

Elite Women and the Agricultural Landscape, 1700–1830

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Chapter 2 Women, land and property

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2 Women, land and property

This chapter explores the relations between women, land, property and the law. The first part of the chapter outlines single, widowed and married women's legal position as property owners, paying particular attention to the doctrines of primogeniture and coverture and their impact on women's property rights. It explores the circumstances by which women most commonly became landowners, outlining the four main routes to landownership for women, as well as the practices by which married women were sometimes able to circumvent the restrictions of coverture. As a corollary to this, it also explores the impact of various changes to the early modern legal system – including the shift from dower to jointure arrangements, the emergence of strict settlement and the declining power of the ecclesiastical courts – on women's property rights.

The second half of the chapter sets out to assess the significance of women as a class of landowners in Georgian England, quantifying the scale of women's landholding in the eighteenth and early nineteenth centuries using a large sample of data drawn from the parliamentary enclosure awards. In doing so, it responds to considerable uncertainty about the scale of women's property ownership. Little quantitative information is available on the proportion of land owned by women, although a handful of studies have used rentals and leases to examine female landholding – as opposed to landownership – within small groups of manors. The results of the sampled enclosure awards are presented below, comparisons between this data and the earlier, smaller studies explored, and the new data used to throw light on four key issues: the legal and marital status of female landowners, the scale of individual female landowners' holdings, the geography of female landownership and the thorny issue of change over time.

Women, property and the law

There were two key legal doctrines affecting English women's relationship with property of all kinds. The first was primogeniture, the feudal arrangement by which titles and real property were inherited by the eldest son. Established by the mid thirteenth century, primogeniture applied strictly only to intestates but the desire to keep the patrimony intact – and by preference, for it to descend with the title – meant that most landowners arranged for the vast majority of their

real estate to be inherited by their eldest living son. Younger sons occasionally inherited a second family property from their mother or another relation, but they were generally left to support themselves via a career in the military or the church. Daughters were provided for by means of marriage portions, usually consisting of money rather than real property. They might also inherit jewellery and clothing, but the vast majority of the land and other real estate, plus the furniture, paintings and family heirlooms would have gone to the eldest son. Daughters inherited the main family estate only if there was no living son, and the property was then split equally between them as co-heiresses.¹

Under primogeniture proper, daughters inherited in preference to collateral male relatives – who inherited only if there were no direct heirs of either sex – but landowners might use various legal devices in order to ensure nephews inherited over daughters. This allowed titles and landed property to descend together, rather than allow the title to descend to a collateral male relative and the land to a daughter, who usually could not inherit the title. If, as Amy Erickson and Christine Churches have both argued, daughters within ordinary families were usually treated equally with younger sons receiving the equivalent value in moveable goods as the eldest son received in land, the same was not true further up the social hierarchy.² Wealthier men tended to leave a smaller proportion of their estates to wives and daughters – presumably in part because they could afford to live on a smaller proportion – and the greatest disparity of all was probably amongst the richest, where eldest sons received the family estate and daughters little more than their marriage portions. Thus while economic necessity encouraged ordinary men to leave land to their widows and daughters, the gentry and aristocracy often favoured collateral males over female dependents.³ By the late seventeenth century, the most usual way of doing this was via a so-called strict settlement, a device which specified the succession of the estate, as well as laying out portions for younger sons and daughters. It was typically drawn up at marriage and therefore before a landowner knew whether or not he would have legitimate male heirs.⁴ The precise impact of the growth of strict settlements on women's property rights has been much debated by historians, with Eileen Spring arguing for a long-term decline in women's property and rights, which reached their lowest ebb in the eighteenth century as a result of the increased use of prenuptial contracts.⁵

The second key legal doctrine affecting women's relationships with property – at least as far as the English common law was concerned – was that of coverture in marriage.⁶ Under coverture, a married woman's legal identity was subsumed within her husband's: as Blackstone put it, 'By marriage, the husband and wife are one person in law'.⁷ Yet that person was very definitely the husband. As a *feme covert*, a married woman was unable to own land, enter a contract, make a will or sue independently of her husband. Her husband assumed control of any property she held at marriage along with anything she inherited during marriage. Freehold and copyhold land was held by him 'in right of his wife' and whilst he took the profits during the marriage, he could not dispose of it without the consent of his wife. Leases were dealt with similarly, though moveable goods – including

cash – were entirely lost to her and could be disposed of as he wished by sale or will.⁸ Thus while unmarried women and widows had most of the same legal rights as men, married women had no such rights to property, a situation which persisted in Britain until the Married Women's Property Acts of 1870 and 1882.⁹

Yet as Erickson and others have established, the story of early modern women's relationships with property is not quite as simple as the legal framework would suggest. Demographic circumstance coupled with the inevitable gap between legal theory and everyday practice meant that more women owned property than might be expected given the strictures of primogeniture and coverture. The failure of male lines meant that daughters inherited land as co-heiresses whilst because women commonly outlived their husbands, widows often came to control landed estates either as guardians to young sons or under their own jointure arrangements. Married women had fewer legal rights to property, but the existence of separate estate combined with the sometimes messy reality of family life meant that many married women could and did think of themselves as the owners of landed estates, both large and small.¹⁰ There were numerous routes by which women could become landowners, some of them distinct only in arcane legal detail. The sections below attempt to simplify the complex legal situation by setting out four main routes by which gentle and aristocratic women could become landowners.

1 Inheritance

Regardless of the impact of strict settlement and the intentions of landowners, demographic factors meant that daughters not infrequently inherited land and other property. By no means all marriages produced sons, and high mortality amongst infants, children and young adults meant that it was not unusual for there to be no son alive to inherit at a landowner's death. In Lawrence Stone's study of the elite of Northamptonshire, Northumberland and Hertfordshire in the period 1650–1740, only half of all marriages produced an adult son to inherit.¹¹ Looking at a longer period, Richard Smith suggests that 60 per cent of marriages produced one or more surviving sons. Of the remainder, half produced no surviving children at all and half only daughters.¹² Thus in one in five marriages it was daughters who stood to inherit the family property, either singly – in the case of a woman without surviving siblings – or as co-heiresses. Where wider families were also devoid of surviving male heirs, women might inherit from grandfathers, uncles or cousins. The heiresses who appear in this book mostly inherited from their fathers, with smaller numbers inheriting from their brothers, grandfathers and uncles. There were, however, some women who inherited from their mothers (for example, Amabel Hume-Campbell, Lady Polwarth and Mary Hill, marchioness of Downshire), aunts (Elizabeth Sophia Lawrence) or sisters (Jane More Molyneux and Gertrude Savile).

As *feme sole*, single women could own property in much the same way as men. Yet many heiresses were married rather than single, *feme covert* rather than *feme sole*. According to Stone, the median age of marriage for the daughters of

peers and squires was between 22 and 24 in the eighteenth century, while the median age of inheritance stood at 24 in the first half of the century and rose to nearly 30 a century later.¹³ As a result, many heiresses were already married when they inherited. The property in question therefore immediately fell under coverture and was conveyed directly to their husbands unless alternative arrangements were made (see the section below on separate estates). For other heiresses there was often little more than a year or two between inheriting – or in the case of a minor heiress, coming of age – and marriage. Thus of the ‘marrying’ heiresses featured in the book, only Anna Maria Agar and Elizabeth Hood managed their estates for more than a couple of years prior to their marriage – Agar for six years and Hood for four – though both were also quickly widowed and so regained control of their property.

There were, of course, also heiresses who did not marry and instead remained single throughout their lives. In eighteenth-century Britain, nearly a quarter of aristocratic women did not marry.¹⁴ While it seems likely that the relative wealth of heiresses made them more marriageable than those women reliant on portions alone, there were also heiresses who inherited too little or too late to attract fitting suitors, as well as women who simply chose not to marry. Even a relatively modest inheritance might provide heiresses with considerable independence and such women were no doubt aware that marriage would have compromised their ability to control their wealth and property. In this sense, property might be both an advantage in the marriage market and a reason not to marry. The same was true for widows who might chose not to remarry specifically in order to maintain control of their property. At the same time, a married heiress who inherited her own childhood home might be expected to have had a bigger input into managing it than a woman who married into property.¹⁵ Examples of women in each of these positions are discussed further in Chapters 3, 4 and 5.

2 Widowhood

The second way women became landowners was as widows. Under the common law, medieval widows were provided for by means of dower. This was a right to one-third of the real property that their deceased husband had held at any time during their marriage. Manorial law made similar provision for copyhold lands, ensuring that widows gained control of between one-third and the entirety of their husband’s copyhold estate under a right known as freebench.¹⁶ Yet as a result of the increasing difficulty of administering dower, such rights had been largely superseded by jointure arrangements by the sixteenth century. As originally conceived, jointures were essentially annuities secured on real property, either land already owned by the husband or bought using the cash portion the wife brought into marriage. The widow was thus provided with an annual income for the remainder of her life. The arrangements for jointure were typically laid out in the couple’s marriage settlement and any provision for jointure – however small – barred the widow from also claiming dower.¹⁷ There has been considerable debate in the literature about whether women were better off under dower

than jointure, but it is clear that the idea that jointure should be comparable to dower applied only to the quality and type of property, not to the quantity. Moreover, while the 1535 Statute of Uses specified that jointures must be of freehold land and for life – not only for widowhood – these protections seem to have been eroded by the early eighteenth century when jointure was usually limited to widowhood.¹⁸ Where dower had entitled the widow to the land itself, jointures could be serviced by rent-charges or even financed by stocks, bonds or other financial instruments.¹⁹ We might therefore point to the shift from dower to jointure as one way in which women were increasingly distanced from property ownership: strictly speaking what jointure entitled widows to was the profits of a specified portion of land, not the land itself.²⁰ At the same time – as Habakkuk demonstrates – the average portion to jointure ratio seems to have declined over the course of the seventeenth century from 5:1 in to 10:1 by 1700, at least amongst the aristocracy, even while the value of portions seems to have risen.²¹

Yet whatever the implications for women of the shift from dower to jointure, it is clear that social expectations, family circumstances and women's own inclinations might act to modify legal arrangements and in doing so impact upon the exact residential and financial situation of widows. Thus some widows chose to live off the profits of their jointure estate, effectively treating it as an annuity and residing in a townhouse in London or elsewhere. Others – particularly those from the wealthiest families – moved to a secondary family seat or into a smaller dower house located on the main estate. This was especially the case if the widow had an adult son with a family of his own for whom the main family seat was considered a more fitting abode. Still others remained in residence on the main family estate, either because they had no son to inherit and their marriage settlements gave them a life interest in some or all of the property or because they were the legal guardian of the young heir and were thereby granted some authority to manage the estate with or without the help of trustees. Such arrangements effectively allowed women to gain control of landed property, even if they did not technically own the property and were therefore unable to dispose of it by will (note that for many male landowners of entailed estates the situation was similar). It was also possible for a widow to inherit an estate outright from her deceased husband, though this meant she was technically inheriting as an heiress rather than being provided for as a widow. Thus Lady Betty Germain, for example, inherited Drayton (Northamptonshire) from her husband in 1718, property which he had himself acquired at the death of his first wife.²² This kind of sideways movement of property was relatively rare in the history of the aristocracy, but Chapters 3 and 4 examine in greater detail the considerable number of women for whom the death of their husbands left them the legal or *de facto* owners of landed estates.

Jointure arrangements might of course also reflect personal preferences and abilities, and a number of the women discussed in the book benefited from more individualized arrangements made either before or after their husbands' deaths. Thus when the MP and Somerset landowner Thomas Prowse died in 1767, his wife Elizabeth had the choice whether she wished to reside at Berkeley or

Axbridge in her widowhood. Their son died later the same year and his wife – another Elizabeth Prowse – agreed to give up her jointure in exchange for a life interest in and direct control of Wicken (Northamptonshire), a property she then went on to manage for 43 years (see Chapters 3–5 for more on the Prowse family). At the death the 2nd duke of Portland in 1762, his widow Margaret Cavendish Bentinck (née Cavendish Harley) chose to reside at the Portland seat of Bulstrode (Buckinghamshire) – where she had created an aviary and menagerie – rather than her own family seat of Welbeck (Nottinghamshire). Yet the duchess's jointure was attached to Welbeck and an agreement was drawn up to allow the 3rd duke to live at Welbeck while his mother claimed the profits, an unusual arrangement which resulting in ongoing disagreements between mother and son.²³ Examples such as these signal both the importance of personalized arrangements and the sheer diversity of widows' experiences. While many women who had acted as the guardian to young sons moved out of the main family residence when their son married, others continued to live with their grown-up sons. Thus Georgiana, 6th countess of Carlisle, continued as chatelaine of Castle Howard for a decade after her husband's death and her son's accession, living with her son and working in partnership with him to run the house and estate.²⁴ Lady Elizabeth, the widow of Sir John Guise (d. 1794), lived with her son at Highnam Court in Gloucestershire long after he came of age in 1796 and was paying for improvements to the house and gardens there as late as 1807.²⁵

The return of property owned prior to marriage might also provide widows with new-found financial freedom (on which see below). Yet while many widows gained valued independence at the death of their husbands, others found themselves in precarious financial circumstances. Young widows were occasionally sent home to their own family, as was the case for Anne Ingram (née Howard), Viscountess Irwin.²⁶ Sometimes this was as a result of the breakdown of personal relationships, but the existence of multiple dowagers could place a large drain on family finances and sometimes left young landowners in great difficulties, especially where previous owners had made particularly generous settlements on their widows or other family members. As a result, jointure arrangements might not be honoured or annuities left unpaid for many years. Moreover, even amongst more middling families, jointure arrangements didn't always mean that the principal house went to the widow, especially if there were outstanding mortgages taken out on the property before the jointure was agreed. This was the case for a Mrs Clarke of Northamptonshire, a neighbour of Jane Ashley of Ashby St Ledgers who finds her way into the correspondence between Ashley and her agent. As the agent noted,

The Mortgages are all prior to her Jointure, & the mortgagees may turn her out of possession of the House Park & every foot of the Estate and receive the rents until they are paid their whole principal & interest ... Mrs C is deceived if she thinks all the charges will come out of the estate.²⁷

Thus it is clear that widowhood did not always provide women with financial and personal independence they hoped or expected. Many widows had to negotiate

with relatives, trustees and stewards in order to access funds and run their estates, and even women able to act relatively independently might find their choices circumscribed by societal expectations (on which see Chapter 6). Nevertheless, widowhood was an important route to landownership for many women amongst the gentry and aristocracy, providing opportunities for independent action outside the bounds of marriage and coverture. This was especially the case for those women who enjoyed long widowhoods – women like Elizabeth Hood of Butleigh Wootton (Somerset), Elizabeth Edwards of Henlow (Bedfordshire), Olivia Bernard Sparrow of Brampton Park (Huntingdonshire) and Anna Maria Agar of Lanhydrock (Cornwall), all of whom managed their estates for more than half a century.²⁸ The management practices of these and other widows are discussed further in the chapters that follow.

3 Separate estate

As discussed above, married women could not legally own property under the common law. Yet there was an inevitable gap between legal theory and everyday practice so that families might exploit a number of legal loopholes and alternative jurisdictions in order to allow women to retain property in marriage. The church courts allowed wives to bring and defend cases independently of their husbands, hence many married women turned to them as a forum for litigation. Equity law also recognised the property of married women, while ecclesiastical law recognised community property within marriage – as sometimes did local manorial and borough law – although the expense of equity proceedings and the increasing precedence of the common law after about 1660 meant that eighteenth-century women probably had fewer options for securing and defending property in marriage than had their grandmothers a century earlier.²⁹ Perhaps more significantly for the women featured in this book, prenuptial settlements – effectively, contract law which modified the strictures of coverture – provided an opportunity to set aside land and other property as a ‘separate estate’ which the wife remained in control of during marriage.³⁰

Marriage settlements could be used for various ends, including to determine succession via so-called strict settlements, to establish jointure, to specify the pin money a wife was to receive and to reserve the right for her to make a will, negotiate her daughters’ marriage or determine their portions. From at least the late sixteenth century onwards, marriage settlements were also used to set aside land for the wife’s own use: in other words, exempt it from the normal rules of coverture whereby a married woman’s property became her husband’s during her marriage.³¹ The property involved had usually been inherited as an heiress, though widows who remarried could also use marriage settlements to protect property they had acquired at the death of a previous husband.³² Such arrangements were often specified by the woman’s father or guardian – or sometimes by the woman herself – and by means of the settlement, the property was conveyed to trustees during the marriage for the wife’s ‘sole and separate use’. The most usual arrangement was to establish a separate estate in only some of the wife’s property and

allow the rest to fall to her husband under the law of coverture. The settlement could only be defended at equity and had to be drawn up prior to marriage and with the prospective husband's consent: once married, a *feme covert* could not enter a contract with her husband, although another party might specify by settlement or will that a married woman was to inherit property for her sole use as for example did Alice Thornton's mother.³³ Thus while not a way of acquiring land, separate estates set up via prenuptial marriage settlements were nevertheless a crucial legal device allowing married women to own both real and personal property.³⁴

As Erickson argues, both the gentry and the middle classes made extensive use of marriage settlements to set up separate estates in early modern England.³⁵ As the discussions of individual women featured in this book make clear, families from the lowest reaches of the gentry to the wealthiest aristocratic landowners sought to protect married women's property by means of separate estates. Marrying couples might make extremely complicated provisions for separate estates, as did Anna Maria Hunt and Charles Bagenal Agar when they married in 1804.³⁶ Yet the existence of a separate estate did not always guarantee that a married woman had complete control of her property.³⁷ She had to negotiate with the trustees who technically owned the property and might impose conditions. There was also the potential for problems between husband and wife.

When Elizabeth Knight of Chawton House (Hampshire) married for a second time in 1726 she made careful provision to establish a separate estate for her sole use. Her second husband Bulstrode Peachy – later Peachy Knight – of West Dean (Sussex) was to have the rents of the property she had inherited from her Lewknor relatives and from her first husband for life, but the estate she had inherited from her brother Sir Richard Knight – amounting to just over a quarter of her total rental – was settled on her alone.³⁸ She carefully checked the wording of the settlement and made various enquiries of her solicitors as to the steps necessary for her to keep courts and make leases as well as arranged for a proviso about leases to be added to the indenture settling the uses of the estate.³⁹ Despite all her careful planning, Knight's husband seems to have put her under great pressure to change these arrangements. Soon after the articles to the marriage settlement were agreed to, Knight reported that her husband 'boggle[d]' at an agreement to pay a relative £1,000 and was demanding she make changes to their marriage settlement.⁴⁰ Later she wrote to an unnamed correspondent – presumably her solicitor – reporting that Peachy pressed her to alter her settlements but having 'maturely considered on & weighed it', she was fully resolved 'rather to suffer death than submit to it'. She considered that she had already made a noble settlement on him and any attempt to make her change it was 'a dishonorable proceeding & shows that he values his family more than those who ought to be nerer him'.⁴¹ Yet he apparently continued to pressure her and over the next five years she sought a number of legal opinions about how she might best grant leases of the estate.⁴² Her legal correspondents advised her that leases granted by her alone were defensible only at equity and suggested she instead grant them jointly with her husband with the profits reserved to her sole use – an arrangement we can guess that Peachy was unwilling to enter into.⁴³ Knight was clearly

an intelligent woman who kept detailed notes about the estate, diligently labelled her correspondence and sent carefully considered queries to her legal representatives. But for all her determination to protect her separate estate, her husband seems to have taken most of the profits of the estate. Only after his death in January 1736 was she able to sue for the rents he had withheld from her which were then said to total an eye-watering £4,000.⁴⁴

Elizabeth Knight's experience was clearly unfortunate if not altogether uncommon.⁴⁵ As Natasha Korda notes, 'the advent of wives' separate property ... was the source of considerable strife within marriages' as well as ideological disquiet within society more generally.⁴⁶ Yet separate estates set up via prenuptial settlements or other legal devices were an important means by which married women could circumvent coverture and own both real and personal property. Such settlements could also be used to specify that property owned by a woman prior to marriage was to revert to her at her husband's death, so ensuring that property was not conveyed away from her to her husband's collateral heirs. It was as a result of such settlements – as well as the common arrangement by which mothers acted as their young sons' guardians and played a role in managing their estates – that many married women were able to think of themselves as the owners and managers of family estates.⁴⁷

4 Purchase and litigation

Nor was it only via inheritance, widowhood and prenuptial settlements that women came to control property. Alimony arrangements for separated couples might bring women property, while wealthy women, particularly widows, might purchase landed estates or even acquire them as a result of litigation.⁴⁸ As *feme sole*, widows could sign contracts and bring legal proceedings – unlike married women – and sometimes chose to plough cash acquired via widowhood or inheritance back into property. The widowed Lady Juliana Langham of Cottesbrooke, for example, bought estates at nearby Winwick and at Stoke Doyle (all Northamptonshire) in the mid-1790s, while Sarah Churchill, dowager duchess of Marlborough bought a number of properties after her husband's death in 1722.⁴⁹ The 1741 marriage settlement of Elizabeth Wallop (née Griffin), countess of Portsmouth established a separate estate in the property she had acquired at the death of her first husband Henry Grey, which included property in Northumberland, a house in Billingbear (Berkshire) and a London town house, together said to be worth £9,700 annually.⁵⁰ Yet she also added considerably to her property by means of both purchase and litigation. In the mid-1740s she unexpectedly inherited a share in Audley End, a vast but badly dilapidated house near Saffron Walden in Essex. Her inheritance was disputed by a distant relative and the agricultural estate at Audley was secured to the countess and her co-heirs only after a bitter two-year battle in the courts. The house itself was not included in the settlement but five years later the countess bought it and the remaining portions of the estate for the bargain price of £10,000.⁵¹ In doing so, she established a sizeable inheritance for her Griffin heirs.

There were also women who controlled landed estates without being the legal owner. This included widows managing estates on behalf of young sons, as well as women who ran estates on behalf of absent or incapacitated husbands, fathers or brothers. These women might be the legal guardians of the landowner – for example, in the case of those acting on behalf of relatives subject to commissions of lunacy like Mary Leigh of Stoneleigh Abbey (Warwickshire) who jointly managed the family properties for 12 years after her brother was declared insane.⁵² Alternatively, women might manage an estate on a more informal legal basis. Whilst not technically landowners, the latter were women with the necessary knowledge and authority to run an estate while their husbands or sons were away, usually in London on business or in Parliament. Mary Clarke and Elizabeth Monnoux are good examples of this group of women and both are discussed further in Chapters 3 and 4 respectively. Chapter 4 also discusses examples of women who ran estates collaboratively with their husbands.

Female landowners were by no means all the same, and the circumstances in which they acquired property made a difference to their capacity to act, as also did numerous other factors, including their own aptitude and enthusiasm for property ownership and management. The circumstances by which 70 or so individual women discussed in this book acquired their estates are laid out – as far as they are known – in the Appendix, which also gives details of the women's marital status, maiden name, husband's and children's names, age on becoming landowners and the number of years spent managing the estate. All were from the upper strata of society, but in other respects their experiences were highly varied. Many were widows, though there were also both single and married women, as well as occasional individuals who managed estates first as single women, then as wives and later as widows. Of those who were widows, some managed property on behalf of young or absent sons, whilst others were left life interests or even full rights to dispose of an estate as they pleased. Still others were heiresses as well as widows, having inherited some or all of their property either as *feme sole* after their husband's death or controlling it under a separate estate set up prior to their inheritance. This is an important reminder both that individual women could acquire property in multiple ways – for example, via inheritance, provision for widowhood, purchase *and* litigation, as was the case for the countess of Portsmouth – and that women's relationship with property might alter considerably over their life-course.⁵³

That many were widows did not necessarily mean that they were elderly: women like Anna Maria Agar, Elizabeth Prowse and the ladies Olivia Bernard Sparrow and Betty Germaine became widows and property owners in their twenties and thirties, while Lady Susanna Juxon and Caroline Townshend, countess of Dalkeith and Baroness Greenwich, were both widowed for the first time in their early thirties and then again in their fifties. Others, like Jemima Marchioness Grey and Sarah Churchill, duchess of Marlborough were married for many decades and widowed much later in life – though both were active in decision-making and estate policy long before they were widowed (on which see Chapters 3 and 5, respectively). Heiresses were typically younger, and while many subsequently

married, some, like Lady Betty Hastings, Elizabeth Sophia Lawrence and Anna Maria Bold remained single throughout their lives, managing their estates for three, four or even five decades.⁵⁴ More than half were mothers, and while many were past their childbearing years at the time they were actively involved in estate management and improvement, others – including Elizabeth Hood, Mary Clarke, Mary Cartwright (later Cotterel) and Caroline Townshend – juggled raising small children with care of their properties. Elizabeth Ilive even conducted the potato trials at Petworth between the closely spaced births of two children (see Chapter 4). In these and other respects, the women included in the Appendix were as varied as they were similar. What most clearly unites them was that they were property owners who were actively involved in the management and improvement of their estates, a theme which the next three chapters explore in detail.

Women's landownership in the long eighteenth century

Before turning to landowners and their estate management practice, however, it is important to explore the scale of women's landownership in greater detail. Several key questions emerge immediately. Exactly how much land did women own? How commonplace were female landowners? And what was their significance as a class of landowners in eighteenth- and nineteenth-century England? These are by no means easy questions to answer on the basis of the published literature. As the introduction to this chapter briefly outlined, there is considerable uncertainty about the actual scale of women's property ownership. A handful of studies have used rentals and leases to examine female landholding within small groups of manors or parishes. Jane Whittle, for example, demonstrated that female tenants rarely made up more than 10 per cent of landholders on her four north-east Norfolk manors in the fifteenth and sixteenth century.⁵⁵ Other studies of medieval landholding suggest that women made up between about 12 and 18 per cent of tenants.⁵⁶ Amanda Capern has demonstrated that women – most of whom were widowed or single – made up 15 per cent of leaseholders on the Jervaulx lands in North Yorkshire between 1600 and 1800, while Sylvia Seeliger has suggested that female tenants held up to one-fifth of the land in many Hampshire parishes between the mid sixteenth and mid nineteenth centuries.⁵⁷ Yet far less is known about the proportion of land owned – as opposed to tenanted – by women. Janet Casson's study of railway companies' books of reference explores female landownership in four regions of England, though it focuses exclusively on the period after 1830 and includes information only on the number of plots owned by women rather than the actual acreage.⁵⁸ Until now, no large-scale quantitative study examining female landownership in eighteenth- and early nineteenth-century England has been published.

It is exactly this deficit that the remainder of the chapter sets out to remedy, exploring the issue of women's landownership using a large sample of data from the parliamentary enclosure awards. The surviving awards provide detailed information about landownership, recording the names and acreages of tens of thousands of individuals allotted land at enclosure – although they are necessarily

only available for those counties in which enclosure took place under parliamentary Act and indeed only for those parishes so enclosed.⁵⁹ The sample is therefore focused on the so-called Central Province, that broad swathe of countryside where nucleated villages and common fields predominated at the turn of the eighteenth century and where the parliamentary enclosure movement of the later eighteenth and early nineteenth centuries had its biggest impact.⁶⁰ Six of the ten sample counties lie in this province (East Riding of Yorkshire, Nottinghamshire, Leicestershire, Northamptonshire, Warwickshire and Bedfordshire) although the sample also takes in counties from the north-west (Lancashire), west (Staffordshire), east (Norfolk) and south (Hampshire) of England. The awards themselves are dated between the 1750s and the 1840s, and thus provide a snapshot of female landownership at a particular point in a community's landscape development rather than an estimate of women's landownership across the ten regions in a particular year. As a source for women's landownership, the enclosure awards have distinct advantages over other documentary sources, not least because they avoid the 'end of life' bias of probate records. In addition, they provide consistent and comparable information on acreage – unlike Casson's study for the mid and late nineteenth century – and allow for comparisons between different places and regions. Such a study thus goes far beyond the relatively small-scale studies mentioned above which at most encompassed only a handful of manors or parishes.

Ten to twenty-five enclosure awards were transcribed for each county covering between 20,000 and 40,000 acres per county. The individual awards included were chosen to offer geographical and temporal coverage for each county, so that the final sample for each county included awards from across the period c. 1740–1830 as well as those drawn from a range of landscape types.⁶¹ The allotments and landowners for each award were transcribed, the data coded according to the gender of the landowner and the acreage of land owned by women calculated along with the proportion of the land in each award held by female landowners. The number of female landowners named in each award, the average acreage held by them and details about whether they owned the land alone or jointly with another woman, a man or a mixed-gender group, were also recorded. Marital status was often noted in the award only where the woman was a widow, but where this was given it was also included in the database.

As Table 2.1 shows, the final sample included more than a quarter of a million acres from nearly 150 parishes across the ten sample counties. Several thousand landowners were identified and the ownership of more than 13,300 plots of land recorded, with individual plots varying from as little as a few perches to a hundred or more acres. Using this large and robust dataset, it is possible for the first time to provide accurate estimates of women's landownership in Georgian England.

The results of the study are illuminating. Of the 250,000 acres catalogued here, almost 26,000 acres were owned by female landowners. That is, 10.3 per cent of land in the sample was owned by a woman, either alone or jointly with one or more other parties. Female landowners were, moreover, a relative commonplace within rural communities up and down the country. As the data makes clear, not only was more than one in ten acres owned by women, but

Table 2.1 Acreage owned by women, by county

<i>County</i>	<i>Acreage</i>	<i>Awards transcribed</i>	<i>Acreage owned by women</i>	<i>Per cent owned by women</i>	<i>No. of female landowners*</i>	<i>Average acreage held</i>
Bedfordshire	20,632	14	4,497	21.8	65	69
East Riding of Yorkshire	37,328	16	1,810	4.8	50	36
Hampshire	20,265	14	2,521	12.4	40	63
Lancashire	20,678	12	791	3.8	49	16
Leicestershire	20,029	11	1,988	9.9	92	22
Norfolk	30,045	13	2,914	9.7	109	27
Northamptonshire	39,782	25	6,232	15.7	97	64
Nottinghamshire	20,726	12	2,435	11.7	64	38
Staffordshire	20,746	13	981	4.7	88	11
Warwickshire	20,946	15	1,666	8.0	46	36
<i>Totals</i>	<i>251,176</i>	<i>145</i>	<i>25,836</i>	<i>10.3</i>	<i>700</i>	<i>37</i>

Note: * The figure includes a small number of individuals more than once, where they owned land in more than one parish included in the sample.

Table 2.2 Plots owned by women, by county

<i>County</i>	<i>Number of plots</i>	<i>Number of plots owned by women</i>	<i>Per cent of plots owned by women</i>
Bedfordshire	1,040	216	20.77
East Riding of Yorkshire	1,044	94	9.00
Hampshire	1,196	164	13.71
Lancashire	1,554	80	5.15
Leicestershire	1,666	170	10.20
Norfolk	1,632	265	16.24
Northamptonshire	1,546	196	12.68
Nottinghamshire	903	110	12.18
Staffordshire	2,062	144	6.98
Warwickshire	690	85	12.32
Totals	13,333	1,524	11.43

female landowners existed in the vast majority of the sample parishes. Only 13 of the 145 awards named no female landowner and an average of five women were named per award. The database thus records the names of around 700 female landowners who together held more than 1,500 plots of land spread across the ten sample counties (see Table 2.2).

Assuming the sample to be broadly representative of the national picture, it seems likely that somewhere in excess of 3 million acres in England were owned by women in the later eighteenth century and more than of 6 million acres in Great Britain as a whole. The tally of female landowners – great and small – almost certainly ran into the tens of thousands and perhaps reached upwards of six figures. Thus while there were undoubtedly far fewer propertied women in early modern and modern England than there might have been under a more equal system of

landownership and inheritance, female landowners were by no means rare. Nor was eighteenth-century landowning quite the ‘man’s world’ some scholars have imagined it to be.⁶²

Drilling down into the parish-level data necessarily reveals greater variability in the proportions of land and plots owned by women, although it is clear that women were allotted no more than one-fifth of land in the vast majority of enclosure awards. In only a handful of parishes in the study did women own more than 50 per cent of land allotted at enclosure – the level one might notionally expect were it not for the existence of primogeniture, coverture and the various other legal measures outlined above – and women’s landownership exceeded 20 per cent in just 21 of the 145 sample parishes. Instead, in most places female landowners held somewhere between 4 and just over 20 per cent of land allotted at enclosure, so that the median percentage of land allotted to women per enclosure was 8.1 (excluding zero values) and the data relatively closely clustered. Thus while they were certainly some outliers – that is, places where women either owned practically no land or where they owned the majority of the land as at Ashby St Ledgers in Northamptonshire where Jane Ashley owned more than 90 per cent of the 1,200 acres enclosed – in most places female landownership accounted for somewhere between 1 acre in 5 and 1 acre in 20–25.

The dataset can be used to interrogate four further themes of considerable importance. Firstly, it provides valuable insights into the legal status by which these women owned their land and – relatedly – their marital status and familial relationships. By far the most numerous category of female landowner was women named as the sole landowner by the enclosure commissioners (category A owners). Two-thirds of the almost 26,000 acres owned by female landowners was held in this manner. A further 24 per cent was owned by women jointly with men – most commonly their husbands but also sons, brothers and larger family groups, including sisters and brothers-in-law – and 3 per cent held jointly by two or more women, most usually sisters who had inherited as co-heiresses (category C and B owners respectively). The remaining 7 per cent was held by named executors or trustees on behalf of a woman, settled in jointure or held under some other indirect arrangement (category D owners) (see Table 2.3).

Thus almost 70 per cent of the 26,000 acres was held by women independent of male control, most of it owned by women named as the sole landowner by the enclosure commissioners. The important point here is that although the legal status of women made it difficult for them to own property, there were nevertheless significant numbers of sole female landowners in eighteenth- and early nineteenth-century England. Land held in trust made up only a small proportion of female-owned land, with more than ten times as much land in the study held by women either alone or as co-heirs than was held by trustees on their

Table 2.3 Proportion of female-owned land held by different categories of owner

<i>Sole woman (A)</i>	<i>Female co-owners (B)</i>	<i>Male & female co-owners (C)</i>	<i>Other (D)</i>
66.2%	3.2%	23.9%	6.8%

behalf. Thus rather than having to negotiate with trustees appointed to manage the property, most women's experience was one of sole legal ownership – if not necessarily absolute control, as the example of Elizabeth Knight reminds us.

While marital status was not always specified in the awards, many of these sole female landowners were single or widowed women owning property as *feme sole*. Yet there were also married women amongst their number. Rather than being listed as co-owners alongside their husbands, these were women named as the sole landowner by the commissioners but identified by phrases such as 'Ann Overend, the wife of George Timothy Overend of Pocklington, miller'.⁶³ Given that under coverture married women's property usually fell to their husbands, it would appear that these women held their property as separate estate (on which see above). This is a good example of the way married women considered themselves landowners and were seen as such by others, in this case by the enclosure commissioners. In addition, the existence of these married women in the enclosure records provides good evidence for the widespread use of marriage settlements as a means to establish separate estates and protect married women's property. While the acreage allotted to a landowner in an enclosure award is no guarantee of social status – some landowners allotted less than an acre in one award may have owned large estates of old enclosures or significant acreages in another parish – the fact many of these married women were being allotted acreages of between 20 and 60 acres implies that small and middling landowners were frequently making use of such settlements. That is, provision for married women's separate estates was not restricted to gentle and aristocratic families but instead extended a long way down the social hierarchy, a point also made by Amy Erickson.⁶⁴

Secondly, the dataset also provides a picture of the scale of individual female landowners' holdings. Each of the 700 women identified were allotted an average of 37 acres, though in reality the database included everyone from wealthy heiresses with hundreds of acres at their disposal to poor widows owning tiny smallholdings. Small and medium-sized landowners made up the bulk of this number, with only 40 individuals allotted between 100 and 499 acres and another seven in excess of 500 acres. If we exclude the very largest landowners, the average acreage held by the remaining c. 690 women drops to around 25 acres. Exclude those owning more than 100 acres and it drops to below 20 acres. Such figures necessarily include only that land dealt with under the parliamentary enclosure awards for the sample parishes and thereby ignore any land these women owned elsewhere in neighbouring parishes or counties.⁶⁵ Yet it is clear that for most women their experience of landownership was one of smallholding, much as by far the most numerous group of male landowners were smallholders and husbandmen, at least in the decades prior to the widespread enclosures of the late eighteenth century.⁶⁶

While large landowners were undoubtedly in the minority, they nevertheless formed an economically powerful group. The seven largest landowners together owned more than 8,000 acres, equivalent to more than 3 per cent of the land in the sample. Amabel Hume-Campbell, for example, was allotted more than 2,000 acres in four enclosure awards – and this was just the land that happened to fall

within the sample. She actually owned a large aristocratic estate with a considerable acreage not only in Bedfordshire, but also Essex, Wiltshire and elsewhere. The 50 or so largest female landowners identified here together owned approximately half of the land owned by women, or 5 per cent of all the land in the sample. Thus while a numerically small group, large landowners – many of them drawn from the county gentry and aristocracy – were nevertheless a significant force within eighteenth- and nineteenth-century society. It is these women the book focuses on, in part because of their economic and social significance within the Georgian countryside, as well as because the surviving archival materials are so much better for them than for small and medium-sized landowners (though see the comments below on women's hidden histories).

Thirdly, the dataset reveals important regional patterns and trends. While the discussion thus far has focused on the national experience, there were nonetheless significant regional differences evident in the dataset. Thus while female landowners held more than 15 per cent of land in Northamptonshire and almost 22 per cent in neighbouring Bedfordshire, in Lancashire, Staffordshire and East Yorkshire less than 5 per cent of land was owned by women. Elsewhere in the Midlands, East Anglia and southern England female landowners held between 8 and 12.4 per cent of the land sampled. A similar distinction between counties in the Central Province and those in the north and west of England is evident in the data on the proportion of plots owned by women (Table 2.2). Again women owned most plots in Bedfordshire (21 per cent), and fewest Lancashire (5 per cent), Staffordshire (7 per cent) and East Yorkshire (9 per cent).

Exactly what lies behind these regional variations is less clear. Certainly the presence of one or two large female landowners in Bedfordshire – including Amabel Hume-Campbell – may have contributed to the particular high figures for that county, but it does not explain why the proportion of land held by women in the Midlands in general was so much higher than in the north and west of England. Nor was it simply an outcome of the size of the county datasets: a more detailed comparison of larger datasets for two of these counties – Northamptonshire and the East Riding of Yorkshire – reveals the same clear distinction between relatively high female landownership in the Midlands and low female landownership in the north. A sample of more than 100,000 acres from Northamptonshire and 150,000 acres from East Yorkshire produced values for female landownership of 14.5 per cent and 4.6 per cent, respectively.⁶⁷ That is, female landownership was more than three times higher in Northamptonshire than Yorkshire. It may be that proximity to London helped open up the land market to women or that the new money families of the south and east were more prepared to leave their properties to female children than some of the long-established aristocratic families holding sway in the north.⁶⁸ Certainly, Barbara English's study of the great landowners of East Yorkshire suggests that the vast majority of land transfers to successors in the period 1530 to 1910 were from men to men – most usually to sons, nephews or grandsons – and that very few widows and daughters from the richest East Yorkshire families acquired the main family estate.⁶⁹ There were of course other routes to landownership than

inheritance, and some East Yorkshire women did end up controlling large landed estates – as the example of Sarah Dawes in the next chapter testifies – but given the aristocracy's increasing preference for collateral male heirs over daughters, it is not perhaps surprising that those parts of the country where the largest landowners held sway were also those areas with few large female landowners and a low overall percentage of land owned by women.

Fourthly and finally, comparing the enclosure award data with the findings of other related studies offers the opportunity to reflect on the thorny issue of change over time. Casson's study of the nineteenth-century railway companies' books of reference demonstrates that 12.4 per cent of her almost 24,000 plots were owned by women, either alone or with others. The data on allotments for the enclosure award dataset shown in Table 2.2 reveals a strikingly similar result: of the 13,333 individual plots of land in the sample, 1,524 (11.4 per cent) were owned by women. The close accord between these two large datasets – the one covering the period 1740–1830 and the other the rest of the nineteenth century – suggests that the level of women's landownership remained broadly stable throughout the eighteenth and nineteenth centuries with, as Casson notes, even the Married Women's Property Act of 1882 having only an 'ambiguous effect on women's plot ownership'.⁷⁰

Perhaps more surprisingly, there is little in the available data to suggest that women's landownership declined dramatically across the medieval and early modern period, despite Spring and others' claims that the shift from dower to jointure and the introduction of strict settlement contributed to a long-term decline in women's property and rights.⁷¹ As noted above, studies by Whittle, Capern, Seeliger and others suggest that between 10 and 20 per cent of landholders in the various medieval and early modern communities they examined were women, findings which differed by place, period and methodology but which comfortably sit alongside the 10.3 per cent headline figure reaped from the enclosure award dataset.⁷² That there is little evidence here for a long-term deterioration in women's access to land may in part be because changes to the legal system affected different groups of women in different ways, as Capern points out. Thus for example, the shift to equity law and use of strict settlements undercut widows' dower rights at the same time as helping to secure marriage portions for daughters.⁷³ In her view, marriage settlements also introduced 'a language of female property ownership' so that women could – and did – imagine themselves as property owners.⁷⁴ Stretton and Kesselring make much the same point about the differential impact of legal changes, arguing that changes to the legal system benefited wealthy, well-connected women while others saw their rights deteriorate.⁷⁵ Female landowners were, after all, by no means a homogeneous group any more than male landowners were: they had different experiences of landownership depending on their age, occupation, social status, marital status and geographical location.

Such comparative analysis must necessarily remain provisional for now, not least because the available data for the medieval and early modern period is relatively slight, drawn from very different types of landscape and assembled by

historians and historical geographers with rather different ends in mind. More research is undoubtedly needed, but in the first instance there is much here to support Whittle's assertion that women rarely made up more than 20 per cent of landholders across the long sweep of history between c.1250 and c.1750 – and indeed, to extend the end date on that statement by another 150 years.⁷⁶

Hidden histories

Yet, if women rarely made up more than one-fifth of landowners, that is not to suggest they were an insignificant presence in the medieval, early modern and modern landscape or economy. While undoubtedly disadvantaged by primogeniture, coverture and various other legal devices, data from the enclosure awards used in conjunction with the smaller studies outlined here clearly demonstrates that female landowners as a group consistently held somewhere in the region of 10 per cent of land. While always a minority, they were nevertheless a significant one with more than one acre in ten owned by a woman in eighteenth- and nineteenth-century England. This is not, however, usually the impression one receives when leafing – or today more likely, scrolling – through catalogues of family collections held at county archive repositories. The lives of small female freeholders are too often almost impossible to recover in the archives and even gentle and aristocratic women are sometimes hard to identify within otherwise very good family collections, with pedigrees implying that responsibility for the estate passed directly from the deceased male landowner to a minor son or future son-in-law as yet unmarried to the dead man's daughter. In reality, of course, daughters and sisters inherited and in other cases responsibility for – or even legal ownership of – the estate passed to widows. The mothers of minors too were often actively involved in the management and improvement of the property over many decades. Married women's contributions to estate management are typically even harder to track down: as we will see, married women did on occasion manage property on behalf of absent or incapacitated husbands or acted collaboratively with them to administer and improve their estates. Yet all too often the actions of married women as estate managers are obscured by the husbands' presence in the documents. Coverture often *covers* all too well, and these women's histories remain at least partially hidden.⁷⁷

The loss of documents can be frustrating too, and sometimes we know a woman managed an estate but can say little about her involvement because of a lack of documentation. Take the example of Lady Betty Germain, the widow of the Dutch soldier and adventurer Sir John Germain (d. 1718) who inherited an estate at Drayton (Northamptonshire) from him. She held the property for over 50 years and in 1732 was leasing part of the estate on 21-year leases which specified the rotations to be followed and prohibited the conversion of grass to arable. This implies that she was interested in improving the tenant farms and she also appears to have extended the park in the 1730s, but the almost complete lack of eighteenth-century documents in the family archive make it difficult to say more about her management of the estate.⁷⁸ Much the same is true for numerous

other women, yet the book presents a careful analysis of the role played by 70 Georgian women in managing and improving their properties. The fact that some women (and indeed some of their estate staff) kept much better records than others – whether those records were rentals and accounts or diaries and letters – combined with the vagaries of archival survival over the ensuing two or more centuries mean that one can always say more about certain individuals than others. Yet for all the frustrations, the individual stories told here – always situated as they are within their wider socio-cultural, political, economic and geographical contexts – form the warp and weft of a detailed and wide-ranging examination of gentle and aristocratic women’s relationships to property specifically as they were mediated through the lens of propertied women’s estate management. In doing so, the book goes beyond a concern with legal theory and legal practice as it applied to women’s property, asking instead what women *did* with their property. What role did they play in its management and improvement – both in terms of the agricultural estate and the built landscape – and how did this contribute to the remaking of the rural landscape taking place across parts of English Midlands and beyond over the course of the long eighteenth century? And just as importantly, how did propertied women and others around them – including sons, husbands, estate stewards, tenants and their landowning peers, both male and female – feel about the control these women exercised? These are just some of the questions the ensuing chapters address with reference to the evidence outlined briefly in the Appendix.

Notes

- 1 See Erickson, *Women and Property*, 26–8 for a useful summary of the laws of inheritance as they related to women.
- 2 Erickson, *Women and Property*, 77; Churches, ‘Women and property’, *passim*.
- 3 Jane Whittle, ‘Inheritance, marriage, widowhood and remarriage: A comparative perspective on women and landholding in North-East Norfolk, 1440–1580’, *Continuity and Change* 13.1 (1998), 33–72, especially 65; Erickson, *Women and Property*, 63; Eileen Spring, *Law, Land and Family: Aristocratic inheritance in England, 1300–1800* (Chapel Hill and London: University of North Carolina Press, 1993), 46 and 93–4.
- 4 Lloyd Bonfield, *Marriage Settlements 1601–1740: The adoption of strict settlement* (Cambridge: CUP, 1983); Barbara English and John Saville, *Strict Settlement: A guide for historians* (Hull: University of Hull Press, 1983).
- 5 Spring, *Law, Land, passim*, especially 102; Sara Mendelson and Patricia Crawford, *Women in Early Modern England* (Oxford: Clarendon Press, 1998), 434–5; Sharpe, ‘Dealing with Love’. Though see also Bonfield, *Marriage Settlements*, who argues that strict settlements improved women’s access to property by protecting daughters’ portions.
- 6 Coverture was peculiar to England and those places where the English common law formed the basis of the legal system: in much of the rest of Europe married couples held property separately or as a ‘community of goods’ (Stretton and Kesselring, *Married Women*, 8; Cordelia Beattie and Matthew Frank Stevens, *Married Women and the Law in Premodern North-West Europe* (Woodbridge: Boydell and Brewer, 2013)). See also Laurence, ‘Transmission of property’ on women and property in Scotland, Wales and Ireland; Erickson, ‘The marital economy’ on names and property transmission in Scandinavia; Marrese, *A Woman’s Kingdom* on Russia.

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- 7 Blackstone; cited in Hazel Lord, 'Husband and wife: English marriage law from 1750: A bibliographic essay', *Southern Californian Review of Law & Women's Studies* 11 (2001–2), 1–89, 27 for the quote.
- 8 Lord, 'Husband and wife', 29; Erickson, *Women and Property*, 24; Stretton and Kesslering, *Married Women*, 8.
- 9 On the Married Women's Property Acts, see Mary Beth Combs, 'Cui Bono? The 1870 British Married Women's Property Act, bargaining power and the distribution of resources within marriage', *Feminist Economics* 12:1–2 (2006), 51–83
- 10 Erickson, 'Possession'; Bailey 'Favoured or oppressed?'; Capern, 'Landed woman', especially 213; Erickson, *Women and property*, 12, 149–50. For further examples of this divergence, see the introduction and individual chapters in Wright *et al.*, *Women, Property* and those in Stretton and Kesslering, *Married Women* including Natasha Korda, 'Coverture and its discontents: Legal fictions on and off the early modern English stage', 45–63. At the same time coverture only strictly applied under the common law: other parallel legal systems including the church courts and equity courts dealt differently with women's property (on which see Erickson, *Women and Property*, 5–6; Tim Stretton, *Women Waging Law in Elizabethan England* (Cambridge: CUP, 1998), 25).
- 11 Stone and Stone, *An Open Elite?*, 50. See also Stone, *The Family*, 66.
- 12 Richard Smith, 'Some issues concerning families and their property in rural England 1250–1800', in Richard Smith (ed.), *Land, Kinship and Life-Cycle* (Cambridge: Cambridge University Press, 1984), 40–6.
- 13 Stone, *The Family*, 49 and 53.
- 14 Olwen Hufton, 'Women without men: Widows and spinsters in Britain and France in the eighteenth century', *Journal of Family History* 9.4 (1984), 355–76, especially 359 where she suggests that the rising costs of providing daughters with marriage portions may have contributed to the increasing number of aristocratic women remaining unmarried.
- 15 As Erickson, *Women and Property*, 150 notes of women further down the social hierarchy, 'It is unlikely that wives stopped thinking of certain property as theirs simply for the duration of the marriage'. Note too Chan and Wright's essay on Lady Anne Clifford which suggests that she saw an important distinction between her inheritance and dower lands. The former was an indistinguishable part of her self-image, an 'attribute essential to her self-constitution' while the dower lands were 'objects separate from herself' (Mary Chan and Nancy Wright, 'Marriage, identity of the pursuit of property in seventeenth-century England: The cases of Anne Clifford and Elizabeth Wiseman', in Wright *et al.*, *Women, Property*, 162–82, especially 165–6).
- 16 Erickson, *Women and Property*, 25.
- 17 Erickson, *Women and Property*, 25; Susan Staves, *Married Women's Separate Property in England, 1660–1833* (Cambridge, MA: Harvard University Press, 1990), 95–130.
- 18 Staves, *Separate Property*, 99; R. B. Outhwaite, 'Marriage as business: Opinions on the rise in aristocratic bridal portions in early modern England', in Neil McKendrick and R. B. Outhwaite (eds) *Business Life and Public Policy* (Cambridge: CUP, 1986), 22.
- 19 Staves, *Separate Property*, 101–2.
- 20 Staves, *Separate Property*, 222 puts it bluntly arguing that women enjoyed 'entitlement to profit from capital, but not control over capital itself or the power to alienate capital'.
- 21 H. John Habakkuk, 'Marriage settlements in the eighteenth century', *Transactions of the Royal History Society* 4th ser. 32 (1950), 20–1; Outhwaite, 'Marriage as business', 23–4. See also Erickson, *Women and Property*, 122 who argues that on balance 'brides in the latter half of the period were not necessarily disadvantaged in their jointures in comparison with their mothers and grandmothers, nor were grooms better off'.
- 22 Anne Pimlott Baker, 'Lady Elizabeth Germain', *Oxford Dictionary of National Biography* [<http://www.oxforddnb.com/view/article/10565>, accessed 31/10/2014].
- 23 Dunster, *Women of the Nottinghamshire Elite*, 22–23 and 25–60.

- 24 Ruth Larsen, 'Death becomes her: the mourning and commemoration of elite women in Yorkshire, 1720–1860', *Yorkshire Archaeological Journal* 78 (2006), 177–95, especially 185.
- 25 GA, D326/F7.
- 26 Larsen, 'Death becomes her', 182–5.
- 27 NRO, M(F)91.
- 28 BA, CRT130 Hen 10; Charles Mosley (ed.) *Burke's Peerage, Baronetage & Knightage*, 107th edition, 3 volumes (Wilmington, DE: Genealogical Books, 2003), Vol. 2, 1609. On Hood, Sparrow and Agar, see Chapters 3 and 4. Further close contenders for longest-lived widow include Lady Jane St John Mildmay (d. 1857) who inherited property in Hampshire and elsewhere from her father, great-uncle and aunt and outlived her husband by almost half a century; Lady Susanna Juxon, widowed in 1739 and dying in 1792 but married for a second time between 1749 and 1766; and Elizabeth Prowse of Wicken (Northamptonshire), a widow of 43 years (see Appendix).
- 29 Lord, 'Husband and wife', 30–31; Erickson, *Women and Property*, 5–6; Staves, *Separate Property*, 21 n. 221. Several of the contributors to Stretton and Kesslering's edited volume, *Married Women*, also make the point that women sometimes employed coverture as a way of evading financial obligations or avoiding prosecutions.
- 30 The following paragraph draws heavily on the discussion of separate estates in Erickson, *Women and Property*, 102–13. Rather surprisingly, Staves's *Separate Property* discusses 'pin money' but not real property excluded from coverture by means of a prenuptial settlement.
- 31 While the origins of such arrangements are unclear, Chancery was ruling on cases referring to married women's separate estate in the 1580s (see Allison Tait, 'The beginning of the end of coverture: A reappraisal of the married woman's separate estate', *Yale Journal of Law & Feminism* 26.2 (2014), 1–53), though as Amy Erickson points out, such arrangements were not probably not new then.
- 32 See Erickson, *Women and Property*, 103, 136–7 and especially 149 who suggests that widows were approximately twice as likely as unmarried women to use a settlement to establish a separate estate.
- 33 Erickson, *Women and Property*, 109. See also Okin, 'Patriarchy', 130 on the common law presumption that men might 'expect' their wife's property to become theirs under coverture, so must consent to any settlement for separate estate.
- 34 Erickson, *Women and Property*, 107 notes that settlements establishing separate estates were sometimes used to protect marital property from debt incurred by the husband or by the father-of-the-bride to determine the descent of family property. The use of these settlements does not necessarily imply any improvement in married women's economic position in early modern England.
- 35 Erickson, *Women and Property*, 12, 100, 149–50; Amy Erickson, 'Common law versus common practice: The use of marriage settlement in early modern England', *Economic History Review* 43.1 (1990), 21–39; Lord, 'Husband and wife', 29–30; Capern, 'Landed woman', especially 213.
- 36 Gwyn Howells, 'Anna Maria Agar: The restoration of the Robartes dynasty, 1798–1844', *Lanhydrock Journal* 5 (2005–6), 14.
- 37 Nor were arrangements for separate estate always a sign of women's economic independence: such provision might instead be a way for 'a woman's natal family to secure its property descent through her to her children, as well as relieving them of financial responsibility for her in the event her marriage should collapse or her husband prove an 'unthrift'' (Erickson, *Women and Property*, 107).
- 38 HRO, 39M89/E/T18/2 and B615. Value of the rental taken from a 1725 rental, HRO, 39M89/E/B639/2.
- 39 HRO, 39M89/E/ B615, B561/20, T14/2 and T18/1 and 2.
- 40 HRO, 39M89/E/B615.
- 41 HRO, 39M89/E/T19.

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- 42 HRO, 39M89/E/B561/25 and T18/3 and 4.
- 43 HRO, 39M89/E/B561/25.
- 44 HRO, 39M89/E/T17/2.
- 45 See Margaret Hunt, *The Middling Sort: Commerce, gender and the family, 1680–1780* (Oakland: University of California Press, 1996), 160–1 and Gowing, *Domestic Dangers*, 213 for incidents of domestic violence revolving around marital property.
- 46 Korda, 'Coverture', 48. See too Okin, 'Patriarchy', 134–5 on the eighteenth-century device known as a restraint upon anticipation which recognised that husbands might control their wives' separate estate via coercion and thus (somewhat counterintuitively) sought to protect married women's property by making it more difficult for her to alienate or dispose of it. For a contrasting view, see Stone, *The Family and Trumbach, The Rise* (New York: Academic Press, 1978) who both see the emergence of women's separate estate as a sign of growing egalitarianism within marriage.
- 47 Capern, 'Landed woman', 213; Erickson, *Women and Property*, 12, 149–50.
- 48 Erickson, *Women and Property*, 112. Married women might buy property too, though see Staves, *Separate Property* on the tricky question of whether if a wife spent her pin money buying land, the property should be considered to belong to her or her husband.
- 49 NRO, C(S)166; James Falkner, 'Sarah Churchill [née Jenyns], duchess of Marlborough', *Oxford Dictionary of National Biography* [<http://www.oxforddnb.com/view/article/5405?docPos=1>, accessed 7/1/2014].
- 50 John Martin, 'Elizabeth Griffin, countess of Portsmouth', *Oxford Dictionary of National Biography* [<http://www.oxforddnb.com/view/article/62679>, accessed 25/7/2013].
- 51 Baird, *Mistress of the House*, 139–46.
- 52 Jon Stobart and Mark Rothery, *Consumption and the County House* (Oxford: OUP, 2016), 142–8. See also Elizabeth Foyster, *The Trials of the King of Hampshire: Madness, secrecy and betrayal in Georgian England* (London: Oneworld, 2016) for a discussion of the management of the 3rd earl of Portsmouth's estates by his mother and later his wife.
- 53 On the transient nature of coverture, see Erickson, *Women and Property* and Korda 'Coverture', 46–7.
- 54 Lawrence was said to have 'early determined to have remained single': Elizabeth Grant, *Memoirs of a Highland Lady* (Edinburgh: John Murray, 1898), 187.
- 55 Whittle, 'Inheritance, marriage', 35.
- 56 Bruce Campbell, 'Population pressure, inheritance and the land market in a fourteenth-century peasant community', in Richard Smith (ed.), *Land*, 87–134; Judith Bennett, *Women in the Medieval English Countryside: Gender and household in Brigstock before the plague* (Oxford: OUP, 1987), 33; Peter Franklin, 'Peasant widows' 'liberation' and remarriage before the Black Death', *Economic History Review* 2nd ser. 39 (1986), 186–204; Josiah Cox Russell, *British Medieval Population* (Albuquerque: University of New Mexico Press, 1948), 62–4; J. Z. Titow, *English Rural Society 1200–1350* (London: Allen & Unwin, 1969), 87; all cited in Whittle, 'Inheritance, Marriage', 36–7.
- 57 Amanda Capern, 'Women, land and family in early-modern North Yorkshire', paper presented at the Economic History Society conference 2006, 4 [www.ehs.org.uk/ehs/conference2006/Assets/IIIDCapern.doc, accessed 20 April 2010]; Sylvia Seeliger, 'Hampshire women as landholders: Common law mediated by manorial custom', *Rural History* 7 (1996), 1–14. See also Churches, 'Women and Property', 170 who suggests that only around half of the customary tenancies in her Whitehaven case study were held by men as sole tenants (often tenancies initially held by the man to which his wife was later admitted as joint tenant as a result of their marriage negotiations), the rest being held jointly by married couples, by groups of women or by women as sole tenants.
- 58 Janet Casson, 'Women's landownership in England in the nineteenth century' in Mark Casson and Nigar Hashimzade, *Large Databases in Economic History: Research methods and case studies* (Abingdon: Routledge, 2013), 200–21.

- 59 The Northamptonshire sample was drawn up as part of the Changing Landscapes, Changing Environments project based at the Universities of Sussex, Hertfordshire and Lincoln. The project was sponsored by the Arts and Humanities Research Council and ran between May 2007 and May 2010. Grateful thanks go to Mark Fox for transcribing some of the Northamptonshire enclosure awards used here. The East Riding of Yorkshire data was collected by the author in early 2010 as part of ongoing work on the historical geographies of the Yorkshire Wolds. The remaining data sets were collected between 2010 and 2015 during archive work sponsored by the Leverhulme Trust and Arts and Humanities Research Council.
- 60 Brian Roberts and Stuart Wrathmell, *An Atlas of Rural Settlement in England* (Swindon: English Heritage, 2000); Williamson, *Transformation*. On farming regions, see Joan Thirsk, *Agrarian Regions and Agricultural History in England, 1500–1750* (Basingstoke: Macmillan, 1987).
- 61 On occasion the poor condition of an award meant another had to be substituted in its place. These substitute awards were selected to create as geographically and temporally representative sample as possible for each county.
- 62 Beckett, ‘Montagu’, 149.
- 63 ERYARS, RBD DQ/163/6.
- 64 Erickson, *Women and Property*, 147 and 225–6.
- 65 Some wealthy women like Amabel Hume-Campbell of Wrest Park, Bedfordshire owned tens of thousands of acres spread over several English counties.
- 66 On the structure of rural society in the late eighteenth century, see Mingay, *Agrarian History VI*, 836–66. On the impact of enclosure on small landowners and cottagers, see Michael Turner, ‘Parliamentary enclosure and landownership change in Buckinghamshire’, *Economic History Review* 28.4 (1975), 565–81; J. A. Yelling, *Common Field and Enclosure in England, 1450–1850* (London: Macmillan, 1977); Robert Allen, *Enclosure and the Yeoman: The agricultural development of the South Midlands 1450–1850* (Oxford: Clarendon Press/OUP, 1992); Neeson, *Commoners*; Ian Whyte, ‘Parliamentary enclosure and changes in landownership in an upland environment: Westmorland, c. 1770–1860’, *Agricultural History Review* 52.2 (2006), 240–56; Leigh Shaw-Taylor, ‘The rise of agrarian capitalism and the decline of family farming in England’, *Economic History Review* 65.1 (2012) 26–60.
- 67 Data collection and sponsorship as above. The Northamptonshire cohort represents a geographically representative sample across the county whilst the East Yorkshire cohort focuses on a single landscape zone, the Yorkshire Wolds.
- 68 For more on landownership in Northamptonshire, readers might like to see Bonfield, *Marriage Settlements*, chapter 5 and Stone and Stone, *An Open Elite?*, while being wary of some of the criticisms that exist of the latter in particular. See also Erickson, *Women and Property*, 62 on the possible influence of Scandinavian inheritance laws in Yorkshire before 1700.
- 69 Barbara English, *The Great Landowners of East Yorkshire, 1530–1910* (Howden: Hull Academic Press, 2000), 100. Only in 7 of the 127 successions she identifies did the land descend to a daughter.
- 70 Casson, ‘Women’s landownership’, 217.
- 71 Spring, *Law, Land, passim*; Okin, ‘Patriarchy’; Amy Erickson, ‘Property law and English widows, 1660–1840’, in Sandra Cavallo and Lyndan Warner (eds) *Widowhood in Medieval and Early Modern Europe* (Harlow: Longman, 1999), 145–63 who shows that widows were less likely to act as their husband’s executor in the eighteenth than the seventeenth century, perhaps reflecting what Cavallo and Warner term ‘a general lack of confidence in widows’ abilities as administrators’ (Cavallo and Warner, *Widowhood*, 15). See also Richard Wall (2010) ‘Bequests to widows and their property in early modern England’, *The History of the Family* 15:3, 222–38 especially 235 who uses of sample of more than 550 wills mentioning both a widow and children to argue that by the eighteenth century fewer widows were appointed as their husband’s executrix and more

- testators favoured children over widows. Others disagree. Mary Prior, 'Wives and wills 1558–1700', in John Chartres and David Hey (eds), *English Rural Society, 1500–1800: Essays in honour of Joan Thirsk* (Cambridge: CUP, 2006), 201–25 points to a growth in the number of married women making wills between 1558 and 1700, whilst Christine Peters 'Single women in early modern England: attitudes and expectations', *Continuity and Change* 12:3 (1997), 325–45 has argued that women's ownership of freehold land actually increased in the early modern period. See also work by Gowing and Stretton which highlights the growing number of women bringing litigation in the ecclesiastical and equity courts in early modern England (Gowing, *Domestic Dangers*; Stretton, *Women Waging Law*).
- 72 See too Blaufarb, 'Comtesse de Sade', 18 who demonstrates that 7–8 per cent of Provençal lords were female in 1668 and 1778, arguing that 'female lordship was common [and] its incidence remains constant over time'.
- 73 Capern, 'Landed woman', 189 and 190–1. Women's chances of inheriting landed property may also have differed according to their social status (see above).
- 74 Capern, 'Landed woman', 196.
- 75 Stretton and Kesselring, *Married Women*, 10–11.
- 76 Whittle, 'Inheritance, marriage', 66.
- 77 Bailey, 'Favoured or oppressed?', 358 makes much the same point in reference to the business dealings of married women lower down the social hierarchy.
- 78 Baker, 'Germain'; NRO, SS3866. Of the more than 4,000 documents in the Stopford Sackville collection at the NRO, only four relate to Lady Germain's period of ownership.