow would continue to use household goods. Instead of delineating these goods in bequests, a husband would leave them to his widow as part of the "residue" of his estate. Thus, women retained access to the household implements of their marriage into their widowhood. Retaining these goods could be especially important for widows who experienced increased financial vulnerability during their widowhood. Thus, patriarchal ideas about gender and property types coupled with husbands' consideration of their widows' future use of property resulted in two-step system of inheritance driven by patriarchal gender norms.

The wills of Richard and Ursula Andrews typify the patterns of early modern husbands and their widows. The Andrews exhibited the staggered system of inheritance of many early modern married couples. Richard, the husband of widow Ursula, predeceased his wife by four years.¹⁹ Richard, the former mayor of Woodstock, a market

¹⁷ Houlbrooke, *The English Family*, 208-209.

¹⁸ Garrard, "English Probate Inventories," 62.

¹⁹ *Will of Richard Andrews, October 8, 1554*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/andrews_009.html (accessed November 17, 2018).

town in Oxfordshire, built his fortune selling monastic estates as part of the English Reformation.²⁰ Richard's will is unremarkable in many ways. To each of his sons, John and Edmond, Richard granted a freehold property, and the residue of his estate he left to his wife and children. Richard provided a sparse picture of the Andrews family with few details of family life. Characteristic of early modern male testators, property interests and male inheritance dominated Richard's testamentary concerns, with elaboration on little else. Aware that his wife would continue to use the household goods, Richard refrained from bestowing them on any heirs.

Richard's trust in his wife allowed Ursula a fair bit of latitude to make her own bequests. In her will authored only four years later, Ursula did in fact disperse the material goods and movable property excluded from her husband's will. Ursula left a voluble will compared to her husband's laconic testament. While Richard only lists three legatees, Ursula left bequests to a staggering twenty-one legatees. Ursula provided information about an extensive family. In addition to John and Edmond, the Andrews couple had two daughters, Joan and Dorothy, as well as at least nine grandchildren. Ursula also provided information about extended social and kinship networks absent from Richard's will. Ursula made a point to leave personalized bequests to her surviving daughter Dorothy, who received an annuity of £20 from her mother. Likewise, Ursula left the children of her deceased daughter, Joan, £10 each in addition to household goods. Left out of Richard's earlier will, Ursula's bequests created an inheritance for the excluded daughters and grandchildren of the Andrews couple. In addition, Ursula's will provides evidence of a richly furnished home, while Richard left such details out of his

²⁰ A P Baggs et al., "Woodstock: Economic history," 360-372.

testament. Ursula's bequests detail a large home with many rooms. Moving away from the medieval English manor home of a large great hall, Ursula listed a residence with a great chamber, a separate sleeping chamber, "where I now lie," a living space attached to the sleeping chamber, a parlor, an additional chamber attached to the great chamber, and a "chapel," chamber. Each chamber contained furnishings which Ursula described, including at least five beds, a clothes press in her personal closet, storage chests, linens, and kitchen implements, including silver and pewter dishware. Along with large household items, Ursula left bequests of her personal, "jewels," gold rings, and evidence of a rich wardrobe.²¹ These household goods in addition to the family's landed property and livestock indicate an upper-class existence of relative wealth for the time. In dispersing household goods, Ursula acted as the final gatekeeper of the family's wealth. In a staggered system of inheritance couples worked in tandem to disperse familial wealth. This staggered system helped perpetuate early modern ideals about gender and property as couples left bequests based on early modern gender norms.

The Barons couple also utilized the staggered system of inheritance typical of early modern married couples, and are indicative of the different testamentary choices made by husbands and wives.²² A member of the gentry, Robert Barons held a position as a "Doctor of Physicke" at the University of Oxford, one of the highest levels of scholarship for an early modern English individual.²³ As reflected in his will, Robert's position at Oxford translated into a comfortable living for his family. Robert dedicated

²¹ *Will of Ursula Andrews*. Oxfordshire Wills.

²² Robert's surname is spelled "Barnes," while Anne spells her surname "Barons," they are in fact disparate spellings of the same surname, and for purposes of this paper, I will utilize Barons throughout.

²³ *Will of Robert Barnes, January 1, 1601/02*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/barnes_004.html (accessed December 11, 2018); Rosemary O'Day, "Room at the Top: Oxford and Cambridge in the Tudor and Stuart Age." *History Today* 34, No. 2 (1984).

half of his will to the bequests of land leases.²⁴ Robert's will also devoted considerable space to the male overseers and executors of his will, guaranteeing that they received sufficient compensation and ensuring that a man would be left to execute his will should any of his appointees die during the probate process. Robert followed the pattern of staggered inheritance and left the bulk of household goods to his wife, Anne, though he is unique in listing out the items bestowed on his wife. Under the heading to his wife, Robert left,

“My great silver tankard, silver double gilt standing cup and its cover, my little silver saltcellar with its double gilt cover; gold signet ring with two [crease damage] engraved with RB; all her apparel, all her gold and silver and all her jewels; the best bedstead and best curtains, valances, tester and the gilded knobs on it, best feather-bed, bolster and pillows, best pair of sheets, best pair of blankets, best coverlet; the hangings in my bedchamber and the hangings and furniture in the parlour [crease damage] hall and buttery as they now stand. My brewing vessel and washing tubs, two yewtinge vats and the cask at Blackhall are to remain there for my wife for life [after which they go to his daughters] My carpet of needlework, my three best cushions of needlework, my three best cushions of needlework, my little carpet of needlework, a damask tablecloth, one dozen napkins and a towel.”²⁵

Robert's bequest ensured that his wife's personal belongings and apparel were returned to her and not mixed in with the remainder of the estate. In addition, Barons left his jewelry, textiles, and other valuable items to wife. Finally, Barons reserved the finery of the “best” family bed for his widow. Barons ensured that his wife kept both the property she brought to the marriage and granted her personal property of great worth and sentimental value.

In contrast, his widow's will, authored ten years later, did not address the passage

²⁴ *Will of Robert Barnes*. Oxfordshire Wills.

²⁵ *Will of Robert Barnes*. Oxfordshire Wills.

of land or leases.²⁶ Instead, Anne Barons' bequests consisted entirely of the household goods left by her husband, many of substantial value. Anne bequests followed feminine patterns and bestowed household goods on her children, grandchildren, and godchildren. Unlike her deceased husband, Anne placed her trust in a female executor. Anne made her youngest daughter, Prudence Eveleigh executor and granted her the residue of her estate. Analyzing the wills of married couples in tandem throws their differences in stark relief. The wills of both the Andrews and Barons couples provide important examples of the key differences between male and female testators in early modern England. Both couples illustrate how upper-class families used gender and a staggered system of inheritance to disperse familial property.

Couples of lower socio-economic status also used this model of staggered property dispersal. Gie and Alice Abraham fell well below the income of the Andrews and Barons families, yet they exhibited many of the same patterns in their wills. Gie did not list his occupation in the introduction of his will, but from the types of agricultural property he owned, Gie was likely a husbandman, owning and working his own land. When Gie passed away in the autumn of 1559, his testamentary priorities included real property, livestock, and trade goods.²⁷ Gie failed to mention two of his daughters by name, instead leaving all four children the generic bequest of one bullock, a young castrated bull, each. Like Richard Andrews, Gie does not mention household goods, and instead left the residue of his estate to his wife. Alice Abraham survived her husband by

²⁶ *Will of Anne Barons, February 12, 1611/12*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/barnes_005.html (accessed November 26, 2018).

²⁷ *Will of Gie Abraham, September 5, 1559*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/abraham_003.html (accessed December 9, 2018).

nearly twenty-eight years, passing in the fall of 1587. In her will, Alice left bequests to her two daughters and did not mention any sons. To her daughter Alice Tomson, Alice left a more feminine bequest of clothing and household implements, “all my apparel both linen and woolen and the great chest,” while daughter Isabell Chapman received 12d in cash.²⁸ Many factors likely influenced the discrepancy in Alice’s legacies to her daughter. Birth order, lifetime transfers, and the relative wealth of her daughter’s husbands may have informed the value of Alice’s legacies to her daughters. The wills of Gie and Alice Abraham show how husbands and wives distributed marital property in a two-part system. While husband Gie distributed the livestock, real property, and trade goods, wife Alice, distributed the remaining cash and household goods. Where Gie prioritized land and male inheritance, Alice left feminine bequests to her daughters. Thus, couples of all socio-economic status utilized the staggered system of inheritance.

Women’s role in the domestic sphere in early modern households formed an association between women and household goods. Feminine dominion over the domestic sphere and its associated goods sprang from gendered beliefs about space and work. The origin of these beliefs lay in the patriarchal religious, social, and cultural context of early modern England, which subscribed to the idea that women were unsuited to public activities.²⁹ Instead, a woman’s duty lay in the keeping of the home and family. While the realities of daily life and economic necessity often required women to breach the sanctity of the domestic space, prescriptive literature of the time enforced the idea that women exclusively occupy the domestic space. A domestic manual published in 1612, the *Godlie*

²⁸ *Will of Ales [Alice] Abraham, October 10, 1587*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/abraham_002.html (accessed October 8, 2019).

²⁹ Flather, *Gender and Space*, 21.

forme of householde government, set out the gendered roles of an early modern husband and wife, “The dutie of the Husband is to travell abroad, to seeke living: and the Wives dutie is to keepe the house...The dutie of the husband is, to dispatch allthings without dore [door]; and of the wife, to oversee and give order for all things within the house.”³⁰

For this reason, prescriptive literature of the time acknowledged women’s implicit control of domestic space, in his conduct book, Puritan minister William Gouge espoused that a women’s role gave her, “power and liberty to do in the household affaires what she thought good.”³¹ Thus, husband’s transfer of domestic goods to their wives perpetuated attitudes about gendered roles within the home, as well as practical considerations for widows who required these domestic goods to function during widowhood.

The staggered system of inheritance had advantages and disadvantages for early modern women. This system gave widows control over household and personal property, often worth considerable amounts. Jewelry, precious metals, and furniture could be worth as much, if not more than land. The staggered system also evidenced trust in widows, as husbands deferred to their judgment in dispersing these types of property. Dying husbands could chose to disperse household property themselves in wills, but instead delegated this power to widows. For wealthy widows, the staggered system created matriarchal power and authority over children and within communities. Given moveable wealth and legal independence, widows had the potential to become prominent members of society. For some of these reasons, a portion of widows chose to remain unmarried.

Conversely, the staggered system created critical disadvantages for women..

³⁰ J. Dod and R. Cleaver, *A godlie forme of householde government: for the ordering or private families, according to the direction of Gods word*, London 1612, 167-8.

³¹ William Gouge, *Of Domesticall Duties*, eight treatises, London 1622, 288.

Widowhood naturally stripped women of marital resources, as women no longer had access to significant portions of marital land and its accompanying income.³² A husband's debts could subsume a widow's inheritance. The advantages of the staggered system were reserved for wealthy widows. Both Ursula Andrews and Anne Barons benefitted from their relative wealth and commanded enough assets to support a comfortable widowhood. In contrast, Alice Abraham experienced financial vulnerability in her widowhood. An inventory of Gie Abraham's goods in 1559 valued his property at £17 2s 8d.³³ Alice Abraham's will illustrates how a lengthy widowhood effected an early modern woman's social status and financial well-being. The inventory of Abraham's goods in 1587 equaled only £6 3s, almost a third of her late husband's worth. In addition, she left seven separate debts to be paid by her executors, totaling £2 16s 10d, almost a third of the worth of Alice's inventory.³⁴ The loss of income from her husband's land, now owned by her son, coupled with a lengthy widowhood depleted the resources available to Alice Abraham in her widowhood. The staggered system of inheritance had advantages and disadvantages for early modern women. While it gave women control over valuable family assets, the system also transferred ownership of land and other typically "masculine" assets away from women, which resulted in financial vulnerability for widows.

Early modern English married couples exhibited patterns of inheritance shaped by patriarchal notions of gender and property ownership, including primogeniture and coverture. This created a system of staggered inheritance based on the types of property

³² Houlbrooke, *The English Family*, 211.

³³ *Will of Gie Abraham*, Oxfordshire Wills.

³⁴ *Will of Ales [Alice] Abraham*, Oxfordshire Wills.

available to men and women. In this system, husbands bestowed real property and focused on male inheritance in their wills. Limited in the property available to them, widows later left bequests of household goods. Thus, the bequests of husbands and wives reflected societal norms and laws connected to patriarchal ideals about gender and property. Married couples ultimately perpetuated these social and legal conventions through a staggered system of inheritance.

Feminine patterns of inheritance appear in the wills of early modern English female will authors, as gender shaped women's bequests. The property available to feminine testators differed from their male counterparts due to primogeniture and a preference for male inheritance of real property.³⁵ Women could not bestow unto others what they did not possess themselves. Thus, the bequests of women reflected and produced gendered conceptions of, "feminine," property. In addition, women's testamentary concerns differed from those of their male counterparts. Women left legacies to a more extensive familial network than male testators, who tended to focus on the nuclear family.³⁶ Women extended their bequests beyond the nuclear family to grandchildren, siblings, cousins, nieces, and nephews.³⁷ Likewise, women's extended social networks manifested in legacies to friends, godchildren, and even servants. Moreover, women left charitable bequests more often than men.³⁸ In their bequests women could both subvert patriarchal gender norms and perpetuate them. Bequests to female heirs helped establish feminine financial independence.³⁹ Alternatively, female

³⁵ Stretton, *Women Waging Law*, 119; Bonfield, *Marriage Settlements*, 22.

³⁶ Houlbrooke, *The English Family*, 18.

³⁷ Erickson, *Women and Property*, 85-86.

³⁸ Erickson, *Women and Property*, 96.

³⁹ Hunt, *The Middling Sort*, 84.

testator's choices could divert resources away from female heirs, maintaining the societal preference for male inheritance. Societal attitudes towards gendered work and space, and well as gendered differences in friendship and familial relationships all molded women's bequests and yielded feminine patterns of inheritance in women's wills.

Bequests held both financial significance for both female will authors and their heirs. Women's bequests to female heirs had important implications for feminine independence and intergenerational financial stability. Preference for male inheritance excluded daughters and sisters from family resources. Thus, women's bequests often worked to counter-balance gendered inequalities within the inheritance system. Mothers and grandmothers left legacies to create equity amongst children and grandchildren, filling in the testamentary gaps of late husbands and fathers. Women received less inheritance than their male counterparts, disadvantaging them for the duration of their lives.⁴⁰ However, female will author's bequests tried to even the playing field for female heirs. Their wills illustrate how women both perpetuated the gendered hierarchy and subverted it. In their bequests mothers and grandmothers reinforced subjection to men, but also undertook measures to challenge the status quo.⁴¹ Providing materials goods or cash to a female heir provided a path to social independence or economic self-sufficiency. Feminine bequests served as a tool for female will authors to provide financial support to their female descendants while also resisting gender norms.

Bequests also functioned as gifts between extended family and friends. Women left gifts to family and friends out of affection and emotional connection. Gift bequests often contained great meaning and significance for both the giver and receiver. The

⁴⁰ Hunt, *The Middling Sort*, 82.

⁴¹ Hunt, *The Middling Sort*, 84.

analysis of wills illuminates the importance of familial and social relationships between early modern women. Gift bequests served important functions for female relationships, both providing a way for women with established emotional connections to display personal affinity, and to cement, “female alliances,” beneficial relationships formed through marriage or business.⁴² Bequests of handmade, clothing, and luxury items held increased significance for women who bestowed these items as indications of affection and friendship.⁴³ Women’s bequests served multiple purposes, in addition to financial gain, bequests could be tokens of friendship and sentiment for early modern women.

Women’s bequests often consisted of household goods. Excluded from ownership of real property, household items held increased significance for early modern women. In the staggered system of inheritance household goods were often the only property that women possessed to bestow upon others. Additionally, gendered conceptions of labor and space resulted in the expectation that early modern women remained within the domestic sphere.⁴⁴ For this reason, men tacitly accepted women’s authority over domestic space.⁴⁵ Women’s dominion of domestic spaces resulted in a gendered association between women and household goods.

Beds are a prime example of the types of household property present in women’s wills. Women’s bequests of beds to female heirs represented a significant passage of financial wealth that could be used to level the playing field for female descendants excluded from landed legacies. In 1641, Elizabeth Gunnis left her namesake goddaughter

⁴² Amanda E. Herbert, *Female Alliances: Gender, Identity, and Friendship in Early Modern Britain* (New Haven: Yale University Press, 2014), 62.

⁴³ Herbert, *Female Alliances*, 53.

⁴⁴ Flather, *Gender and Space*, 1.

⁴⁵ Flather, *Gender and Space*, 32.

a valuable legacy in her bequest of one bed and its accompanying sheets.⁴⁶ With a large household, Ursula Andrews bequeathed several beds of decreasing importance to her heirs. Oldest son John received the bed in the great chamber, while son Edmund received the bed, "...in the chamber where I now lie..." Upper and middle class early modern English houses began to move away from one large room to include separate rooms for sleeping. Andrews will exemplified a household in transition. While, the family likely still utilized the, "great chamber," for multiple purposes, including work and sleep, the allocation of smaller private rooms for sleep became increasingly common around this time.⁴⁷ In her illness, Andrews likely retired to a room away from the working center of the family home. To her grandson Thomas, Andrews left the bed in the chamber next to the great chamber, while Andrews's namesake granddaughter received the bedstock and its bed, "in the chapel chamber."⁴⁸ Andrews adhered to a modified form of primogeniture in dispersing the valuable family beds. Anne Barons singled out her granddaughter Francis Eveleigh to receive her standing bed, featherbed, bolster, pillows and blankets with the canopy, "in my chamber where I use to lie."⁴⁹ The legacy of a bed functioned as an intergenerational wealth transfer providing financial security for women and their heirs. In addition, beds bestowed on women held significance for female relationships indicating the emotional connection between a testator and heir and acknowledgement of the importance of beds for early modern women.

Early modern beds were an expensive piece of furniture, quite often the most

⁴⁶ *Will of Elizabeth Gunnis, 1641*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/gunnis_001.html (accessed December 9, 2018).

⁴⁷ Garrard, "Probate Inventories," 58.

⁴⁸ *Will of Ursula Andrews*, Oxfordshire Wills.

⁴⁹ *Will of Anne Barons*, Oxfordshire Wills.

expensive piece of furniture in a household. For early modern people, sleeping in an actual bed was rare, often only the master and mistress of the house slept in a bed. Children, servants of both sexes and apprentices usually slept on pallets on the floor or in trundle beds that could be stored away during the day. Sometimes all members of the household slept in the same room, the parlor, or great room.⁵⁰ Thus, a bed and its accompanying drapes afforded the only privacy during sleep. Beds indicated social and economic status. The prevalence of beds increased as early modern households evolved and separate rooms became dedicated to sleeping. As part of this evolution, some families acquired additional beds. Thus, a family could have several beds of varying value.⁵¹ A bed represented a considerable passage of wealth, but also an emotional legacy. A bed represented the heart of domestic and thus feminine space, and as such tacitly belonged to the mistress of the household.⁵² The bed is where women were born, spent their wedding night, gave birth, and died. Thus, beds also represented an emotional legacy.

Household items used exclusively by women created feminine legacies. The passage of certain types of linen remained reserved for women. Childbirth required extensive materials, especially of linens and textiles. The expense of linen and other cloth could be overwhelming for an expectant mother, as a result women relied on friends and family to help acquire all of the necessary birthing needs.⁵³ Legacies of birthing, christening, and swaddling clothes between female decedents and their daughters and

⁵⁰ Gowing, *Common Bodies*, 60.

⁵¹ Garrard, "Probate Inventories," 59; Flather, *Gender and Space*, 68.

⁵² James, *Women's Voices in Tudor Wills*, 255.

⁵³ Linda Pollock, "Child Bearing and Female Bonding in Early Modern England," *Social History* 22, no. 3 (1997): 286-306.

goddaughters connected women in the feminine acts of birth and childrearing. Women solely gave birth in the presence of women, including midwives, female relatives, friends, and neighbors. Alice Bartlett expressed her close emotional connection to her daughter Johan Northern to whom she left, “my best Christyninge sheete [christening sheet],” in her 1606 testament⁵⁴ Likewise, Anne Barons bequeathed her goddaughter a childbed sheet.⁵⁵ Widows commonly bequeathed sheets to close female relatives. Elizabeth Alder gave a set of sheets to both her granddaughter and niece.⁵⁶ The passage of bedding specifically used for childbirth showed support for other women by passing along a feminine object and helping shoulder the burdensome expense associated with childbirth linen. In addition, such a legacy indicated emotional connection between women around the feminine activity of childbirth.

Other household goods represented both a financial gain and emotional connection between women. Female testators signaled the importance of emotional relationships through bequests of smaller personal property. Wealthy and middle-class women left bequests of gold, silver, or pewter plate. In addition to possessing sentimental value, plate, jewelry, and other metal items represented a reserve of wealth that could be sold or pawned in times of financial stress. Ursula Andrews left each of her sons pewter platters, basins, or vessels.⁵⁷ Anne Barons gave her granddaughter Anne Eveleigh three pewter dishes and half a dozen plates.⁵⁸ Likewise, decorative silver spoons and goblets also represented real financial gain for legatees that evoked sentimental connection. Often

⁵⁴ *Will of Alice Bartlett, March 25, 1606*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/bartlett_007.html (accessed December 9, 2018).

⁵⁵ *Will of Anne Barons*, Oxfordshire Wills.

⁵⁶ *Will of Elizabeth Alder*, Oxfordshire Wills.

⁵⁷ *Will of Ursula Andrews*, Oxfordshire Wills.

⁵⁸ *Will of Anne Barons*, Oxfordshire Wills.

the most expensive serving object for a middle-class family, metal saltcellars, a small vessel to hold costly salt, appear in many wills. Alice Bartlett gave each of her three daughters two platters, one sauce, and one salt cellar.⁵⁹ Anne Barons bequeathed several costly objects to legatees. She gave silver spoons to four different legatees, two to godsons, a grandson, and a female friend.⁶⁰ Barons bequeathed a valuable saltcellar, which is described as, “double gilt with cover,” to her daughter Elizabeth Yaiden. To her daughter Prudence Eveleigh, Barons granted a great silver tankard, and to Ann Eveleigh her goddaughter, she granted a silver cup. As Barons possessed considerable wealth, she had the ability to disperse numerous valuable goods within her kinship network. In addition to passing these items to legatees as financial security, Barons expressed her close emotional connections to these legatees through her bequests.

In addition to larger metal objects, the passage of personal jewelry indicated emotional connection. Rings, chains, and rosaries helped maintain a tactile connection between decedent and legatee.⁶¹ Barons left her daughter Prudence Eveleigh a gold ring, “with a Diamande in it.”⁶² Likewise, Andrews gave her daughter Dorothy Rayneforth a gold ring.⁶³ Wedding rings held particular significance for female decedents.⁶⁴ Jewelry represented both an expensive and emotional memento. Pieces worn close to the body reminded wears of the original owner. Bequests of valuable personal items functioned as both a financial and emotional legacy. Sentimental items cemented bonds of kinship or friendship, while also providing practical financial support for heirs, especially female

⁵⁹ *Will of Alice Bartlett*, Oxfordshire Wills.

⁶⁰ *Will of Anne Barons*, Oxfordshire Wills.

⁶¹ James, *Women's Voices in Tudor Wills*, 91.

⁶² *Will of Anne Barons*, Oxfordshire Wills.

⁶³ *Will of Ursula Andrews*, Oxfordshire Wills.

⁶⁴ James, *Women's Voices in Tudor Wills*, 91.

legatees. Women's wills centered on bequests of valuable personal and household goods, as women rarely had any other form of property to give. Thus, transfer of small personal property held greater importance for early modern female will authors and their [female?] heirs than for men.

Similarly, bequests of clothing were significant for early modern women. Women left legacies of clothing in their wills more often than men.⁶⁵ Without the advent of mass production, early modern cloth and finished garments cost proportionately more to produce and purchase relative to wage rates of the period.⁶⁶ For this reason, garments maintained economic value when transferred between owners, and a secondhand market for clothing flourished. Clothing possessed additional meaning as sumptuary laws dictated the colors, styles, and fabrics permitted for each social class.⁶⁷ Certain clothing items indicated belonging in social groupings and even aspirations for social improvement.⁶⁸ Clothing could also represent an emotional connection and legacies of finer clothing items showed affinity between the will author and heir. Bequests of a "best," dress, hat, bonnet, or apron indicated a close relationship between women. Popular in Tudor England, women valued red petticoats. A bequest of a red petticoat to a daughter or goddaughter indicated heightened emotional connection.⁶⁹ Alice Bartlett left her daughter Agnes Watts her best red petticoat signaling their close relationship. In her will, Alice Bartlett left large clothing legacies to her daughters, Johan Northern, Agnes

⁶⁵ Hodges, "Widows of the 'Middling Sort,'" 317.

⁶⁶ Ruth Goodman, *How to be a Tudor: A Dawn to Dusk Guide to Tudor Life* (New York: Liveright Publishing Company, 2016), 41-44.

⁶⁷ Rachel Shulman, "Sumptuary Legislation and the Fabric Construction of National Identity in Early Modern England." *Constructing the Past* 8, No. 1 (2007).

⁶⁸ Joanna Crawford, "Clothing Distributions and Social Relations c. 1350-1500," in *Clothing Culture, 1350-1650*, ed., Catherine Richardson (Burlington: Ashgate Publishing Company, 2004), 154.

⁶⁹ James, *Women's Voices in Tudor Wills*, 266.

Watts, and Alice Yateman. Daughter Alice Yateman received, “my best frock, one white cotton waistcoat, one home-made russet petticoat, one old russet petticoat, one smock, one holy-day’s lockram apron, one home-made canvas apron...one pair of bought cloth stockings, two holy-days kerchiefs...one holy-days partlet...” Bartlett also left smaller clothing bequests to her grand-daughters, friends, and her sister Johan who received her, “new fustian waistcoat.” Bartlett possessed an extensive wardrobe for the time and meted out her clothing to female relatives and friends in a hierarchical way. While her daughters received lengthy bequests with multiple clothing items of higher value, granddaughters, friends, and her sister received small symbolic bequests of aprons and kerchiefs.⁷⁰

Ursula Andrews likewise left several bequests of clothing to female relatives and friends. Her namesake granddaughter received her new French hood, damask kirtle, and worsted cassock, clothing items of high value. To Goodwife Lambley, Andrews gave, “my best frocke of clothe,” while Leonard Cave’s wife received her second-best frock.⁷¹ In 1664 Margaret Abraham remembered her friend Margaret Jennings through a bequest of her best two petticoats and one waistcoat.⁷² Women communicated their regard for female family and friends through bequests of personal items of clothing. Gifting a valuable item of clothing contained layers of meaning from personal affection to social aspirations and belonging within a community. Thus, clothing bequests were especially important for early modern female will authors and their heirs.

Overall, women left bequests to a more varied pool of legatees than their male

⁷⁰ *Will of Alice Bartlett*, Oxfordshire Wills.

⁷¹ *Will of Ursula Andrews*, Oxfordshire Wills.

⁷² *Will of Margaret Abraham, August 25, 1664*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/abraham_005.html (accessed 12/10/2018).

counterparts. Statistically speaking, men prioritized bequests to their marital and natal nuclear family.⁷³ Women's bequests extended beyond the nuclear family. In addition to providing for their children, grandmothers took special care to leave legacies to grandchildren. Ursula Andrews made detailed bequests to at least nine of her grandchildren. In contrast, her husband made no mention of grandchildren in his will. Andrews made specific bequests to the eight children of her daughter Joane Andrews, who appears to have been widowed sometime before her mother authored a will. Due to their increased vulnerability, Andrews paid special attention to Joane's children, and grants them valuable household goods and furniture, or cash bequests.⁷⁴ In addition, she mentioned a Richard Andrews, "the boy who lives in her house." This suggests that Andrews may have already assumed the care of one of her grandsons to relieve her widowed daughter's burden. Andrews also left her namesake granddaughter Ursulie Andrews, £20 to be granted on the day of her marriage. £20 represented a significant amount of money, the same as 666 days' worth of wages by a skilled tradesman.⁷⁵ It is obvious that Andrews cared a great deal for her many grandchildren and wanted to ensure their financial wellbeing in her will. Grandmothers used wills as a mechanism to create financial stability for their grandchildren. Women's concern for their grandchildren illustrated the concern women had for a wider kinship network.

Andrews is far from unique in her consideration of grandchildren. Of the sixteen widows' wills analyzed in this study, ten leave specific bequests to their grandchildren.⁷⁶

⁷³ Houlbrooke, *The English Family*, 18.

⁷⁴ *Will of Ursula Andrews*, Oxfordshire Wills.

⁷⁵ Currency Converter: 1270-2017. *The National Archives [UK]*, accessed 24 November 2018, <http://www.nationalarchives.gov.uk/currency-converter#currency-result>.

⁷⁶ Wills considered include those of *Margaret Abraham, Alice Abraham, Elizabeth Alder, Jane Alder, Elizabeth Allen, Ursula Andrews, Letice Backhouse, Alice Balden, Ann Barber, Anne Barons, Agnes Barr, Joan Bartlett, Alice Bartlet, Alice Iddens, Elinor Langford, and Elizabeth Newport*. Oxfordshire Wills.

Wealthier widows seem to have left bequests to their grandchildren at a higher rate. This may have been a result of the availability of greater funds to disperse. However, women across socioeconomic classes made sure to provide for their grandchildren. In 1599, the widow Balden's inventory amounted to £11 8s, approximately £1,570.80 in modern currency and represented the wages of a skilled tradesman for 228 days.⁷⁷ While not wealthy, Balden possessed a comfortable living. Balden made sure to leave bequests to her grandchildren. Granddaughter Agnes Balden received a cow and a coffer from her grandmother.⁷⁸ Oxfordshire's will evidence close relationships between grandmothers and their grandchildren. Women with the means to do so actively worked to secure financial stability for their grandchildren.

In her 1629 will Elizabeth Newport left legacies to not only her grandchildren, but her great grandchildren as well. From the wording of Newport's will, it appears that her granddaughter gave birth to a son out of wedlock or the child is fatherless. Newport granted a legacy to help her granddaughter support her great-grandson, "My grandchild Elizabeth Welche is to have the yearly interest etc of £20 for life if she maintains her son Richard (who was born at Holton), so that the parish of Holton does not have to support him." Newport also granted a legacy to Richard himself to support him during his childhood and after reaching the age of majority, "After her [Elizabeth's] decease her son, Richard Welch is to have the £20 at age 21, and the interest etc until then."⁷⁹ Newport's legacy to her granddaughter is exceptional for the time. Women with

⁷⁷ Currency Converter: 1270-2017. *The National Archives [UK]*, accessed 24 November 2018, <http://www.nationalarchives.gov.uk/currency-converter#currency-result>.

⁷⁸ *Will of Alice [Alse] Balden*, Oxfordshire Wills.

⁷⁹ *Will of Elizabeth Newport, May 14, 1629*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/newport_003.html (accessed November 24 2018).

illegitimate children faced harsh punishment and ostracization in early modern society.⁸⁰ Anxieties about the local parish poor relief providing resources for illegitimate children pushed authorities to seek monetary support from putative fathers. Often a traumatic and humiliating process for unwed mothers, Newport's legacy likely ameliorated severe treatment of her granddaughter by authorities and the courts. Such a legacy shows not only the close relationship between Newport and Welch, but also Newport's resistance against the severe moral strictures of the patriarchal society in which they lived.

Women's extended social network included godchildren, both widowed and single women remembered godchildren in their wills. Anne Barons granted bequests to both male and female godchildren. To her three godsons, Barons bequeathed valuable silver spoons. However, her close relationship to her goddaughter is evident in her will. To her goddaughter Ann Eveleigh, Barons left a, "bracelet of goulde...payre of pillowbeares, with jewell [and] bracelett my daughter Prudence hath in her keepinge. My wedding ringe of gould. Standing cupp of silver dubble guilt [and] cover."⁸¹ Barons's bequests indicate that she felt a great personal affinity for her goddaughter by bequeathing Eveleigh such personal items of worth. In addition to household and sentimental items, godmothers gave their godchildren bequests of considerable financial value. In 1641, Alice Iddens devised half of the "messuage...where I now live," to her goddaughter Rose Iddens.⁸² Ursula Andrews left each of her godchildren a sheep.⁸³ Alice Balden left her young god daughter Edie Tanner a cow and a coffer to be delivered on the

⁸⁰ Gowing, *Common Bodies*, 117.

⁸¹ *Will of Anne Barons*, Oxfordshire Wills.

⁸² *Will of Alice Iddens, 1641*. Manuscript. Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/edens_001.html (accessed November 27, 2018).

⁸³ *Will of Ursula Andrews*, Oxfordshire Wills.

child's fifth birthday.⁸⁴ To her goddaughter Agnes Bartlett, Alice Bartlett left a lamb.⁸⁵ Financially, livestock served as an investment for women. Not only could the animal produce wool or dairy products, but could also be rented out for income. Likewise, a livestock's future offspring, its "increase," promised future wealth.⁸⁶ Even if they did not leave godchildren a large amount, a symbolic remembrance still speaks of the emotional attachment between godmothers and their goddaughters. Such bequests show godmothers' desire to support their godchildren financially, while also illustrating personal affection.

Women tended to support other women in their wills. Single women especially favored other women as beneficiaries.⁸⁷ This trend appears in the will of Ellen Buxton, who never married and died early at age 25.⁸⁸ Buxton left a few bequests to men, but she overwhelmingly favored her female relatives. Buxton divided her property into two parts, one half of her worth she decrees should return to her mother, and the other half to her four sisters, Mary, Esther, Martha, and Rachel. Ellen's extensive collection of clothes she meted out to female relatives and friends including her mother and sisters, as well as female cousins, Elizabeth and Sarah Ryland, and Abigail Warbutton.

Women's wills also offer tantalizing clues to patterns of female friendships. There are numerous examples of women leaving bequests to female friends. These individuals may also be female relatives, as testators did not always specify their relationships to

⁸⁴ *Will of Alice [Alse] Balden*, Oxfordshire Wills.

⁸⁵ *Will of Alice Bartlett*, Oxfordshire Wills.

⁸⁶ Jennifer L. Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (Philadelphia: University of Pennsylvania Press, 2004), 82-83.

⁸⁷ Mendelson and Crawford, *Women in Early Modern England*, 173.

⁸⁸ *Will of Ellen Buxton, 1692*. John Parsons Earwalker, *East Cheshire, Past and Present: or, a History of the Hundred of Macclesfield in the County Palatine of Chester from Original Records* (London: Self-Published, 1877), 47.

legatees. The relationships formed between female companions seemed to have been especially important for women who never married. In her oral will, spinster Alice Barnet left her goods to her brothers and two women, Helen Hodges and Agnes Bennett, showing the importance of her friendships in her will.⁸⁹ Buxton also included friends Mary Hamer and Mary Binns in her bequests.⁹⁰

Widows also retained close female relationships during and after marriage. Widow Elinor Langford left a cash bequest of £6 13s 4d to her sister Joane Parrett and forty shillings to her friend Clem[entine] Webb, “whoe dwelleth w’th mee.”⁹¹ This suggests Langford prioritized her female companions. Widow Balden left her friend Marside Lasie, “two petty coats [petticoats] and one gowne and my best aprone.”⁹² The devise of personal items of clothing, including Balden’s best apron suggests a personal attachment between the women. Anne Barons left her friend Mary Clarke her best kettle and a silver spoon, items of great financial value to seal a bond of friendship.⁹³ Ursula Andrews also remembered her friend, Margaret Hulverdon, to whom she left her worsted kirtle, a gown or petticoat of finely milled wool, and one cow.⁹⁴ Early modern women signaled the importance of female relationships in the frequency with which women left bequests to female friends and relatives. Women’s bequests to other women suggests a desire to both support other women financially and recognize close emotional

⁸⁹ *Will of Alice Barnet, 1637*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/barnett_001.html (accessed November 24, 2018); A nuncupative will is an oral will, which is an oral declaration made by the testator in front of witnesses that is later registered with a court or magistrate.

⁹⁰ *Will of Ellen Buxton, 1692*, 49.

⁹¹ *Will of Elinor [Elliner] Langford, April 15, 1626*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/langford_003.html (accessed November 28, 2018).

⁹² *Will of Alice[Alse] Balden*, Oxfordshire Wills.

⁹³ *Will of Anne Barons*, Oxfordshire Wills.

⁹⁴ *Will of Ursula Andrews*, Oxfordshire Wills.

connections.

Both men and women left bequests to charity in their wills. These bequests often appear early in wills, immediately following the initial standard religious affirmations and burial directions. In a study of seventeenth century wills from Yorkshire, Lincolnshire, and Sussex, W.K. Jordan found that a larger percentage of early modern English women left bequests to charity than men.⁹⁵ A study of charitable bequests from 1480-1660 describes the different patterns of charity between male and female testators, showing that widows more often left sums for poor relief than male testators.⁹⁶ From both a statistical analysis and examination of women's wills, women's, in particular widow's charity went towards caring for the poor, and 'social rehabilitation.'⁹⁷ In particular, the charity of widows focused on contributions towards poor women. The experience of vulnerable widowhood prompted these women to look out for impoverished women. Both wealthy and poor women left bequests to charity in their wills. With extra wealth to spare, gentlewomen made sure to contribute to charity. These bequests favored the church. Barons left 6s to the church of St. Giles, while Andrews left a more detailed bequest to refurbish part of the altar, christening basin, and rood-light at the parish church in Woodstock.⁹⁸ In addition to the church, women directed their charity towards other causes. In the early modern period poor widows received the bulk of poor relief.⁹⁹ Several Oxfordshire women made sure to specifically name poor women to receive charity. Alice Balden left 4d for both, "ould mother Bird," and Joanne Woodbridge,

⁹⁵ Erickson, *Women and Property*, 212.

⁹⁶ Mendelson and Crawford, *Women in Early Modern England*, 181.

⁹⁷ Erickson, *Women and Property*, 211.

⁹⁸ *Will of Anne Barons; Will of Ursula Andrews*, Oxfordshire Wills.

⁹⁹ Erickson, *Women and Property*, 201.

possibly poor widows of Holton.¹⁰⁰ Ursula Andrews decreed that, "...the rest of myn apparell," be distributed by her executors, "amongst poore people."¹⁰¹ Andrews's garments would most likely be given other poor women in her community. This belies an interest in supporting women in need over other charitable causes. Female testators' focus on charity and particularly charity towards other women is a prime example of women's patterns of inheritance in their wills.

In the face of the legal realities and societal pressures of a early modern English patriarchy, female testators created feminine patterns of inheritance. Social attitudes and the legal system favored primogeniture and male inheritance of property. As a result, women's bequests consisted of personal and household goods. Female will authors also strove to create equity for heirs excluded from inheritance by primogeniture. In addition, patriarchal ideas about gender created distinct motivations for female will testators. While men worked to preserve male lines of inheritance, women focused on a wider network of kinship and community, with an emphasis on maintaining and strengthening female bonds. This confluence of factors worked to create specific patterns in women's bequests in early modern English wills.

The wills of early modern English female testators exhibit patterns of inheritance formed by complex social and legal pressures. Primogeniture and the preference for male inheritance dictated property inheritance for both genders. Likewise, patriarchal attitudes and legal constraints surrounding gender, property, and marriage influenced inheritance patterns. Early modern marriage and the legal doctrine of coverture combined with familial attitudes about female property inheritance limited the types of property

¹⁰⁰ *Will of Alice [Alse] Balden*, Oxfordshire Wills.

¹⁰¹ *Will of Ursula Andrews*, Oxfordshire Wills.

available to women as they entered marriage and later widowhood. Gendered patterns of inheritance also formed a staggered system of inheritance for early modern married couples. In their wills, husbands left real property, including buildings and agricultural land, as well as other expensive items such as livestock and trade goods. Within this staggered system, husbands generally avoided leaving bequests of household goods. Patriarchal ideas about gender and the domestic sphere led to an association between women and these household goods. As a result, husbands respected women's tacit authority over household goods and the reality that women continued to use these goods throughout widowhood. Generally prevented from inheriting inherently masculine forms of property, women were limited in the types of property available to bequeath in their own wills. This created a staggered system of inheritance for early modern English married couples based on patriarchal ideas about gender and property.

Early modern women displayed feminine patterns of inheritance separate from marriage. Numerous forces shaped women's bequests. Patriarchal ideas about gender, property ownership, labor, and the domestic space all shaped women's wills. Limited in the property available to them, women left distinctive categories of property in their legacies. Additionally, women's relationships with kin and friends dictated the types of bequests that women left in their wills. Women left bequests of property that held emotional significance for female testators and their heirs. Women's connection to extended social networks of family, godchildren, and friends created distinctive patterns of bequests. Women's focus on bonds with other women to create financial independence or strengthen emotional connection also shaped women's wills. In combination, societal

forces, legal realities and women's perceptions of the importance of relationship networks led to the formation of feminine patterns of bequests.

IV. “[I]F MY WIFE REMARRIES:” STEPFAMILY FORMATION AND REMARRYING WIDOWS IN OXFORDSHIRE’S WILLS

“I give her the use, profits, etc., of my dwelling house with all appurtenances while she remains my widow.” Yeoman Thomas Barr included this clause regarding his wife Alice in the will he authored in January of 1594. Barr’s bequests included agricultural land, livestock, and portions of the crop yield, including corn and barley.¹ Barr left behind one child, a minor son, Francis, and his widow, Alice. Barr shaped his bequests to Alice around the possibility of her remarriage. Barr left Alice agricultural implements and livestock, including one hundred sheep, five milk cows, and four horses, including the plough, harness, and cart to accompany them. However, Barr stipulated that the horses granted to Alice be “the worst” of his estate, with the best reserved for Francis. To ensure that individuals outside of the immediate paternal line would not inherit his property, Barr limited his wife to a lifetime interest in the agricultural land and family dwelling. Barr placed additional stipulations on Alice’s inheritance in the event of her remarriage, declaring that, “[i]f my wife Ales [Alice] remarries or dies, she shall leave to my son Frauneses [Francis] half the crop of corn and hay, both in the barn and in the field.” Additionally, Barr decreed that, “[i]mmmediately upon her remarriage I give my son Frauneses [Francis] my present dwelling house with all appurtenances for life.”² Even if Francis predeceased his mother, Alice only retained a life interest in the family home. Barr’s decision to limit Alice to less valuable property and a life interest in real property while granting Francis the choicest property and livestock perpetuated the patriarchal

¹ Corn encompassed all types of grain.

² *Will of Thomas Barr, January 7, 1594*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/barr_001.html (accessed November 11, 2019).

inheritance patterns of Oxfordshire's male testators. Male will authors placed restrictions on bequests to widows to preserve male inheritance of paternal property.

Remarriage and stepfamily formation created problems for male will authors. The demographic realities of Early modern England made remarriage a common occurrence, with one fifth of the population widowed at any given time.³ Early modern English culture prioritized marriage, which encouraged the formation of stepfamilies.⁴ However, remarriage had important legal implications for inheritance. Coverture left remarrying widows and their children legally vulnerable to new stepfathers. Additionally, the same attitudes about women as the "weaker sex," which led patriarchs to limit and control their daughters inheritance, coupled with a mythology about lustful widows susceptible to sexual and financial exploitation, shaped concern about the ability of widows to pick a suitable partner for remarriage.⁵ Further, a preference for male inheritance of real property made male testators fearful of any inheritance practice that allowed for individuals outside the direct paternal line to inherit family property.⁶

This chapter will focus on stepfamilies and remarriage in Oxfordshire. Specifically, this chapter identifies the problems of inheritance for Oxfordshire's male will authors in the event of remarriage and stepfamily formation, and details the different mechanisms used to circumvent these perceived problems. Above all, male will authors worked to prevent property from leaving the paternal male line through inheritance by a widow or stepfather. Male will authors also wanted to prevent children, children's

³ Houlbrooke, *The English Family*, 209 and 217.

⁴ Lisa Wilson, *A History of Stepfamilies in Early America* (Chapel Hill: The University of North Carolina Press, 2014), 3.

⁵ Charles Carlton, "The Widow's Tale: Male Myths and Female Reality in 16th and 17th Century England." *Albion: A Quarterly Journal Concerned with British Studies* 10, No. 2 (1978), 118-129.

⁶ Bonfield, *Marriage Settlements*, 22; Hunt, *The Middling Sort*, 82.

inheritances, and property from falling under a stepfather's control. To achieve these goals, male will authors employed inheritance mechanisms both separate from and as part of the will making and the probate process. Marriage settlements, agreements that took place before marriage, predetermined inheritance for widows and children.⁷ Bonds, documents separate from wills, ensured proper estate administration and worked as an enforcement mechanism for wills.⁸ Within wills, testators limited widows to life interests in property with further restrictions in the case of remarriage. Male will authors created separate estates for minor children and appointed male officials to guarantee proper will administration and male oversight of widow administrators. Male executors in turn carried out these methods to limit the control of widows over familial property, preserve children's inheritances, and protect male inheritance of property.

This chapter looks at thirty-four male wills and two bonds from Oxfordshire.⁹ Important information about masculine and feminine patterns of inheritance can be gleaned from male wills. Wills existed within a larger system of legal documentation. Therefore, in addition to wills and bonds of administration, a secondary analysis of marriage settlements and their appearance in Oxfordshire's wills provides further evidence of men's efforts to control their property.

Whereas historians of early modern Britain have devoted limited attention to

⁷ Amy L. Erickson, "Common Law Versus Common Practice: The Use of Marriage Settlements in Early Modern England." *The Economic History Review* 43, No. 1 (1990), 21-39.

⁸ Wilson, *A History of Stepfamilies*, 30.

⁹ *Wills of Gie Abraham, Richard Alder, Richard Andrews, Henn Aris, Richard Ball, Thomas Ball, William Ball, Thomas Banks, Richard Banting, Ralph Barnard, Philip Barnesdale, Robert Barnes, William Barnes, Robert Barr, Thomas Barr, Francis Barry, John Barlet, Simon Bartlett, John Baker, John Brookes, Thomas Chamberlain, John Crosley, Gregory Cursson, Richard Fermer, Richard Ibell, Ralph Ingram, William Loggin, Humphrey Quainton, William Smart, William Startupp, Thomas Tesdale, Richard Tomson, John Webbe, James Yate, and Richard Yate. Oxfordshire Wills; Bond re: George Andrews and Bond of Administration re: Hierons Barns. Oxfordshire Wills.*

stepfamilies, the subject has received greater attention within studies of the British Atlantic world. The high mortality rates of colonial America led to higher rates of stepfamily formation within a shared British legal framework that is informative for studying English stepfamilies. In her 2002 monograph on women and property in colonial Virginia, Linda Sturtz analyzes the effects of stepfamily formation on inheritance for both widows and their children, and argues that women in colonial Virginia had significantly more power in the remarriage process than their British counterparts.¹⁰ Lisa Wilson's 2014 monograph identifies issues of inheritance for widows and stepfamilies in early America that is useful to understanding the same issues in early modern England.¹¹ Wilson argues that while common in early America, stepfamilies faced prejudice as a result of negative European tropes regarding stepfamilies.¹² This chapter finds that similar concerns about stepfamilies existed throughout the British Atlantic world and casts early America as a continuation of British practices. Stepfamilies have received scant attention in the historiography of early modern England. Similarly, few publications address stepfamily formation and its effect on the inheritance choices of male testators. In existing monographs, stepfamilies are addressed as a small part of larger studies of the family. In his 1984 monograph, Houlbrooke follows this model discussing parental death and stepfamily formation as a function early modern English life cycle of the English.¹³ Houlbrooke concludes that remarriage and stepparent relationships sowed bitterness and jealousy among early modern families.¹⁴ Stephen

¹⁰ Linda L. Sturtz, *Within Her Power: Propertied Women in Colonial Virginia* (New York: Routledge, 2002).

¹¹ Wilson, *A History of Stepfamilies*.

¹² Wilson, *A History of Stepfamilies*, 5-6.

¹³ Houlbrooke, *The English Family*.

¹⁴ Houlbrooke, *The English Family*, 222.

Collins's 1991 article discussing inheritance and stepfamilies argues that the reality of stepfamily relationships lay somewhere between the "evil," stepparent and complete familial harmony.¹⁵ Bernard Capp's 2018 monograph approaches stepfamilies from the perspective of siblings in blended families.¹⁶ Capp contends that inheritance issues involving stepparents, half siblings, and step siblings resulted in competition for resources and in some cases resentment between heirs.

However, recent essays have begun to recognize the historiographical gap in the study of stepfamilies. Lyndan Warner's 2016 article confronts this historiographical gap and considers the myriad ways historians should approach future studies of European stepfamilies, including analysis of blended family patterns, the relationships between stepfamily members and how they perceived those relationships.¹⁷ Tim Stretton's 2018 chapter covers the early modern legal system and its treatment of stepmothers in relation to inheritance. Stretton argues that stepfathers actually had more power over the inheritance of their wives and stepchildren; however, over time the use of legal mechanisms, such as marriage settlements and trusts, effectively blocked stepfather's freedom of disposition for inherited property.¹⁸ Maria Cannon's 2019 chapter looks at families and emotion to analyze both the positive and negative relationships between stepparents and children in a bid to overturn stereotypical images of the "wicked"

¹⁵ Stephen Collins, "British Stepfamily Relations 1500-1800." *Journal of Family History* 16, No. 4 (1991), 331-345.

¹⁶ Bernard Capp, *The Ties that Bind: Siblings, Family, and Society in Early Modern England* (Oxford: Oxford University Press, 2018).

¹⁷ Lyndan Warner, "Stepfamilies in Early Modern Europe: Paths of Historical Inquiry," *History Compass* 14, No. 10 (2016), 480-492.

¹⁸ Tim Stretton, "Stepmothers at Law in Early Modern England," in *Stepfamilies in Europe 1400-1800*, ed., Lyndan Warner (London: Routledge, 2018).

stepparent.¹⁹ More work remains to be done to fully explore the importance of stepfamilies in the early modern world. This chapter takes a hybrid approach, arguing that the fears of dying husbands regarding remarriage and stepfamilies shaped the probate process and inheritance mechanisms.

The concerns about stepfamilies and stepparents found in the wider British Atlantic world appear in early modern Oxfordshire's wills. This chapter analyzes stepfamily formation and inheritance patterns to argue that the patriarchal framework of early modern Oxfordshire shaped the choices of male wills authors. Due to fear of stepfathers and distrust of remarrying widows, Oxfordshire's male will authors used wills as tools of patriarchal control to protect paternal property from alienation and children's inheritance.

The structure and function of early modern households made remarriage and stepfamily formation a necessity for early modern families. The demographic realities of early modern life made stepfamilies a common occurrence. Population statistics of the time show that, "[i]n the seventeenth century about one-quarter of all people marrying had been married at least once before."²⁰ At any given time, approximately one-fifth of the population was widowed. The death of a parent also impacted children, a rough estimate shows that about half of individuals that reached the age of twenty-one had experienced the death of at least one parent.²¹ Early modern English family structure encouraged remarriage and the formation of stepfamilies. The culture of Northwestern

¹⁹ Maria Cannon, "Negotiating the Blending of Families: Tension and Affection between Stepparents and Children in Early Modern England," in *Family Life in Britain 1550-1910*, eds., Carol Beardmore, Cara Dobbing and Steven King (New York: Palgrave Macmillan Limited, 2019).

²⁰ Sharpe, *Early Modern England*, 41.

²¹ Houlbrooke, *The English Family*, 208 and 217.

Europe centered on the nuclear family.²² Early modern England followed this model with emphasis on the married couple. English households formed around a master and mistress. As discussed in the previous chapter, early modern household functioned as a family and an economic unit, with the master and mistress at its head.²³ The importance of a married couple for the formation of a household meant that all members of a family could be thrown into disarray with the death of either spouse. In the worst case scenario, the household unit dissolved with children sent to live with relatives or friends and the surviving spouse either moving in with relatives or becoming a lodger in another household.²⁴ As a result, the death of a spouse could be emotionally and economically traumatic for a family unit. The essential nature of a married couple to household integrity encouraged remarriage, particularly for men.

The wills of Oxfordshire provide evidence of remarriage the formation of stepfamilies. The will of William Smart discusses Smart's two wives, Sarah and Katherine. It appears that Smart attempted to edit an earlier will authored during the life of his first wife, Sarah, to transfer the legacies to his living wife, Katherine, whom Smart described as, "my now wife." However, during the will revision, the clerk missed a reference to Smart's first wife, leaving a clause that dictated, "[t]he residue of my goods to my wife Sarah who is sole executrix."²⁵ The clerk's mistake gives an inadvertent look into the Smart's blended family. Smart mentioned five children in his will, three sons and

²² Wilson, *A History of Stepfamilies*, 3.

²³ Flather, *Gender and Space*, 43; Julie Hardwick, *The Practice of Patriarchy: Gender and the Politics of Household Authority in Early Modern France* (University Park: The Pennsylvania State University Press, 1998), 4.

²⁴ Wilson, *A History of Stepfamilies*, 3.

²⁵ *Will and Inventory of William Smart, March 1, 1666*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/smart_002.html (accessed January 2, 2020).

two daughters. Smart failed to indicate the mother of his adult children; however, the presence of children in the household may have motivated his remarriage. Without this clerical error, the Smart's blended family would not have been so readily apparent.

Evidence of stepfamilies can also be gleaned from the language male will authors used to refer to their biological and stepchildren. Stepchildren received different treatment from stepfathers in wills including decreased or nominal legacies. There are many possible reasons for this discrepancy. Stepchildren likely received legacies from a deceased parent. Additionally, stepfathers hesitated to alienate property away from natural children. Finally, blended families increased the number of children and resources available for inheritances. Gentleman Thomas Ball provided different indications for his natural children and his wife's children from a previous marriage. Ball listed his three children by name and gives them legacies of both money and valuable household items. His son George received half of the household items, while daughter Norminsell received both cash and, "my largest silver bowl and a down pillow." Ball left a nominal legacy to his stepdaughters and made their separate parentage apparent, stating "I give my wife's two daughters 20s [shillings] apiece," and omitting their names.²⁶ While Ball remembered his stepdaughters in his will, there is a clear difference in their treatment. Similarly, Simon Bartlett treated his stepchildren differently from his [own?] children in his 1638 will. Bartlett provided that his, "[w]ife Isabel and two children 'which she hath by me'" received a legacy of £30.²⁷ The additional qualifier in Bartlett's bequest

²⁶ *Will and Inventory of Thomas Ball, December 19, 1644*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*.

http://wills.oxfordshirefhs.org.uk/az/wtext/ball_005.html (accessed January 4, 2020).

²⁷ *Will of Simon Bartlett, December 19, 1638*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/bartlett_002.html (accessed December 15, 2019).

indicated that Isabel likely had children from a previous marriage. Bartlett himself had many children, with nine separate children named in his will. With such a large family to provide for, Bartlett reserved bequests for his biological children. The additional clause ensured there would be no confusion with probate of his estate.

While some testators treated stepchildren differently in wills, this did not preclude them from leaving generous legacies to stepchildren. In his 1635 will, vicar William Loggin differentiated his stepdaughter Mary Shepherd's parentage, describing her as, "one of her [Alice's] daughters by her former husband Edward Shepherd deceased."²⁸ Loggin left Mary a bequest of £500 to be paid to Mary within 6 months of his decease. Loggin left Mary half as much as he left his own natural minor. Despite this, Loggin's bequest to Mary represented a significant sum worth almost £60,000 in today's money, with the purchasing power equal to 7,142 days of wages for a skilled tradesman of the period.²⁹ While Shepherd received a smaller legacy than Loggin's biological daughters, she still received more than a nominal sum from her stepfather. Loggin also required that his wife post a bond to her uncle, William Godwyn, with a £1000 penalty to guarantee the legacy passed to Mary without incident. Loggin did not require Alice to post a bond for the remaining children's legacies; perhaps having a tenuous legal relationship to Mary, Loggin wanted to guarantee that Alice granted the legacy. Oxfordshire wills provide both implicit and explicit evidence of stepfamilies. They also give a glimpse into the relationship dynamics between stepchildren and stepfathers. While stepfathers provided some inheritance to stepchildren, treatment of stepchildren and natural children

²⁸ *Will of William Loggin*, Oxfordshire Wills.

²⁹ Currency Converter: 1270-2017. *The National Archives [UK]*, accessed 24 November 2018, <http://www.nationalarchives.gov.uk/currency-converter#currency-result>.

differed in male testator's wills.

Men and women had different concerns and motivations for remarriage. Childcare constituted the greatest concern for widowers with minor children. Widowers placed importance on a wife to assume the role of mother and caretaker to existing children. Overall, men faced fewer social and legal impediments to remarriage. As a result, widowers had a higher rate of remarriage and remarried more quickly than widows.³⁰ Stepmothers posed a few risks to children. The trope of the “wicked stepmother,” gave some widowers pause.³¹ In his domestic manual, Puritan minister William Gouge warned that, “mothers-in-law [stepmothers] often prove unkind, and unjust step-mothers, and deal unmercifully with their husband's children.”³² A stepmother's jointure, the portion of an estate set aside for a widow, could deplete familial resources and threaten the inheritance of existing children.³³ For these reasons, some widowers chose to abstain from marriage. However, men were less vulnerable under the law if they chose to remarry. For these reasons, remarriage generally benefitted widowers.

A widowers second marriage could pose problems for the settlement of inheritance. A wife's jointure could move resources away from existing children, or the new marriage could produce additional children to further split existing property and resources.³⁴ For a young wife marrying an older widower, her jointure could tie up family resources for many years, disadvantaging adult children. The Yate family illustrates a stepmother threatening the inheritance of adult children. Gentleman Richard Yate and his

³⁰ Wilson, *A History of Stepfamilies*, 6.

³¹ Wilson, *A History of Stepfamilies*, 45; Capp, *The Ties that Bind*, 94.

³² Gouge, *Of Domesticall Duties*, 292.

³³ Capp, *The Ties that Bind*, 98 and 102.

³⁴ Stretton, “Stepmothers at Law,” 93.

son Robert experienced a dispute with Richard's second wife, Margaret that caused Richard to modify his will in March of 1583. The animosity between the parties arose as a result of Margaret's debts. Under coverture Richard had an obligation to pay his wife's debts. It also seemed that his adult son, Robert, put money towards settling Margaret's debts. In the first version of his will, Yate attempted to have Margaret exchange the terms of her marriage settlement for his current dwelling house and the income from both the attached shop and the Red Lion Tavern owned by Yate. Such a deal likely disadvantaged Margaret. The default for widows' portion included one third of her husband's real property, and jointures could entitle a widow to more depending on marriage negotiations.³⁵

It seems that Margaret did not agree with Yate's first proposal and Yate wrote a second modification to his will. In the later will modification, Yate attempted to have Margaret relinquish the terms of her jointure for an £80 annuity and a life interest in a family property. However, it appears that, at this point, both Robert and Margaret had employed counsel regarding the matter. Yate referenced his wife's attorney and hopes that she will agree to his annex, "as by her counsel learned in the law shall be thought good." The ability of Margaret Yate to retain counsel during this time is remarkable, as under coverture she required her husband's permission. Yate hints at the acrimony between the parties in the annex to his will: "[a]lso I will and my desire is for the establishing of friendship and quietness between my said wife and son and for avoiding of controversy and variance which otherwise may perhaps arise between them."³⁶ The

³⁵ Houlbrooke, *The English Family*, 84.

³⁶ *Will of Richard Yate, March 21, 1583*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/yate_018.html (accessed 01/05/2020).

Yate family illustrated the issues that could arise when remarriage went awry.

Unlike widowers, widows faced legal, financial, and social obstacles to remarriage. Legally remarriage left widows and their children in a vulnerable position. Under coverture a widow's property came under the control of her new husband. Remarriage also had repercussions for the inheritance of children from a previous marriage. For these reasons, widows remarried at a lower rate than widowers, with a percentage of widows foregoing remarriage altogether. In a survey of sixty-one pre-industrial English communities, widows outnumbered widowers two to one, while some communities had an even higher gap.³⁷ Contemporary literature and attitudes reinforced the different rates of remarriage for men and women. Both prescriptive literature and families warned widows away from an imprudent remarriage.³⁸ The terms of a deceased husband's will could discourage remarriage. Overall, widows faced numerous impediments to remarriage.

The prevalence of stepfamilies and the possibility of remarriage influenced the bequests of male will authors. An unsettled estate from a previous husband could invite to misappropriation by a reprobate second or third husband.³⁹ Stepfathers could give their stepchildren a smaller portion than promised or deny their legacies altogether.⁴⁰ Subsequent husbands also posed a threat to any property in which a widow held a life interest.⁴¹ Inheritance laws reflected the cultural prejudice against stepfathers, whom dying husbands viewed as powerful and dangerous. Therefore, stepfathers needed careful

³⁷ Houlbrooke, *The English Family*, 209.

³⁸ Wilson, *A History of Stepfamilies*, 18.

³⁹ Wilson, *A History of Stepfamilies*, 29.

⁴⁰ Capp, *The Ties that Bind*, 97.

⁴¹ Wilson, *A History of Stepfamilies*, 27.

monitoring by the courts.⁴² Fears of avarice from stepfathers coupled with the legal methods available to protected property informed the testamentary decisions of dying husbands, ultimately creating common patterns of inheritance utilized by male will authors.

Early modern English men doubted the abilities of remarrying widows to protect familial property and children's inheritances. Considered the "weaker sex" in early modern Christianity and emerging scientific belief, women were deemed less rational and more impulsive, especially sexually.⁴³ Early modern English society viewed widows with suspicion because they were free from male oversight. A caricature of widows as lustful, promiscuous with younger men, and easily duped by fortune hunters developed in early modern popular culture. This caricature appeared in art and literature, including plays, songs, sermons, and jokes.⁴⁴ Part of this caricature implied that widows were unable to make prudent financial decisions in the face of lust. Social attitudes about women and widows combined to create distrust in their ability to protect property and inheritance in the event of remarriage.

Unfavorable attitudes towards widows and fear of stepfathers shaped the inheritance patterns of Oxfordshire's dying husbands. Male will authors utilized a variety of methods to minimize the power of widows over familial property. Efforts to protect familial property began before a marriage took place with marriage settlements setting property inheritance as part of the marriage negotiation process. A marriage settlement functioned similarly to a prenuptial agreement. The parties negotiated an agreement

⁴² Wilson, *A History of Stepfamilies*, 26.

⁴³ Fletcher, *Gender, Sex and Subordination*, 33 and 61; Gowing, *Common Bodies*, 2.

⁴⁴ Carlton, "The Widow's Tale," 121.

regarding property and inheritance prior to a marriage.⁴⁵ This included both families in the marriage and inheritance process. Due to coverture, marriage settlements had to be performed by a third party as any agreement contracted between a husband and wife before marriage became nullified upon their union. Marriage settlements benefitted men who feared alienating property from the male line. Marriage settlements could be used as a tool to protect paternal property from future widows with some settlements including clauses that stopped payments to a widow on her marriage.⁴⁶ Strict settlements created multigenerational interests in the property while providing for younger children and widows. A type of strict settlement, fee tail, ensured that landed property only passed to the oldest male in a paternal line.⁴⁷ In the event no male heir could be found in the line of direct descent, the property passed to collateral male heirs. Unfortunately, there is scant evidence of marriage settlements in wills.⁴⁸ Authored as a separate document, few marriage settlements survive. Courts did not require settlements to be registered in the same manner of wills, and settlements do not appear unless filed as part of subsequent litigation. Instead, wills hint at the existence of these settlements, as evidenced in the Yate family dispute. Despite few surviving examples, marriage settlements represented a powerful tool for grooms to protect property before marriage.

Another method for protecting male inheritance included limiting widows to a life interest in her husband's property. A common method for Oxfordshire's male testators, of the thirty-four male wills considered for this chapter, thirteen limited their widows to a

⁴⁵ Bonfield, *Marriage Settlements*, 3.

⁴⁶ Stretton, "Stepmothers at Law," 93.

⁴⁷ Bonfield, *Marriage Settlements*, 55.

⁴⁸ Erickson, *Women and Property*, 26.

life interest in familial property.⁴⁹ The terms of a widow's life interest in property could appear as part of the marriage settlement. For couples without marriage settlements, bequests of property to widows appear in Oxfordshire's wills. A life interest allowed a widow to continue to inhabit the family home or some adjacent property and utilize a portion of the family's agricultural land for her maintenance. In a typical life interest clause, the property reverted to the eldest son upon the widow's death. In this way, husbands provided for their widows financially without alienating property from the male line as property ultimately returned to male control according to the pattern of primogeniture. In his 1537 will gentleman, Gregory Cursson, granted his wife Anne a life interest in the family home. Cursson also referenced the terms of the marriage settlement between himself and his wife, "I give [the manor of knotting] to my well-beloved wife Anne for life, according to our marriage agreement." Cursson went further to dictate occupation of the manor, "[a]fter her decease I give [it] to my daughter and heir-apparent Joane Cursson for life. After Joane's decease I give the remaining term [of the lease] to her son his assigns forever." Cursson's additional clauses ensured that while Anne and Joan could continue to live in the familial home for their lifetimes, ultimately, the manor would return to male ownership, either through his grandson or brother. Thirty-three years old at the time of his death, Cursson addressed the possibility of his wife's remarriage and attempted to set up protections against fraudulent actions by a future stepfather or son-in-law, "[b]ut if any man who later marries my wife or daughter attempts to defeat the above rules, the next in remainder may take over and keep all the premises

⁴⁹ *Wills of Richard Andrews, William Ball, Thomas Barr, Simon Bartlett, John Crosley, Gregory Cursson, Richard Fermer, Richard Ibell, Ralph Ingram, William Smart, Richard Tomson, James Yate, and Richard Yate.* Oxfordshire Wills.

according to those rules.”⁵⁰ Cursson ensured that the manor remained in the Cursson family and did not come under the control of a separate paternal line. Under Cursson’s terms, any attempt by his wife’s or daughter’s future husband to convert their life interest in the property to fee simple ownership would trigger a transfer of the property back to the male Cursson line.⁵¹ While Cursson is generous in allowing his wife to maintain her life interest in the property with additional encumbrances, his bequest guarded the familial property from dispossession by other men.

Almost a hundred years later, Oxfordshire’s male will authors still utilized life interests for widows. In 1638 Simon Bartlett provided a life interest for his widow, Isabel, who inherited the house and accompanying bakehouse. Bartlett stipulated that on her death, the property passed to his oldest son, Thomas. If Thomas passed without heir, the property defaulted to second son Simon.⁵² This allowed Isabel to use the family home during her lifetime, but also reserved the property for the Bartlett male line. A life interest in property allowed male will authors to provide for their wives’ widowhood without completely relinquishing control of familial property away from paternal control.

In more limited arrangements, husbands qualified widows’ life interest in property until their remarriage. In such a clause, a widow forfeited the right to utilize this property and it returned to the male heir upon her remarriage. This practice is illustrative of the concern male testators had for their widow’s subsequent husbands. Trust in widow administrator’s ability to guard children’s inheritances waned once remarried.⁵³ Without

⁵⁰ *Will of Gregory Cursson, July 7, 1536*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/cursion_002.html (accessed December 15, 2019).

⁵¹ Fee simple ownership is permanent unencumbered ownership versus an interest, which expires on a given condition.

⁵² *Will of Simon Bartlett*, Oxfordshire Wills.

⁵³ Sturtz, *Within Her Power*, 22.

this qualifier a widow's life interest in a property extended to her husband, who could continue to utilize and occupy the property even after the women became deceased.⁵⁴ During his life interest, a subsequent husband had the duty to return the property to children in the condition in which was left by the original testator. However, poor management or greed could lead to misuse or wastage of the property, further damaging a child's inheritance.⁵⁵ Even if a stepfather retained a life interest in property it would eventually return to the previous husband's male heir. In order to limit potential damage to property, dying husbands precluded control of property outside the paternal line altogether. Once a widow remarried, it became the new husband's duty to maintain his wife and she no longer needed her support from her previous husband. Thus, by removing property from a widow's control upon remarriage, male testators protected the property from misuse by future husbands.

Dying husbands in Oxfordshire limited their unmarried widows to a life interest in property and transferred property to their sons upon reaching the age of majority. Richard Ibell, a poor husbandman adhered to this pattern for the inheritance he left to his wife Joan and son Richard, Jr. In his 1600 will Ibell provided that, "Richard is to have [the property] after the decease of my wife Joane Ibill [Joan Ibell] if she remains a widow. If my wife remarries, Richard (being of age) may enter upon [the property] and enjoy it [with his heirs] forever." Ibell limited his wife's interest in the home to life only and ensured that the Ibell family property remained in the male line.⁵⁶ Husbandman Ralph

⁵⁴ Capp, *The Ties that Bind*, 100.

⁵⁵ Wilson, *A History of Stepfamilies*, 33.

⁵⁶ *Will of Richard Ibell, January 29, 1600*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/ibell_001.html (accessed December 10, 2019).

Ingram followed a similar pattern in the land he granted to his wife and sons. Ingram left parcels of land to his minor sons, Ralph, Jr. and Robert, but his bequest to his wife, Alice had accompanying conditions. Ingram limited Alice's occupation of the Ingram family property to his sons' minority, "[m]y wife Alice to have backsides, house and close until sons are 22 years old if she remains a widow."⁵⁷ The "backsides," refers to a yard behind a house, while a "close," is a parcel of land that is surrounded by a boundary of some kind, such as a hedge or a fence. From this information, it seems that Ingram's bequest to Alice included the family home and the immediate land surrounding the dwelling. Not only does Ingram limit his wife's interest to her widowhood, but also displaced her once the children reaching the age of majority. Ingram's bequest maintained the gendered hierarchy and placed his son as master of the household at the age of majority, effectively removing his mother from the highest position within the household. Ingram's preference for maintaining male lines of inheritance severely limited Alice's options during her widowhood, as such a bequest would have left Alice at the mercy of her adult sons to care for her. Alternatively, such a clause may have encouraged Alice to seek remarriage to maintain her social status and financial stability.

Likewise, in 1614 ironmonger William Ball left his goods and chattels to his wife Dorothy if she remained unmarried. If Dorothy remarried or upon her death, Ball decreed that any remaining goods be distributed between his son, John Ball and grandchildren.⁵⁸ Upon remarriage, if Dorothy forfeited any marital property, including moveable goods to

⁵⁷ *Will of Ralph Ingram, October 25, 1641*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/ingram_001.html (accessed January 5, 2020).

⁵⁸ *Will of William Ball, March 2, 1615*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/ball_006.html (accessed January 4, 2020).

her son. This clause triggered the same result in the case of both remarriage and death, thus equating the events in Ball's will. Both events severed Dorothy from the Ball family line, precipitating the need to return that property to the male Ball line. A life interest clause with an exception for remarriage protected the property of dying husbands from being requisitioned by a widow's subsequent husbands.

A bond, which guaranteed administration of an estate through supervision of a will administrator, formed another option for protecting an estate. Executed after a will, a bond constituted an enforceable agreement filed in addition to a will, or in the absence of a will. Along with the agreement, bonds often contained a monetary fee or penalty for failure to adhere to the terms of the agreement. Courts or will officials used administrative bonds to ensure the accurate probate of a will. This became an important tool in the event of remarriage. A high percentage of widows found themselves as sole or joint executor of their husband's estate.⁵⁹ A widow administratrix's remarriage before completing the administration of her late husband's estate left the estate vulnerable to being subsumed within the new husband's property. A widow's new husband became the sole administrator of the previous husband's will. If a proper inventory of the deceased husband's belongings did not occur before remarriage, the possibility of the subsequent husband absorbing that property without proper documentation increased.⁶⁰ To prevent this, courts and will officials required bonds to secure proper administration of wills. In the event of remarriage, will administrators and courts used bonds as a mechanism to enforce the terms of late husbands' wills.⁶¹ Bonds became popular in early modern

⁵⁹ Erickson, *Women and Property*, 156-8.

⁶⁰ Wilson, *A History of Stepfamilies*, 29.

⁶¹ Wilson, *A History of Stepfamilies*, 30.

England as security against second husbands, as probate courts and remarrying widows required their new husbands to execute a bond for proper administration of the late husband's will.⁶² The execution of a bond worked as insurance to assuage the fears of remarrying widows with children.

Oxfordshire records show bonds used to enforce will administration by widows. A bond for the administration of weaver George Andrews' estate, filed in September of 1662, made his wife, Jane, co-administrator with a male clerk, Thomas Jackson. The addition of a male administrator both distributed the burden of administration, while also ensuring male oversight of widow Andrews' actions. The bond required Jane to make an inventory of her deceased husband's goods and debts, along with presenting an accounting of the administration of the estate to the Bishop's court in Oxford. An inventory accompanied the bond.⁶³ The bond held the Andrews and Jackson accountable for £30 to the Vicar General, Henry Alworth, should the requirements of the bond be neglected. A similar bond filed on November 1, 1700 for the estate of yeoman Hierons Barnes charged his widow and estate administrator, Eleanor Barnes, along with yeoman John Barnes, and Oxford innkeeper, Richard Trislett, with the duty to properly execute Barnes' estate. Specifically, the bond required Eleanor to create an inventory and present it to the archdeaconry court at Oxford in exactly one month's time. The widow Barnes also needed to present an accounting of the complete administration of the estate to the court within one calendar year. Failure to properly execute Barnes' estate incurred a fine of £200. The bond ensured the probate of Barnes' estate in a timely and efficient manner.

⁶² Wilson, *A History of Stepfamilies*, 60.

⁶³ *Bond and Inventory re: George Andrews, September 19, 1662*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/andrews_017.html (accessed December 20, 2019).

The inventory attached to the bond listed an estate worth £91, including horses, cattle, sheep, agricultural implements, and the trappings of a typical early modern household, such as furniture, bedding, and pewter kitchenware.⁶⁴ Such an estate would have required considerable effort to settle and the bond protected Barnes' posthumous interest. Bonds added a layer of protection and possible consequences for will administrators. Oxfordshire's courts utilized bonds to protect property in the event of remarriage and ensure that a proper probate of an estate took place.

Protecting children and their inheritances represented the final issue for Oxfordshire's male testators. The loss of either parent placed children in a vulnerable position with orphans at the greatest disadvantage. The death of a child's father placed a child in an even more legally precarious position. Due to the power disparity between sexes in early modern England, mothers possessed a limited ability to advocate for their children under the law and the absence of a male guardian put children in an insecure state. This became especially true if a child's mother remarried. Aware of the consequences of remarriage, husbands took steps to protect children and property from stepfathers. The creation of separate estates for children constituted one of the simplest ways to preserve property for both minor and adult children. A separate estate could be created as part of a marriage settlements or as a bequest in a will. In theory, a separate estate produced an inviolate legacy set aside for an individual. However, an improperly administered estate could result in the misuse or theft of a child's inheritance. In such a case, the enforcement of a child's separate estate only occurred through litigation.⁶⁵

⁶⁴ *Bond of Administration re: Hierons Barnes, November 11, 1700*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*.
http://wills.oxfordshirefhs.org.uk/az/wtext/barnes_008.html (accessed January 4, 2020).

⁶⁵ Wilson, *A History of Stepfamilies*, 30.

Though imperfect, separate estates created some protection for the interests of minor children.

Both remarriage and orphan-hood placed children at risk. In his 1659 will, husbandman Humphrey Quainton planned for the possibility of either event in a provision for his minor daughter, Mary. Quainton left a typical marriage portion for Mary, “£20, to be paid at age 21 or earlier marriage.” In addition, Quainton anticipated Mary’s need for cash resources if her mother’s status should change. Thus, Quainton decreed, “[a] further £10, to be paid at my wife’s decease or re-marriage.”⁶⁶ Quainton’s bequests indicate that either the remarriage or death of her mother placed Mary in a similarly vulnerable position. Additional cash resources could aid Mary in either event.

Dying husbands also left provisions for their minor children during their mother’s widowhood, a time of increased financial strain.⁶⁷ In 1616, husbandman William Startupp, concerned about his wife’s impending widowhood, left several bequests for the, “unborn infant which my wife now carries,” including household goods, cash, and leases for the maintenance of the child.⁶⁸ Of child bearing age, Startupp considered his wife’s ability to remarry and made special provisions for the child: “I give £10 to be paid to my overseers for the benefit of the infant within ten days after my now wife Elizabeth remarries. If she does not remarry within five years I give £5 to be invested by my overseers as they think fit for the benefit of the infant.” Startupp appointed three men, Christopher Dodd, Thomas Startupp, and Robert Wright as his overseers. Will overseers

⁶⁶ *Will of Humphrey Quainton, September 5, 1659*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/quainton_004.html (accessed January 5, 2020).

⁶⁷ Mendelson and Crawford, *Women in Early Modern England*, 181.

⁶⁸ *Will of William Startupp, January 7, 1617*. Manuscript. From Oxfordshire Family History Society, *Transcribed Wills and Related Documents*. http://wills.oxfordshirefhs.org.uk/az/wtext/bartlett_006.html (accessed November 28, 2018).

assisted with and supervised the execution of an estate. Startupp appointed his wife Elizabeth executor; however, his overseers ensured that Elizabeth fulfilled her duty accurately. Cognizant of the realities of coverture, Startupp preserved a separate maintenance for the child. If Elizabeth remained a widow, Startupp foresaw a need to support his child. Startupp gave the responsibility for the maintenance of the child to male overseers. By entrusting the child's monetary interest to male overseers, including a male relative, Startupp shielded the child's inheritance from any interference by a possible stepfather. Startupp provided a separate estate for his child and a built-in protection mechanism for its dispersal.

Male will officials acted as another protective mechanism for dying husbands who appointed men to oversee or work in conjunction with widows. Male will officials worked with the power of the state and the church working through courts to enforce probate decisions. The state had several interests in the probate process. Ensuring a smooth transition of assets kept property and capital moving. The state and local authorities also had an interest in ensuring that widows and children had adequate resources to support themselves. This eliminated the need to draw on local charity networks. The state also had an interest in maintaining the social order and gender relations. The perceived crisis in male authority encouraged supervision of women. Male will officials and the male dominated institution fulfilled the desire to govern women's actions. More than half of early modern husbands trusted their wives to act as will executors.⁶⁹ However, there is a marked difference between Oxfordshire's fathers with adult and minor children. Fathers of adult children allowed their widows the freedom to

⁶⁹ Erickson, *Women and Property*, 156-8.

oversee the dispersal of property with little male intervention. Eight of the thirty-four male will authors had only adult children and a surviving wife.⁷⁰ Of those male will authors, nine granted their wives executorship, with three of those lacking male will officials altogether.⁷¹ In contrast, fathers of minor children favored male executors. Of the seventeen fathers with minor children, all appointed male will officials.⁷² Of these, seven appointed male executors, while three appointed joint executorships with their widow and a male relative.⁷³ The desire for male will officials came as a result of patriarchal attitudes towards women and widows. Male will officials ensured male supervision of their widows and children. Fathers crafted mechanisms in their wills to provide a male presence for their minor children. Testamentary language meant that male executors worked with the mothers of children to act as a surrogate male influence. Importantly, male testators contrived legal mechanisms within their wills to ensure that the power of male executors superseded that of widows. Paternal desires for male guidance also stemmed from fears regarding the remarriage of widows. A young widow of an age to produce additional offspring increased the likelihood of her remarriage. A wife's potential remarriage could jeopardize familial property and bring children under the influence of another paternal line. The appointment of male executors worked to minimize these dangers.

⁷⁰ *Wills of Gie Abraham, Richard Banting, Robert Barnes, William Barnes, John Barlet, John Webbe, James Yate, and Richard Yate.* Oxfordshire Wills.

⁷¹ *Wills of Gie Abraham, Richard Andrews, Richard Ball, William Ball, Richard Banting, Philip Barnesdale, William Barnes, William Smart, and John Webbe.* Oxfordshire Wills; *Wills of Richard Banting, Philip Barnesdale, and William Barnes.* Oxfordshire Wills.

⁷² *Wills of Richard Alder, Richard Ball, Thomas Ball, William Ball, Robert Barr, Thomas Barr, Francis Barry, Simon Bartlett, John Baker, John Crosley, Gregory Cursson, Richard Fermer, Richard Ibell, Ralph Ingram, William Loggin, Humphrey Quainton, William Startupp, and Richard Tomson.* Oxfordshire Wills.

⁷³ *Wills of Thomas Ball, Robert Barr, Thomas Barr, Francis Barry, Simon Bartlett, John Baker, William Loggin.* Oxfordshire Wills; *Gregory Cursson, Richard Fermer, and John Webbe.* Oxfordshire Wills.

Fear of stepfathers influenced the decisions male will authors made about the posthumous care of children. Under early modern English law fathers held the ultimate legal power over their children.⁷⁴ As a result, the terms of a father's will legally trumped a mother's desire. In order to protect children, fathers transferred either the legal and or physical guardianship of a child from their mother to male kinsfolk or other male guardians.⁷⁵ Removing minor children from a stepfather's household reduced the possibility of abuse or undue influence. In such cases, a dying husband could appoint a male family member to oversee a child's care or even foster a minor child. Fostering was a fairly common practice in early modern England, with children often entering the care of family members or friends for educational purposes.⁷⁶ The breakdown of families after the death of a parent meant that children were sent out to family to ease the economic burden on the household.⁷⁷ Children were seen as an impediment to remarriage. William Gouge encouraged parents to send children away from home to avoid friction with stepparents.⁷⁸ Local census statistics show that while children remained in homes with single widowed parents, they rarely resided with stepparents.⁷⁹ In 1603 Gentleman Francis Barry limited his wife's ability to raise her children to her widowhood and provided a sum towards their maintenance, "[b]ut while she remains a widow my wife shall have the keeping and bringing up of my children, during which time she shall have the whole £30 annuity and also the £40 annuity if it becomes due during her widowhood,

⁷⁴ Mendelson and Crawford, *Women in Early Modern England*, 43.

⁷⁵ Houlbrooke, *The English Family*, 219.

⁷⁶ Illana Krausman Ben-Amos, *Adolescence and Youth in Early Modern England* (New Haven: Yale University Press, 1994), 156.

⁷⁷ Wilson, *A History of Stepfamilies*, 3.

⁷⁸ Gouge, *Of Domesticall Duties*, 350.

⁷⁹ Houlbrooke, *The English Family*, 217.

towards their maintenance and education.”⁸⁰ While Barry left a generous amount for the care of his children, the provision placed limitations on his widow. If his wife remarried, she forfeited the custody of her children. Barry also ensured that the revenue stream necessary to maintain the children ceased upon his widow’s remarriage. Barry also relied on male will officials and appointed three male executors, Henry Rathebone, gentleman Edward Standard, and yeoman Richard Chibnall to oversee the distribution of his bequests. In addition, Barry appointed two male supervisors, his brother-in-law, Sir Herbert Croft, and his own brother, gentleman Vincent Barry.⁸¹ Barry left explicit directions to his executors to manage the various amounts of money that are owed to his children. Of the same social class as Barry, these men would have understood Barry’s expectations for his children’s education and future marriages. This proved prudent, as Barry’s eldest son, Vincent went on to graduate from Oxford University in 1617, admitted to Gray’s Inn to train as a barrister in 1620, and later served as a Justice of the Peace.⁸² While Barry left the care of his children to his widow, his male executors acted as second layer of supervision for his minor children. Barry placed more trust in his male executors than his wife, providing a mechanism for men to override his wife’s power to raise her children.

Like Barry, Vicar William Loggin granted his wife an annuity to care for their minor children. Loggin added a condition that both the annuity and care of the children only applied while Alice remained unmarried, “[m]y wife is to be responsible for their [Edward, Alice, Sara and Martha] education and upbringing, having £80 pa out of

⁸⁰ *Will of Francis Barry*, Oxfordshire Wills.

⁸¹ *Will of Francis Barry*, Oxfordshire Wills.

⁸² Charles Mosley, ed. *Burke’s Peerage, Baronetage, and Knightage*, 107 ed. (Wilmington: Burke’s Peerage Ltd., 2003), vol. 1, 279, <http://www.thepeerage.com/p13444.htm#i134436>

Westcott [real property] for the purpose while she remains unmarried. If my wife remarries my executors are to be responsible for the education of those children and the £80 pa is to cease.” Such a bequest removed Alice Loggin’s control over her children. If she should remarry, such a clause also reduced the power of any stepfather to make decisions regarding the children. Loggin limited Alice’s financial position as well by tying her annuity and to her widowed status. Considered alongside an earlier clause in the will, in which Loggin required Alice to release her dower rights to another property or forfeit a £500 legacy meant for Alice and her daughter Mary to Loggin’s son Robert, a clear picture of Alice’s financial position becomes clear. If Alice remarried, Loggin’s will removed the financial resources she needed to care for the children. Finally, Loggin gave his executors independent financial means to support the minor children, “[m]y executors are to have the income of the premises [Westcott] until Edward reaches age 21, for the education and bringing up of Edward and his three sisters Alice, Sara and Martha Loggin.”⁸³ With this condition, Loggin removed the primary responsibility of raising the children from his widow to his male executors. While some husbands trusted their wives’ ability to make decisions after their death, others continued to dictate their widow’s actions from beyond the grave.

The bequests of male will authors had serious implications for their widows. The inclusion of a life interest clause restricted the choices available to widows regarding remarriage. A life interest that removed property in the event of remarriage encouraged widows to remain unmarried. Similarly, clauses that withdrew children from their mother’s care upon remarriage limited a widow’s choices and encouraged women to

⁸³ *Will of William Loggin*, Oxfordshire Wills.

remain single or delay remarriage until their children reached the age of majority. This proved true for Francis Barry's widow, Frances Croft Barry, who remained a widow until 1612 when she remarried Michael Saunders.⁸⁴ Widowed in 1604, when her eldest son, Vincent, was approximately six or seven years of age, Frances chose to remain unmarried until her son entered university. Remaining widowed prevented the family unit from being separated or uprooted from the family home. Conversely, limiting widows' inheritance placed some women in dire financial straits. The limitations placed on some widows in their husbands will forced the need for additional financial resources and the support of a subsequent husband. The bequests of dying husbands had serious implications for the choices and future of both widows and their minor children.

Remarriage and the formation of stepfamilies created problems for Oxfordshire's male will authors. The mortality rates of early modern England made stepfamilies a common occurrence. While widowers faced fewer legal obstacles to remarriage, stepmothers could become rivals for the inheritance of children from a previous marriage. Coverture also created issues for the disposition of inherited property for widows and their children. Suspensions of widows legal and economic freedom coupled with the caricature of widows as lustful and easily duped into remarriage led to a patriarchal distrust of widows. As a result, male will authors employed legal mechanisms to ensure that familial property remained within the paternal line. Likewise, a distrust of stepfathers influenced male will authors to prevent their children's inheritance from falling under a stepfather's control.

Male will authors used various legal mechanisms to maintain control of property.

⁸⁴ Mosley, ed. *Burke's Peerage*, 279, <http://www.thepeerage.com/p13444.htm#i134436>

A form of pre-marital agreement, marriage settlements worked to protect familial property before nuptials took place. Marriage settlements established a widow's inheritance portion, while also determining the inheritance of potential children. Strict settlements determined a family's inheritance for several generations. Remarrying widows utilized marriage settlements to protect property from subsequent husbands. Male will authors also preserved familial property by limiting the control widows had over property to a life interest. A widow's life interest could also be limited to her widowhood. Thus, on her remarriage the property returned to the will author's male heir. Likewise, bonds of administration prevented a widow's new husband from mishandling the administration of a previous husband's will.

Finally, male will authors wanted to protect children's inheritances from stepfathers. A separate estate for children constituted the simplest way to set aside property for minor and adult children. However, separate estates did not protect children's assets from mismanagement. As an added layer of protection, male will authors appointed male executors and will officials to work with widows to protect children's interests. In the most extreme cases fathers removed the care of children from mothers in the event of remarriage. Patriarchal attitudes about women and the fear of stepfathers meant that male will authors placed greater faith in male guardians to care for the children of remarried widows. Male concerns about remarriage and stepfamily formation shaped early modern Oxfordshire's wills. Dying husbands utilized many legal mechanisms to protect property from widows and stepfathers in order to preserve inheritance for children.

V. CONCLUSION

In the sixteenth and seventeenth centuries, Oxfordshire's men and women made important decisions when authoring wills, as bequests shaped their heirs' ability to marry, own land, set up a trade, or support themselves during widowhood. However, patriarchal gender norms and expectations shaped these choices. The gender of both will authors and their heirs played a major role in the choices testators made and the property available to them to bequeath in the first place. A time of transformation in English history, England and Oxfordshire experienced upheaval during the early modern period. The reformation and English Civil War forced changes in religion and government. Social upheaval threatened a "crisis in gender relations," that encourage stricter governance of women. Inheritance practices also experienced a shift during this time as the legal regime moved toward nationalization of the common law. Land and inheritance practices from the feudal legal system either adapted to the new legal regime or faded out. Within this evolution of the legal system, the influences of patriarchy on will writers remained constant. Primogeniture and a preference for male land inheritance perpetuated patriarchal inheritance for both men and women.

This thesis builds on previous historical work on inheritance and gender. Studies of women and wills have focused on women's ability to author wills, the property of women, and the evidence of sentimental legacies in women's wills. These historical works have been both general, covering the entirety of early modern England, or regional studies. Regional studies of wills in Oxfordshire have focused on married women in the Prerogative Court of Canterbury, the inventories of widows in the market towns of Thame and Woodstock, and intergenerational inheritance in Oxfordshire. This thesis

analyzed the wills of men and women within the entire county of Oxfordshire and argued that patterns of inheritance arose within the county as a result of a patriarchal system. Additionally, this thesis has utilized gender as a method of historical analysis and asserted that patriarchy and historical constructions of gender played an important role in inheritance practices. Specifically, this thesis has argued that patriarchal gender roles and land inheritance devices created specific patterns in the wills of men and women in early modern Oxfordshire.

This thesis relied on early modern wills as its' primary source base, as well as additional probate documents, mainly probate inventories and bonds. The decision to exclude additional primary sources, such as marriage settlements and manorial court rolls, were simply a matter of time and accessibility. Women's personal diaries discussing inheritance, such as the diary of Lady Anne Clifford, have been covered extensively by other historians and did not need to be included in this analysis. Finally, this thesis excluded probate court proceedings detailing inheritance disputes, as court proceedings are an entirely different topic. Thus, coverage of such disputes fell outside the purview of this project.

This thesis analyzed each primary source in-depth, rather than attempt a large-scale statistical analysis. Therefore, the sample of sixty-four wills, included in this thesis remained small enough to study thoroughly, while also providing a large enough primary source base to make comparisons. Wills were selected based on year and gender. This thesis excluded summaries of transcribed wills present in the database. Married couples were selected based on their relationship to the deceased spouse.

In her 1993 monograph, Amy Erickson made a call for more local studies on

women, property, and inheritance. This thesis answers that call. Erickson's work is general study, encompassing inheritance practices across early modern England. This thesis adds a finer grain to that larger body of knowledge by taking an in-depth look at an individual county. This thesis is part of a larger trend of local studies on wills and inheritance. This thesis provides greater insight into the effect of patriarchal gender norms on inheritance practices across early modern England. The information about Oxfordshire's practices found in this thesis is beneficial for cross-regional comparisons.

This thesis approached inheritance patterns as a product of early modern patriarchal gender relations. As a result, this thesis found novel ways that inheritance patterns and wills perpetuated patriarchy. Patriarchs posthumously controlled widows and children through their wills. Dowry bequests and oversight by male will officials gave patriarchs postmortem power over a female heir's marriage. This thesis also contends that the property available to women and widows resulted from patriarchal gender norms. These norms contributed to a staggered system of inheritance for married couples. Thus, this thesis called attention to the gendered motivations of will authors and the influence of patriarchy on inheritance patterns.

This thesis is the first study to analyze life interests for widows in wills as a form of patriarchal control and method for preserving male land inheritance in early modern England. Lisa Wilson addresses life interests in early North America as part of her study on stepfamilies. However, previous early modern English historians placed greater emphasis on strict settlements and other inheritance mechanisms as forms of patriarchal control over widows. This thesis applies Wilson's discussion to England and furthers the discourse by arguing that life interests for widows resulted from patriarchal ideas about

gender.

The first chapter compared the types of bequests left to male and female heirs in Oxfordshire wills and showed how primogeniture, the preference for male land inheritance, and patriarchal perceptions of women's societal role shaped the bequests to heirs based on gender. Primogeniture created a hierarchy for siblings, where the oldest son inherited most familial land and younger sons received smaller land grants, cash, or contributions towards learning a trade. Below their brothers in this tacit hierarchy, daughters received bequests of cash and moveable goods. The legacies to daughters emphasized women's domestic role by focusing on household goods and marriage portions. Likewise, will writers hesitated to bequeath land to women who legally left natal families upon marriage for fearing of permanently alienating such property.

The second part of chapter one used the early modern life cycle found in Oxfordshire's wills to highlight the different treatment of men and women during life cycle events. Starting in adolescence boys and girls were treated differently in their education and career training evidenced by the bequests left in wills favoring boy's education and occupational training. In contrast, bequests to women emphasized marriage and childbearing. Early modern English society placed importance on women's marital status. As a result, marriage portions represented a common legacy to female heirs in wills. The importance of marriage caused some will authors to place coercive limits on daughters if they abstained from marriage or married an undesirable partner. Male heirs received their legacies upon the age of majority without the same marriage stipulations. Likewise, birth legacies, granted upon the successful birth of a child, placed importance on a woman's fertility and motherhood. Finally, the preference for male inheritance

extended to the death of heirs, with a common pattern of legacies passing to male heirs should a female heir pass away. Overall, male will authors perpetuated these patriarchal practices while women alternately contributed to the subordination of women and upheld the primacy of men or, conversely, worked to give female legatees the best advantage within a patriarchal system of inheritance.

The first half of the second chapter argued that marriage created a staggered system of inheritance with husbands and wives bequeathing specific types of property based on gender, with consequences for the types of property available to widows. This chapter then considered women's wills independently and determined that specific patterns of inheritance and bequests appeared in Oxfordshire's early modern women.

Marriage created a staggered system of inheritance. Early modern men that predeceased their wives focused on bequests of real property, trade goods, and livestock. The bequests of husbands limited the types of property available to their widows due to attitudes about women's domestic role and the preference for male inheritance of property. However, husbands rarely left legacies of household goods. The impetus for this pattern was twofold. First, husbands recognized that women's domestic role extended to implicit control over household goods and thus left these goods to their wives to disperse later. Additionally, widows continued to use these household goods during their widowhood. This pattern created a system whereby widows dispersed familial household items in their later wills. While this system allowed women control over familial property, it still disadvantaged women by excluding them from bequests of valuable land, leaving them vulnerable during widowhood.

The patterns found in women's wills were the result of the property available to

them. Middle class women rarely had access to land, therefore, their wills focused on household items and personal items instead. Additionally, this chapter looked at the relationships evident in women's wills. Women left bequests to a larger social network than their male counterparts. This network showed the importance of female relationships to female will authors, including daughters, granddaughters, goddaughters, female relatives, and female friends.

Women's bequests combined the property available to them with their important relationships to create the bequests that were both sentimental and economically valuable. Bequests of furniture and household implements, such as beds and childbirth linens, were valuable and female centered. Likewise, bequests of metal dishware and jewelry created a sentimental or tactile connection between the will authors and their legatees and provided valuable items that could be pawned or sold and thus offered financial security for heirs. Clothing could also indicate an affectionate relationship, especially for more costly items of clothing, such as a "best" bonnet or choice petticoat. Finally, women's charitable legacies more often supported vulnerable populations, especially poor widows and children. Limited in the types of property available to them, women still managed to carve out bequests that were meaningful to them and their heirs.

The final chapter contended that stepfamilies and the remarriage of widows caused male testators to create safeguards within inheritance practices to preserve male property and the inheritance of children. The proclivity for primogeniture and male inheritance, combined with patriarchal attitudes about women, particularly widows, and a fear of stepfathers led male testators to limit the inheritance of widows.

Stepfamilies were common in early modern England. High mortality rates

combined with a preference for nuclear families, made stepfamily formation a regular occurrence. However, stepfamilies formation came with personal and legal issues. While widowers faced fewer obstacles to remarriage, the trope of the wicked stepmother caused consternation for remarrying widowers with children. Stepmothers became rivals for family assets, as a jointure tied up resources for a widow's lifetime.

Male testators' attitudes about widows shifted once widows remarried. A caricature of widows as sexually promiscuous and easily led astray featured prominently in the popular culture of the sixteenth and seventeenth centuries. Male will authors also feared the power of stepfathers. Coverture gave a widow's new husband control over both her property and the property of her children. Concern about stepfather's treatment of stepchildren and their inheritance caused male will authors to employ legal devices to protect against stepfathers. These instruments within the legal and inheritance system preserved male inheritance of property and protected against alienation of paternal property. Outside wills, these methods included marriage settlements that protected property prior to marriage. Bonds of administration helped enforce the provisions of a will during probate. Within wills themselves, male will authors protected property by limiting widows to a life interest in real property. A life interest clause could also terminate upon a widow's remarriage, protecting a widow's subsequent husband from gaining control of property. In addition, separate estates for children, the appointment of male will officials backed by the state and church and the care of children away from their mother upon remarriage helped preserve children's interests and mitigate the influence of stepfathers. While these devices protected male interests and the interests of children, they also effectively disinherited widows, interfered with their ability to raise

their children, and reduced their choices for remarriage and financial independence.

Patriarchy shaped all aspects of early modern life and as a result permeated the inheritance and will writing process for Oxfordshire's men and women. This thesis compared the wills of Oxfordshire's men and women and has shown how early modern English conceptions of masculinity and femininity shaped early modern life, including property inheritance, marriage, personal relationships and life cycle events. This had important implications for women as heirs and will authors, as notions of femininity and property limited the types of property available to women. Early modern wills reflected this societal belief system in which they were created and evidence the types of decisions will authors chose to make within this framework. While wills perpetuated patriarchy and constrained the choices of will authors, they also afforded some women a position to exert control over property. Yet, women's ability to exert power existed within predetermined patriarchal confines.

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