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Uniting Interests: The Economic Functions of Marriage in America, 1750-1860

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**Uniting Interests:
The Economic Functions of Marriage in America, 1750-1860**

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**A Dissertation presented to the Graduate Faculty
of the College of William and Mary in Candidacy for the Degree of
Doctor of Philosophy**

The Lyon G. Tyler Department of History

**The College of William and Mary
January 2016**

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APPROVAL PAGE

This Dissertation is submitted in partial fulfillment of
the requirements for the degree of

Doctor of Philosophy



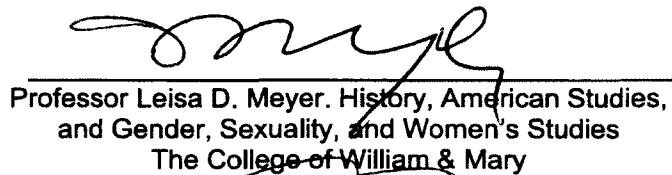
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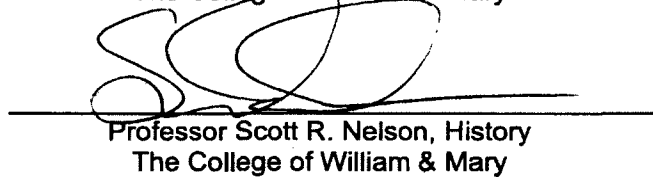


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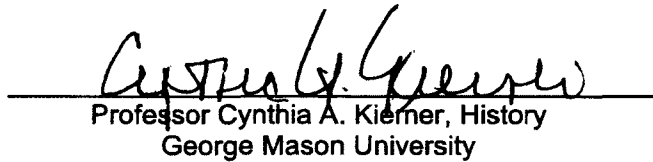
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ABSTRACT

This dissertation, "Uniting Interests: Money, Property, and Marriage in America, 1750-1860," examines how marriage was an essential economic transaction that responded to the development of capitalism in early America. Drawing on scholarship on the history of economic development, household organization, law, and gender, I argue that families actively distributed resources at marriage as part of larger wealth management strategies that were sensitive to regional and national economic growth. I focus particularly on women's property holding and how families deployed the legal protection of women's property as bulwarks against financial disaster.

This project restores the family and women to the narrative of capitalistic development, breaking down the fictive divide between public and private economies. Early chapters explore how families planned for wealth distribution when children married and the strategies they employed to attract financially suitable partners. Subsequent chapters explore how some couples negotiated or rejected protection for married women's property, how individuals mobilized kinship networks created by marriage to their advantage, and the balance related families struck between financial assistance and self-interest. The final chapters explore how property was central to families' responses to married women's distress and to suspicions of female infidelity.

In so doing, I demonstrate that the economic functions of marriage fundamentally shaped American families and relationships throughout the eighteenth and well into the nineteenth century. Despite regional differences in social and economic development, the legal structure of marriage was widely shared and remarkably durable. I argue that even progressive developments in marriage law and practice were often motivated more by the desire for financial security than by concerns for female independence. More broadly, this project reveals how sexual inequality in early American was in large part created and maintained through the laws and practices of marriage.

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Dedicated, with gratitude for their brilliant minds and warm hearts,
to the memories of

William A. Pencak
&
C. Dallet Hemphill

who never doubted my ability to finish this project but did not live to see it done.
You are missed.

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Prologue
“Meer mercenary views:”
The Preoccupation with Money and Matrimony in Language and Literature

British and American literature reveal a long tradition of comparing marriage and business, and the continuation of this trend throughout the nineteenth century reveals that the reading public continued to recognize the economic centrality of marriage even as they endorsed companionate and romantic ideals of matrimony. In 1746, Benjamin Franklin published a pamphlet entitled “Reflexions on Courtship and Marriage,” in which the anonymous author joined a growing chorus of voices disdaining marriage for money. The author, likely Franklin himself, warned that “*unhappy Matches are often occasion’d by meer Mercenary Views, in one or both parties,*” at the expense of “*real Friendship and Esteem.*” Financial security, he argued, was far from a solid foundation for a happy union. He lambasted marriage based on money as the “*abominable Prostitutions of Persons and Minds,*” the sale of presumably innocent female bodies and promising male or female intellects. “*How many play the Harlot, for a good Settlement, under the legal Title of a Wife!*” he railed. “*And how many the Stallion, to repair a broken Fortune, or to gain one.*”¹ Partners should be selected for personal qualities, he insisted, not fortune. The pamphlet was evidently popular; it was reprinted in not only in Philadelphia and Harrisburg but also in London, and Edinburgh, ultimately going through sixteen editions by 1807. South Carolina printer Elizabeth Timothy sold the first edition in 1746, and

¹ Anonymous, *Reflexions on courtship and marriage: In two letters to a friend...*, (Philadelphia: Benjamin Franklin, 1746), p. 34, 61, 9. While there is some debate about Franklin’s authorship of this pamphlet, other published works criticized marriage for money or fashion. See, for example, “Anthony Afterwit,” where Anthony planned on a dowry of £200, in *The Pennsylvania Gazette*, July 10, 1732.

John Adams read it in 1759.²

Were we to stop here, Franklin's pamphlet vehemence against "meer mercenary views" would seem to confirm that emotional motivations for marriage were displacing economic ones – but this would not be the whole story. Franklin's bombast was, if not mere show, not particularly congruent with his own recollections about his life. Indeed, Franklin was probably satirizing the sudden rise of prescriptive literature that deemphasized financial incentives for marriage, for Franklin himself had an abiding concern with marriage and money.³ Like many young men, he forthrightly saw marriage as an opportunity to advance business ambitions. During his first courtship, he informed his prospective in-laws that he "expected to receive... Money with their Daughter" to discharge his business debts of £100, which he suggested they raise by mortgaging their house (they refused). When he reflected on his union with Deborah Read, he considered Deborah's finest traits to be her industry and frugality, by which she "became a fortune to me" – and helped earn his fortune.⁴ Marriage, for Franklin, was another potential source of credit, a point of infusion into his network of borrowing and debt, and a partnership centered on earning and managing wealth.

Franklin was not the only ambitious suitor thinking in terms of pounds, or later, dollars, nor was he the only publisher contributing to the public discourse on marriage.

² J. A. Leo Lemay, *The Life of Benjamin Franklin, Volume 2: Printer and Publisher, 1730-1747* (University of Pennsylvania Press, 2006), 530 and 31; J. Lemay, *The Life of Benjamin Franklin, Volume 3: Soldier, Scientist, and Politician, 1748-1757* (2014), 319; David McCullough, *John Adams* (New York: Simon & Schuster, 2002), 51.

³ J. A. Leo Lemay, *The Life of Benjamin Franklin, Volume 1: Journalist, 1706-1730* (University of Pennsylvania Press, 2013), 135.

⁴ Benjamin Franklin, *The Life of Dr. Benjamin Franklin*, ed. Leonard Labaree (New Haven, Conn.: Yale University Press, 1964), p. 127-29; Benjamin Franklin to Bethia Alexander, June 24 1782, *The Papers of Benjamin Franklin*, <http://www.franklinpapers.org>.

Both public and private mentions of marriage were linked to money and wealth, often very directly. When figures were available, families and friends, male and female, shared them freely as they reported on marriages, courtships, and engagements. St. George Tucker received letters from not one but two of his brothers in Bermuda 1772 regarding the marriage of his friend Durham Hall. Nathaniel Tucker wrote in November that Durham “expects 1000£ or 2000£ Bermuda currency with his wife.”⁵ On Christmas Day, Henry Tucker, Jr., offered a firmer figure when he reported “Durham Hall is married to a girl of good character with a fortune of £2000 8/8 cash and several negroes.”⁶ While her quality character was worth reporting, the new Mrs. Hall’s name evidently was not. Husbands’ fortunes were also reported. Both Henry and Nathaniel wrote in 1774 to report on the finances of the new husband of their cousin, Bella Achmuty. Henry reported that their cousin-in-law “Mr. Burton [was] a gentleman of fortune in Carolina;” Nathaniel estimated that “he has 10,000 guineas” - a considerable fortune indeed.⁷

Early American print culture reflected the private preoccupation marriage. While historians have focused often on the prescriptive language and literature of companionate marriage, literary scholars have long acknowledged the centrality of money to marriage. What literature scholars subsequently labeled “the marriage plot” was an established literary convention of eighteenth and nineteenth century plays and novels by the mid-eighteenth century, with many popular plots revolving around the risks and rewards of

⁵ Nathaniel Tucker at Charleston, South Carolina to St. George Tucker at Williamsburg, Virginia, November 21, 1772, Tucker-Coleman Papers, Special Collections Research Center, Swem Library, College of William and Mary.

⁶ Henry Tucker Jr. (1743-1808) at Bermuda to St. George Tucker at Virginia, December 25, 1772, Tucker-Coleman Papers.

⁷ Henry Tucker Jr. (1743-1808) at Bermuda to St. George Tucker, June 17, 1774, and Nathaniel Tucker at Charleston, South Carolina to St. George Tucker, circa May 23, 1774, Tucker-Coleman Papers.

courtship and marriage. Mona Scheuermann points out that “money is as important a concern” as romance in these plots.⁸ Even independently wealthy heroines were acutely aware that their future security lay in the hands of their husband, and this concern translated into emphasis on reason, moderation, and restraint in courtship.

Courtship novels were a departure from the amatory fictions of the earlier eighteenth century, in which the heroines “meet their doom because of bad resolutions.” *Pamela*, widely accepted as one of the earliest English novels, and the courtship novels that followed it, similarly “encourage[d] young women to (properly) give up their singularity and marry.”⁹ Many “marriage plots” in the first half of the eighteenth century featured a virtuous female protagonist, usually wealthy, who had to navigate the perils of courtship. The happy ending was her marriage to a moderate gentleman of a decent or great fortune after fending off the advances of rakes and fortune hunters - the heroine’s “reward” for adhering to public mores and cautions. In eighteenth-century plots, the poor orphan’s way was sometimes smoothed by an unexpected inheritance, to ensure that wealth married wealth. Theater followed a similar pattern, and plays often remained popular for decades after they first appeared.¹⁰ In the play *A Bold Stroke for a Wife*, a young colonel must overcome obstacles personified as his beloved’s four guardians, Periwinkle, Tradelove, Modelove, and Prim. By donning elaborate disguises to persuade the guardians that he is the ideal husband, Fainwell eventually wins the hand of the wealthy heiress Anne Lovely.

⁸ Mona Scheuermann, “Women and Money in Eighteenth-Century Fiction,” *Studies in the Novel* 19, no. 3 (October 1, 1987): 311–22.

⁹ Heidi Giles, “Resolving the Institution of Marriage in Eighteenth-Century Courtship Novels,” *Rocky Mountain Review* 66, no. 1 (January 1, 2012): 78.

¹⁰ Nathaniel Tucker almost certainly referred to the 1718 play *A Bold Stroke For A Wife* by Susanna Centlivre when he recounted his own pursuit of an heiress fifty-seven years later. Nathaniel Tucker to St. George Tucker, “A bold Stroke for a Wife,” [May 1774], Tucker-Coleman Papers.

As the eighteenth century progressed, the heroine's struggles became increasingly internal, and sometimes offered opportunities for personal growth to the heroine - one of the aspects of Jane Austen's novels that make them appealing to readers two centuries later.¹¹ The "near-ubiquity of this plot in heroine-centered novels" continued through the nineteenth century.¹² By the nineteenth century, male protagonists were also faced with similar predicaments - choosing between a "wealthy, materialistic, status-conscious woman who would enhance his social prestige and a poorer, more altruistic, and psychologically independent woman."¹³ The evolution of nineteenth-century fiction to champion the poorer woman reflected broader anxieties about materialism and commercial life as the industrial revolution roared to life, but authors also acknowledged the reality that wealth was still central to considerations of marriage. Furthermore, the heroines were always *genteelly* impoverished - they still shared their suitor's bourgeois values and had the advantages of middle-class or elite upbringing. Their impoverishment itself reflected concern over how easily and rapidly wealth could be lost. Money and property were the hubs around which these plots turned.

Looking beyond the prescriptive literature that has received much scholarly attention to public discussions of marriage shows persistent tensions between the rise of romantic love and the continuing economic importance of marriage. Newspapers only gradually shifted from explicit discussions of money and marriage in the eighteenth to more circumspect language in the nineteenth century. Despite Franklin's strident

¹¹ William H. Magee, "Instrument of Growth: The Courtship and Marriage Plot in Jane Austen's Novels," *The Journal of Narrative Technique* 17, no. 2 (April 1, 1987): 198-208.

¹² Julie Schaffer, "Not Subordinate: Empowering Women in the Marriage-Plot— The Novels of Frances Burney, Maria Edgeworth, and Jane Austen," *Criticism* 34, no. 1 (January 1, 1992): 51.

¹³ Elsie B. Michie, "Rich Woman, Poor Woman: Toward an Anthropology of the Nineteenth-Century Marriage Plot," *PMLA* 124, no. 2 (March 1, 2009): 421.

rejection of fortune as a criterion in marriage in 1746, the *Pennsylvania Gazette* continued its previous practice of discussing wealth in its announcements of elites' marriages.

A review of Pennsylvania, Virginia, and South Carolina newspapers suggests that, overall, mentions of the precise value of a woman's fortune became less frequent by the 1740s, though exceptions existed. Through the late-eighteenth century, newspapers continued to mention women's wealth in announcements. By the early nineteenth century, as newspapers' circulation increased, fewer announcements were published, replaced instead with longer narratives about particular marriages or marriage in general.

Explicit mentions of a woman's net worth appeared occasionally in the 1720s and 30s, often alongside trade and shipping news, and often reported on marriages in England and other colonies. Philadelphians in 1729 might have noted the announcement from Barbados "that Capt. Baxter, late a Half-Pay- Officer, and who has since taken up the Practice of the Law, has married the Widow Salmon, worth at least 30,000 l."¹⁴ In 1730, the same readers might have seen that the *American Weekly Mercury* reported on matrimonial news from England, noting that a "Treaty of Marriage is on Foot between Robert Grosvenor... and Miss Ward, a Dorchester Lady of about 40,000l. Fortune," and another marriage involving a lady of "4000l. Fortune." The following news item in the column was that "Parliament will rise in a fortnight."¹⁵ Readers of the *Virginia Gazette* would have found that William Randolph gained "a Fortune of upwards of 5000l" when he married Betty Lightfoot in 1737.¹⁶ Robert Grace wed "Rebecca Nutt, an agreeable

¹⁴ *The Pennsylvania Gazette*, January 2, 1729.

¹⁵ *American Weekly Mercury*, "London, April 24," July 23 1730, Issue 551, p. 3.

¹⁶ *Virginia Gazette*, Parks, December 30, 1737, page 4

young Lady, with a Fortune of Ten Thousand Pound,” and “Abraham Bosomworth, Esq; Agent for Indian Affairs, was married... to Miss Susanna Seabrook, a young Lady endowed with all agreeable Accomplishments, and a Fortune of 15,000” in 1749.¹⁷ Explicit quantification of women’s marriage portions began to decline by the middle of the century, although exceptions were made – for instance, when Margaret Burton brought “a Fortune (at least) of 10,000l” to her union in 1768.¹⁸

More often, the notices noted the woman’s qualifications in general terms – but wealth was still one of them. In the spring of 1732, readers of the *South Carolina Gazette* were informed that “Mr. Osmond, Merchant, of this Town was married to Miss Mary Hall, Daughter to Col. Arthur Hall of this Province a young Lady of great Merit and Fortune,” and a month later, that “Doctor *William Cleiland* was married to Mrs. *McNabney*, a Widow Lady of good Fortune.”¹⁹

Increasingly, publishers left it to readers to estimate a woman’s marriage portion, but included additional clues, such as the name of the woman’s father and references to her character. Thus, when Judith Randolph married in 1738, she was advertised not only as “an agreeable Lady, with a very comfortable Fortune,” but also as William Randolph of Tuckahoe’s sister; the same notice described “Miss *Lucy Bolling*, Daughter of Col. *Robert Bolling*” as “a very deserving young Lady, with a pretty Fortune.”²⁰ In 1741, the union of two prominent Philadelphia families mentioned both the newlyweds’ fathers: “Tuesday last Mr. WILLIAM LOGAN, eldest Son of the Honourable JAMES LOGAN, Esq; was married to Mrs. HANNAH EMLLEN, a young Lady of Beauty, Merit and

¹⁷ *The Pennsylvania Gazette*, May 29, 1740; *The South Carolina Gazette*, November 6, 1749.

¹⁸ *Virginia Gazette*, Rind, February 04, 1768, 2.

¹⁹ *The South Carolina Gazette*, April 22 and May 6 1732.

²⁰ *Virginia Gazette*, Parks, July 28, 1738, 4.

Fortune.”²¹ A second-time bride was “a handsome Widow Gentlewoman of great Merit and Fortune,” and Anne Harvey was described as “a very agreeable and accomplish'd young Lady, with a considerable Fortune,” both in 1749.²² Mary Child was noted as “an agreeable young Lady; and Heiress—reputed the richest in this Province,” Nancy Cleland as “the only child of the Hon. John Cleland, Esq; a young lady of fine accomplishments, with a large fortune,” and Katy Reid as “a young Lady of great Beauty and Merit, with a handsome Fortune.”²³ For mid-eighteenth-century elites, wealth was a given attribute of suitable brides - even a handsome face required a handsome fortune.

As references to fortunes faded in the late eighteenth century, notices continued to use the associated adjectives to describe brides, alluding to rather than explicitly listing their wealth. Brides were “amiable,” “agreeable,” and “accomplished.” Thus while their “merit” was not monetary alone, it was closely associated. Young elite ladies in the late eighteenth and early nineteenth centuries learned to perform refinement and cheerfulness through education, which was increasingly taking place outside the home in female academies.²⁴ Mastering these “accomplishments” required a financial investment, which presumably reflected a woman’s future marriage portion. Wealth was thus discussed through implication rather than declaration.

Romantic rhetoric did begin permeate these public descriptions of marriage in the 1760s and 70s. Even during the Revolutionary war, Virginia printers dedicated space for

²¹ *The Pennsylvania Gazette*, March 26, 1741.

²² *The South Carolina Gazette*, April 24 and November 13, 1749.

²³ *The South-Carolina Gazette*, April 9, 1750, February 18, 1751, and June 24, 1751.

²⁴ Mary Kelley, *Learning to Stand and Speak: Women, Education, and Public Life in America's Republic* (Chapel Hill: The University of North Carolina Press, 2006).

poems appended to some wedding announcements.²⁵ An 1804 announcement even derided wealth as a criterion for marriage. The notice of the Quaker union of “*Ezra Comly*, of Byberry, to *Sarah Strickland*, daughter of John Strickland of Bucks County,” was followed by an ode to romantic love by Nathaniel Evans: “What shall divide the pair whom love hath join’d,/ And heaven hate formed with sympathy of mind?/ Shall groveling fortune basely interpose,/ To part those hearts where mutual passion glows?/ Forbid it Love!—”²⁶ While Quakers openly stressed affection and compatibility - arguably earlier than other sects - they were fairly unique in the extent to which community approval was required for a match to be sanctioned.²⁷ Thus while it evidently did not appear so to the happy newlyweds, their ode to passion and dismissal of “groveling fortune” was ironic - had they insisted on those criteria alone, they likely would not have been permitted to marry and remain in Meeting. Like other well-off young people, Ezra and Sarah could overlook the necessity of wealth to marriage because they selected mates from within their own socioeconomic strata.

Most ads were much simpler, yet still found ways to indicate the wealth and status of the marrying couple. In addition to the couples’ names, the notices often mentioned the where the parties hailed from and sometimes the man’s profession and the woman’s father if he was prominent. Thus Mary Lee was noted to be “the eldest daughter of Philip

²⁵ See cf., *Virginia Gazette*, Rind, February 17, 1774, page 2; *Virginia Gazette*, Dixon and Hunter, August 31, 1776, page 2; *Virginia Gazette*, Purdie, September 13, 1776, page 3.

²⁶ *Philadelphia Repository, and Weekly Register*, October 17 1804, Vol. IV, Issue 43, p. 343, from Nathaniel Evans, “An Epistle to Mira,” in *Poems on Several Occasions, with Some Other Compositions* (John Dunlap: Philadelphia, 1772), 112.

²⁷ Barry Levy, *Quakers and the American Family: British Settlement in the Delaware Valley* (New York: Oxford University Press, 1992).

Lee, Esq. deceased" when she wed in 1808²⁸ in Virginia. When the United States Treasurer married in 1840, his position was included along with his wife's late father's name.²⁹ The *National Gazette* could not resist bucking the trend of simpler notices in 1827, however, when Susan Queer married Abraham Kind, following up the standard lines with a cheeky rhyme: "Is it strange that a female, when wed to her mind,/ Should cease to be *Queer* and become truly *Kind*?/ Since *Queerness* is not the best trait in a wife,/ While *Kindness* subdues half the evils of life."³⁰

While announcements grew briefer and more impersonal, newspapers then began to include more narratives about marriage, from happy love stories to reports on matrimonial scandal. While earlier pieces, like Franklin's "Reflections on Courtship and Marriage," were openly didactic, later pieces were less direct in their moralizing. In a similar manner, eighteenth century theater and novels generally offered courtship plots with a neat resolution and a clear moral, while nineteenth century literature was more complex and varied, but in general bent to same point. The growing emphasis on sympathy and sensibility enhanced the importance of feeling and emotion for the performance of elite status.³¹

While the rhetoric marriage had progressed beyond companionship in the mid-eighteenth to romantic love in the mid-nineteenth century, the financial importance of marriage for men and women persisted. Despite examples stretching back over a century, mid-nineteenth century Americans perceived their ambivalence about the place of wealth

²⁸ *The Enquirer* (Richmond), August 5 1808, p. 3

²⁹ *Richmond Enquirer*, June 9 1840, p. 3.

³⁰ *National Gazette and Literary Register* (Philadelphia), September 6 1827, p. 3

³¹ Elizabeth Barnes, *States of Sympathy: Seduction and Democracy in the American Novel* (Columbia University Press, 1997).

in marriage as new. As the number and circulation of newspapers and magazines exploded, so too did articles about marriage. Women's periodicals especially offered advice and warning to courting women in opinion pieces, reporting, and fiction. But the multiplying perspectives and opinions created cacophony rather than consensus; some pieces derided the folly of marriage entered into impulsively or with unrealistic expectations, while others insisted that considerations of wealth debased the holy state of matrimony. For instance, in 1836, a column on "How to Choose a Good Husband" declared that a "man depending solely for his reputation and standing in society on the wealth of his father and other relations" was almost certainly going to make "a bad husband."³² Yet papers also published many stories like "THE FANCY MATCH," where a romantic young woman - in this case Maria Greenwood, "a very intelligent and accomplished young lady, but of rather too romantic a turn of mind" - rushed blindly into marriage only to find herself deceived and doomed to live in poverty.³³ Taken together, however, underlying the shift towards celebrating companionate and romantic ideals of marriage was a continual note of warning, especially for women, that marriage while marriage for money alone was likely to create unhappiness, marriage without money was a sentence of perpetual penury.

In an 1859 article, "MODERN MARRIAGES," in *Godey's Ladies Book*, the author echoed many of the charges made by Franklin over a hundred years. The author's lament would have been familiar to Franklin and his readers a century earlier. A "marriage which is not founded on mutual love and esteem— which does not bind hearts

³² "Ladies' Department: How to Choose a Good Husband.," *Christian Advocate and Journal*, March 18, 1836, 120.

³³ Fanny Fane, "The Fancy Match.," *Peterson's Magazine (1849-1892)*, November 1855, 289.

as well as hands— becomes nothing more or less than a sordid and disgraceful bargain” - a more tactful description than Franklin’s “abominable prostitution,” but with the same implication.³⁴ Despite the passage of a century, the centrality of financial concerns to marriage remained substantially unaltered.

Respect and esteem were not yet sufficient justification for marriage – love tempered with reason was the goal, and reason meant a consideration of one’s financial future. Most scholarship to date has taken the sentiments expressed in Franklin’s screed at face value, but embedded within many discussions of changes in marriage was the recognition that much remained the same – marriage was still a critical decision that affected both women and men’s economic as well as emotional futures. Indeed, Franklin published the pamphlet assuming that his readers understood the centrality of financial considerations to courtship. While public and prescriptive discussions of marriage as companionate increased from the mid-eighteenth through mid-nineteenth century, the message that marriage was too economically significant to be taken lightly persisted.

In addition to the growing emphasis on companionship in marriage, changing mores about wealth obscured its continued centrality. Attitudes about the connection between wealth and morality had deep roots in English culture. Amy Louse Erickson argues that in seventeenth century England, “[a]t some level, a bride’s marriage portion was not merely a nest egg for the new household – it was a token of her character, and thus her sexual honour.”³⁵ Public assessments of individuals’ fortunes receded over the last half of the eighteenth century, suppressed by the growing privacy of the family, the

³⁴ “MODERN MARRIAGES,” *Godey's Lady's Book* (December 1859), 505.

³⁵ Amy Louise Erickson, *Women and Property In Early Modern England*, rev. ed. (London; New York: Routledge, 1995), 95.

emphasis of romantic love, and Enlightenment and republican notions of virtue, which emphasized individual character. Yet each of these changes only masked the continued legal and political dominance of the elites who embraced them.

Emphasizing feeling, merit, and the individual allowed elites to naturalize their continued power and privilege as Anglo-American society began to question and reject divinely-ordained hierarchy. The republican emphasis on character and virtue privileged qualities associated with white elites: financial independence, education, and genteel deportment. Thus while hard numbers were supplanted with characteristics, these characteristics themselves signaled wealth. A brief survey of depictions and advice regarding marriage in newspapers and in fiction demonstrate that money was *not* displaced as a central concern in marriage – rather, emotional considerations were added onto the economic base. Throughout the British North American colonies, and later American states, public discussions of money and marriage persisted, and men and women from Pennsylvania, Virginia, and South Carolina employed common economic metaphors for marriage. These were expressions of shared values regarding the economic functions of marriage, and the pursuit of financially suitable partners gave rise to not only local patterns but also a national system within which elites sought marriage partners.

Marital felicity, at least as elite and upper class white Americans saw it, was attainable only when a marriage was financially secure. Even so, happiness was never guaranteed; both personal compatibility and future success were a gamble. Throughout the eighteenth and nineteenth centuries, contemporaries employed economic metaphors to describe marriage. In applying terms fraught with financial significance to describe marriage, contemporaries captured the sense of risk and reward that informed nuptial

choice and reflected their consciousness that marriage continued to serve important economic functions.

Economic metaphors evolved over time in tandem with economic development. While the metaphors were often meant to be playful, the humor itself is telling: economic metaphors were obvious enough that correspondents could poke fun with confidence, knowing that their reader would understand and appreciate the connections. Underlying the humor was a shared recognition of the appropriateness of the comparisons - and the seriousness of the stakes. Despite general acceptance of affection as important to marriage, many parents would have agreed, at least privately, with William Shippen when he declared that “A Bird in the hand is worth 2 in the bush” when it comes to a prospective spouse’s fortune.³⁶

In the eighteenth century, marriage was often likened to a speculative overseas venture. A tongue-in-cheek article reprinted in the *Virginia Gazette* and the *Pennsylvania Gazette* in 1751 compared spousal selection to ordering merchandise, and the marriage contract to a financial one.³⁷ Originally published in the *Jamaica Courant*, the short story highlights a shared understanding not only of the ideals of marriage but also the financial system that linked the British Atlantic. A London émigré to Jamaica, having “acquir’d a great Fortune” as a merchant, desired a wife, but “knowing none to his Fancy, he resolved to write to a worthy Correspondent at London.” Knowing “no other Stile than that he us’d in Trade,” he handled his “Affairs of Love as he did his Business.” He listed his requirements - that his bride be “between 20 and 25 Years of Age,” “of middle stature

³⁶ Ethel Armes, ed., *Nancy Shippen Her Journal Book: The International Romance of a Young Lady of Fashion in Colonial Philadelphia with Letters To Her and About Her* (Philadelphia: J. B. Lippincott Company, 1935), ch. IV, 101.

³⁷ *Pennsylvania Gazette*, June 20 1751, p. 1; *Virginia Gazette*, Hunter, July 11, 1751, p. 3.

and well proportion'd, her Face agreeable, her Temper mild" - of which a fortune was not one. As noble as this dispensation seems, it probably also reflected the reality that luring a woman of wealth to the tropics would be difficult. The merchant's correspondent soon found "a Lady fit for his purpose, in a young Person of a reputable Family, but no Fortune," despite her "polite education." In addition to her blameless morals, she was "of Good-humour,... well shap'd, and more than tolerably handsome."

The young lady boarded a ship out of Bristol, along with other goods, carrying with her "a Certificate in due Form, endorsed by the Correspondent" and "the Invoice, the last Article of which ran thus: Item, a Maid of 25 Years of Age, of the Quality, Shape, and conditioned as per Order." When she disembarked, the lady "told him, Sir, I have a Bill of Exchange upon you" - for herself. The smitten merchant replied that he should "reckon" himself "the most fortunate of all Men if you would allow me to discharge it." His order filled to his satisfaction, the pair was soon married.³⁸ While the young lady, unlike the other goods, had to consent to the transaction, the implication that marriages could be arranged like other business deals found its humor in reality. The article's republication in the *Pennsylvania Gazette* in 1785 suggests that the connection between business and marital contracts persisted into the late eighteenth century, and may well have survived long after, as bills of exchange continued as a financial instrument.³⁹

The speculative nature of both marriage and business opportunities required information and planning - though not always enough of either was invested in a given venture. Such was the case when Nathaniel Tucker related his "bold Stroke for a Wife" to St. George Tucker in 1774, in which an ample inheritance piqued his interest in a prior

³⁸ *Virginia Gazette*, Hunter, July 11, 1751, 3; *Pennsylvania Gazette*, June 20 1751, p. 1.

³⁹ *The Pennsylvania Gazette*, October 12 1785

acquaintance. Tucker playfully adopted the language of risky shipping ventures to describe his play for Miss Ainslie, who “moves in the genteelest Circle of Acquaintance in the Province.” Upon hearing that she had “become possessed of 12,000 Guineas” on the death of her father, Nathaniel “thought it would be no bad Scheme to make an Attempt on her Heart.” After consulting with his brother, who already thought “it wou’d be a good Match for me if I liked the Lady,” they developed a “Plan of Operations to be adopted... as the Splendor of the Fortune made Delay dangerous.” In a years’ acquaintance, he had evidently made no advances on her heart until he learned the size of her pocketbook.⁴⁰ But once the significance of the “prize” was apparent, he consulted with his brother to plan his “scheme.” Nathaniel’s rushed proposal was probably transparently grasping. Miss Ainslie’s rejection, however, only enhanced Nathaniel’s high opinion of her; she politely explained that while she appreciated his “Attachment... there was no accounting for Inclinations... she gave me to understand pretty clearly that I was not the Man after her own Heart.” While he confessed himself “a Madman... for disputing the Prize with five or six Rivals of the genteelest Connexions,” he had “learnt... that faint heart never won fair lady” – or said lady’s fortune. Nathaniel’s behavior would have been similar had he heard of a lucrative investment opportunity - consulting with family, creating a plan, and hoping to outcompete others for the gain. In 1791, Eliza Selden of Virginia sniffed that while in Richmond she had not had “one suitor though they say I have been admired. [T]he gentlemen’s minds are I believe occupied chiefly with speculating in paper money certificates &c which they find more

⁴⁰ Nathaniel Tucker at Charleston, South Carolina to St. George Tucker, “A bold Stroke for a Wife,” [May 1774], Tucker-Coleman Papers.

profitable than wives.”⁴¹

In an 1837 letter, South Carolinian Henry Townes revealed just how tightly connected wealth and emotion were in marriage calculations. Townes reminded his brother that “Matrimony is always a serious affair but becomes incalculably moreso in proportion to the smallness of the *capital*... which each of the parties are able to produce.” Lest his brother misunderstand the implication, he clarified bluntly, “I mean and use the word in its everyday and business signification – Money, and not in the poetical sense – love.”⁴² Henry wanted to ensure that his brother understood that financial capital should come before emotional capital. In a sense, in both business and matrimony, the profit motive prevailed – even though the profits from marriage were not strictly quantifiable.

By the mid-eighteenth century, lotteries were well established and began to draw comparisons with marriage. In 1748, English noblewoman Mary Montagu pessimistically described marriage as “a Lottery where there is (at the lowest computation) ten thousand blanks to a prize.” Given the low odds of marital happiness, she advised her granddaughter, “it is most prudent not to venture.”⁴³ In 1812, Virginian Sally Kennon Sinclair commented, after describing the good qualities of a friend’s new husband, “I think her prospect of happiness is good, or indeed rather better, than the generality of people who are purchasers in this matrimonial lottery.” In 1816, Sally’s mother, Elizabeth Beverly Kennon, contemplating an upcoming wedding, wrote, “I sincerely

⁴¹ Eliza Selden to Martha Douglas, February 18 1791, Gibson Papers, Library of Virginia, cited in Lebsack, *Free Women of Petersburg*, 19.

⁴² Henry Townes to George Townes, July 24, 1837, Townes Family Papers, SCL. Also cited in Stowe, *Intimacy and Power*, 80.

⁴³ Cited in Cynthia J. Lowenthal, *Lady Mary Wortley Montagu and the Eighteenth-Century Familiar Letter* (Athens, Ga.: University of Georgia Press, 2010), 195.

wish it may be productive of happiness to them all; but alas, marriage is such a lottery, that there is no certainty of drawing even a tolerable prize.” Writing to another friend after the same wedding concluded, the widowed Kennon sighed, “I sincerely wish she may find the state she has now entered into productive of as much felicity as the one she has quitted.” Closely echoing Lady Montagu, she continued, “when we marry..., it is a great lottery; and many blanks to a prize observation has convinced me there are. How strange it is then, that both sexes are so eager to run their necks into a noose, from which it is so difficult to extract it.”⁴⁴

The lottery analogy continued in use throughout the nineteenth century. In 1851, on learning of her cousin’s engagement, South Carolinian Harriet Palmer wrote, “Tho I don’t anticipate this with you dear coz, marriage is at best a lottery. I hope you have drawn a prize and know he has.”⁴⁵ In 1865, Mississippian Kate Stone lamented being “left behind in the lottery ‘marriage.’”⁴⁶ Near the end of the century, in 1887, a mother bitterly reflected on the challenges facing her marriage-aged daughter: “Ah, *marriage is a lottery*, how full of Deceit of they come with their false tongues.”⁴⁷

The lottery concept was discussed in print as well, sometimes as satire. An 1803

⁴⁴ Mrs. Arthur Sinclair to Ellen Mordecai, 29 December 1812, in “Kennon Letters (Continued),” *The Virginia Magazine of History and Biography*, Vol. 34, No. 3 (Jul., 1926), 230; Mrs. E. B. Kennon to Caroline Mordecai, 12 May 1816, and Mrs. E. B. Kennon to Rachel Mordecai, 2 June 1816, in “Kennon Letters (Continued),” *The Virginia Magazine of History and Biography*, Vol. 40, No. 2 (Apr., 1932), 161, 163. Fortunately for Elizabeth and Sally, Sally’s marriage to Arthur Sinclair was a happy one.

⁴⁵ Harriet A. Palmer to Elizabeth Catherine Palmer, 15 Sept. 1851, in *A World Turned Upside Down*, 169.

⁴⁶ Kate Stone Foster Dairy, November 26 1865, David M. Rubenstein Rare Book & Manuscript Library, Duke University, cited in Kimberly Harrison, *The Rhetoric of Rebel Women: Civil War Diaries and Confederate Persuasion* (Carbondale, IL: Southern Illinois University Press, 2013), 163.

⁴⁷ Emily Gillepsie Diary, April 25 1887, cited in Catherine Hobbs, *Nineteenth-Century Women Learn to Write* (Charlottesville, Va.: University of Virginia Press, 1995), 209.

newspaper article, noting that “marriage is often called a lottery,” jokingly proposed “a scheme” using a lottery wheel, where women could buy tickets for prizes ranging from “excellent” to “the worst” husbands.⁴⁸ In 1846, a New York newspaper advertised a “grand bachelors’ scheme” to “win a wife at a very great economy of time and money.” With ten-dollar tickets for “one thousand prizes of one wife each,” the ad went into significant detail in describing the categories of prizes. The choicest were “4 HEIRESESSES (income, 5,000 a year,) very beautiful and excessively modest - a qualification very unusual. Ages 16, 17 and 30.” The descending categories offered “no income” and “no fortune,” but were “good-looking” enough to be “handsome” with “a little attention to art”; “young ladies of the class called ‘interesting’”; “not interesting, but quite handsome”; “passing handsome all, calculated by an inverted rule which of course applies to the mind”; “‘good girls’ ... guaranteed not to sour at the first thunderstorms, ages 19 to 24”; and finally, forty-year-olds who were “Handsome and intellectual, the latter predominant - have eschewed romance but occasionally write verse - very desirable for poets.”⁴⁹ Money was not the only consideration, but it was listed first – suggesting that despite significant social and cultural change the economic importance of marriage remained largely unquestioned.

By the early nineteenth century, marriage was also explicitly recognized as a market, with the implications of supply and demand, perhaps influenced by the growing emphasis on personal choice in both marriage and commerce. Market analogies

⁴⁸ S, “Matrimonial Lottery.,” *The Lancaster Hive; Devoted to Morality, Literature, Biography, History, Poetry, Agriculture, &c. &c. (1803-1805)*, December 7, 1803, 99.

⁴⁹ “New York Lottery: Grand Bachelors’ Scheme, Under the Direction of Cupid, Who Has Kindly Consented to Be Present at the Drawing. Tickets \$10--Widowers Not to Be Excepted.,” *Yankee Doodle (1846-1847)*, December 19, 1846, 233.

expressed ideas about the relative value of different attributes in selecting a spouse. In 1813, widow Elizabeth Kennon noted the importance of appearances when she joked with a friend that her physical maladies and shortcomings were “shocking” to herself as a “beautiful creature just come out; and now in the market, to labour under such horrid disadvantages.”⁵⁰ A cynical 1843 article grumbled there was “little doubt of marriage gradually becoming an acknowledged mercantile transaction,” and predicted that, “before long, the state of the hymenal market will be chronicled in newspapers, in common with the other commercial...affairs of the day.”⁵¹ After inadvertently witnessing the auction of an enslaved woman who looked “so like my good little Nancy” – she suspected, to be purchased as a concubine – a shaken Mary Chesnut commented to her diary, “You know how women sell themselves and are sold in marriage, from queens downward, eh?”⁵² Both in its financial significance and in the transactional nature of marriage – where a woman exchanged both her identity and her residence for her husband’s support and protection – made comparisons with commerce inevitable.

The 1859 author who decried marriage for money alone as a “sordid bargain” also included a catalogue of current metaphors, many of which had long been in use. The author marveled that “some people... regard [marriage] as a speculation which may be good or bad— as a game to be played which requires sagacity and skill— as a question of position— as a marketable commodity— as something by which wealth is to be secured— as a mutual compact for material aggrandizement— sometimes for the

⁵⁰ Elizabeth B. Kennon to Ellen Mordecai, 24 Nov. 1813 “Kennon Letters (Continued),” *The Virginia Magazine of History and Biography*, Vol. 35, No. 1 (Jan., 1927), 16.

⁵¹ “Speculations on Marriage and Young Ladies,” *The New World; a Weekly Family Journal of Popular Literature, Science, Art and News (1840-1845)*, February 11, 1843, 181.

⁵² Mary Chesnut, *Mary Chesnut’s Civil War*, ed. C. Vann Woodward (New Haven: Yale University Press, 1983), 15.

building up of a family, sometimes for the extension of a trade.” Like previous generations, “modern” young people situated marriage in their economic context and strategized about how marriage would reallocate property. The metaphors they used to describe success - ““She has played her cards well’... ‘What a capital hit! who could have ever expected her to be so fortunate?’... ‘A good connection, indeed’” - would have been intelligible decades before.⁵³ Allusions to wealth necessarily persisted because the family was still the primary mechanism for dispersal of wealth, and marriage was one of the most significant conduits.

Collectively, from the mid-eighteenth to the mid-nineteenth centuries, the public discussion of marriage stressed a realistic consideration of prospective marriage partners’ wealth. An 1826 article, “Love and Reason,” was refreshingly concise. “Love looks only at the honeymoon,” O. Oakwood wrote, while “Reason is to Love, what a pair of spectacles are to a near-sighted man,” permitting one to look past the surface to focus on the “thousand things that cluster round the very idea of marriage.” Oakwood sounded a familiar note when he admonished readers, “Do not marry for money merely,” yet he conceded, “it may be, indeed, an important object.”⁵⁴ Love should not displace a reasoned consideration of future financial wellbeing.

⁵³ “MODERN MARRIAGES,” *Godey's Lady's Book* (December 1859), 505.

⁵⁴ O. Oakwood, “MISCELLANEOUS: Love and Reason,” *The Rural Repository Devoted to Polite Literature, Such as Moral and Sentimental Tales, Original Communications, Biography, Traveling Sketches, Poetry, Amusing Miscellany, Humorous and Historical Anecdotes (1824-1851)*, October 28, 1826, 85, and “Love and Reason.,” *Masonic Mirror: And Mechanics' Intelligencer (1824-1827)*, September 30, 1826, 317.

Introduction

“I suppose mutual affection and constancy... may be desired, but if *poverty* be their companion what do they but aggravate misery[?]”

Philadelphian William Meredith put this blunt question to his nephew Duncan Ogden in an 1836 letter, replying to Duncan’s request for permission to marry William’s daughter, Meriam: “I suppose mutual affection and constancy... may be desired, but if *poverty* be their companion what do they but aggravate misery[?]”⁵⁵ While William assured Duncan that his “regard for your welfare & happiness is unabated,” he still expressed his “open & decided opposition” to the marriage. “A matrimonial connection,” William intoned, “what ever we may think of it in the gay season of youth, is a very serious concern.” He feared that Duncan and Meriam were so caught up in their emotions that they were ignoring reality: that marriage engendered a lifetime of financial obligation and dependence. William did not think Duncan was prepared for this burden; while he did not question Duncan’s “abilities, your zeal & industry,” William felt Duncan was too “*sanguine* in the prospect you have in view.” Financial success was a prerequisite for marriage, William insisted, and he “had such confidence in her judgment, besides her affectionate sense of duty,” that Meriam would surely “acquiesce” to canceling the engagement. In expressing these concerns, William echoed the concerns of previous and future generations of parents who urged their children to consider the economic aspects of matrimony. Indeed, we can find evidence of parents and elders writing in the same vein in 1770, 1800, or 1850.

To date, historians of America have focused more on Duncan’s desire for “mutual

⁵⁵ William Morris Meredith to Duncan Campbell Ogden, February 23 1836, Box 11, Meredith Family Papers, Collection 1509, Historical Society of Pennsylvania.

affection and constancy” than on what William admitted might look like the “heartless intermeddling of frivolous Fathers.” Yet this was not simply intergenerational conflict, a sign of an older way of thinking giving way to the new - conversations like this one were repeated for more than a century as young people came of marriageable age. As William’s letter makes clear, antebellum Americans still recognized that marriage was, most centrally, an economic institution, despite a growing emphasis on love and companionship. Young people who embraced what historians have called “companionate marriage” consistently matured into parents who took a more pragmatic view when their own children came of age. From the colonial period to the Civil War, while social, cultural, and even legal constructions of marriage changed significantly, the economic imperatives of marriage persisted. Elders’ concerns were anchored in the core of marriage law, which was concerned with property and with upholding deeply gendered relations of power. This ongoing reality constrained each generation’s romantic impulses.

Marriage continued to prompt the largest intergenerational transfers of wealth before estates were distributed at death. Anthropologists have examined the redistributive and political functions of marriage in wide variety of contexts, but not considered early America.⁵⁶ Historians of American marriage, on the other hand, have overlooked the

⁵⁶ For an overview of anthropological approaches to marriage, see John Borneman, “Marriage Today,” *American Ethnologist*, Vol. 32, No. 1 (Feb., 2005): 30-33, and Borneman, “Until Death Do Us Part: Marriage/Death in Anthropological Discourse,” *American Ethnologist* 23, no. 2 (May 1, 1996): 215–35. For introductions to influential anthropological theories and studies of marriage, which anthropologists often study in conjunction with kinship, cf., Janice E. Stockard, *Marriage in Culture: Practice And Meaning Across Diverse Societies* (San Diego: Cengage Learning, 2001); Robin Fox, *Kinship and Marriage: An Anthropological Perspective* (New York: Cambridge University Press, 1984); and Louis Dumont, *An Introduction to Two Theories of Social Anthropology: Descent Groups and Marriage Alliance*, trans. Robert Parkin (New York: Berghahn Books, 2006). For an example of an anthropological approach to marriage and property more specifically, see Alice Schlegel and Rohn Eloul, “Marriage Transactions: Labor, Property, Status,” *American Anthropologist*, New Series, Vol. 90, No. 2 (June 1988), 291-309.

legal and financial functions of marriage in favor of the rise of the companionate ideal and republican motherhood in the eighteenth century and of romantic love and divorce in the nineteenth.⁵⁷ Both disciplines claim a transition from “institutional” to “companionate” marriage during this period. Given the ongoing economic significance of marriage, however, we still require a clearer understanding of the political economy of marriage in the formative era of American law and culture.

Although many scholars acknowledge that the financial stakes of marriage remained high even as the emphasis of partner selection became increasingly romantic, none has examined the economic functions of marriage during this critical period. The economic functions of marriage included the means by which individuals selected

⁵⁷ Cf., on the republican reframing of marriage and motherhood in the eighteenth century: Linda Kerber, *Women of the Republic: Intellect and Ideology in Revolutionary America* (Chapel Hill, NC: University of North Carolina Press, 1980); Mary Beth Norton, *Liberty's Daughters: The Revolutionary Experience of American Women*, rev. ed. (Ithaca, NY: Cornell University Press, 1996); Jan Lewis, “The Republican Wife: Virtue and Seduction in the Early Republic,” *William and Mary Quarterly*, 44 (1987): 689-721; Ruth Bloch, “American Feminine Ideals in Transition: The Rise of the Moral Mother, 1785-1815,” *Feminist Studies*, Vol. 4, no. 2 (Jun., 1978), 100-126” and “The Gendered Meanings of Virtue in Revolutionary America,” *Signs*, 13 (1987): 59-77; Rosemary Zagari, “Moral, Manners, and the Republican Mother,” *American Quarterly*, 44:2 (June 1992), 192-215 and *Revolutionary Backlash: Women and Politics in the Early American Republic* (Philadelphia: University of Pennsylvania Press, 2007). On emotion and romantic love, see Nicole Eustace, *Passion is the Gale: Emotion, Power, and the Coming of the American Revolution* (Chapel Hill, N.C.: University of North Carolina Press, 2008), especially chs. 4 and 9; Sarah Knott, *Sensibility and the American Revolution* (Chapel Hill, N.C.: University of North Carolina Press, 2009); Martha Tomhave Blauvelt, *The Work of the Heart: Young Women and Emotion, 1780-1830* (Charlottesville, Va.: The University Press of Virginia, 2007); Karen Lystra, *Searching the Heart: Women, Men, and Romantic Love in Nineteenth Century America* (New York: Oxford University Press, 1989); and Ellen K. Rothman, *Hands and Hearts: A History of Courtship in America* (New York: Basic Books, 1984). On divorce, cf., Norma Basch, *Framing American Divorce: From the Revolutionary Generation to the Victorians* (Berkeley, Cal.: University of California Press, 1999); Thomas E. Buckley, *The Great Catastrophe of My Life: Divorce in the Old Dominion* (Chapel Hill, NC: University of North Carolina Press, 2002); Richard Chused, *Private Acts in Public Places: A Social History of Divorce in the Formative Era of American Family Law* (Philadelphia: University of Pennsylvania Press, 1994); Hendrik Hartog, *Man and Wife in America: A History* (Cambridge, Mass.: Harvard University Press, 2000); and Loren Schwenger, *Families in Crisis in the Old South: Divorce, Slavery, and the Law* (Chapel Hill: The University of North Carolina Press, 2012).

marriage partners, how parents allocated resources to marrying and married children, and the broader patterns these decisions took over time. While American historians occasionally investigate the family as an economic institution, this study focuses on marriage as not only a mechanism for transfer on a single occasion but also as a social and legal relationship that required ongoing financial negotiations between spouses and their extended families.

Specifically, this dissertation investigates the enduring economic importance of marriage from about 1750 through about 1860. Here, “economic” is a term employed broadly to mean the financial, property, and general wealth considerations of matrimony. As a category of analysis, however, this dissertation treats “economics” not merely in the Smithian sense of a system of rational self-interest or a profit-maximizing capitalistic system; rather, it treats economics as a reflection of patriarchal ideologies of power as expressed through the accumulation and management of wealth, with particular attention to the law as a tool for reinforcing the subordinate status of women.

These expressions of power, then, both emerged from and shaped particular legal and economic contexts. To capture this critical continuity within early America’s economic and legal diversity, this project focuses on Pennsylvania, Virginia, and South Carolina to better argue that the functions of marriage were broadly accepted throughout British America. By 1750, elite British colonists had developed strategies for family wealth management through marriage that reflected both local opportunities and growing economic integration along the eastern seaboard, and marriage frequently created social and financial links between regions typically treated as separate and distinct. Despite important regional distinctions, common marital strategies reflected shared goals and

assumptions about the economic functions of marriage. This common understanding of marriage's economic purposes and the developing mechanisms for managing wealth in the early nineteenth century prompted the circulation of a significant minority of men and women between states along the eastern seaboard, despite regional difference. Similarities of law and culture overwhelmed regional distinctions rooted in particular social and economic systems.

Analyzing marriage during a formative period of American law and culture is also important for understanding the historical evolution of how state regulation of the family rooted women's continued economic dependence and political invisibility in a "natural" institution. Laws of marriage were central to the regulation of property in the British colonies and early America; indeed, laws of marriage were primarily concerned with defining women's economic limitations. Virtually all of the legal justifications for married women's legal handicaps and married men's empowerment employed the circular logic of female dependence, which was its self legally constructed. Under English common law, property was central to ability to contract, and husbands acquired control of their wives' property at marriage; without property, women were legally impotent. The doctrine of coverture further suspended women's legal identities upon marriage, rendering them unable to purchase or contract twice over. The insistence on inherent female difference in the early national period justified the exclusion of single, property-owning women from the franchise despite single women's economic and legal ability. Thus while, as Karin Wulf shows, conflating women and wives overlooks important distinctions between single and married women, the assumptions of sexual

inequality that bolstered coverture colored the experience of unmarried women as well.⁵⁸

Overlooking the historical development of marriage, including its deeply embedded inequalities based on assumptions about the organization of domestic economy and household labor, means that modern debates over the purpose and functions of marriage take place in a vacuum. Scholarship on contemporary marriage often focuses on the financial and wealth-management aspects of matrimony and cohabitation, despite acknowledging that the key criteria for selecting partners in the twenty-first century is emotional fulfillment.⁵⁹ Emotional fulfillment, however, fought a long, uphill battle to claim dominance in the public and private discourse around marriage.

Sources and Methods

This project investigates early America from the mid-eighteenth to the mid-nineteenth century, accepted as the beginning of this shift, but concentrates instead on the stubbornly immovable. For over a century, the ideal of marriage as an emotional union coexisted with a frank understanding of matrimony as an economic exchange – yet scholarship has focused more on this gradual change than on the extraordinary continuity. Indeed, even in the twenty-first-century model of romantic marriage, finances are frequently a decisive factor in transitioning from cohabitation to matrimony and a critical

⁵⁸ Karin Wulf, *Not All Wives: Women of Colonial Philadelphia* (Philadelphia: University of Pennsylvania Press, 2005), introduction.

⁵⁹ Kenneth Aarskaug Wiik, Eva Bernhardt, and Turid Noack, “Love or Money? Marriage Intentions among Young Cohabitators in Norway and Sweden,” *Acta Sociologica* 53, no. 3 (September 1, 2010): 269–87; Christina M. Gibson-Davis, Kathryn Edin, and Sara McLanahan, “High Hopes but Even Higher Expectations: The Retreat from Marriage among Low-Income Couples,” *Journal of Marriage and Family* 67, no. 5 (December 1, 2005): 1301–12.

aspect of the wealth and racial divides in marriage rates.⁶⁰ In investigating American marriage during the formative period of American law and social practice, this dissertation contributes to our understanding of the historical entanglements of family, emotion, economics, and law.

The approach of this dissertation, most broadly, is the history of gender – critical analysis of the construction of power relations between the sexes. As feminist theorists and historians have shown, ideas and practices of gender are embedded in a wider social order. As Joan Scott defines it, “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.”⁶¹ Joan Kelly offered historians a useful theoretical tool when she highlighted the interrelatedness of Marxist and feminist concerns when she argued that, “In any of the historical forms that patriarchal society has taken... a sex/gender system and a system of productive relations operate simultaneously.”⁶² Scott’s foundational article expanded beyond economic systems to include other systems of inequality by pointing out that “Hierarchical structures rely on generalized understanding of the so-called natural relationship between male and female.”⁶³ While accepting that even “natural” categories such as “male” or “female” are constructed, this dissertation employs the concepts of man and woman, husband and wife, male and female, white and

⁶⁰ Pamela J. Smock, Wendy D. Manning, and Meredith Porter, “‘Everything’s There except Money’: How Money Shapes Decisions to Marry among Cohabitators,” *Journal of Marriage and Family* 67, no. 3 (August 1, 2005): 680–96; Daniel Schneider, “Wealth and the Marital Divide,” *American Journal of Sociology* 117, no. 2 (September 1, 2011): 627–67.

⁶¹ Joan W. Scott, “Gender: A Useful Category of Historical Analysis,” *The American Historical Review* 91, no. 5 (December 1, 1986): 1067.

⁶² Joan Kelly, “The Doubled Vision of Feminist Theory: A Postscript to the ‘Women and Power’ Conference,” *Feminist Studies* 5, no. 1 (April 1, 1979): 224.

⁶³ Scott, “Gender,” 1073.

black, master and slave, with the awareness that they are categories that were historically constructed to serve particular ends.⁶⁴

As others have pointed out, historians are often guilty of conflating the history of marriage, and the family, with the history of women, and of depicting a largely white, middling or elite experience of heterosexual union as the norm.⁶⁵ Marriage in early British America was a legally recognized union between a man and a woman, both of whose status was affected by wedlock, and families were mixed-sex organization of related individuals. These heteronormative legal categories, however, did not reflect reality; same-sex relationships, long-term and otherwise, existed throughout the eighteenth and nineteenth centuries with varying levels of social acceptance.⁶⁶ It is important to recognize that the constitutions of families and the behavior of individuals were historically specific, shaped by constantly negotiated power relations based on inequalities between sexes, races, and classes. It is also important to be mindful that the forms, requirements, rights, and limitations of marriage varied significantly, based on geographical location, time, and religious affiliation.

Despite regional and local diversity, marriage law in American was largely uniform in imposing handicaps on women when they married, and not men. As such, this project pays close attention to the experiences and activities of women, particularly when

⁶⁴ Cf. Thomas Laqueur, *Making Sex: Body and Gender from the Greeks to Freud*, rep. ed. (Cambridge, Mass.: Harvard University Press, 1992).

⁶⁵ Wulf, *Not All Wives: Women of Colonial Philadelphia*, Introduction; Laurel Thatcher Ulrich, *Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650-1750*, rep. ed. (Philadelphia: University of Pennsylvania Press, 2005); Linda K. Kerber, *Women of the Republic: Intellect and Ideology in Revolutionary America* (Chapel Hill, N.C.: The University of North Carolina Press, 1997).

⁶⁶ Cf., Rachel Hope Cleves, *Charity and Sylvia: A Same-Sex Marriage in Early America*, (New York: Oxford University Press, 2014); John D'Emilio and Estelle B. Freedman, *Intimate Matters: A History of Sexuality in America*, sec. ed. (Chicago: University of Chicago Press, 1998), Parts I and II.

it comes to their economic interests, but considers their experiences within a gendered system of law and culture. In so doing, it interrogates the artificial barriers erected in contemporary discourse (and explored at length by scholars) between the ostensibly feminine and private and the masculine and public.⁶⁷

By necessity, the words and experiences of elite men and women, who generated the letters, diaries, ledgers, and legal suits that reveal both intentions and outcomes, are central to this investigation. This is not to imply that laboring or poor families were not equally concerned with the economic functions of marriage; rather, working spouses collaborated to pool labor, wages, and personal property rather than real estate and investments. As Seth Rockman shows, poor families in early America resourcefully mobilized men's, women's, and children's labor to survive.⁶⁸ These transactions rarely left documentary traces that reveal the social and economic logic behind them, but they were likely anchored in similar expectations of parental and filial reciprocity. Well-off men and women, however, in the literate and litigious Anglo-American tradition, generated both public and private documents that detail their thoughts and actions in ways helpful to this project.

In seven chapters, this dissertation traces the flow of people and resources via marriage, focusing on Pennsylvania, Virginia, and South Carolina. These states were selected to permit comparison between legal regimes and economic development,

⁶⁷ Jeanne Boydston, *Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic* (New York: Oxford University Press, 1994).

⁶⁸ Gloria L. Main, "Women on the Edge: Life at Street Level in the Early Republic," *Journal of the Early Republic* 32, no. 3 (2012): 331–47; Seth Rockman, "Women's Labor, Gender Ideology, and Working-Class Households in Early Republic Baltimore," *Pennsylvania History: A Journal of Mid-Atlantic Studies* 66 (January 1, 1999): 174–200; Rockman, *Scraping By: Wage Labor, Slavery, and Survival in Early Baltimore*, ed. Cathy Matson (Baltimore: The Johns Hopkins University Press, 2009).

particularly slavery's role – or lack thereof – in both regional specialization, and as an aspect of the wealth of families that influenced the allocation of property at marriage. Broadly speaking, this study selected Pennsylvania as a mid-Atlantic state where enslaved people were not a core form of wealth and where the economy was not heavily dependent on their labor; Virginia as an upper-South state where slavery was temporarily in question as the tobacco economy faltered but which rebounded, creating a re-commitment to property in enslaved people; and South Carolina as a state deeply invested in the economic and property regimes of plantation, where land and enslaved people were consistently central to the wealth of elite families. By including both northern and southern states, this study also attempts not to presume inherent differences between states; rather, it treats individual states as participants in a shared British North American culture and economy, while recognizing contextual specificity. Indeed, as the following chapters will show, colonists and later Americans participated in a shared culture of marriage that gave rise to a fairly uniform set of expectations and strategies.

The bulk of this project adopts a case study approach. Case studies allow for the evaluation not only of outcomes but also the negotiations surrounding courtship and marriage, particularly regarding the allocation of wealth. Exploring correspondence and diaries uncovers the logic and emotions behind these decisions, and financial and legal documents help reveal the stakes of these transactions. When possible, combining correspondence and court cases allowed analysis of both the public and private dimensions of conflicts over marital property. The case study approach thus allows the exploration of specificities and the identification of patterns of behavior and language about marriage, wealth, and power. Numerous close analyses thus encourage fine-grained

analyses of both change and continuity.

Both qualitative and quantitative methodologies are important for analyzing not only individual choices but also the broader patterns formed by those choices in aggregate. Evidence from marriage settlements, which were sometimes but not often filed by artisans and laborers, suggests that in some respects working people and elites shared the goals of controlling the transmission of their property and protecting themselves from economic shocks. A random sample of South Carolina marriage settlements was created to generate the statistics in chapter three to offer a more concrete picture of change over time in response to economic and legal developments and the continuity of families' goals in employing these instruments. Statistical analysis thus sketches a macro view that offers critical context for the various case studies.

Historiography of Marriage

Several strands of historiography inform this project. Historians of the British North American colonies and the early United States have focused on the rise of “companionate” marriage, the legal evolution of divorce and married women’s property rights, or on the social practices of particular regions. Historians of Europe, meanwhile, have explored more deeply the reorganization of kinship, particularly as it relates to the emergence and growth of market capitalism. Building on these literatures, this work draws on a wide range of sources across three states - Pennsylvania, Virginia, and South Carolina - to illuminate national patterns while remaining sensitive to regional particularities.

The current historiography reflects diverse avenues of inquiry into marriage in

early America, but several trends are clear. Near the end of the eighteenth century and into the early nineteenth, historians agree, the ideal of “companionate marriage” emerged in both England and America, stressing compatibility, companionship, free choice of partner, and reduced parental control.⁶⁹ Various scholars have argued that shifts towards a consumer economy, growing prosperity, Enlightenment thought, the development of sensibility, and the rise of evangelical religion contributed to the evolution of marital ideals by altering both family organization and women’s social position more broadly.⁷⁰ Prescriptive literature increasingly insisted that parents should relinquish authority over courtship and choice of spouse as the child’s feelings became paramount.

In the new United States, Revolutionary ideology permeated discussions of

⁶⁹ The term “companionate marriage” was linked to the late eighteenth-century English propertied classes by Lawrence Stone in *The Family, Sex, and Marriage in England 1500-1800* (New York: Harper and Row, 1977).

⁷⁰ Mary P. Ryan, *Cradle of the Middle Class: The Family in Oneida County, New York, 1790-1865* (New York: Cambridge University Press, 1983), is a classic study of social and familial reorganization in response to industrialization. On emotion, see Nicole Eustace, *Passion is the Gale: Emotion, Power, and the Coming of the American Revolution* (Chapel Hill: University of North Carolina Press, 2008), chapters 4 and 9; Sarah Knott, *Sensibility and the American Revolution* (Chapel Hill: University of North Carolina Press, 2009); Martha Tomhave Blauvelt, *The Work of the Heart: Young Women and Emotion, 1780-1830* (Charlottesville, Va.: The University Press of Virginia, 2007). Some English historians have also considered emotion in the early modern period; see for example Alan MacFarlane, *Marriage and Love in England: Modes of Reproduction, 1300-1840* (Oxford, UK: Basil Blackwell Ltd., 1986) and the classic by Lawrence Stone, *The Family, Sex and Marriage in England, 1500-1800* (New York: Harper & Row, 1979).

On religion, cf., Susan Juster, *Disorderly Women: Sexual Politics & Evangelicalism in Revolutionary New England* (Ithaca, N.Y.: Cornell University Press, 1994); Janet Lindman, *Bodies of Belief: Baptist Community in Early America* (Philadelphia: University of Pennsylvania Press, 2008); Catherine A. Brekus, *Strangers and Pilgrims: Female Preaching in America, 1740-1845* (Chapel Hill: University of North Carolina Press, 1998). Many studies that explicitly consider the family and religion are older, and largely concerned with Puritans, including the work of Edmund Morgan, John Demos, and Philip Greven. Greven attempted to create a national framework in *The Protestant Temperament: Patterns of Child-Rearing, Religious Experience, and the Self in Early America* (Chicago: University of Chicago Press, 1988); Ann Taves, *Religion and Domestic Violence in Early New England: the Memoirs of Abigail Abbot Bailey* (Bloomington, Ind.: Indiana University Press, 1989). For Quakers, Barry Levy, *Quakers and the American Family: British Settlement in the Delaware Valley, 1650-1765* (New York: Oxford University Press, 1983.)

motherhood and marriage, giving a republican tenor to these changes. Groundbreaking historians of women and gender argue that rise of the companionate ideal in early America was accelerated by the Revolution's egalitarian ideology, particularly republican ideas about consent and reciprocity between subjects and governments.⁷¹ Initially, feminist scholars' analyses of the ideological work of wifhood and motherhood sought to connect rhetoric concerning women with the creation of a nationalistic ideology that tied them to home and hearth. Linda Kerber, Jan Lewis, and Ruth Bloch, among others, find that the expansion of women's moral authority reified their roles as mothers and homemakers and justified their continued exclusion from politics and enfranchisement.⁷² Political egalitarianism merely softened gender hierarchy within marriage however, as the above and other scholars have shown. These studies offer critical insights into a significant change in public discourse, but often overlook the deeper changes in family organization and marriage underway in Europe.

Historians of marriage in America can thus learn from the insights of historians of Europe, who show that the emergence of the ideal of companionate marriage was an intensification of trends rather than a break with the past. Historians of British America and the United States typically do not look past their historical boundaries of colonization and nationhood, and thus often draw conclusions that present the American situation as

⁷¹ Linda Kerber, *Women of the Republic: Intellect and Ideology in Revolutionary America* (Chapel Hill: University of North Carolina Press, 1980); Mary Beth Norton, *Liberty's Daughters: The Revolutionary Experience of American Women*, second ed. (Ithaca, N.Y.: Cornell University Press, 1996).

⁷² See Kerber, *Women of the Republic*; Jan Lewis, "The Republican Wife: Virtue and Seduction in the Early Republic," *The William and Mary Quarterly*, 3rd ser., Vol. 44, no. 4 (Oct. 1987), 689-721; Ruth H. Bloch, "American Feminine Ideals in Transition: The Rise of the Moral Mother, 1785-1815," *Feminist Studies*, Vol. 4, no. 2 (Jun., 1978), 100-126; Nancy Cott, *The Bonds of Womanhood: "Woman's Sphere" in New England, 1780-1835*, sec. ed. (New Haven, Conn.: Yale University Press, 1997).

singular. European historians, on the other hand, are more comfortable with longer stretches of time, which allows them to identify longer-term patterns. The study of kinship, in particular, suffers from chronological truncation, in that American scholarship studies the transition from extended households to nuclear families in relative isolation. In particular, Americanists often fail to realize that marriage within tightly limited social circles and between various degrees of cousins was not a holdover of premodern patterns. Historians of kinship in Europe David Warren Sabean and Simon Teuscher argue that “a tight, endogamous pattern of alliance can be seen as modern, not archaic,” emerging alongside state rationalization, the capitalization of agriculture, and the rise of industrialization.⁷³

These processes of state and economic modernization reorganized feudal societies into class societies, and in response family forms predicated on the system of vertical alliances gave way to a horizontal “alliance system of the nineteenth century... crucial for concentrating and distributing capital.” Early modern marriage strategy had instead emphasized “marriage alliances... with ‘strangers,’” which “frequently cemented long-term clientage relations, and created complex patterns of circulation among different political and corporate groups.”⁷⁴ In the eighteenth and nineteenth century, Sabean and Teuscher argue, energy was instead directed towards “maintaining and developing extensive, reliable, and well-articulated structures of exchange among connected families over many generations.”⁷⁵

⁷³ David Warren Sabean and Simon Teuscher, “Kinship in Europe: A New Approach to Long-Term Development,” in Sabean, Teuscher, and Jon Mathieu, eds., *Kinship in Europe: Approaches to Long-Term Development (1300-1900)* (New York: Berghan Books, 2007), 22.

⁷⁴ Sabean and Teuscher, “Kinship in Europe,” 17, 2.

⁷⁵ Sabean and Teuscher, “Kinship in Europe,” 3.

From the fourteenth century onward, Europeans restructured kinship in response to changing economic contexts. The slow and irregular emergence of market capitalism and modern nation-states reshaped how wealth and power were accumulated, managed, and deployed. Marriage in particular was “integral to economic calculation,” but is often overlooked because marriage negotiations were (and are) coded as private and personal, and associated with passive women rather than active men.⁷⁶

Marriage expanded a man’s access to credit, forged new business and political contacts, and enhanced his status; as the head of household, he gained the additional legal and economic rights granted to husbands in patriarchal Anglo-American society. It could widen networks across state lines, or reinforce local or regional alliances. A carefully chosen match increased a man’s financial and social capital. While the “economic transfer functions of a bride in the age of industrialization” helped created new and powerful middling classes, “it was not merit and profession but the marriage market which crucially influenced the continuation of power for old influential and wealthy groups.”⁷⁷ Marital endogamy helped to create, consolidate, and preserve status and class distinctions, in part by making them appear natural.

Women were also essential players in such calculations, Elisabeth Joris demonstrates, and also assessed and actively pursued personal and familial interests, “act[ing] as brokers: of marriages, employment opportunities, apprenticeships, and business and political connections.” These changes went hand in hand with the rise of affective individualism, the emotional family, and companionate marriage. Presumably

⁷⁶ Sabeian and Teuscher, “Kinship in Europe,” 22.

⁷⁷ Elisabeth Joris, “Kinship and Gender: Property, Enterprise, and Politics,” in Sabeian, Teucher, and Mathieu, eds., *Kinship in Europe*, 235, 234, 246, 248.

“freely chosen’ economic partnerships and kinship connections overlapped,” incentivizing financial advancement with the hope of emotional fulfillment. “Marriages between close relatives,” including cousin marriage patterns often viewed as a vestige of premodernity, “enabled existing social and political connections to be intensified, strengthening the family’s social and economic position in a society based on competition.”⁷⁸ These iterations of kinship practice evolved in tandem with the economy as the emergence of market capitalism in the Europe in the early modern period triggered a reorganization of kin networks and their formation through marriage.

This project engages with and contributes to several historiographical developments. As Europeanists point out, the “kinship-hot” system evolved in tandem with regional economies and cultures, which are equally significant in the American context. A robust literature explores the development of the American economy, nationally and locally. This field is undergoing an exciting revitalization as scholars investigate, and reinvestigate, the apparatuses of the economy and how historical actors engaged with them. Recent work focuses on various facets of economic modernization. In studies of banking, financial panics, northern merchants, and plantation agriculture, for example, historians analyze how regional or local institutions were knit into local, national, and international economic fabrics.⁷⁹ Eugene Genovese’s description of the

⁷⁸ Joris, “Kinship and Gender,” in Sabeian, Teuscher, and Mathieu, eds., *Kinship in Europe*, 235, 234, 246, 248.

⁷⁹ Lepler, *The Many Panics of 1837*; Stephen Mihm, *A Nation of Counterfeiters: Capitalists, Con Men, and the Making of the United States* (Cambridge, Mass.: Harvard University Press, 2009); Bruce H. Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Cambridge, Mass.: Harvard University Press, 2009); Thomas M. Doerflinger, *A Vigorous Spirit of Enterprise: Merchants and Economic Development in Revolutionary Philadelphia* (Chapel Hill: The University of North Carolina Press, 2001); Cathy Matson, *Merchants and Empire: Trading in Colonial New York* (Baltimore: Johns Hopkins University Press, 2002); Cathy D.

plantation South as anti-modern and “pseudo-capitalist,” which has held sway since the 1960s, is being challenged by new generations of historians of capitalism who have expanded the definition of capitalism beyond the Marxist sense in which Genovese used it.⁸⁰ Increasingly, historians argue that the American economy was less two distinct economies than an interdependent agricultural-industrial complex, the rapid growth of which was in part fueled by the cotton boom of the 1820s and 30s.⁸¹ Viewing both the northern and southern states as capitalist, rather than assuming distinction and isolation, permits historians to view the movement of people and resources throughout the United States as geographically expansive system built of local and regional networks. Rather

Matson and Peter S. Onuf, *A Union of Interests: Political and Economic Thought in Revolutionary America* (Lawrence, Kan.: University Press of Kansas, 1990); Jack P. Greene, Rosemary Brana-Shute, and Randy J. Sparks, eds., *Money, Trade, and Power: The Evolution of Colonial South Carolina's Plantation Society* (Columbia, S.C.: University of South Carolina Press, 2001); Calvin Schermerhorn, *Money over Mastery, Family over Freedom: Slavery in the Antebellum Upper South* (Baltimore: Johns Hopkins University Press, 2011); Michael Zakim and Gary John Kornblith, eds., *Capitalism Takes Command: The Social Transformation of Nineteenth-Century America* (Chicago: The University of Chicago Press, 2012); Tom Downey, *Planting a Capitalist South: Masters, Merchants, and Manufacturers in the Southern Interior, 1790-1860* (Baton Rouge: Louisiana State University Press, 2006).

⁸⁰ Eugene D. Genovese set forth this position in 1965 in the hugely influential *The Political Economy of Slavery: Studies in the Economy and Society of the Slave South* (New York: Pantheon Books, 1965) was most recently re-released as an e-book in 2014, as well as in *Roll, Jordan, Roll: The World the Slaves Made* (New York: Vintage, 1976) and in collaboration with Elizabeth Fox-Genovese and Harold D. Woodman, *Fruits of Merchant Capital: Slavery and Bourgeois Property in the Rise and Expansion of Capitalism* (New York: Oxford University Press, 1983). Douglas R. Egerton summarizes and validates Genovese's position in “Markets without a Market Revolution: Southern Planters and Capitalism,” *Journal of the Early Republic* 16, no. 2 (July 1, 1996): 207–21.

⁸¹ Edward E. Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (New York: Basic Books, 2014); Sven Beckert, *Empire of Cotton: A Global History* (New York: Knopf, 2014); Harold D. Woodman, *King Cotton and His Retainers: Financing and Marketing the Cotton Crop of the South, 1800-1925* (Columbia, S.C.: University of South Carolina Press, 1990); Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, Mass.: Belknap Press, 2013). Seth Rockman's new project examines how northern manufacturing tailored itself to meet the demand of plantations in the production of hoes, “negro cloth,” and other commodities. Rockman, “From Social History to Political Economy: The Changing Registers of Class and Capitalism in American History: Part I,” Economic History's Many Muses Conference, Program in Early American Economy and Society, Philadelphia, October 24 2014.

than presuming separate if related systems divided at the Mason-Dixon line, this study explores human and economic connections.

Historians of America, particularly after the American Revolution, also often overlook the centrality of family connections in establishing and maintaining the economic institutions and businesses that drove American development. British historians, on the other hand, demonstrate the “crucial role of marriage” for acquiring capital, cementing business relationships, and consolidating class identity in England in the seventeenth and eighteenth centuries.⁸² Many of their findings are applicable to early America as well. Early American industrial developers and aspiring planters alike often drew on family networks to secure credit and capital; as Tom Downey acknowledges, “marriage often proved to be the quickest and most reliable way for an ambitious and impatient man to join the elite.”⁸³ Banks in early America were “formed by and served as the financial arms to extended kinship networks” in response to credit scarcity, and only gradually became strictly commercial institutions when the American economy developed to the point that credit was more widely available in the late nineteenth century.⁸⁴ For example, Pennsylvania émigré Stephen Duncan was an early shareholder

⁸² Leonore Davidoff and Catherine Hall, *Family Fortunes: Men and Women of the English Middle Class, 1780-1850* (Chicago: University of Chicago Press, 1987), 221; Richard Grassby, *Kinship and Capitalism: Marriage, Family, and Business in the English-Speaking World, 1580-1740* (New York: Cambridge University Press, 2001), sought to quantify many of the demographic characteristics of the London business family; while less tightly focused on family, David Hancock considers the importance of marriage to rising international merchants in *Citizens of the World: London Merchants and the Integration of the British Atlantic Community, 1735-1785* (New York: Cambridge University Press, 1995).

⁸³ Downey, *Planting a Capitalist South*, 25; Laura Croghan Kamoie, *Irons in the Fire: The Business History of the Tayloe Family and Virginia's Gentry, 1700-1860* (Charlottesville, Va.: University of Virginia Press, 2007).

⁸⁴ Howard Bodenhorn, *State Banking in Early America: A New Economic History* (New York: Oxford University Press, 2002), chs. 2-4, quote on p. 7; Naomi R. Lamoreaux, *Insider Lending: Banks, Personal Connections, and Economic Development in Industrial New England* (New

in the Bank of Mississippi, and became director in 1825 after the death of his uncle, also a émigré from Pennsylvania. As a shareholder, he was able to secure cash loans at below-market rates, permitting him to re-lend money to family members and business contacts. While the Bank closed in 1837, Duncan was still able to assist friends and family with lower interest rates for over a decade, and his deft management of his investments permitted him to amass a huge fortune that he frequently deployed to assist his relatives.⁸⁵ As Naomi Lamoreaux argues, there was “nothing underhanded or deceptive” about preferential treatment for kin when “family ties still formed the basis for most economic relationships.”⁸⁶

While Lamoreaux studies New England specifically, her observations about the significance role of family in creating and maintaining economic ties apply to early America more broadly. State and regional studies emphasize important economic, legal, and social variations. Most studies of the rise of romantic love as an ideal in the nineteenth century focus on the Northern middle classes.⁸⁷ This may reflect scholarly emphasis on Southern patriarchy and hierarchy. Some early studies of antebellum Southern women reject the possibility of genuinely companionate marriages, emphasizing alienation between the sexes. Catherine Clinton, for example, insists that domineering patriarchs closely regulated elite marriages, so insensitive to women’s emotional needs and physical limitations that women were often killed by unrelenting

York: Cambridge University Press, 1994).

⁸⁵ Martha Jane Brazy, *An American Planter: Stephen Duncan of Antebellum Natchez And New York* (Baton Rouge: Louisiana State University Press, 2006), 19, 24, 79.

⁸⁶ Lamoreaux, *Insider Lending*, 4 and 35.

⁸⁷ Rothman, *Hands and Hearts: A History of Courtship in America*, and Lystra, *Searching the Heart*, the most in-depth studies, rely exclusively on northern and Midwestern sources.

childbearing.⁸⁸ Others are more accepting of the possibility that companionate marriage was more than merely an ideal, but note how the elite Southern lifestyle strained such marriages. More recently, some authors insist that Southern families could be loving and healthy, with parents “exercising authority over young adults increasingly by indirection” rather than patriarchal tyranny.⁸⁹ Yet focusing on only the North or the South obscures the connections between regions and the variation within these large and diverse regions as well.

Historians often presuppose that regional distinctiveness translated to relative isolation of ideas and practices. Yet a significant minority of the elite and aspiring classes married out-of-state, so that by 1860 it seems virtually every elite family had some kin connection linking the north and south, and a significant number had trans-Atlantic ties as well. This shared system was rooted in a shared English legal heritage and an increasingly sophisticated and interdependent national economy. In the course of researching this project, it became clear that not only regional economic specialization but also state-specific variations in the law within regions affected how families distributed wealth through marriage.

⁸⁸ Catherine Clinton, *The Plantation Mistress: Woman's World in the Old South* (New York: Pantheon Books, 1982).

⁸⁹ Jane Turner Censer, *North Carolina Planters and Their Children, 1800-1860* (Baton Rouge, La.: Louisiana State University Press, 1984), 65. See also Steven M. Stowe, *Intimacy and Power in the Old South: Ritual in the Lives of the Planters* (Baltimore: The Johns Hopkins University Press, 1987), 84; Brenda Stevenson, *Life in Black and White: Family and Community in the Slave South* (New York: Oxford University Press, 1996), 46-47; Lorena S. Walsh, “The Experiences and Status of Women in Chesapeake Society, 1750-1775,” in *The Web of Southern Social Relations: Women Family, and Education*, eds. Walter J. Fraser, Jr., R. Frank Saunders, Jr., and Jon L. Wakelyn (Athens, Ga.: The University of Georgia Press, 1985), 9; Daniel Blake Smith, *Inside the Great House: Planter Life in Eighteenth-Century Chesapeake Society* (Ithaca, N.Y.: Cornell University Press, 1980), 130-131; Melinda S. Bazu, “‘Pledges of Our Love’: Friendship, Love, and Marriage among the Virginia Gentry, 1800-1825,” in Edward L. Ayers and John C. Willis, *The Edge of the South: Life in Nineteenth-Century Virginia* (Charlottesville, Va.: The University Press of Virginia, 1991), 9-36.

One of the primary objectives of nascent nation-states in the early modern period, including England and later the United States, was to regulate the ownership of property. Because marriage involved the transfer of property, it was of deep concern to the state. Two institutions – church and state – shaped the legal evolution of marriage in early modern England and laid the foundation for Anglo-American systems. While Protestantism demoted marriage from a sacrament to a covenant, commonwealth, or contract, Protestant denominations still retained an emphasis on the postnuptial “unity of person.”⁹⁰ The ecclesiastical, and later legal, concept was derived from references in the Bible, foremost in Genesis: “Therefore shall a man leave his father and his mother, and shall cleave unto his wife, and they shall be one flesh.”⁹¹ Early religious leaders interpreted this within an existing patriarchal framework that perpetuated the subjection of women: “Wives, be subject to your own husbands, as to the Lord. For the husband is the head of the wife, as Christ also is the head of the church.”⁹² In the eyes of the Western church and the state – which were not clearly distinguished until the modern era – the husband was the sole representative of his family.

In the English legal system, this justified the system of coverture, whereby women’s legal identities were suspended after marriage. William Blackstone’s *Commentaries on the Laws of England* articulated unity of person as the basis of coverture and was widely accepted and cited in the Anglo-American colonies. As Marylynn Salmon points out, it was continually revised over the course of the

⁹⁰ For an excellent exploration of these developments, see John Witte, Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition*, sec. ed. (Louisville, KY: Westminster John Knox Press, 2012), introduction, chs. 4-8.

⁹¹ KJV Genesis 2:24. See also Matthew 19:5-6; Mark 10:7-8; Ephesians 5:31.

⁹² KJV Ephesians 5:22-23.

seventeenth and eighteenth centuries, but remained a durable justification for women's legal subordination.⁹³ The key section to which lawyers and jurists returned declared:

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the women is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and *cover*, she performs every thing.... Upon this principle, of an union of person in husband and wife, depend almost all the legal rights, duties, and disabilities, that either of them acquire by the marriage.⁹⁴

While English and American legal texts boasted of the “protection” from legal and economic liability that coverture offered women, esteemed American jurist and law professor St. George Tucker, who published the first American commentary on Blackstone in 1803, realized its limitations. When his former pupil John Coalter married Tucker's ward Polly in 1808, he insisted that the couple enter into a “settlement properly drawn etc *before the marriage*” to protect Polly against John's possible economic woes in the future. Tucker forcefully informed John that he “by no means consent[ed] that Polly shall be left to the Vicissitudes of Life, of Virginia Laws, & Virginia Adjudications in Cases of *Widows*” – laws based on the English precedents of coverture and unity of person and shaped by Virginia's particular legal and economic context.⁹⁵

Laws pertaining to women generally dealt with their economic powers, or lack thereof. To mitigate the harshness of the common law, English jurisprudence sprouted a

⁹³ Salmon, *Women and the Law of Property*, 14.

⁹⁴ William Blackstone, *Commentaries on the Laws of England, Volume 1: A Facsimile of the First Edition of 1765-1769* (Chicago: University of Chicago Press, 1979), 430. Interestingly, a 1789 edition omits “under whose wing, protection, and *cover*, she performs every thing.” William Blackstone, *The Commentaries of Sir William Blackstone, Knight, on the Laws and Constitution of England* (Chicago: American Bar Association, 2009 [reprint of London: 1789]), 58.

⁹⁵ St. George Tucker to John Coalter, December 4, 1808, Brown-Coalter-Tucker Papers, Manuscripts and Rare Books Department, Swem Library, College of William and Mary. Also cited in Hamilton, *The Tuckers of Virginia*, p. 120-22.

second branch, that of equity law. Equitable jurisprudence was based less on precedent than on a judge's sense of fairness, and offered women some protection through the enforcement of dower rights and marriage settlements. Dower recognized a woman's investment in her husband's real estate; in life, a man had to secure his spouse's agreement before selling property, and after death, a woman could claim one-third of all of the real estate the husband ever owned.

Equity law also regulated the protection of women's property during marriage. Marriage settlements were essentially a loophole around coverture that developed in the sixteenth and seventeenth centuries to allow families to pass property to grandchildren via daughters without becoming subject to the control of sons-in-law, or to protect landed estates from a widow's dower claims. These loopholes, however, were generally more concerned with the right of a woman's father to ensure that his property pass to his biological descendants; lacking any, the property would revert to another relative rather than remain in the possession of a son-in-law.⁹⁶ Before the marriage was solemnized, the affianced couple and a third party (often a relative of the bride-to-be) drew up and ratified a deed of trust that placed the woman's property into a separate estate beyond the control of her husband, and out of reach of his creditors. Thus women technically owned, but did not directly control, the property set aside, or, depending on the terms of the settlement, the income generated by the property.

Studies of women as economic actors in British North America reveal how some women negotiated limited relief from the strictures of coverture, and that married women were routine and essential participants in the marketplace, coverture notwithstanding.

⁹⁶ Erickson, *Women and Property in Early Modern England*, chs. 6 and 7.

Coverture did not necessarily curtail women's actions, as long as they were acting with their husband's permission, on his behalf, or out of sight of the law and within the conventions of their community. Linda Sturtz shows how the loopholes in the common law, or alternatives in equity law, allowed a minority of women to act independently.⁹⁷

Thus, coverture was flexible enough that married women continued to serve crucial economic functions outside the home as well – albeit with the approval and on behalf of their husbands. Laurel Thatcher Ulrich detailed the social and legal recognition of women as “deputy husbands” in early America, where they “crossed gender boundaries” on behalf of their husbands, and thus “without challenging the patriarchal order.”⁹⁸ Jeanne Boydston demonstrates that women's domestic labor served crucial economic functions, but the ideology of separate spheres contributed to the elision of women's labor in the early republic.⁹⁹ Ellen Hartigan-O'Connor argues that women's shopping and utilization of the credit system, even if under their husband's names, were critically important to the Atlantic world economy.¹⁰⁰ When women were widowed, they regained the legal and economic identities they lost at marriage, but their dower rights

⁹⁷ Linda L. Sturtz, *Within Her Power: Propertied Women in Colonial Virginia* (New York: Routledge, 2002).

⁹⁸ Laurel Thatcher Ulrich, *Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650-1750* (New York: Vintage, 1991), 36.

⁹⁹ Jeanne Boydston, *Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic* (New York: Oxford University Press, 1990), and “The Woman Who Wasn't There: Women's Market Labor and the Transition to Capitalism in the United States,” *Journal of the Early Republic* 16, no. 2 (July 1, 1996): 183–206.

¹⁰⁰ Ellen Hartigan-O'Connor, *The Ties That Buy: Women and Commerce in Revolutionary America* (Philadelphia: University of Pennsylvania Press, 2009). See also: Elizabeth Marie Pruden, “Family, Community, Economy: Women's Activity in South Carolina, 1670-1770” (Ph.D. diss.: University of Minnesota, 1996); Patricia A. Cleary, “‘She merchants’ of Colonial America: Women and Commerce on the Eve of the American Revolution” (Ph.D. diss.: Northwestern University, 1989).

were subject to regional variation.¹⁰¹ Women's opportunities when married or widowed varied significantly based on state laws, as Marylynn Salmon so valuably demonstrates.¹⁰²

The establishment of the United States permitted the former colonies to reassess their established laws and to bring them more in line with republican political thought, creating a distinct branch of "domestic relations" law that reflected the new states' ideological commitments in a similarly uneven way. As Nancy Cott points out, defining and regulating marriage was an urgent task for the newly independent states because the marital roles "have been powerful, historically, in shaping both male and female citizens' entitlements and obligations."¹⁰³ Debates over marriage and legal reform pertaining to the family reflected not only Americans' political aversion to tyranny and jealousy of property rights, but also "a tendency to posit human relations in contractual terms that highlighted voluntary consent, reciprocal duties, and the possibility of dissolution."¹⁰⁴

The aftermath of the Revolution allowed state legislatures to further alter English law to embrace "contractual notions of spousal relations" and the "elevation" of motherhood and domesticity embodied in "republican motherhood."¹⁰⁵ But the analogy of marriage and government, which patriot rhetoric had emphasized as harmonious and

¹⁰¹ Cf., Vivian Bruce Conger, *The Widow's Might: Widowhood and Gender in Early British America* (New York: New York University Press, 2009); Kirsten E. Wood, *Masterful Women: Slaveholding Widows from the American Revolution through the Civil War* (Chapel Hill: The University of North Carolina Press, 2004); Lisa Wilson, *Life After Death: Widows in Pennsylvania, 1750-1850* (Philadelphia: Temple University Press, 1992).

¹⁰² Marylynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill, N.C.: University of North Carolina Press, 1986).

¹⁰³ Nancy F. Cott, *Public Vows: A History of Marriage and the Nation*, rev. ed. (Cambridge, MA: Harvard University Press, 2002), 3.

¹⁰⁴ Michael Grossberg, *Governing the Hearth: Law and the Family in Nineteenth-Century America*, (Chapel Hill: The University of North Carolina Press, 1988), 6.

¹⁰⁵ Grossberg, *Governing the Hearth*, 6.

relatively egalitarian, “shifted in the more conservative post-Revolutionary period to the bond formed by the granting of consent.”¹⁰⁶ States passed divorce statutes that permitted, under very limited circumstances, the dissolution of marriages.¹⁰⁷ Cott argues that this “bespoke state legislatures’ power to redefine marriage and had radical potential to disrupt the institution - but was implemented conservatively.”¹⁰⁸

Despite republican legal reform, the legal culture of marriage remained unfriendly to women’s independent economic activity until the later nineteenth century. Coverture remained essentially untouched until the mid-nineteenth century. The legal emphasis on domestic privacy reflected cultural changes that offered middling and elite women a degree of moral privilege but which did not fundamentally redistribute legal power within the household. As the work and home become gradually separated, “marital roles began to fall into more closely defined separate spheres” that contributed to the legal and political elision of women’s economic contributions to the household.¹⁰⁹ As Nancy Cott summarizes, “The legal meaning of coverture pervaded the economic realm as well.” The limitations of coverture and husbands’ control of property were “basic to the economic bargain of marriage, essential to marital unity, and preeminent in daily community life.”¹¹⁰

Thus the *legal* position of married women before and after the Revolution remained largely unchanged, despite the social and cultural reconstruction of marriage and motherhood. Greater opportunities to legally end marriage or cohabitation and higher

¹⁰⁶ Cott, *Public Vows*, 17.

¹⁰⁷ Cott, *Public Vows*, 50.

¹⁰⁸ Cott, *Public Vows*, 53.

¹⁰⁹ Grossberg, *Governing the Hearth*, 7; see also Boydston, *Home and Work*.

¹¹⁰ Cott, *Public Vows*, 12.

expectations for marital happiness bracketed what was a legally static condition – married women continued, with few exceptions, to be legally and economically suspended. Even as women and children gradually gained rights within the household, men’s patriarchal prerogatives – their rights to their wives’ property, labor, income, and bodies - were still a universal and largely unchallenged assumption.

As the following chapters show, deeply entrenched gender inequality shaped individuals’ and families’ opportunities and actions from the mid-eighteenth to the mid-nineteenth century. This project illustrates that even in the moment that scholars have emphasized as a significant gain for women – the emergence of the companionate ideal, with greater freedom of marital choice – economic considerations were still paramount, and still structured by a legal system predicated on sexual inequality. Furthermore, while the growing emphasis on domestic privacy might foster intimacy, it could also hide dysfunction. According to Ruth Bloch, the “revolutionary delegitimation of government intervention” in households limited the access of subordinate members of the household to legal protection from domestic violence. Bloch argues that “the American Revolution would mark a turning point toward greater, not lesser, legal permission of wife beating.”¹¹¹ Almost another century passed before Reconstruction-era judges repudiated a husband’s *prerogative* to physically chastise his wife, characterizing it as a legal vestige of a less enlightened time. Yet the repudiation of the doctrine did not translate to a wholesale condemnation of marital violence. Reva Seigel points out that judges “select[ed] men for prosecution in ways that suggest that concerns other than protecting

¹¹¹ Ruth H. Bloch, “The American Revolution, Wife Beating, and the Emergent Value of Privacy,” *Early American Studies* 5, no. 2 (October 1, 2007): 229.

women animated the punishment of wife beaters.”¹¹² Attitudes regarding forcible sex between husbands and wives changed even more slowly, and it was only in the late twentieth century that judges considered rape between spouses criminal.¹¹³ Collectively, the “barrier the Revolution erected between the government and private institutions not only perpetuated preexisting inequalities between men and women but in certain respects made them worse.”¹¹⁴ Reclassifying marriage as private and noneconomic enhanced the power of husbands while simultaneously obscuring women’s labor and economic contributions to the household.

Several scholars have revealed the connections between the political rhetoric of republicanism and discussions over the structure of the family. The continued social and economic reorganization of the colonial family gradually displaced older understandings of the family “as a public institution tightly integrated into a well-ordered society” as the institution began to “shed” its “public, multi-functional forms and stand apart in an increasingly segregated, private sphere.”¹¹⁵ Rather than comparing the relationship between husbands and wives to that between kings and subjects, Revolutionary ideology reframed marriage as an “intentional and harmonious juncture of individuals for mutual protection, economic advantage, and common interest... As a freely chosen structure of authority and obligation, it was an irresistible model. The suitability of the marital metaphor for political union drew tremendous public attention to marriage itself in the

¹¹² Reva B. Siegel, “‘The Rule of Love’: Wife Beating as Prerogative and Privacy,” *The Yale Law Journal* 105, no. 8 (June 1, 1996): 2130.

¹¹³ Jill Elaine Hasday, “Contest and Consent: A Legal History of Marital Rape,” *California Law Review* 88, no. 5 (October 1, 2000): 1373–1505; Rebecca M. Ryan, “The Sex Right: A Legal History of the Marital Rape Exemption,” *Law & Social Inquiry* 20, no. 4 (October 1, 1995): 941–1001.

¹¹⁴ Bloch, “American Revolution, Wife Beating...,” 249.

¹¹⁵ Grossberg, *Governing the Hearth*, 4-5, 6.

Revolutionary era."¹¹⁶ The republican commitment to the individual, consent, and the limits of authority delegitimized not only monarchical but husbandly tyranny.

Yet rhetoric importance did not necessarily empower women within their marriage. While women's enhanced moral authority as republican wives and mothers did have significant social and political ramifications, it did little to grant them more material power vis-à-vis men. It did, however, increase the responsibilities women shouldered. Prescriptive literature and political philosophy now charged mothers with supervising the spiritual development of their children and wives with monitoring the moral state of their husbands; yet they could only influence, never command. Responsibility without authority was a tenuous triumph at best.

A few studies that look beyond prescriptions to explore how the companionate ideal was put into practice reveal how the shift towards domesticity and gendered divisions of labor could undermine spouses' hopes for companionship in marriage. Anya Jabour, for example, does a superb job of analyzing the subtle negotiations and disappointments that characterized the marriage of Elizabeth and William Wirt, an upwardly mobile political family in the upper South. The Wirts, who professed to share the same values and ideals when they married in 1802, demonstrate how men and women, while employing the same language of romantic love and companionship, actually had very different expectations for marriage. Jabour's analysis of the Wirts' attempts to reconcile their often-opposing viewpoints highlights the fundamental inequality between the sexes. "Despite these glowing tributes to the ultimate power of love, men retained power of another sort in the public realm of work and politics," she

¹¹⁶ Cott, *Public Vows*, 16.

concludes. “For men, love could be the ultimate source of satisfaction, but for women, it was often the only path to emotional fulfillment.” In the Early Republic, women’s “legal and economic powerlessness was compounded by the fact that men usually outpaced their wives in age, education, knowledge of the world, and physical strength as well,” contributing to women’s “lack of real power in the process.”¹¹⁷

Recent literature touching on marriage builds on these previous arguments, emphasizing the significance of power in mediating the experience of marriage. Nicole Eustace reminds us that the discourse of the companionate ideal obscured the workings of power within courtship and marriage, rather than erasing them.¹¹⁸ Martha Tomhave Blauvelt’s thoughtful analysis of women’s emotional labor in the Early Republic illuminates the ways in which women struggled to control and properly express their emotions, especially in the face of disappointment and disempowerment.¹¹⁹ Likewise, Ruth Bloch’s exploration of legitimate, marital sexuality finds contradictions in the implications of romantic love. “Women’s taming of male aggression depended on the infusion of female qualities into men,” she concludes, “a process involving the dissolution of a separate female identity in ways that provided a new psychological foundation for older legal rules of coverture.” Women’s new powers as “tender agents of spiritual uplift and moral reform” reaffirmed their relational, subordinate position.¹²⁰

In examining the shift to companionate marriage, historians should continue to

¹¹⁷ Anya Jabour, *Marriage in the Early Republic: Elizabeth and William Wirt and the Companionate Ideal* (Baltimore, Md.: The Johns Hopkins University Press, 1998), 22, 20, 22.

¹¹⁸ Eustace, ch. 3., “‘A Cornerstone of a Copious Work’: Love and Power in Eighteenth-Century Courtship,” *Passion is the Gale*, 107-150.

¹¹⁹ Martha Tomhave Blauvelt, *The Work of the Heart: Young Women and Emotion, 1780-1830* (Charlottesville, Va.: The University Press of Virginia, 2007).

¹²⁰ Ruth H. Bloch, “Changing Conceptions of Sexuality and Romance in Eighteenth-Century America,” *The William and Mary Quarterly*, Vol. 60, no. 1 (Jan., 2003), 43, 44.

ask what men stood to gain as they ostensibly condoned the diminution of their moral authority, or in what way this shift reflected families' long-term financial interests. In emphasizing women's moral value, men collectively were able to abdicate domestic responsibility in favor of pursuing the productive labor of the workplace and politics, and (intentionally or not) more firmly erecting barriers between the public and private spheres.¹²¹ Men, as authors, preachers, and politicians, were the public promulgators of the new view of women as naturally purer and more spiritual than men. History has often demonstrated that those in power will fiercely defend their authority, so it seems logical to ask what men, clearly dominant legally and ideologically, stood to gain by ceding some of their moral authority. Threatened by the egalitarian implications of Enlightenment thought and Revolutionary ideology, patriarchal power reconstituted itself in the eighteenth century to preserve men's political and material dominance in part by expanding women's emotional and social responsibilities.

Then, too, to what extent did women embrace the ideology promulgated about them, and often by them? Did they have reservations about their increased responsibility for the moral and spiritual welfare of themselves, their children, their husbands, their neighbors, and, in the case of slave-owning southern women, for the enslaved people they claimed as their property? If we see such shifts as, at best, a severely circumscribed enhancement of women's power, it stands to reason that many women of the Early Republic may themselves have doubted their special morality. Indeed, one Calvinist

¹²¹ I am using "reproductive" and "productive" labor in the feminist sense, whereby reproductive labor is the unpaid labor necessary to keep a household functioning and to raise and nurture children and offer emotional support to a spouse, and productive labor is paid labor outside of the home. Historically and currently, women do the majority of the reproductive labor, but before the stark separation of home and work, this division was less clear.

Presbyterian women pleaded with her fiancé to lower his expectations of her, writing that “Could I make myself just what I would, then I would be exactly & entirely what you would have me but this I know to be utterly impossible[,] every day’s experience proves to me my insufficiency of my self, for any good thing.”¹²² Eustace, Jabour, and others also document numerous women’s feelings of anxiety and ambivalence during courtship and engagement. These women articulated their understanding that the power to influence – to charm, persuade, or cajole their husbands into behaving properly – paled in comparison to the husband’s license to ignore and right to command his spouse.

Increasingly rigid gendered divisions of labor drew from and reinforced sexual inequality in marriage. Despite the avowed value and dignity in women’s unremunerated work, the reproductive labor of the wife within the household was increasingly marginalized as “women’s work” – expected, undervalued, and invisible. Women’s “natural” morality also gave additional justification to the sexual double standard and shored up class divisions. Men, newly reconceptualized as the more passionate sex, retained exclusive sexual access to their chaste wives while being able to pursue pre- and extra-marital sexual relations, usually with women of an inferior social position. Non-white women and poor white women were shut out from this middle- and upper-class ideal, denied the protections of “passionlessness” and constructed as sexually available to all men.¹²³ As Lebsock tidily summarizes it, “standards were running far ahead of performance.”¹²⁴

¹²² Louisa Maxwell Holmes to John Hartwell Cocke, June 1, 1821, Cocke Family Papers, 1725-1931, Accession 640, etc., Special Collections Department, University of Virginia Library

¹²³ Nancy F. Cott, “Passionlessness: An Interpretation of Victorian Sexual Ideology, 1790-1850,” *Signs* 4, no. 2 (December 1, 1978): 219–36.

¹²⁴ Suzanne Lebsock, *The Free Women of Petersburg: Status and Culture in a Southern Town*,

This is not to suggest that love, affection, respect, and contentment were impossible in the Early Republic or antebellum periods. Indeed, as Lebsack points out, the companionate ideal “drew strength from the fact that it worked for some people.”¹²⁵ Some couples were able to successfully build relationships of emotional reciprocity and respect, but the fundamental asymmetry of men’s and women’s lives due to the social and legal forces of patriarchy conspired to undermine many couples’ happiness. Different, if overlapping, experiences gave rise to divergent expectations. Interestingly, men seem to have sometimes misunderstood – deliberately or innocently – the expectations women voiced, creating tension and discontent after they set up house together. Women, too, seem to have misinterpreted or explained away men’s expectations. This risk was most likely exacerbated by this prominent shift in the basis for marriage.

This review underscores the importance of studying marriage, and particularly the negotiations leading to and then within marriage. People marrying in the early nineteenth century had to grapple with significant change *and* continuity in ideas and practices of marriage, cobbling together new and old in their quest for marital fulfillment. While structures of power within marriages and families shifted away from rhetoric of authority to rhetoric of love, this shift did not eliminate inequality and coercion. Indeed, by the late nineteenth century, prescriptive literature about marriage had transitioned from “inveighing against an authority-based conception of marriage” to “*reproducing the structures of marital authority within the discourse of marital affect*” – in essence, to framing wifely submission as a voluntary expression of feeling, rather than as externally

1784-1860 (New York: W.W. Norton & Co., 1984), 28.

¹²⁵ Lebsack, *The Free Women of Petersburg*, 28.

imposed.¹²⁶

This dissertation investigates how and why wealth continued to permeate both public and private discussions of marriage. While this project is at heart a social history with an emphasis on gender, the law played a prominent role in shaping how families managed their wealth in response to economic opportunities and pressures. The first chapter explores how elite families in every region strategized before and during courtship to attract suitable mates. Chapter 2 looks at the tangible and intangible assets given to marrying couples, illuminating how significant the economic stakes of marriage could be for wealthy families. The third chapter explores how some families availed themselves of opportunities to protect marital property, using statistical analysis of a rich cache of South Carolina legal sources to explore how these gifts changed over time. Chapter 4 examines conflict over men's access to marital property, demonstrating the centrality of property acquisition to a husband's status. The fifth chapter explores how particular married couples managed their resources, and how they utilized family connections when misfortune struck. Chapters 6 and 7 examine how families attempted to secure property for women in dysfunctional marriages through private resolutions and, when those failed, through legal means, and these cases poignantly demonstrate how concerns over wealth management could conflict with the desire to assist unhappy or even endangered wives.

While this project examines continuity - the economic aspects of marriage - it is also a story of changes. The institution of marriage was situated in a rapidly developing

¹²⁶ Reva B. Siegel, "'The Rule of Love': Wife Beating as Prerogative and Privacy," *The Yale Law Journal* 105, no. 8 (June 1, 1996): 2146.

economy and society as colonists shook off British authority, groped towards a national identity, and rapidly expanded an economy increasingly based on slave labor, industry, and finance. The rising rhetorical tide of companionate marriage somewhat mitigated the power of husbands and fathers, and the possibility of divorce in some states meant that domestic tyranny could, in rare instances, be overthrown. Amidst this social, political, and economic change, late colonial and then early American state governments, communities, and individuals questioned, altered, and upheld key aspects of social, political, and economic organization – including marriage as both a form of family government and an aspect of domestic economy.

Yet the late eighteenth century did not produce a meaningful revolution in domestic relations. Despite vigorous debate about the position of women in the newly created American government and society, conservative political retrenchment and the adoption of English precedent in domestic law foreclosed the reorganization of sexual hierarchy. Throughout the eighteenth and nineteenth centuries, law and culture conspired to ensure that married women would remain, with rare exceptions, legally impotent and economically dependent on husbands. The consistent constraints of coverture, though gradually relaxed by 1860, forced women to think about their long-term security, and the system of dowry and marriage gifts gave elite men economic incentives to marry. These pressures meant that women and men who chose to marry in 1860 faced the same matrimonial calculations that their great-great-grandparents had before the American Revolution - how to balance emotional and financial considerations when choosing a spouse, and how to manage and maximize resources throughout marriage.

Chapter 1
“A worthy young man with handsome prospects before him:”
Financial Calculation and Social Capital in Courtship

Despite variations in regional laws, economies, and social practices, eighteenth- and nineteenth-century Anglo-American elites unanimously expressed their view that marriage served crucial economic functions. As such, elite families developed a variety of strategies to eliminate unsuitable matches and attract worthy spouses, regardless of region. This chapter explores how families and individuals sought to assess the suitability of potential spouses, particularly their financial standing and future prospects - often employing the language and logic of economic growth and investment. These patterns and strategies were not novel; rather, Anglo-American behavior was an historically specific application of strategies rooted in the reorganization of both kinship and business in the early modern Western world.

To maintain social boundaries and to manage their property effectively, elite families in America developed strategies to police courtship and promote marriage with socially and financially suitable partners. Like their counterparts in Europe, Anglo-Americans hoped to limit the financial and emotional risks for themselves and their children. This chapter explores how families sought to maximize their advantages through marriage within local or kin networks and through marriage with partners from other states. Northern and southern elites shared a preference for marriages from within broader kin or business networks, but they also developed strategies for vetting unknown individuals, because kin and business networks could not supply sufficient marriage partners even if desired. Long-distance marriages were increasingly facilitated by economic and cultural integration, and offered opportunities for families to spread their

financial investment across regions and markets.

While these two patterns seem incompatible, they were simply two responses to the pressure to make financially secure marriages. The same family might encourage both near and distant marriages over time, or even within the same generation.

Anthropological studies of marriage often focus on the cultural pressures that dictate endogamy or exogamy (marrying within or within culturally defined groups), but this early American system was more flexible, reflecting a shared culture of marriage that united individuals and families across regions.

American scholars have analyzed how marriage was essential to the creation and maintenance of colonial elites, often replicating patterns practiced by the English gentry.¹ One important analysis of the dynastic tendencies of marriage in early America considers the seventeenth and early eighteenth century. Kathleen Brown examines the Virginia elite from 1690 to 1730, when racialized patriarchy was coalescing. Marriage, she argues, was a key strategy for concentrating wealth – in the early tobacco economy, this meant accumulating land and slaves. Brown uses the example of Robert “King” Carter, who chose to “facilitate” his daughters’ “marital agreements with cash rather than property, with the result that his family cemented alliances with four of the wealthiest families in the colony.” This, Brown argues, is evidence that by the early eighteenth century, Virginia elites were no longer trying to be English elites in Virginia, but creating their own group identity - in part by allocating resources to children to protect and promote the

¹ Miriam Slater, “The Weightiest Business: Marriage in an Upper-Gentry Family in Seventeenth-Century England,” *Past & Present*, no. 72 (August 1, 1976): 25–54; Nicholas Rogers, “Money, Marriage, Mobility: The Big Bourgeoisie of Hanoverian London,” *Journal of Family History* 24, no. 1 (January 1, 1999): 19–34; Leonore Davidoff and Catherine Hall, *Family Fortunes: Men and Women of the English Middle Class, 1780-1850* (Chicago: University of Chicago Press, 1991).

welfare of the family as a whole and to attract spouses from similarly elite families.²

Other local elites likewise organized via marriage. As Lorri Glover argues, early “Carolinians looked to first cousin and exchange marriages as a potential solution to the emotional and financial fragmentation of their families” occasioned by high mortality.³ Rachel Klein finds that marriage was crucial for uniting South Carolina’s backcountry and lowcountry elites after the American Revolution, a process that began only when backcountry elites had accumulated sufficient economic capital and clout to attract spouses from established lowcountry clans.⁴ Sarah Fatherly argues that Pennsylvania’s elite self-consciously organized in response to both their newly established status and the social and economic threats of petty merchants⁵. Quakers, however, were hampered by religious proscriptions on a common strategy of elite consolidation - cousin marriage.⁶

Marriage between first and second cousins was common in North America between 1750 and 1860.⁷ While we now think of cousin marriage as antiquated, in part because it is illegal in many parts of the United States, historians of kinship see it as an aspect of the reorganization of kinship in the early modern period. Rather than seeking to

² Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill: The University of North Carolina Press, 1996), 256.

³ Lorri Glover, *All Our Relations: Blood Ties and Emotional Bonds among the Early South Carolina Gentry* (Baltimore: The Johns Hopkins University Press, 2000), 9.

⁴ Rachel N. Klein, *Unification of a Slave State: The Rise of the Planter Class in the South Carolina Backcountry, 1760-1808* (Chapel Hill: The University of North Carolina Press, 1992), 266-67.

⁵ Sarah Fatherly, *Gentlewomen and Learned Ladies: Women and Elite Formation in Eighteenth-Century Philadelphia* (Bethlehem, Pa.: Lehigh University Press, 2008).

⁶ Robert J. Gough, “Close-Kin Marriage and Upper-Class Formation in Late-Eighteenth-Century Philadelphia,” *Journal of Family History* 14, no. 2 (June 1, 1989): 119–36.

⁷ Rigorous quantification of close-kin marriage practices is at this time impossible, but this conclusion is drawn from the compilation and analysis of about 1,200 marriages in families identified through archival research. Hopefully, new tools and methods in the digital humanities will soon make it possible to search and organize genealogical information by degrees of closeness between spouses and to map family relationships through both time and space.

create kinship links between various social levels, families began to turn inward and encourage marriages between members of the same class or family. In the eighteenth and nineteenth centuries, this pattern intensified, as European societies became more “kinship hot.”

Several European historians argue that the inward turn of kinship systems is linked to the economic reorganization occurring simultaneously. By 1750, European marriage “patterns centered around alliance, sentiment, interlocking networks of kinship, and social and familial endogamy” - patterns which extended to many European colonies. Rather than rigid systems, kinship and marriage were “innovative and creative responses to newly configured relationships between people and institutions and around the circulation of goods and services.”⁸ Elisabeth Jaris argues that cousin marriage emerged in Protestant countries in the early modern period precisely because it “enabled existing social and political connections to be intensified, strengthening the family’s social and economic position in a society based on competition.”⁹

Primarily Protestants, Anglo-Americans were free from the restrictions on consanguinity imposed by the Catholic Church, which applied to relations by marriage as well as shared ancestry.¹⁰ Cousin marriage appealed to many families because it reinforced emotional connections and built upon established trust between nuclear

⁸ David Warren Sabean and Simon Teuscher, “Kinship in Europe: A New Approach to Long-Term Development,” in Sabean, Teuscher, and Jon Mathieu, eds., *Kinship in Europe: Approaches to Long-Term Developments (1300-1900)* (New York: Berghahn Books, 2010), 16, 17.

⁹ Joris, “Kinship and Gender,” in Sabean, Teuscher, and Mathieu, eds., *Kinship in Europe*, 235, 234, 246, 248.

¹⁰ Martin Ottenheimer, *Forbidden Relatives: The American Myth of Cousin Marriage* (Urbana, Ill.: University of Illinois Press, 1996), 65-71. John Witte, Jr., discusses Protestant theological divergence from Catholic practices in chs. 5-7 of *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition*, sec. ed. (Louisville, KY: Westminster John Knox Press; Westminster John Knox Press, 2012).

families.¹¹ Marriage with first, second, or once-removed cousins, or even nieces or nephews (as a result of large families and women's extended reproductive lives, aunts and uncles were sometimes younger than their nieces and nephews), was a natural outgrowth of patterns of extended family visits. Such visits permitted young people to get to know each other under less stressful conditions, and probably with less supervision than formal courting.

Examples of close-relative marriage are legion. Allan Kulikoff finds that in Prince George's County, Maryland, first-cousin marriage may have increased over time; in his samples from 1730-60, 22% of marriages were between blood kin, 6% with first cousins, while between 1760 and 1790, 28% percent of marriages were between blood kin and first-cousin marriages increased to 12%. Factoring marriages with afinal kin – kin connected by marriage rather than blood – he finds from 1730 to 1790 just over 40% of marriages were within extended kin networks.¹² In practice, many families collapsed degrees of cousinage and used the term flexibly. This was probably a function of two features of early American families. Many early Americans had numerous cousins of various degrees, among whom it served no purpose to distinguish by degree. Alice Izard was unperturbed in 1816 by “a strong attachment between this amiable Cousin of ours, & your Sister,” and felt no need to spell out the precise genealogical relationship.¹³ As a child, Robert Edward Lee played with his third cousin and future wife when their

¹¹ Cf. Lorri Glover, *All Our Relations: Blood Ties and Emotional Bonds Among the Early South Carolina Gentry* (Baltimore: The Johns Hopkins University Press, 2000) and Francesca Trivellato, *The Familiarity of Strangers: The Sephardic Diaspora, Livorno, and Cross-Cultural Trade in the Early Modern Period* (New Haven: Yale University Press, 2012)

¹² Allan Kulikoff, *Tobacco and Slaves: The Development of Southern Cultures in the Chesapeake, 1680-1800* (Chapel Hill: University of North Carolina Press, 1986), 254.

¹³ Alice Izard to Margaret Izard Manigault, 27 March 1816, Manigault Family Papers, SCL.

families visited, but addressed her before their engagement simply as “Cousin.”

Extended patterns of childbearing created large age gaps between eldest and youngest children in many family, with the result that some children were the aunts or uncles of their playmates. John Caldwell Calhoun was technically a generation removed from his cousin and future wife, Floride, but there was only ten years’ difference in age between them. Floride Colhoun Calhoun gained her cumbersome married name in 1811 from her first cousin once removed, from a branch of the family with a different spelling of their surname. Nelly Custis Lewis of Virginia confessed in 1824 that she “should prefer Mary Custis,” her niece, as her son’s wife.¹⁴

Many parents approved of or even encouraged cousin marriages. As relatives, the social and financial status of a potential mate was easily established. Landowning parents looked favorably upon consolidating property within the family; aspiring professionals and merchants could seek training, employment, and eventually partnership from relations by marriage. John Ball, Jr., pleased his parents when he married his father’s sister’s daughter in 1804 after his education at Harvard.¹⁵ Hearing of her son’s engagement to her niece, Margaret Izard Manigault wrote to her sister-in-law Henrietta Manigault Heyward in 1817 that “I cannot suffer a day to pass, my dear Sister, without pouring forth my Satisfaction in your bosom upon the happy event which has just been imparted to me. Nothing could have been more gratifying to me.” While Margaret admitted that, “A few years ago, I trembled for the fate of any young woman who ventured to place her whole stock of happiness in the hands of so impetuous a youth as

¹⁴ Nelly Custis Lewis to Elizabeth Bordley Gibson, April 15 1824, published in Brady, *George Washington’s Beautiful Nelly*, 147.

¹⁵ Ball Family Bible, John D. Rockefeller Library Special Collections, Colonial Williamsburg Foundation.

[Gabriel Henry Manigault] was,” she assured Henrietta that “[h]is good qualities have prevailed, & I believe he will make an excellent husband.”¹⁶ Nearly a decade later, in 1824 and 1825, Henrietta celebrated the marriages of her son Joseph to Margaret’s brother’s daughter and of a daughter to another of Margaret’s sons.

Many family trees repeatedly intertwined over the generations. For instance, Philadelphian Elizabeth Chew (1751-1842) parent’s were cousins, and she herself married a cousin shortly before the American Revolution. Virginian Charles Carter (1766-1807), too, was a product of cousin marriage and married a cousin in 1796. In the 1840s, South Carolinian Maria Louisa (Poyas) Gibbes’ two daughters married two of the sons of her sister, Eliza Catherine (Poyas) Ball. Catching up on her diary keeping in 1846, Eliza Ball listed the second of these marriages among other events, simply noting that her “younger son married his cousin in March¹⁷.” When William Henry Heyward and Esther Barnwell Heyward married in 1839 at age twenty, their grandfather and Henrietta’s husband, Nathaniel Heyward Sr., left them Blandford plantation as a joint legacy. He may have had their eventual marriage in mind when he purchased the plantation two years earlier.¹⁸

While cousin marriage was unremarkable in Pennsylvania, it was less common than in Virginia and South Carolina. This may be explained in part by the Quaker influence on Pennsylvania law and society. The Society of Friends opposed cousin marriage, which though not legally forbidden statewide, was grounds for expulsion from

¹⁶ Margaret Izard Manigault to Mrs. Nathaniel (Henrietta Manigault) Heyward, 12 March 1817, Manigault Family Papers, South Caroliniana Library, University of South Carolina.

¹⁷ Eliza C. Ball Diary, first entry for August 1846, Ball and Gilchrist Family Papers, SCL.

¹⁸ Suzanne Cameron Linder, *Historical Atlas of the Rice Plantations of the ACE River Basin* (Columbia, S.C.: Published by the South Carolina Department of Archives & History for the Archives and History Foundation, Ducks Unlimited, and the Nature Conservancy, 1995), 53.

Meeting after 1767.¹⁹ Furthermore, cousin marriage in southern states where land for cash-crop agriculture was a key source of wealth permitted families to more easily manage inheritances. Cousin marriage could reduce the pressure to divide up productive estates – an impulse made explicit when Nathaniel Heyward was able to combine his bequests to two of his grandchildren when they married.

These attitudes gradually began to change in the later nineteenth century, when class endogamy was more secure and concerns over genetic risk were increasing with the spread of social Darwinism, which heavy-handedly applied evolutionary theory to human reproduction. While no laws prohibiting cousin marriage were in place in the United States in 1850, by 1890, thirteen states had passed statutes limiting marriage between cousins.²⁰ When John Palmer discovered her cousin was courting his daughter Harriet in 1857, he declared he “was opposed on principal to the intermarriage of first cousins.” He did not elaborate on his reasoning, however, and conceded that he did “not consider the point insufferable.”²¹ Whether it was his objection that made the difference is unclear, but Harriet never married, and her cousin found another lady. The opposition to cousin marriage may also have run in that family, for the marriage of two different Palmer cousins in 1866 “shocked us all,” the mother of one wrote. She protested that “such a thing never entered my head, although I did look on uneasily at their great intimacy and

¹⁹ David Hackett Fischer, *Albion's Seed: Four British Folkways in America* (Oxford University Press, 1989), 485-490; Martin Ottenheimer, *Forbidden Relatives: The American Myth of Cousin Marriage* (University of Illinois Press, 1996), 25-26.

²⁰ Ottenheimer, *Forbidden Relatives: The American Myth of Cousin Marriage* (Champaign, Ill.: University of Illinois Press, 1996), 7; see also Adam Kuper, “Incest, Cousin Marriage, and the Origin of the Human Sciences in Nineteenth-Century England,” *Past & Present*, no. 174 (February 1, 2002): 158-83; Leonore Davidoff, *Thicker Than Water: Siblings and Their Relations, 1780-1920* (New York: Oxford University Press, 2012), ch. 9, “The Rise and Fall of Close Marriage.”

²¹ John S. Palmer to Harriet R. Palmer, 23 Oct. 1857, in *A World Turned Upside Down*, 219.

did not like so well to see them so often alone, but never once thought it would come to anything serious. I am too sorry it has occurred, and must now make the best of it.”²²

The Palmers may have been influenced by the growing consensus that “the results of the marriage of blood relations are almost uniformly unfortunate” – an opinion, one doctor claimed, “so long held and so often reiterated, that... it has come to be guarded as an unquestioned and unquestionable fact.”²³

Getting Into Family Business: Connections, Mentoring, and Partnership

Renewed interest in the emergence of capitalism is leading scholars to examine the links between marriage, family, and business more closely. Reliance on family was a method for increasing trust, limiting risk, and concentrating resources in the early modern period, and was especially critical in capital-intensive ventures like overseas trade or domestic industry. Peter Mathias points out that in the early modern period, high mortality made “[m]aintaining close links with kin on the side of both parents... elementary prudence” because often no direct male heir survived to assume a specific man’s assets and responsibilities. The same demographic reality made the “recruitment” of “[h]igh talent... non-kin” through marriage with daughters a practical strategy for maintaining or expanding a trade shop, firm, or other enterprise.²⁴ In her study of Sephardic Jews in early modern Livorno, Italy, Francesca Trivellato finds that

²² Esther Simons Palmer to Elizabeth Palmer Porcher, 11 March 1866, in *A World Turned Upside Down*, 502.

²³ John Bell, “The Effects of the Consanguinity of Parents upon the Mental Constitution of the Offspring,” *The Boston Medical and Surgical Journal* 60, no. 24 (July 14, 1859): 473–74, cited in Martin Ottenheimer, *Forbidden Relatives*, 17.

²⁴ Peter Mathias, “Risk, Credit and Kinship,” in John J. McCusker and Russell R. Menard, *The Economy of British America, 1607-1789* (Chapel Hill: University of North Carolina Press, 1985), 18-29.

“matrimonial practices... offset large portions of the risk general that a general partnership entailed.” Sephardim also employed close-kin marriages in ways that enhanced familial wealth: “Consanguineous marriages, the merging of dower and dowry, and levirate unions facilitated the preservation and transmission of commercial capital along patriarchal lines and linked the interests of in-laws.”²⁵

Similar systems of grooming and recruitment readily transferred to British North America. Younger men might study with their future father-in-laws before beginning a professional career, as John Coalter did before he ultimately married the daughter of his legal mentor, St. George Tucker. Sons-in-law joining a family business were commonplace, particularly in the same profession. While much of this grooming and employment may have developed organically or informally, one future father-in-law in South Carolina went so far as to legally bind himself to hire his soon-to-be son-in-law. When Sarah DaCosta became engaged to David Mazer in 1778, her merchant father Abraham included as one term of her marriage settlement that for the “further advancement of his said Intended son in Law to take him into Copartnership immediately and to account with him for the one half of the profits to be made in trade.”²⁶ As professions such as law, medicine, banking, and trade became more regimented and uniform in the nineteenth century, men continued to offer mentorship services and professional opportunities for sons, sons-in-law, nephews, and younger cousins.

As businesses increasingly specialized and reorganized over the late eighteenth and early nineteenth centuries, individuals and nuclear families continued to strategically

²⁵ Trivellato, *The Familiarity of Strangers*, ch. 5, quote on 148.

²⁶ Marriage Settlement of Sarah DaCosta and David Mazer, 19 August 1778, South Carolina Marriage Settlements, Vol. 2, 48-52, South Carolina Department of Archives and History.

deploy kinship and marriage as they sought economic advancement. Richard Grassby's study of the organization of seventeenth-century British merchant capitalism emphasizes the importance of marriage and family in period with only rudimentary banking and insurance systems.²⁷ As Xabier Lamikiz notes in his study of eighteenth-century Spanish merchant networks, "merchants had access to more practical information about the conduct and capability of their kin than anybody else."²⁸ In other instances, talented but marginal men integrated themselves via marriage into kinship networks whose collective credit and resources made their businesses possible.²⁹ Bertram Wyatt-Brown's classic study of southern culture is a rare example of close analysis of the importance of marriage as an entry to planting for young professional men in the antebellum period.³⁰

Some business connections ran not only vertically between generations, but also laterally among siblings-in-law.³¹ Another lawyer, Duncan Cameron of Virginia and later North Carolina, leveraged his relationships with first his father-in-law and then his brother-in-law to create a diversified operation of plantations, slaves, saw and flour mills,

²⁷ Richard Grassby, *Kinship and Capitalism: Marriage, Family, and Business in the English Speaking World, 1580-1720* (New Yrk: Cambridge University Press, 2001)

²⁸ Xabier Lamikiz, *Trade and Trust in the Eighteenth-Century Atlantic World: Spanish Merchants and Their Overseas Networks* (Rochester, NY: Boydell Press, 2010), 10.

²⁹ Cf., David Hancock's discussion of Richard Oswald, a Scot of humble background who became spectacularly wealthy as a trader in both commodities and slaves: *Citizens of the World: London Merchants and the Integration of the British Atlantic Community, 1735-1785* (Cambridge; New York: Cambridge University Press, 1995), 25-141, esp. 64-75.

³⁰ Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South*, 25th anniversary ed. (New York: Oxford University Press, 2007), ch. 8, "Strategies of Courtship and Marriage."

³¹ C. Dallett Hemphill, argues that southern brothers "did not replace sentiment with business ties the way that northern brothers did," but this may reflect a more traditional definition of what constituted a joint business venture: *Siblings: Brothers and Sisters in American History* (New York: Oxford University Press, 2011), 202. Hemphill discusses brothers' support of each others' careers elsewhere: 70-75, 125-26, 181-185. For a contrasting argument, see Laura Croghan Kamoie, *Irons in the Fire: The Business History of the Tayloe Family and Virginia's Gentry, 1700-1860* (University of Virginia Press, 2007), which examines the agricultural and industrial exploits of four generations of the Tayloe family.

and stores.³² When Joseph Coolidge's Boston commercial partnership dissolved in 1830, he asked his Virginia wife's brother to direct consignments of southern produce to him.³³ Isaac Ogden reinforced his connections to his uncle, Abraham Ogden, who was also his legal mentor and father-in-law, before forming a partnership with Abraham and Abraham Jr. in an effort to recover from the Panic of 1837.³⁴ Isaac also had business dealings with his father-in-law, William Meredith. Meredith, in turn, invested in western Pennsylvania land with Isaac's brother Samuel and their mutual uncle by marriage, Gouverneur Morris.³⁵ Robert Bell helped his brother-in-law Edward G. W. Butler establish himself as a planter in Louisiana on the brink of the cotton boom, advising him on the purchase of land and enslaved workers, and planning an ultimately abortive partnership. After a misunderstanding nixed the partnership in the bud, Edward's sister assured her brother that her "generous, noble, high minded *Husband*" was motivated more by family feeling than by profit, hoping "only to take the burden of *care fatigue* and exposure" of managing a plantation "off your shoulders."³⁶

It was unremarkable for friends to cement their emotional alliances by marrying sisters, and equally logical for them to join forces in business or assist each other in

³² Partnership agreement between Duncan Cameron, Thomas Bennehan, and Richard Bennehan, 1807 in the Cameron Family Papers #133, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

³³ Joseph Coolidge to Jefferson Randolph 1830 February 10, Ellen Randolph Coolidge Correspondence, Small Special Collections, UVA.

³⁴ [Isaac Ogden], undated proposal [ca. 1837], "I[saac] Ogden proposes to form a house at New Orleans for the liquidation of the offices of I[saac] O[gden] & Co.;" Agreement, July 3 1839, between Isaac Ogden (I. Ogden & Co.), J[ames] D[e]P[eyster] Ogden & Co., and A. Ogden & Co. The relationships between the Ogdens are documented through hundreds of letters in the Isaac Ogden Papers, Series 50 of the Smith-Houston-Morris Ogden Family Papers, American Philosophical Society.

³⁵ Cf. Bond of Isaac Ogden to William Meredith and William Morris Meredith, Trustees, 1837 April 4.

³⁶ Caroline [Bell] to Edward G.W. Butler, 1829 Oct. 11, Butler Family Papers, Mss. 102, Historic New Orleans Collection.

professions. William Morris Meredith and James Biddle worked on cases together as young lawyers, and each married a daughter of Michael Keppele, also a lawyer. They were lead and assistant counsel on the case that made their careers, when they were imprisoned for contempt after defying the presiding judge, gaining newspaper coverage and notoriety. Women, too, might see marriage as a method for tightening bonds between friends. When Kitty Eustace made her ill-fated marriage to James Blair in 1772, she may have been more enticed by the opportunity to make Blair's sister Anne, "the sister of my heart," her sister by law as well. Kitty wrote to Anne that she "loved & valued your family one and all of them, and at the same time [had] no particular objection to your Brother – nor no partiality in Favor of any other person in my mind." It seems that James was more an acceptable vehicle for connecting Kitty to his sister and parents than an appealing partner in his own right.³⁷

Sibling exchange and double sibling marriages- where two siblings from one nuclear family married two siblings in another – were practices that doubled connections between nuclear families. This too was a product of overlapping social networks; particularly after one sibling married into a family, the others had increased contact with their new in-laws. Married siblings actively encouraged additional intermarriages.³⁸ Two brothers might marry two sisters, or a son and daughter from one family married a daughter and son from another. Virginians Brett and Richard Randolph married Lucy and

³⁷ Kitty Eustace Blair to Anne Blair Bannister, 18 July 1772, Tucker-Coleman Papers, Special Collections Library, the College of William & Mary. Kitty sued for the divorce on the basis of James' impotence, but he died before the suit was adjudicated. Kitty then sued for her share of his estate, which prompted a highly-publicized trial in which both St. George Tucker and Thomas Jefferson were involved. Cf. Frank L. Dewey, *Thomas Jefferson, Lawyer* (Charlottesville, Va.: University of Virginia Press, 1986), ch. 7, "A Williamsburg Scandal: Notes on Divorce."

³⁸ C. Dallett Hemphill, *Siblings: Brothers and Sisters in American History* (Oxford; New York: Oxford University Press, 2011), 35 and 89; Davidoff, *Thicker Than Water*, 134-36.

Maria Beverley, respectively, in 1784 and 1789; Pennsylvanian Mary Wilcocks married Charles Ingersoll in 1804, and about a decade later her sister Ann married Charles's brother Jared. As previously mentioned, Gabriel Henry and Charles Izard Manigault married their cousins, sisters Ann and Elizabeth Heyward, in 1817 and 1825. St. George Tucker employed John and Mary Coalter as a tutor and a governess, respectively, and this proximity eventually led to their marriages to two of Tucker's children. For the Coalters, this was probably a significant climb in terms of wealth and class; John's first wife was a printer's daughter and his second a merchant's, while his third wife (and former pupil) Frances Bland Tucker was the daughter of one of the most prestigious legal authorities in the young country.

Dispersed Family Networks in British North America

While marriage within local and extended kin networks offered advantages by reducing risk, dispersed family connections could also offer benefits in terms of diversifying wealth holdings and expanding business opportunities. Far-flung marriages were facilitated by the growth of shared Anglo-American culture, national identity, and economic institutions and practices that allowed families to manage diverse and disparate forms of wealth. Some cross-state matches were also marriages within kinship networks, and for those that were not, the diversification of capital counterbalanced potential issues of trusting individuals outside of established networks of family and friends. In forging connections outside their immediate locales, families increased their opportunities to enhance their income and acquired potential buffers against economic shocks. Despite protestations of differences, social and economic, a significant minority

of the elite and aspiring classes married out-of-state, so that by 1860 virtually every family had some kin connection linking the north and south.

The development of travel, communication, and financial infrastructure eroded structural barriers to cross-state marriages. Travel between the seaboard-oriented colonies became more regular over the course of the eighteenth century, and by the antebellum period railroads moved people, goods, and news faster than ever.³⁹ By 1860, the states were more closely knit together with communication and travel infrastructure, permitting the more frequent movement of marriageable women and men and more readily facilitating the epistolary maintenance of romantic ties, family relations, and associated financial transactions.⁴⁰ Similarly, economic development smoothed the way for matches across state lines. The rise of professions such as medicine, banking, and law liberated many young men from dependence on landowning as a basis of wealth.⁴¹ A nascent banking industry allowed wealthy families to convert wealth from one form to another, or to hold various forms of geographically dispersed wealth more easily.⁴² Family members

³⁹ John Lauritz Larson, *Internal Improvement: National Public Works and the Promise of Popular Government in the Early United States* (Chapel Hill: The University of North Carolina Press, 2001); Richard R. John, *Spreading the News: The American Postal System from Franklin to Morse* (Harvard University Press, 2009), ch. 2, “The Communications Revolution,” and ch. 3, “Completing the Network;” John Majewski, *A House Dividing: Economic Development in Pennsylvania and Virginia Before the Civil War* (Cambridge, UK; New York: Cambridge University Press, 2006).

⁴⁰ Daniel Walker Howe, *What Hath God Wrought: The Transformation of America, 1815-1848* (New York: Oxford University Press, 2009).

⁴¹ Paul Starr, *The Social Transformation of American Medicine: The Rise of a Sovereign Profession and the Making of a Vast Industry*, rep. ed. (New York: Basic Books, 1984); ch. 3; Samuel Haber, *The Quest for Authority and Honor in the American Professions, 1750-1900* (Chicago: University of Chicago Press, 1991), Part I.

⁴² Robert E. Wright, *The Origins of Commercial Banking in America, 1750-1800* (Lanham, Md.: Rowman & Littlefield Publishers, 2001); Stephen Mihm, *A Nation of Counterfeiters: Capitalists, Con Men, and the Making of the United States* (Cambridge, Mass.; London, England: Harvard University Press, 2009); Margaret Ackrill and Leslie Hannah, *Barclays: The Business of Banking, 1690-1996*, (Cambridge, UK; New York, NY, USA: Cambridge University Press, 2001); Jennifer

or hired agents managed plantations for absentee owners in the eighteenth and nineteenth centuries as they had in the seventeenth. Opportunities to invest in canals, railroads, and banks multiplied, permitting families to place cash in these institutions with the expectation that newlywed couples would enjoy long-term dividends.⁴³

Thus, as it became simpler and faster to liquidate and transfer capital, there was less need to match like resources. A young woman from South Carolina who inherited slaves could take them to Virginia, sell them and invest the cash in Pennsylvania, or receive the profits from their labor via a trustee. A young doctor from the North might marry a Virginia bride and take up planting, or vice versa - a younger son from a planting family might leverage his education to marry into an established northern family. As the following examples show, quantities rather than kinds of wealth – or wealth-generating social capital – were more significant in courtship calculations.

Elite colonists' travel to the metropole and between colonies might bring them into contact with suitable partners in marriage as well as business. William Shippen of Philadelphia also studying in England when he met and married Alice Lee of Virginia in 1762. Ralph Izard of South Carolina had recently finished his education in England when he visited New York, perhaps to cultivate business connections among the city's elite; while there he met and married Alice DeLancey in 1767. Together they founded a South Carolina dynasty, with their children marrying into several prominent families. For young southerners who remained in North America, northern colleges served a similar function,

J. Baker, *Securing the Commonwealth: Debt, Speculation, and Writing in the Making of Early America* (Baltimore: Johns Hopkins University Press, 2007); Howard Bodenhorn, *State Banking in Early America: A New Economic History* (New York: Oxford University Press, 2002).

⁴³ John Lauritz Larson, *Internal Improvement: National Public Works and the Promise of Popular Government in the Early United States* (Chapel Hill: The University of North Carolina Press, 2001), introduction and ch. 1.

introducing young men to the friends and future business partners who often help facilitate their introductions to potential spouses.

Philadelphia and New York City attracted political and economic elites before and after American Independence, often for extended periods while they conducted their business. As important centers of commerce and early capitals of the United States, elites traveled to Philadelphia regularly throughout the early Republic and antebellum periods. Indeed, by the 1820s, rich South Carolina residents routinely summered there, congregating in what was known as “Carolina Row.”⁴⁴ When Margaret Izard Manigault’s husband Gabriel died in 1809, she relocated to Philadelphia permanently, and her youngest daughter married a prominent Philadelphian several years later.⁴⁵ Her mother Alice Delancey Izard, widowed a few years earlier, also spent significant amounts of time in Philadelphia. Virginian Nelly Custis Lewis, George Washington’s step-granddaughter, probably forged connections with the Izard clan in Philadelphia during Washington’s presidency, for she periodically asked after “old Mrs Izard, & Nancy Deas, & all the Carolina Row.” Nelly was pleased when a new link to Philadelphia was forged when her son Lorenzo wed Esther Coxe, a prominent doctor’s daughter, in 1827, as a result of studying law with his mother’s friend’s husband.⁴⁶

The circulation of people intensified during the Revolutionary War, encouraging

⁴⁴ Daniel Kilbride, *An American Aristocracy: Southern Planters in Antebellum Philadelphia* (Columbia, S.C.: University of South Carolina Press, 2006).

⁴⁵ Information gathered from the finding aid to and materials in the Manigault, Morris, and Grimball Family Papers, 1795-1832, Southern Historical Collection, University of North Carolina at Chapel Hill.

⁴⁶ Eleanor Parke Custis to Elizabeth Bordley Gibson, October 25 1823, May 13 1824, and February 12 1826, published in Patricia Brady, ed., *George Washington's Beautiful Nelly: The Letters of Eleanor Parke Custis to Elizabeth Bordley Gibson, 1794-1851*, expanded ed., (Columbia, S.C.: The University of South Carolina Press, 2006), 138, 151, and 173-74; Justin Glenn, ed. *The Washingtons: A Family History: Volume 1: Seven Generations of the Presidential Branch* (El Dorado Hills, Ca.: Savas Publishing, 2014), 190.

unions across state lines. Enlisted men left their home states and sometimes formed far-flung friendships and marriages. Originally from Connecticut, Benedict Arnold met Peggy Shippen in Philadelphia in 1778, when as military commander of the city he socialized with the city's elites, and she became his second wife early in 1779. Peggy Shippen is frequently accused of encouraging Arnold to betray the fledgling United States.⁴⁷ Peggy's cousin Nancy Shippen was likewise courted by two men in Philadelphia with the American military, ultimately choosing a wealthy New Yorker over a French minor nobleman.⁴⁸ New Yorker Lewis Morris met Ann Elliott of South Carolina in 1782 while serving under Nathaniel Greene. He sent "My dear Girl" letters regularly during their separation, extolling "that sensibility, that tenderness in your nature, which endears you to me, and which I consider as the greatest ornament in your sex."⁴⁹ One acquaintance drily reported to St. George Tucker that "Colonel Morris could not withstand the charms of Miss Elliot[t] and twenty thousand guineas so they were married" in 1783.⁵⁰ The New York-South Carolina connection was reinforced in the next

⁴⁷ Cf., Stephen Case and Mark Jacob, *Treacherous Beauty: Peggy Shippen, The Woman Behind Benedict Arnold's Plot To Betray America* (Guilford, Conn: Lyons Press, 2012), marriage mentioned p. 89.

⁴⁸ Ethel Armes, ed., *Nancy Shippen Her Journal Book: The International Romance of a Young Lady and Fashion of Colonial Philadelphia with Letters To Her and About Her* (Philadelphia: J. B. Lippincott Company, 1935), ch. IV.

⁴⁹ Col. Lewis Morris to Miss Nancy Elliott, July 15 1782, published in Morris Rutherford, ed., "Letters from Col. Lewis Morris to Miss Ann Elliott," *The South Carolina Historical and Genealogical Magazine*, Vol. 40, No. 4 (Oct., 1939), 122-136, quotation from p. 123. More of their correspondence is published in Morris Rutherford, ed., "Letters from Col. Lewis Morris to Miss Ann Elliott," *The South Carolina Historical and Genealogical Magazine*, Vol. 41, No. 1 (Jan., 1940), 1-14.

⁵⁰ Eliza Harleston to St. George Tucker, Feb. 22 1783, Tucker-Coleman Papers, College of William & Mary. Ann inherited two plantations at her father's death in 1766 and 213 slaves when her brother died shortly after her marriage in 1783. Suzanne Cameron Linder, *Historical Atlas of the Rice Plantations of the ACE River Basin* (Columbia, South Carolina: Published by the South Carolina Dept. of Archives & History for the Archives and History Foundation, Ducks Unlimited, and the Nature Conservancy, 1995), 575, 628; Indenture, June 30 1783, between Daniel and

generation when a daughter and three sons married elite South Carolinians, expanding a web of plantation holdings along the Ashley and Santee Rivers.⁵¹

In the Early Republic, after access to English education was reduced and before the development of southern educational institutions, many young men traveled to Philadelphia, particularly for medical education.⁵² James Chesnut of Camden, South Carolina, met his wife Mary Cox while pursuing his medical studies in 1814. Some elite Virginians ventured abroad for their education, as did James Murray Mason, who probably met his future wife Elizabeth Chew of Philadelphia while attending the University of Pennsylvania. Others elected instead to attend the College of William & Mary. Some young ladies of Williamsburg, Virginia, married graduates of the College, as Ann Blaws Barraud, a local doctor's daughter, did when she wed John Hartwell Cocke in 1802. In the nineteenth century, the proliferation of regional academies, often "supported by sets of families who knew each other," created overlapping social networks that bolstered class identity and introduced individuals from similar socioeconomic positions to potential spouses.⁵³

Shared sites of leisure further bolstered a shared elite identity and created socially appropriate opportunities for marriageable men and women to meet and mingle. By the early nineteenth century, leisure sites such as the medicinal springs in western (now

Sabina Huger of the first part and Lewis and Ann Morris of the second part, *Miscellaneous Records*, Vol. TT, p. 318, South Carolina Department of Records and History.

⁵¹ General Lewis Morris married Elizabeth Manigault, Ann Morris married Elias Vanderhorst, George Washington Morris married Maria Whaley, and William Elliot Morris married Anna Fishburne.

⁵² Nancy Beadie, *Education and the Creation of Capital in the Early American Republic* (Cambridge University Press, 2010), ch. 7, "Between Markets and States – Venture Schools and Academies;" Roger L. Geiger, *The History of American Higher Education: Learning and Culture from the Founding to World War II* (Princeton University Press, 2014), chs. 2-3.

⁵³ Stowe, *Intimacy and Power*, 84.

West) Virginia and seaside towns such as Newport, Rhode Island, allowed young elite men and women to meet travelers from both near and far. Warm and mineral springs were first popular destinations for health reasons, and soon became sites of wealthy socialization – of which courtship was a significant element.⁵⁴ The Coles family of Virginia made several matches over vacations at White Sulphur Springs. At least three daughters met their husbands while vacationing in the 1810s, and perhaps their three brothers met or courted their Virginia brides there too. Emily married prominent Richmond lawyer John Rutherford, Sarah wed politician Andrew Stevenson, and Rebecca married wealthy South Carolina rice planter Richard Singleton. Richard and Rebecca's daughter, Angelica, met Abraham Van Buren of New York at the Springs and married him in 1838.⁵⁵ As local educational institutions multiplied in the nineteenth century, travel for leisure displaced educational travel as a means of meeting eligible peers.⁵⁶

Northern cities also attracted wealthy families looking for a change of climate. Newport, Rhode Island, lured elites from along the seaboard, creating an opportunity to mingle across states lines but within the elite socioeconomic circle. By the 1840s, South Carolinians in particular summered in Rhode Island, while others from nearby states often included it on their itineraries as they traveled through New England. Nathaniel Russell Middleton married Anna DeWolf, a wealthy Rhode Island merchant's daughter, in 1842, after his first wife, Margaret Izard, died. John Julius Pringle and his family summered in

⁵⁴ Charlene M. Boyer Lewis, *Ladies and Gentlemen on Display: Planter Society at the Virginia Springs, 1790-1860* (University of Virginia Press, 2001).

⁵⁵ Boyer Lewis, *Ladies and Gentlemen on Display*, 186.

⁵⁶ On the growth of southern colleges, cf., Geiger, *The History of American Higher Education*, ch. 6.

Newport, which is likely how his son met his New York wife, Jane Lynch, in 1840.⁵⁷

Eliza Middleton met Thomas Francis Fisher of Philadelphia there around 1836, and after two years of courting, proposed Fisher proposed to Eliza “during a moonlit ride on the beach.”⁵⁸

Once cross-states connections were established, they frequently begot others, often facilitated by kinship connections. Elite men and women with the wealth and leisure to do so often visited relatives in other states, and frequently stayed for long periods. Three of Lewis and Ann Morris’s children found partners in New York or New Jersey, while another three met partners in their mother’s native South Carolina. One son, another Lewis, married Alice Delancey’s South Carolina granddaughter, a match facilitated through the New York-South Carolina connections forged by the previous generation.⁵⁹ Similarly, William and Alice Shippen’s son and grandson, while both raised in Philadelphia, married women from Virginia. Thomas Lee met Elizabeth Carter Farley when he studied law at the College of William & Mary, and his son William’s wife hailed from Petersburg; William’s son Thomas eventually married one of his Virginia cousins in 1860.⁶⁰ (The Fisher children, perhaps because they were raised in the tense

⁵⁷ William Kauffman Scarborough, *Masters of the Big House: Elite Slaveholders of the Mid-Nineteenth-Century South* (LSU Press, 2006), 43.

⁵⁸ Eliza Cope Harrison, ed., *Best Companions: Letters of Eliza Middleton Fisher and Her Mother, Mary Hering Middleton, from Charleston, Philadelphia, and Newport, 1839-1846* (Columbia, S.C: University of South Carolina Press, 2001), 18.

⁵⁹ Information gathered from the Vanderhorst Family Papers, Mss. 1169.00, the South Carolina Historical Society.

⁶⁰ Randolph Shipley Klein, *Portrait of an Early American Family: The Shippens of Pennsylvania across Five Generations* (University of Pennsylvania Press, 1975), 218; Townsend Ward, “The Germantown Road and Its Associations, Part V,” *The Pennsylvania Magazine of History and Biography*, Vol. VI, no. 1 (1882), 16; “Gray, Wickham, Shore, &C (From Family Bible Records),” in “Notes and Queries,” *The Virginia Magazine of History and Biography*, Volume XXX, no. 1 (Jan., 1922), 66.

political atmosphere of the 1850s and 60s, all married into elite Philadelphia families.)⁶¹

As travel and communication became easier, so did the circulation of information and individuals within these state-spanning family networks.

The fluid movement of men and women within and between the North American colonies and later the United States suggests that individuals and families readily pursued both marital and economic opportunities across political and geographic boundaries. The complaint of a Massachusetts man working in North Carolina that Yankee men who lived there long-term became “downright Carolinians” suggests the plasticity of regional identification.⁶² Even as Northern and Southern social practices became more regionally specific in the antebellum period, they were not mutually unintelligible. While Southern elites and the expanding Northern middle classes might recognize themselves as distinct, a shared national culture and an interdependent economy linked them. Indeed, transplanted individuals’ rapid adjustment to a new social and economic environment artificially inflates historians’ perceptions of regional difference.

When Meta Morris Grimball grumbled about the “imprudence of marrying among strangers” in 1861, she probably meant it more in terms of wealth and status than location. These feelings were reinforced in 1866, when her son married Clementina Legge, whose South Carolina-born mother married her Virginian husband “not knowing anything about him and after her marriage found he had very low relations.” Meta detested Col. Legge, who was “a man of intemperate habits, and no morals, never pays

⁶¹ Genealogical information verified in Eliza Cope Harrison, ed., *Best Companions: Letters of Eliza Middleton Fisher and Her Mother, Mary Hering Middleton, from Charleston, Philadelphia, and Newport, 1839-1846* (Columbia, S.C: University of South Carolina Press, 2001).

⁶² Cited in Lorri Glover, *Southern Sons: Becoming Men in the New Nation* (Baltimore: Johns Hopkins University Press, 2007), 119.

any thing he owes, and does not regard his word.” But given her family background, Meta evidently had no objections to marriages among “nice people” of different states.⁶³

Meta was proud of not only of her South Carolina roots but also her New York heritage, which linked her to signers of the Declaration of Independence. Meta’s grandparents had initiated family ties between New York and South Carolina in 1782, but despite having met by chance due to her grandfather’s wartime service in South Carolina, were evidently not “strangers” to each other. Like other transregional family links, the Morris’ New York-South Carolina connections persisted into the next three generations. Meta’s father Lewis was born in New York but married into a prestigious South Carolina family in 1807, and stayed. When Meta’s son, also Lewis, married in 1865, he had “\$3000 to commence his married life on,” due in part to his northern connections. Meta “gave it to him, but as the property in New York was in the law courts, under the Confiscation act” because the Grimballs supported the Confederacy, it “could not be used until released by Lewis Morris,” a great-uncle in New York.⁶⁴ Despite their political differences, even through the Civil War families coordinated across the Mason-Dixon line to manage and distribute property.

Whether established by travel for education, business, or pleasure, or via existing kinship ties, many of these interregional connections created a generational circulation of young people along the eastern seaboard through 1860. Within a broadly shared elite culture, families employed a universal set of strategies to help their children make suitable, if not advantageous, marriages. The following chapter explores how families

⁶³ September 30 1861, February 20 1866, Margaret Ann “Meta” Morris Diary, #975-z, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

⁶⁴ February 20 1866, Margaret Ann “Meta” Morris Diary, SHC.

navigated courtship as they sought to establish financially secure marriages for their sons and daughters, whether with local or distant partners.

Cultivating and Assessing Social Capital in Courtship

Elite families developed strategies to improve their offspring's odds in what was sometimes referred to as the "matrimonial lottery" in hopes of guaranteeing the financial security they considered essential to a happy married life. The baseline concern of most parents was whether marriage would enhance their child's financial prospects, but social and personal concerns followed closely. Families attempted to verify whether the potential spouse was of an appropriate social status (and thus possessed of social capital that could be used to future advantage) and to confirm the couple's emotional compatibility. Parents pressured their children to avoid marrying too early or impulsively. The extended family invested monetarily and emotionally in their young people's social capital to enhance their attractiveness on the marriage market. Parents, siblings, aunts, uncles, and cousins carefully vetted their relations' courtships, assessing their "prospects" for future financial independence or estimating the size of a woman's dowry. Parents and peers also encouraged young people to make "advantageous matches" with mates of equivalent or greater wealth. Surrounded by these pressures, subtle and overt, most young people made decisions with their parents' approval.

The evaluation of eligible beaux and belles was a social process conducted often through gossip, both face-to-face and written. Family members wrote letters offering detailed appraisals of not only the character but the fortune of potential new members. Young people shared information amongst themselves about the background and

behavior of their peers. Parents, too, actively solicited information about the character, family background, and financial status of potential sons- and daughters-in-law, and they expected to be kept apprised of their children's romantic inclinations. And while they usually trusted their children to make wise decisions, parents were willing to intervene, directly as well as indirectly, to terminate matches they felt were inappropriate. Despite instances of intergenerational conflict, typically parents, children, and other kin collaborated to maximize their child's appeal to potential partners and to minimize the risk of an unwise choice.

Parents and guardians insisted, sometimes to the dismay of their children or wards, that marriage and the establishment of an independent household was too serious a commitment to stake entirely on feelings. South Carolinian John Lloyd was exceptionally forthright with his nephew and ward, Richard Champion, in stating what many parents expressed more subtly. Fearing Richard was about to make an unwise match in 1796, Lloyd insisted "I would not have you marry a person for whom you had not sincere regard, because she had money – neither would I have you marry one unless she possessed some means of contributing to your mutual wants, unless, you were in a more independent situation than you now are." Lloyd feared Richard would succumb to "The idea... that love will supply your want of fortune," which he denigrated as "romantick, idle, and ridiculous... for, be assured of the worth of the old adage that when Poverty comes in at the door, Love flies out the window."⁶⁵ He expected Richard to wait until his fortune was secured, and to choose a woman whose marriage portion was likewise guaranteed.

⁶⁵ John Lloyd to Richard Champion, 28 June 1796, John Lloyd Letterbook, SCL.

Many parents in the nineteenth century sounded the same note shared Lloyd's opinion that both parties romance alone was an insufficient basis for matrimony. Nelly Custis reported on her and her husband's intervention with her "susceptible" son Lorenzo. "At 17 ½ he was actually *engaged to be married*," she admitted, to a twenty-year-old woman of a fine family. While she did not state it explicitly, Lorenzo's youth and uncertain career prospects made him obviously unready for marriage for several years. Rather than permit a prolonged engagement, "We sent him to N E – & when he reflected how painful it was to us, he wrote to her & they released each other." Lorenzo learned his lesson – though he "has since been in love more than *twice*," he waited until he completed his legal training to propose again.⁶⁶

John Palmer expressed similar sentiments in 1857. He informed his daughter that he "object[ed] to long engagements and will never give my consent to any engagement of any daughter of mine when circumstances do not permit a specific time to be fixed for the consummation of marriage." Even though this particular young man was a cousin and thus known to the family as a man of character and appropriate status, his inability to support a wife overrode these other benefits. Palmer rejected any potential son-in-law who had "many [years] before he can be prepared to enter into the business which would enable him to maintain a family" because he recognized the risk of his daughter's continued - and growing - financial dependence.⁶⁷ Because young couples typically began having children shortly after marriage, a young man without a career would have

⁶⁶ Nelly Custis Lewis to Elizabeth Bordley Gibson, 15 April 1824, published in Brady, ed., *George Washington's Beautiful Nelly*, 146-47.

⁶⁷ John S. Palmer to Harriet R. Palmer, 23 Oct. 1857, cited in Louis P. Towles, ed., *A World Turned Upside Down: The Palmers of the South Santee, 1818-1881* (Columbia, S.C.: University of South Carolina Press, 1996), 219.

mounting costs before he had a secure income. Parents hoped to spare their sons and daughters the stress, and themselves the additional costs, of struggling to finance provide for future children.

The growing frequency and necessity of higher education and professional training in the nineteenth century may also have softened some families' attitudes towards prolonged engagements. When John Palmer's son James became engaged in college to Clementina Legge, his fiancée's family was "willing to prolong the engagement to three or four years when I shall have completed my professional preparation and be ready to take my position in society."⁶⁸ The commonality in both instances was the consensus that a means of support was a prerequisite to marriage. Few, however, had the patience of Catherine Kepple, who was engaged to William Morris Meredith for a decade while he established his law practice and served in Pennsylvania government. Catherine may have had this luxury because her father had passed away in 1821, leaving her with the means to support herself during the decade of the engagement. For Catherine, the delayed marriage may have been appealing because it also limited her years of childbearing. The Kepple family may have been unusual in its acceptance of such late marriages, however, even in Pennsylvania, where the age at marriage was gradually rising in the nineteenth century, in part because of increasing acceptance of

⁶⁸ James J. Palmer to John S. Palmer, *A World Turned Upside Down: The Palmers of the South Santee*, 232. James Palmer was killed before they married at Second Manassas in 1862; Meta Morris Grimball recorded in her diary, "We hear from Mrs Irwin and others of the distress of Miss Legg. She seems broken hearted. She has been engaged 3 years to Mr Palmer, he is from the low Country, was handsome, well born, rich and cultivated. The 3 young men, Whiteford Smith Capers & Palmer were in the Spartan Rifles and shot by one ball & found lying close together. It would have been a comfort to this poor girl if she had been married to her love, and then she could have mourned with his family and had a claim on their sympathy." Clementina's sister Mary was engaged to Capers. MMG Diary, 7 Sept. 1862. Despite not having been married, Clementina wore mourning for James. MMG Diary, 10 Oct. 1862. Clementina married Lewis Grimball in 1866.

later marriages. Catherine's sister delayed marriage as well; her elder sister married James Biddle in 1825, perhaps having also gotten engaged in 1824, but she was already an older bride at thirty-six.⁶⁹

Social status was the easiest and often the first criteria for evaluating potential partners. Because social capital was often correlated with wealth, families could rule out a large number of unsuitable matches quickly. Social capital was comprised of an individual's deportment, education, skills, and connections – intangible but essential elements of their social position and clues as to their economic prospects. Thus taste, deportment, and polite conversation were important indicators of status that signaled access to financial resources. An established family name, translatable within a shared elite culture, had social currency and immediately positioned potential matches as members of the “correct” circles.⁷⁰ Parents and elders sought to train and equip their children in ways that made them attractive spouses.

Both men and women frequently described their peers and potential partners as “genteel,” “amiable,” and “accomplished.” These terms implicitly assessed social capital in gendered terms. “Genteel” in early America implied both a person's status by virtue of

⁶⁹ Catherine had her first child when she was thirty-four and her fifth and last when she was forty-one. Family correspondence has not illuminated the long delay; William and Catherine corresponded regularly throughout their engagement (see Meredith Family Papers, Collection 509, Historical Society of Pennsylvania). On fertility trends, see Susan E. Klepp, *Revolutionary Conceptions: Women, Fertility, and Family Limitation in America, 1760-1820* (Chapel Hill: The University of North Carolina Press, 2009).

⁷⁰ Pierre Bourdieu introduced the term “social capital” in *Distinction: A Social Critique of the Judgement of Taste* (Cambridge, Mass.: Harvard University Press, 1984). A concise and helpful definition appears in Bourdieu and Loïc J. D. Wacquant, *An Invitation to Reflexive Sociology* (Chicago: University Of Chicago Press, 1992), 188-19: “the sum of the resources, actual or virtual, that accrue to an individual or group by virtue of possessing a durable network of more or less institutionalized relationships of mutual acquaintance and recognition.” Marriage was one method of expanding these networks.

birth and their possession of a high degree of refinement.⁷¹ “Amiable” indicated that a person was well versed in etiquette and had internalized the social rituals and expressions that not only indicated high social standing, but also made them pleasant to be around. “Accomplished” men were well-educated and had either achieved or were on the path to financial success, while women’s accomplishments were increasingly ornamental in that they demonstrated refinement and were not intended to generate income. A young Nelly Custis described a dance partner in 1797 as “altogether a pleasing young man. His character is generally allowed to be very amiable, sensible, well informed, studious, a dutiful son, & a generous good Heart.” She added, however, that “unfortunately [he] had to[o] often been told of his merit & accomplishments, & it has given him more affectation that is by any means agreeable.” When Nelly’s son was courting in 1824, she “heard several times this winter that he was in love with *Esther Maria Coxe*, but as I also heard she was very amiable & correct, & as her Mother was one of my old friends, I did not interfere at all in the matter.”⁷² Esther’s reputation indicated that she was a socially appropriate choice.

A good family name could sometimes atone for other inadequacies, financial or personal, in that family connections might be lucratively leveraged. Mary Izard’s illustrious family name surely weighed in her favor when her future husband and father-

⁷¹ Laura Wright, “Reading late eighteenth-century want ads,” in Andreas H. Jucker, ed., *Early Modern English News Discourse: Newspapers, Pamphlets and Scientific News Discourse* (Philadelphia: John Benjamins North America, 2007), 33.

⁷² Eleanor Parke Custis to Elizabeth Bordley Gibson, 30 May [1797] and 15 April 1824, published in Patricia Brady, ed., *George Washington's Beautiful Nelly: The Letters of Eleanor Parke Custis to Elizabeth Bordley Gibson, 1794-1851*, expanded ed., (Columbia, S.C.: The University of South Carolina Press, 2006), 36, 146.

in-law considered her lack of wealth in 1806.⁷³ Eliza Middleton Fisher wrote of the Philadelphia engagement of Margaret Sergeant in 1839 that her fiancé was “younger than herself, and not remarkable for anything I believe but for being the son of a very handsome & clever woman.” Unfortunately, he had “not... much of her talent & certainly none of her beauty.” But, Eliza added, perhaps conscious of her condescension, he was “said to be very good,” and the Sergeants seemed pleased, “so of course nobody else ought to find fault.”⁷⁴

Well-to-do families expected newcomers to their area to brandish letters of introduction to verify their social standing. When Roderick Murchison moved to South Carolina to open a medical practice in 1813, he carried a letter attesting that he was “a gentleman of strict integrity, sobriety, great candour, and of an amiable disposition, well qualified for the practice of his Profession.”⁷⁵ Nelly Custis Lewis wrote glowingly of Joseph Coolidge, who brought “several letters of introduction to us, all speaking of him the highest terms,” when he traveled from Boston to Virginia.⁷⁶ Testimony from older, better-connected men smoothed younger men’s entry into new elite circles.

Failure to provide outside references, even for women, was suspicious. South Carolinian Alice Izard expressed “astonishment” in 1816 that when she “inquired for the Miss Ramsays,” she could find “no information about them, except that they were very worthy.” She inferred their standing from knowledge of their brother, who was

⁷³ Benjamin Stead to Robert Pringle, 23 August 1806, Allston Family Papers, Collection 1164, SCHS.

⁷⁴ EMF to MHM, 28 May 1839, in *Best Companions*, 44.

⁷⁵ Benjamin Robinson to Reuben Wilkinson, Josiah Sith, Aaron Smith, Thomas Scarborough, George MacKay, Maj, Moses Mulkey, and John Royal Esq, 27 August 1813, Jane Bruce Jones Papers, SCL.

⁷⁶ Nelly Custis Lewis to Elizabeth Bordley Gibson, May 2 1824, in Brady, *Beautiful Nelly*, 148.

“practising Law with ability, & success,” but frowned on their apparent obscurity. Fellow Charlestonian James Petigru was likewise suspicious in 1838 when two young women struck up an acquaintance with his unmarried son, Tom. “It puzzles me that I hear of them as belonging to a *very* high family, yet they brought no letters” of introduction, he wrote to his sister. “Tell me what you know, and particularly... how Tom came to be acquainted with them, and who they represent themselves to be.” Petigru was concerned that impostors bent on social climbing might swindle his son, and turned to his family network to help gather more information.

Because a man’s income and net worth could not always be ascertained, women and their families scrutinized a suitor’s “prospects.” Just as they might attempt to predict the future prospects of crops and financial investments, families sought to triangulate a man’s potential for economic independence by assessing his family background, education and career, and character. Family background and connections were also indicators of shared values and elite identity, and also strongly suggested how much a man stood to inherit. For instance, when a family friend’s daughter married a rising doctor from another prominent family in 1816, Alice Izard wrote approvingly that “I think this is a prudent step for all parties. It must be a satisfaction to her to see her daughter united to a young Man whom she esteems, & whose character is excellent. He will probably soon be in extensive business for he is a favorite with all his acquaintances, & he has a numerous circle of them.”⁷⁷ Personal connections were an important form of male social capital because they were essential to financial success, particularly in professions where a man’s income required a steady supply of clients.

⁷⁷ Alice Delancey Izard to Margaret Izard Manigault, 16 April 1816, Manigault Family Papers, SCL.

Education was often a cornerstone of elite identity for men throughout the eighteenth and nineteenth centuries, and became increasingly important for women over this period. Young men who studied in England, at Harvard and Yale, or at the regional institutions that proliferated in the Early Republic forged friendships with other elite young men that helped them construct business networks after college.⁷⁸ Founding colleges and academies also brought together local or regional elites to pool their resources for a collective goal, reinforcing a shared identity as well as a commitment to shared social and economic values.⁷⁹ In the eighteenth and nineteenth centuries, a man's character was central to his economic identity, as a reputation for trustworthiness attracted various forms of capital.⁸⁰ Collectively, these attributes characterized male social capital. Social capital combined with an assessment of a man's current and future financial success formed his "prospects" when he was courting.

Women's social capital was similarly constructed. Women's dependence, however, meant that their social capital was even more performative. Suitors evaluated her father's financial means to surmise her dowry. Youthful good looks offered another advantage. Because women had little control over either, they focused on cultivating a pleasing personality and effortless manners, first under the tutelage of their mothers and female family members and then increasingly through tutoring or formal education. A well-educated woman demonstrated her family's ability to invest in her, which suggested

⁷⁸ Margaret Sumner, *Collegiate Republic: Cultivating an Ideal Society in Early America* (Charlottesville: University of Virginia Press, 2014).

⁷⁹ Nancy Beadie, *Education and the Creation of Capital in the Early American Republic* (Cambridge University Press, 2010).

⁸⁰ Cf., Rowena Olegario, *A Culture of Credit: Embedding Trust and Transparency in American Business* (Harvard University Press, 2009), and Xabier Lamikiz, *Trade and Trust in the Eighteenth-Century Atlantic World: Spanish Merchants and Their Overseas Networks* (Rochester, NY: Boydell Press, 2013).

that they would be similarly generous with her marriage portion.

In the eighteenth century, young ladies learned housewifery and ciphering skills that prepared them to manage a household.⁸¹ Management of household finances and domestic production and consumption, while ideologically excluded from the category of productive labor, was central to the functioning of the household, which was seen through the eighteenth and early nineteenth century as the smallest political unit and the foundation of social organization.⁸² Hannah Callender Samson noted in her diary when she began “the Important affair of House keeping, In which the Woman’s care is to make the house agreeable to her husband, and be careful of his Interest. there is an old saying a man must ask his Wife if he shall be Rich.”⁸³ Benjamin Franklin sounded the same note twenty years later, when he admitted that “Frugality is an enriching Virtue; a Virtue I never could acquire in my self: but I was once lucky enough to find it in a Wife, who thereby became a Fortune to me.”⁸⁴ Women’s household labor as prudent financial managers may have been categorized as private labor and thus not real “work,” but contemporaries continued to recognize the value of women’s efforts and the necessity of their skills.

By the Early Republic period, female accomplishment typically referred to mastery of ornamental skills such as languages, music, or painting that frequently marked

⁸¹ Cf., Mary Kelley, *Learning to Stand and Speak: Women, Education, and Public Life in America’s Republic* (Chapel Hill: The University of North Carolina Press, 2006).

⁸² Cf., Jeanne Boydston, *Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic* (New York: Oxford University Press, 1994); Mary Beth Norton, *Liberty’s Daughters: The Revolutionary Experience of American Women, 1750-1800* (Ithaca, N.Y.: Cornell University Press, 1996), Part One; Laurel Thatcher Ulrich, *Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650-1750*, rep. ed. (New York: Vintage, 1991), Part One.

⁸³ *Diary of Hannah Callender Samson*, [Sept. 15] 1762, p. 192.

⁸⁴ Benjamin Franklin to Bethia Alexander, June 24 1782, *The Papers of Benjamin Franklin*, <http://www.franklinpapers.org>.

elite female education. John Ball Sr. reminded his son and namesake that one function of his education was to polish his manners and “in due season marry some amiable & accomplished woman.”⁸⁵ In 1816, Maria Derby complained of the deficiencies of young people in Charleston, writing “Here are several young ladies very beautiful & highly accomplished as it is said but they want *manner*.”⁸⁶ Yet into the antebellum period, women recognized that as wives they had, at the very least, managerial responsibilities. In 1821, a nervous urban woman wrote to her planter fiancé that she was planning to visit an acquaintance’s farm for “some useful lessons,” and that she was “docile and desirous to learn.” She confessed her fear that she would prove “not very apt,” but recognized that familiarity with the basics of agriculture would serve her well as a plantation mistress. She was well-educated and well-read, yet realized that her genteel education was insufficient preparation for her role as a planter’s helpmeet.⁸⁷

For less well-off families, education was often a worthwhile investment precisely because it cultivated respectability. In 1851, widow Maria Kaigler Plant defended her decision to send her children to boarding school to her mother. “My children have been at considerable expense in boarding them out, and sending them to School,” she conceded, “which has taken all and more too, than there part or income would have been up to this time.” Evidently some relatives or acquaintances questioned Maria’s judgement, and “it was thrown at me in your presence last fall, that I had portioned a part of my property to my children, and that they ‘did not get any money.’” But, she demanded, “which would be more profitable... sending them to school, and placing them in a respectable position

⁸⁵ John Ball Sr. to John Ball Jr., 14 April 1799, Ball Family Papers, SCL.

⁸⁶ M.C. Derby to Margaret Izard Manigault, 26 March 1816, Maingault Papers, SCL.

⁸⁷ Louisa Maxwell Holmes [Cocke] to John Hartwell Cocke, June 1, 1821, Cocke Family Papers, 1725-1931, Accession 640, etc., Special Collections Department, University of Virginia Library.

in society, [or] to have them at home in ignorance and put money in their pockets and by the way perhaps spend it in going to the little frolics in the country[?]" Offering her children opportunities to accumulate social capital and potential increase their future earnings, Maria believed, was evidence that she was "solicitous of the welfare of my children."⁸⁸

Markers of privileged status – education, polish, composure, fluency in French, *noblesse oblige* – while internalized, came at a substantial cost.⁸⁹ For instance, John Ball of South Carolina reminded his son and namesake of this frequently while Junior attended Harvard. John, Sr., sent a bond for 200 ounces of silver as a deposit for the costs of Harvard and remitted thousands of dollars for his son's boarding, food, clothing, and books. Yet it was not only classics and natural philosophy his son was to learn in Cambridge, but the manners of a gentleman. John Sr. cautioned his son to "avoid being niggardly as much as to avoid extravagance," and encouraged him to "give a genteel dinner, or other treat, in return for similar civilities shown to you."⁹⁰ John Sr.'s goal was to rid John Jr. of his "diffidence" and "awkward bashfulness," and to promote his son's "confidence" and polish as befitted his status. Appropriate behavior in conjunction with "your birth, and probable fortune... entitle you to any lady in America."⁹¹

This investment in his son's intellect and character took not only a financial but

⁸⁸ Maria Kaigler Plant to "Mother," June 12 1851, Papers of the Kaigler and Davis Families, South Carolina Library, the University of South Carolina.

⁸⁹ Cf., Margaret Sumner, *Collegiate Republic: Cultivating an Ideal Society in Early America* (Charlottesville: University of Virginia Press, 2014); Nancy Beadie, *Education and the Creation of Capital in the Early American Republic* (Cambridge University Press, 2010).

⁹⁰ John Ball Sr. to John Ball Jr., Ball Family Papers Mss. 1134, SCHS: quotations, 17 June 1799; silver, 30 Sept. 1798; enclosed note for \$1200, 28 Oct 1801.

⁹¹ John Ball Sr. to John Ball Jr., Ball Family Papers Mss. 1134, SCHS; "confidence," "diffidence," 5 March 1800; "your birth," 14 April 1799.

also an emotional toll. John Sr. repeatedly bemoaned the stress of managing his three plantations, and worried that his sacrifices and expenses for his younger sons might be in vain. In one letter, he fretted that “I do not perceive that Isaac & Wm. are more polish’d than any country boys might be – after all the expense of dancing, they are just as awkward in their gait, motion and manners as if they never had taken a lesson – they will not improve themselves by speaking french to each other as I have repeatedly requested they would do.”⁹² While social capital could not be easily valued in terms of money, it required cash in, and was expected to reap rewards down the road.

Money and Matrimony: Property and Finances in the Marriage Market

Young men eager to marry thus needed to secure their employment or inheritance. Many young men received an advance on their inheritance as a matter of course, either when they reached their majority at twenty-one or when they married. Benjamin Franklin Bache was able to marry Margaret Markoe, a wealthy Bermudian, in 1791 in large part through his grandfather’s generosity. He revealed the contents of Franklin’s will to Margaret “for yourself & Friends only” in May of 1790, when he informed her of his grandfather’s death two weeks earlier. Franklin left “To his Benjamin 1500 more than to his Brothers & Sisters... chiefly in Tools that his Industry are to put in Motion assisted by his Father’s Aid.” Probably aware of Bache’s intentions towards Margaret, there were “No Marriage Conditions relating to” Benjamin Bache, even though another grandson’s inheritance was predicated on his marriage. This reflected both Franklin’s trust that his Bache grandson would manage his resources wisely, and his concern that his Franklin grandson might squander his inheritance. Bache reported to Margaret that his cousin

⁹² John Ball Sr. to John Ball Jr., Ball Family Papers Mss. 1134, SCHS, 15 Nov. 1801

inherited their grandfather's library and "The Estate in Jersey, which he is to be completely Master of on the Day of his Marriage &c. This will be a Spur to his Batchelor Spirit & may effect a happy Change on it."⁹³

Other young men's legacies were less certain. When young men without sufficient means wanted to wed, they might be able to mobilize family support. When Joshua Francis Fisher of Philadelphia proposed to Eliza Middleton, of a prominent South Carolina planter family, in 1838, he had to admit to her father that he was "in a dependent situation," having not yet found a stable career, despite already being thirty-two. Joshua's father, also Joshua, had died before his namesake was born, leaving Joshua Jr. and his mother largely dependent on an uncle, George Harrison. While Fisher expected to receive an advance on his inheritance from his uncle when he married, he still faced the task of requesting this from Harrison, "a matter of no small delicacy." Fisher had a small personal income and some contributions from his mother, but not enough to support a family comfortably. Fortunately, his uncle Harrison offered him an annuity of \$1500, and badgered another uncle into matching his generosity. Harrison also deeded Fisher the house he currently lived in, which if rented would generate another \$600 per annum. After his uncles' contributions, Fisher had a "pretty good beginning for a Young man" – approximately \$8,600 a year. "If you cannot *all* get on with this," his uncle exclaimed, "you ought to stick in the mud."⁹⁴ Joshua and Eliza were fortunate that Harrison had both

⁹³ BFB to Margaret Markoe, 2 May 1790, Benjamin Franklin Bache Papers, APS. Benjamin began corresponding with Margaret regularly at the beginning of 1790. See BFB to MM, 1 Jan., 4 Feb., 20, 22, and 27 March, and 1, 20, and 29 April, 1790, Castle-Bache Papers, APS.

⁹⁴ "dependant situation" and "matter of delicacy:" Draft, JFF to Henry Middleton [20 Sept. 1838], Cadwalader Collection, Fisher Section, HSP; "pretty good beginning:" George Harrison to JFF, Brinton Coxe Collection, HSP. Cited in *Best Companions: Letters of Eliza Middleton Fisher and Her Mother, Mary Hering Middleton, from Charleston, Philadelphia, and Newport, 1839-1846*,

the means and the inclination to assist them; other couples, like South Carolinians John Palmer and Clementine Legge, had to postpone their nuptials. As struggling Virginia doctor Benjamin Franklin Randolph complained in 1832, he thought upon establishing his practice he “would marry a fortune in a hurry,” but to his chagrin he found “that the richer the people are the more anxious they are their children should marry rich.” Medicine’s profit margins were so slim, he griped, “that a young Doctor cant get married unless the Cholera or some such thing will come to their relief.”⁹⁵

For other young men, such support might never materialize, either because their families disapproved of their choices or because their parents were not in a position to transfer significant amounts of wealth. The anxieties experienced by men without a clear and certain fortune or income could be extreme. When John Bankhead proposed marriage, he had no means of supporting a wife - and as his sister noted, his bride could offer no help in that quarter. John, however, was willing to sacrifice some pride in return for some income. Eliza Bankhead Carter wrote to a cousin incredulously that John “*really is engaged to Elizabeth Christian*, but when they are to be married, no one knows, for they must first find some means of living, and there is no bright prospect of *that shortly*, she is not worth a cent.” John was hoping to replace their father’s overseer “and receive what he does now, which is but little to be sure.” Their father seemed eager to help, but their stepmother - their mother Ann Randolph Bankhead had died six years earlier - was not so generous. Mary Carthrae Bankhead ungenerously insisted “she will not live on the

ed. Eliza Cope Harrison (Columbia, S.C.: University of South Carolina Press, 2001), 18-19.
⁹⁵ B[enjamin] F[ranklin] Randolph to "Dear Tim" [Septimia Randolph Meikleham], 1832 [July 4], Randolph-Meikleham Family Papers, 1792-1882, Accession #4726-a, Special Collections, University of Virginia Library, Charlottesville, Va., Accession #4726-a, Special Collections, University of Virginia Library, Charlottesville, Va.

plantation if brother John has the management of it," and her husband evidently acquiesced.⁹⁶ Denied parental assistance, John had to look elsewhere for employment. He may have found it, for he and Elizabeth married in 1832.

In some instances, parents or guardians tied a child's portion to their approval of the prospective spouse. As discussed earlier, when Richard Champion considered marrying a woman of insufficient means, his guardian John Lloyd employed not only persuasion but threats to prevent the union. Lloyd pointedly added that, despite his affection for Richard, his nephew would only receive a "proportionate amount of my estate" after his death *if* he obeyed him in this matter.⁹⁷ Richard was forced to concede his uncle's wishes because he was unlikely to attract a suitable wife without the promise of his future inheritance.

This threat highlights the reliance of young men on their families to contribute to the establishment of a new household, even if they were employed. Parents and relatives encouraged young people to delay marriage until they were possessed, if not an independent fortune, at least a "competency." Lloyd's definition of a competency was "to have at command sufficient means to procure the comforts and conveniences of life; for who, as it too often happens after marriage they are found wanting, the most ardent lover becomes the cool and the deluded pair rue the day which brought them together."⁹⁸ It was only after a prospective mate's financial soundness was assured that one should turn to the other criteria for a successful union. When he suspected his niece was about to

⁹⁶ Ellen Bankhead Carter to Septimia Randolph, 1832 July 18, Randolph-Meikleham Family Papers, 1792-1882, Accession #4726-a, Special Collections, University of Virginia Library, Charlottesville, Va.

⁹⁷ John Lloyd to Richard Champion, 28 June 1796, John Lloyd Letterbook, SCL.

⁹⁸ John Lloyd to Richard Champion, 16 November 1796, John Lloyd Letterbook, SCL.

become engaged to a young man whose worth was uncertain, he ordered Richard to remind her that it was only “If either should, or both together possess the one thing needful the marriage state becomes desirable providing – that ye temper and disposition of the parties are perfectly suited to each other – that the families and connexions are well-known – that the integrity and manners of the man’s life are conspicuously eminent – that he is both generous and sincere.” He added, perhaps as a pointed example, that “Mr. S was married yesterday to Miss A. L. the youngest daughter of Mr. A. L. and with whom I think he has every prospect of happiness, her father has given a handsome sum with her and to which I have no doubt a considerable addition will be made when he distributes his large estate.”⁹⁹ To Lloyd’s way of thinking, potential mates who could not contribute significantly to the couple’s future comfort should be ruled out.

Possession of insufficient funds could jeopardize a woman’s chances too. In 1806, Benjamin Snead wrote an uncomfortable letter to Robert Pringle on behalf of his sister’s daughter, Mary Izard, who was engaged to Pringle’s son. While “my Sister & myself should be highly flattered by such an alliance,” they wanted Pringle’s informed consent to the match, and felt obligated to reveal Mary financial status even though it might dissuade Pringle from permitting the marriage. They dutifully disclosed that “from the peculiar situation my Sister is in at present in regards to her power in pecuniary matters, that the allowance she could make her daughter would be very small & must consist of a share only of the income of the Estate probably not more than £300 annum.” Mary Izard’s father had died in 1804, and apparently left his estate in arrears. Therefore, the young couple must “trust in your liberality” to “enable them to live comfortably &

⁹⁹ John Lloyd to Richard Champion, 16 November 1796, John Lloyd Letterbook, SCL.

respectably.”¹⁰⁰ Evidently the elder Pringle endorsed the match, and Mary Izard soon wed John Julius Pringle.

Mothers also worried about finding financially suitable partners for both daughters and sons. For instance, in the months just before the Civil War, Meta Morris Grimball of South Carolina fretted frequently over her son’s and daughters’ singleness. In December of 1860, upon learning of an acquaintance’s engagement, she complained, “It seems to me all the world are getting married except my children. I wish a suitable offer would come in Elizabeths way & that it would please her to accept it & that Berkley could find some nice girl with a little money to get married to[o].” In the spring of 1861, still burdened with four unmarried children, she “wish[ed]... the elder ones, could be settled, married well... William [the youngest] might wait a little longer but if anyone very desirable should offer I would not object.” But, she conceded, it was better than remain single “than married in an unsuitable way.” When Charles finally married in the fall, money was again at the fore of her thoughts, or at least the tip of her pen. Meta assessed her new daughter-in-law as a “woman of the world, of good family,” with many admirable qualities. Perhaps most admirable was that Clementina’s fortune “in peace times would have 40 thousand dollars.” Despite the reduction of her dowry by wartime chaos, Meta felt confident that she “will manage Charles & take care of his money & make him very happy.”¹⁰¹ When Meta thought about marriage, money and happiness received equal weight.

Mercenary Motives: Fear of Fortune Hunters

¹⁰⁰ Benjamin Stead to Robert Pringle, 23 August 1806, Allston Family Papers, Collection 1164, SCHS.

¹⁰¹ MMG Diary, 15 Dec. 1860, 15 March 1861, 19 Oct. 1861

When it came to potential in-laws, wealthy parents of both daughters and sons feared fortune hunters. Affluent parents with marriageable daughters were wary of young men on the make, looking to acquire assets via an advantageous match. To forestall such situations, families sought to gather information on young men's backgrounds, current income, and future financial prospects. Parents of daughters had to be cautious because, without special precautions, the property they contributed to the marriage would pass into the control of their son-in-law; sons' families dreaded seeing their resources squandered by spendthrift daughters-in-law. Families sought to distinguish between worthy young people who deserved both their trust and assistance, and the grasping fortune hunter who hoped to elevate him- or herself with wealth gained by marriage.

Younger men marrying older women came under special scrutiny, perhaps because of assumptions about men's sexual preferences for younger partners. Mercenary motives were especially presumed to be at work when men married older widows, because in so doing they gained not only personal property from the woman but also lifetime access to her share of the real estate of her deceased husband, and which they could expect to inherit upon her death. Writing to a female friend of two recent marriages in 1786, one young woman from South Carolina complained, "both of these widows are bordering on fifty years of age, and they are preferred to us, but they have got the chink, and their [*sic*] is not a more powerful attraction in the eyes of many."¹⁰²

Young women marrying older men for financial security might set tongues wagging, but its practicality had to be acknowledged. Often teenagers, younger women

¹⁰² Agnes Lind to Jane Bruce Jones, July 29 1786, Jane Bruce Jones Papers, SCL.

might be able to leverage their youth, beauty, and presumable fertility to counterbalance what they lacked in wealth. Both public and private mentions of May-December matches suggest, if not scandal, at least raised eyebrows. When middle-aged William & Mary divinity professor John Camm married the teenaged Elizabeth Hansford, who he had baptized as an infant, in 1769, evidently some community members felt it was inappropriate. Gently satirizing this outrage, Mary Goosely wrote to London merchant John Norton, “Mr Camms Marriage has made a great Noise here but Pray why may not an old man afflicted with the Gout have the Pleasure of a fine hand to rub his feet and warm his flannells comfortable amusement you will say for a Girl of fifteen but She is to have a Chariot and there is to be no Padlock but upon her mind.”¹⁰³ As Goosely pointed out, a key aspect of marriage was women’s exchange of their labor for economic security.

Discomfort with such matches appears to have increased over time. When Williamsburg merchant John Greenhow married his third wife, Rebecca Harman, in 1786, the *Virginia Gazette*’s notice included both of their ages - sixty-four and sixteen - which was, if not unique, was at least unusual.¹⁰⁴ In September 1790, fifty-year-old Thomas Mann Randolph, Sr., scandalized his friends and family when he married Gabriella Harvie, the seventeen-year-old daughter of a wealthy neighbor. His unmarried children scattered to the care of relatives, unable to reside with Gabriella. As the children of Randolph’s first marriage feared, Gabriella soon bore a son, who, to the shock of the

¹⁰³ Martha Goosely to John Norton, 1769 August 5, Norton Family Papers, Colonial Williamsburg Special Collections.

¹⁰⁴ *Virginia Gazette and American Advertiser*, March 22 1786, abstracted in Robert K. Headley, ed., *Genealogical Abstracts from 18th-Century Virginia Newspapers* (Genealogical Publishing Com, 1987), 123; Greenhow Family Bible, BX 5145 A4 1766, Colonial Williamsburg Foundation Special Collections Library, p. 3, available online (images and transcripts): <http://research.history.org/library/materials/manuscripts/view/index.cfm?id=GreenhowBible>.

family, replaced Thomas Mann Randolph, Jr., in both name and in his father's will.¹⁰⁵

Straitened circumstances might convince young women to make matches with much older men who could guarantee their financial security. When James Petigru's fortune suffered during the panic of 1837, his daughter Caroline suddenly lost the opulent coming out season her mother had planned for her. In 1841, "not at all in love," Caroline married William Carson, choosing financial security with a man twice her age. In so doing, she not only secured her future comfort – she lightened the burden on her parents.¹⁰⁶ A wealthy planter and already middle-aged, Carson had little need of a large dowry; Caroline's financial shortcomings were offset by her youth, beauty, and good family name. In 1860, Meta Morris Grimball commented on the union of a sixty-year-old neighbor "and his new young wife, an English lady," noting, "she is much taller than her old husband; and looks like his daughter; she was poor, or I am sure she could never have married that blear-eyed old creature."¹⁰⁷ Meta appeared to feel primarily sympathy for the young woman, rather than disdain for her pursuit of economic gain.

Other men might seek to exploit the naïveté of very young women. An extreme example, James Henry Hammond was the embodiment of the fortune hunter parents of daughters feared. Both more ambitious than Benjamin Franklin had been a century earlier, Hammond was also more conniving. Franklin, at least, was forthright about his expectations of gain by marriage. A rising lawyer and newspaper publisher from a humble background, Hammond saw marriage as a "means of extrication" from penury but was careful to disguise his avarice from his prospective in-laws.

¹⁰⁵ Kierner, *Daughter of Monticello*, 86-90.

¹⁰⁶ *A Family of Women*, 48-51, quotation 50-51.

¹⁰⁷ Meta Morris Grimball Diary, 10 Dec. 1860, SHC.

Hammond explicitly selected a wife, teenager Catherine Fitzsimons, for whom he cared little in order to obtain her fortune and used it to launch himself to political prominence and economic security.¹⁰⁸ He preyed on Catherine's insecurities – evidently plain and awkward, she was not much sought after. As one acquaintance put it delicately, “She is not I should judge from her appearance & manners calculated to make many & sudden conquests.”¹⁰⁹ Evidently, in Hammond's calculation, his lack of fortune and Catherine's lack of social capital made them roughly equivalent in the marriage market.

The Fitzsimonses evidently realized that Catherine's major attraction was her wealth. When they asked for a marriage settlement to protect Catherine's estate, Hammond threatened to end the relationship. Scuttling a known engagement would not only have been personally hurtful and humiliating for young Catherine, but could have affected her future chances in the marriage market if she was seen as fickle, or worse, morally compromised. Hammond may even have planned for this standoff; one letter suggests he may have seduced the teenager to some degree. A friend advised, “If she is not the vilest of her sex, you may rely on it that she loves you.”¹¹⁰ Ultimately, the Fitzsimonses relented and permitted the marriage to take place without a settlement. Hammond privately reveled in his triumph, seeing plantation management as a guarantee of honorable manhood as well as a lucrative profession.

Female fortune hunters, who seduced men for their wealth, were reviled. The distinction was class-based; women who had neither the social cache nor wealth received little sympathy, and families felt that their property was being poached. For instance,

¹⁰⁸ Drew Gilpin Faust discusses Hammond's courtship in *James Henry Hammond and the Old South: A Design for Mastery* (Baton Rouge, La.: Louisiana State University Press, 1985), ch. 4.

¹⁰⁹ Wensley Hobby to James Henry Hammond, April 15 1830, JHH Papers, SCL.

¹¹⁰ Thomas Brevard to JHH, June 18 1830, JHH Papers, SCL.

while in England, James Heyward had impulsively married the “beautiful and charming Susan Cole, a butcher’s daughter who mixed gracefully in the society of the wealthy and privileged.” When she arrived in America in 1794, the Heyward “relatives recognized her common origin and considered her an ‘adventuress.’” James, without his family to advise and guide him, had been seduced by a false front - social grace without the wealth to back it up. James died in 1796, leaving his estate to his brother but securing Susan a spectacular \$10,000 annual income. Susan quite promptly remarried, and to the “the dismay of Nathaniel Heyward, Susan Cole and her new husband enjoyed the lavish income from James’ estate for another fifty years.” While the Heywards ultimately retained their plantations, the income they generated helped Susan’s second husband, Charles Baring, establish himself as a planter in his own right.¹¹¹ Similarly, when Edward Middleton married impulsively in Italy in 1845, his family was appalled at his new wife’s lack of social credentials and refinements. These cases highlight the the class-based imputation that women from genteel backgrounds were expected, even encouraged, to consider money when marrying, yet less well-off women were accused of avarice if they attempted to “marry up.”

Intergenerational Collaboration

Young people themselves often grasped the risks inherent in courtship, as well as the enormity of a matrimonial commitment and its implications for their future fortunes. Thus, many courting men and women sought the guidance and approval of their families.

¹¹¹ Thomas DeSaussure Furman, *Ancestors and Descendants of Nathaniel Heyward (1766-1851), South Carolina Rice Planter: A Genealogy* (Spartanburg, S.C.: Reprint Company, 2003), 16; “Barings and Beehive,” Suzanne Camerin Linder, *Historical Atlas of the Rice Plantations of the ACE River Basin – 1860* (Columbia, S.C.: South Carolina Department of Archives and History, 1995), 31-36.

Young men, aware of the costs of maintaining a family, might hesitate to take on the financial burdens of a wife until they were financially secure. Unsure of the exact terms of his father's will, in 1771 Nathaniel Burwell of Virginia "doth not chuse to marry & go to House keeping till he is sure of something before hand," which his guardian reported approvingly "as an Instance of his Prudence & Good Sence."¹¹²

Young women appear to have relied on their parents' guidance even more than men. As Lorri Glover notes, young women's fears about choosing poorly "made them powerful allies" to parents, regardless of region.¹¹³ Furthermore, socialization encouraged independence in men and deference in women, which encouraged women to seek their parents' advice and approval. Jane Bruce endured what her friend called "the struggles of a virtuous mind between allpowerfull Love and filial affection."¹¹⁴ While the details are unclear, Jane's parents objected to her romance with Samuel Jones - perhaps because they feared the "Yankee" Jones would take their only child far from South Carolina. For whatever reason, Jane sadly informed Samuel in August of 1786 that "my parents are determined never to consent and I have met with the severest treatment from them."¹¹⁵ A few days later, Jane cryptically wrote to Samuel that "All correspondence between us must now be at an end and we must endeavor to forget each other. Matters have taken a turn I little expected."¹¹⁶ Jane may have been alluding to some manner of verbal or physical abuse, because the mistreatment stopped when her parents were seriously ill.

¹¹² Nelson to Athawes, 30 May 1771, cited in Mary A. Stephenson, "Carter's Grove Historical Report, Block 50 Building 3," Colonial Williamsburg Foundation Library Research Report Series - 1451 (Colonial Williamsburg Foundation, 1990), available online at <http://research.history.org/DigitalLibrary/View/index.cfm?doc=ResearchReports\RR1451.xml>

¹¹³ Glover, *Southern Sons*, 118

¹¹⁴ Naomi Smith to Jane Bruce c. 1786, Jane Bruce Jones Papers, SCL.

¹¹⁵ Jane Bruce to Samuel Jones, August 17, 1786, Jane Bruce Jones Papers, SCL.

¹¹⁶ Jane Bruce to Samuel Jones, August 20, 1786, Jane Bruce Jones Papers, SCL.

Three months later, after nursing her parents back to health, Jane expected that “my parents will not only resume their usual manner of living but their unkind treatment of your friend” - perhaps because the young couple did not stop corresponding. The Bruces’ harsh treatment of their daughter eventually weakened her filial obedience, however, and with her female friend’s assistance, Jane eloped with Samuel against their wishes in November.¹¹⁷

Despite Jane’s friend’s entreaties to “to shew her some Compassion” and be “reconciled to your only child,” Jane’s mother only reached out to her estranged daughter a decade later, after Mr. Bruce had died.¹¹⁸ When she did, Mrs. Bruce a financial carrot as well as an olive branch. While she admitted it was “not in her power to give you any thing” at the time, but “when she dies if she has any thing she will give it to your son that you have named after Mr Bruce.”¹¹⁹ The Joneses packed up and moved from Connecticut back to Orangeburgh, South Carolina. When Jane and Samuel’s daughter Eliza was courting in 1815, her suitor Roderick Murchison wrote to them that Eliza “will make no arrangement without your assent,”¹²⁰ suggesting that a generation later the desire for parental improvement persisted. Sadly, Roderick died before the birth of their daughter, named Roderick in his honor, and so it was Eliza who supervised Roddy’s courtship.

With large amounts of property in play, parents and guardians fretted, as much or more than their children or wards, about the transfers of wealth prompted by marriages and about their offspring’s financial independence. British and American historians agree

¹¹⁷ A[gnès] [Lind] Gordon to Jane Bruce [1786]; minister’s affirmation of marriage, November 13 1786, Jane Bruce Jones Papers, SCL.

¹¹⁸ Agnes [Lind Gordon?], to Mrs. (Donald) Bruce, 3 Apr. 1787, Jane Bruce Jones Papers, SCL.

¹¹⁹ John Jami[?], to Samuel P. Jones, 21 Feb. 1796, Jane Bruce Jones Papers, SCL.

¹²⁰ Roderick Murchison to Samuel P. Jones, 5 Oct. [1815], Jane Bruce Jones Papers, SCL.

that the late eighteenth century witnessed a growing consensus that parents should do as Thomas Jefferson did in 1790 when he “scrupulously suppressed my wishes, that my daughter might indulge her own sentiments freely.”¹²¹ This allowed children more freedom to choose mates with whom they shared, not romantic passion, but mutual respect and esteem. But when young people’s romantic impulses imperiled their future security, parents consistently made their opinions clear.

Karen Lystra argues that parental control was loosening enough that, by the 1820s and 30s, many middle-class “men and women were engaging in courtship, agreeing upon marriage, and only then seeking parental blessings.”¹²² Yet this chronology overlooks the long history of a complex relationship between parental consent and financial interest, and the subtle and overt methods employed by families to shape their children’s choices. While the generation that came of age just before the Civil War may have exercised “free” choice, they did so within a system that parents actively supervised. Furthermore, because marriage remained a critical conduit for wealth, each generation shared the same goals with their elders: to form emotionally and economically secure marriages. Furthermore, by the antebellum period, banking and financial systems made the movement of capital faster and easier, reducing the pressure on families to seek out particular types of property in potential in-laws. Yet despite a growing willingness to permit children to exercise their judgement (within carefully monitored bounds), when parents and children disagreed about the best means to pursue that goal, parents held the

¹²¹ Thomas Jefferson to Madame de Corny, April 2, 1790, *The Papers of Thomas Jefferson Digital Edition*, ed. Barbara B. Oberg and J. Jefferson Looney (Charlottesville: University of Virginia Press, Rotunda, 2008), 289.

¹²² Karen Lystra, *Searching the Heart: Women, Men, and Romantic Love in Nineteenth-Century America* (New York: Oxford University Press, 1992), 159.

upper hand because they held the purse strings.

Parental Prerogatives: The Last Lines of Defense

Despite the rhetorical emphasis on children's free choice, parents continued to intervene, directly as well as indirectly in their children's courtships and marriages. Kin conspired to make matches and organize social events conducive to meeting appropriate potential partners. Both parents solicited information about their children's sweethearts' wealth, education, temperament, and character. Parents often shared their opinions on potential matches, whether solicited or not. Jefferson was able to permit his daughter Martha "free" choice because she happened to select "young Mr. Randolph, the son of a bosom friend of mine," whose "talents, dispositions, connections and fortune were such as would have made him my own first choice" – in part because Jefferson carefully managed with who his daughters came into contact.¹²³

Others parents more overtly attempted to control or limit who their children spent time with, and how much. Parents had to worry particularly about their daughters becoming entangled with impoverished men, and often felt compelled to intervene. Nancy Shippen Livingston's sad story could be mistaken for the plot of a nineteenth-century novel about the consequences of parents' self-interested interference. Born in 1763 in Philadelphia to the wealthy Judge William Shippen and his wife Alice Lee, formerly of Virginia, Anne "Nancy" Home Shippen had every advantage of her elite upbringing. She was beautiful and charming as well as well-educated and polished, indulging in the sentimental novel reading so popular with women in the early republic.

¹²³ Thomas Jefferson to Madame de Corny, April 2, 1790, *The Papers of Thomas Jefferson Digital Edition*, ed. Barbara B. Oberg and J. Jefferson Looney (Charlottesville: University of Virginia Press, Rotunda, 2008), 289.

Coming of age amid the final years of the American Revolution, Nancy entertained a parade of beaux at her family's stately home. The one to capture her sixteen-year-old heart was twenty-five-year old Louis-Guillaume Otto, Comte de Mosloy, secretary to the Chevalier de la Luzerne, a French diplomat living in the city. As their relationship blossomed, they exchanged flowery letters, laced with pseudonyms from classical romances and sentimental novels. Their courtship followed the expected path to the brink of engagement, when Judge Shippen intervened on behalf of thirty-year-old Colonel Henry Beekman Livingston.¹²⁴

In a frank letter to his son Thomas in January 1781, the Judge laid out Nancy's dilemma and made his opinion clear. He conceded, "Nancy is much puzzled between Otto & Livingston. She loves y^e first & only esteems the last." Both were "sensible." Otto was "handsome" and charming, but Nancy also "likes L---- for his fortune." Livingston, the judge wrote, has "12 or 15,000 hard" and "will consummate immediately." Otto, on the other hand, "has nothing now, but honorable expectations" that would be realized "not these two years." Nervous about his prospects, Otto had Mrs. Shippen's blessing but had not yet sought the Judge's consent, "afraid of a denial," while the newer Livingston had already "solicited the Father & Mother." After laying out the comparison, the Judge concluded that "A Bird in the hand is worth 2 in the bush."¹²⁵ He limited Otto's visit to a mere twice per week, while allowing Henry Beekman Livingston, heir to a New York fortune, unfettered access to his daughter. However well-intentioned, his meddling

¹²⁴ Ethel Armes, ed., *Nancy Shippen Her Journal Book: The International Romance of a Young Lady and Fashion of Colonial Philadelphia with Letters To Her and About Her* (Philadelphia: J. B. Lippincott Company, 1935), ch. IV, quotes p.101.

¹²⁵ William Shippen to Thomas Shippen, July 27 1781, Shippen Papers, Library of Congress, excerpted in Armes, *Nancy Shippen*, 101

ultimately robbed Nancy of any chance of happiness, and as chapter 5 shows, ultimately returned her to her father's house.

While not legally necessary, parental approval was nevertheless important to many marrying children - for both emotional and financial reasons. Even once young people engaged themselves to marry, their parents' concerns about money could jeopardize the match. St. George Tucker forbid his son Nathaniel Beverley Tucker from marrying Polly Coalter, despite his half-brother's recent gift of 300 acres and nine slaves to Beverley. Beverly insisted the gift would "insure the immediate necessities of Life," and thus were an adequate financial foundation for his immediate marriage. Tucker, however, demanded his son "Abandon every idea of marrying until by Industry and Assuidity you have laid an actual foundation for your mutual support & that of your family, without the aid of your Brother." When Beverly disobeyed, his father refused to attend his 1809 wedding.¹²⁶ As noted earlier, when Lorenzo Lewis proposed marriage as a teenager, his parents "sent him to N E" until his ardor cooled and he agreed to cancel the engagement.¹²⁷

James Henry Hammond, a fortune-hunter himself, was probably unusually blunt with his children in the 1850s. Despite the century-long prescriptive shift towards recommending parental passivity, he actively monitored his sons' relationships. Having chosen a wife primarily to access her fortune, he expected his sons to do the same and to choose women distinguished "not only in virtues but in palpabilities." He admitted to his eldest son Harry that "Somehow – God forgive me – I could never bear poor girls even

¹²⁶ Glover, *Southern Sons*, p.123

¹²⁷ Nelly Custis Lewis to Elizabeth Bordley Gibson, 15 April 1824, published in Brady, ed., *George Washington's Beautiful Nelly*, 146-47.

[when] pretty and pure-spirited... Even the sweetest pill of that kind must be gilded.”¹²⁸

Because he expected his sons to marry exceptionally wealthy women, Hammond felt justified in meddling with one son’s relationship. When Edward Spann Hammond proposed to Clara Kirkpatrick, a distant cousin, in 1856, Hammond “[took] it upon myself to break up Spann’s matrimonial engagements.”¹²⁹ Clara’s fortune “was only \$20,000” – evidently insufficient for the elder Hammond.¹³⁰ Knowing Spann expected that “his marriage would settle all that and give him a home and employment,” James withheld his inheritance to stymie the match, writing to a friend that “the whole and sole reason why I did not settle him was this uncertain marriage engagement.”¹³¹ While Hammond claimed Spann “seems satisfied,” Spann’s diary and recollections show otherwise. On January 2, 1857, Spann recorded that “A box of jewelry was left for me today at Mr. Bones’ with a card from *Clara*. Feel oppressed with sadness.”¹³²

James Henry apparently approved in 1861 when Spann married Marcella Morriss of Lynchburg, Virginia. Spann wrote to his father that Marcella’s father was “prominent” and her brothers “accomplished.” He praised her character, writing that “I think Marcella a prize perhaps better than I am worthy of, and you will find her one who will be an affectionate daughter to you – and an accomplished, sensible, sweet-tempered

¹²⁸ James Henry Hammond to Harry Hammond, 20 Dec. 1862, Hammond, Bryan, and Cumming Families Papers, SCL; also cited in Carol Bleser, ed., *The Hammonds of Redcliffe* (Columbia, S.C.: The University of South Carolina Press, 1997), 5.

¹²⁹ JHH to William Gilmore Simms, 20 Jan. 1857, cited in Bleser, ed., *The Hammonds of Redcliffe*, 21 n10, 21-22

¹³⁰ JHH to Marcellus Hammond, 12 November 1860, James Henry Hammond Papers, LOC, cited in Drew Gilpin Faust, *James Henry Hammond and the Old South: A Design for Mastery* (Baton Rouge, La.: University of Louisiana Press, 1985), 324.

¹³¹ JHH to Marcus Hammond, June 20 1857, in Bleser, *The Hammonds of Redcliffe*, 29.

¹³² Edward Spann Hammond Diary for 1857, Edward Spann Hammond Papers, SCL.

woman.”¹³³ James Henry was probably more concerned with Marcella’s assets; her father had given her gifts totaling \$35,121 by 1867.¹³⁴ The marriage, however, was evidently unhappy; when Spann and Marcella moved to South Carolina from Lynchburg in 1870, she left after only six weeks, “and she never returned.”¹³⁵

When parents disapproved of daughters’ inclinations, they could use their control of wedding portions to make their point. Returning to Benjamin Franklin later in life, we can see that his concerns about the financial aspects of marriage persisted. Despite his rhetorical derision of “mercenary motives” in newspaper essays twenty years before, Franklin was furious when his daughter Sally married struggling printer, Richard Bache for love alone in 1767. Franklin wrote his son-in-law that he considered the decision “while your Affairs bore so unpromising an Aspect..., a very rash and precipitate one,” having warned them he could afford no dowry but “Cloaths and Furniture” worth £500. This was, quite simply, false; by 1767, Franklin owned considerable property in Philadelphia, in addition to a thriving printing business.¹³⁶ His refusal to assist his son-in-law with the cash that might help his struggling business was, rather, an expression of disapproval. The frosty feelings between Franklin and the Baches only thawed a year later, with the birth of Benjamin Franklin Bache.

For both men and women, marriage was a choice that profoundly affected their

¹³³ Spann to JHH, 10 June 1861, *The Hammonds of Redcliffe*, 96.

¹³⁴ Thomas Johnson Michie, ed., *Virginia Reports: Jefferson-Grattan 33* (Charlottesville, Va.: The Michie Company, 1900), 444.

¹³⁵ Bleser, *The Hammonds of Redcliffe*, 159 n3.

¹³⁶ BF to Richard Bache, August 13, 1768, and BF to Deborah Franklin, June 22 1767, in Leonard Labaree and William Willcox, eds., *The Papers of Benjamin Franklin* (New Haven, Conn.: Yale University Press, 1959 –), vol. 15, p. 186, and vol. 14, p. 193. The papers have recently been made available online at www.franklinpapers.org, courtesy of the American Philosophical Society, Yale University, and The Packard Humanities Institute.

financial futures. As such, young people collaborated with their families in strategies to seek out spouses that offered fiduciary advantage. Marriages within family and business networks or to strangers of verified social standing reduced the risk of bestowing a daughter's marriage portion or a son's inheritance on an unworthy spouse. Despite injunctions to let children follow their inclinations in choosing spouses, parents continued to apply pressure both subtly and overtly. Whether commanding filial obedience or withholding a child's expected financial support, parents and other kin firmly conveyed the financial importance - and ramifications - of marriage.

After a courtship was successfully concluded, the engaged couple's parents decided upon the dowry and wedding gifts that would help a couple establish their own household. As the next chapter shows, this process flexibly responded to changing economic pressures and opportunities. Families carefully assembled portfolios of gifts that were both immediately useful and offered gains in value. In so doing, families hoped to lay a secure foundation for the newlyweds' economic security, material comfort, and personal happiness.

Chapter 2
A Solid Foundation:
Gifts, Dowries, and the Material Basis of Marriage

Most marriages, regardless of class, entailed the establishment of a new household for the newlyweds - a major expense that required the contribution of both of the new spouses' families. After a man or woman had passed the initial test of proving their elite status, families focused on more concretely figuring what financial assets a potential partner possessed. Many parents *and* young people believed that a solid financial foundation was essential to lasting harmony in married life. Men frequently received an advance on their inheritance when they married. Women contributed a dowry or "marriage portion," which offset their smaller inheritances and, in early modern English law, atoned for the sex-discriminatory practices. These practices included entail, whereby in the absence of sons an estate would descend to indirectly-related males rather than to a man's daughters, and primogeniture, which automatically passed all real estate to the eldest son. Changes in inheritance law after the American Revolution had a profound effect on how families endowed their children, particularly daughters. Parents chose their gifts carefully to meet newlyweds' immediate needs and to plan for future expenses.

The family wealth distribution practices of the colonies were rooted in earlier English practices but shaped by each colony's economic and political peculiarities. As Amy Louse Erickson shows, the early modern system of inheritance and dowry in England was widely variable, influenced by regional and manorial customs. Overall, however, she argues that they were generally equitable in that while children might not receive perfectly equal divisions of property, they typically received equivalent values.

Because of the special significance of land in the early modern English economy, its distribution was particularly gendered. Overall, women “did not usually inherit land,” while their dowry or marriage portion “was likely to be in cash” – a logical arrangement in a social structure that assumed women would follow their husbands.¹

While the English legal system was a complex combination of the common law, equity, manorial, and ecclesiastical law, the colonies developed much simpler systems that could operate with fewer personnel.² The men drafting colonial charters selected among various legal practices according to principle and exigency. While Virginia and South Carolina adopted primogeniture in the seventeenth century, Pennsylvania enacted double-portions for eldest sons in 1684.³ Virginia and South Carolina both also implemented separate systems of equity jurisprudence, while in Pennsylvania common law courts enforced most settlements. The Quaker elites crafting Pennsylvania’s early laws, like their fellow dissenters in Connecticut and Massachusetts, rejected equity jurisprudence because it gave law to the common-law and biblical assertions that married couples formed one legal and spiritual person. Marylynn Salmon finds that “the absence of a strong tradition of equity law led to some erroneous and damaging decisions on basic issues of concern to women,” including hostility to women’s separate estates after marriage.⁴ These legal limitations shaped how families distributed property, and when the laws changed, families reassessed and changed their practices. The abolition of primogeniture in 1785 in Virginia and 1791 in South Carolina did not fundamentally

¹ Amy Louise Erickson, *Women and Property In Early Modern England* (New York: Routledge, 1995), ch. 5 “Portions and marriage,” quote on p. 94.

² Erickson, *Women and Property*, 5.

³ Marylynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill: The University of North Carolina Press, 1986), 142, 227 n7.

⁴ Salmon, *Women and the Law of Property*, 82.

reorganize patterns of favoring sons with land, but it gave parents - mostly fathers - a freer hand in distributing their property.⁵

As the economy and law of the young United States developed, eighteenth-century patterns of property distribution gradually gave way to more flexible patterns in response to changing economic circumstances. As Toby Ditz has shown for early Connecticut, parents often deployed or withheld property to influence that behavior of their children. While there is no direct cause and effect relationship, she concludes “there was a close connection between rearrangements of parental rights in property and marriage.”⁶ The financial or material contributions that parents made were typically crucial to establishment of new households, but within this general principle there was significant variation. The remainder of this chapter outlines this broad pattern by exploring what kinds of property marrying children received over time, drawing on the documents created by elite families.

Coverture creates challenges for historians seeking to understand how property moved between families in early America. Because the terms of coverture were well known and automatic, most exchanges of marital property required no formal records and were conducted face-to-face. Thus, the private letters of wealthy extended families, who had both significant property to manage and the means to record their thoughts, are a significant avenue into families’ discussions and decisions over the distribution of property. While this analysis relies heavily on the elite perspective, elites were governed by the same laws and thus subject to the same limitations as other classes, and therefore

⁵ Salmon, *Women and the Law of Property*, 142.

⁶ Toby L. Ditz, *Property and Kinship: Inheritance in Early Connecticut, 1750-1820*, first ed. (Princeton, N.J: Princeton University Press, 1986).

may reflect more general patterns of decision-making in their state.

Private correspondence also allows scholars to peer behind the prescriptive veil of coverture to observe the thoughts and actions of individuals during and after marriage.

Excellent scholarship demonstrates that while women as well as men accepted the legal fiction of the suspension of a wife's legal and economic identity, women continued to handle cash, manage property, and contract debts with their husband's permission.⁷ These skills allowed many widows to carry on their late husbands' business, settle their financial affairs, and manage their minor children's property.⁸

Legal documents are another important source for analyzing marital property, but have their own limitations. Marriage settlements - prenuptial agreements that protected the property a woman brought to her marriage, which will be discussed in the next chapter - are some of the most useful documents in ascertaining precisely what women's families contributed to the new couple. Prenuptial settlements, however, were very rare even in states that offered them. Many settlements were established in wills or as postnuptial trusts. Archives hold copies of hundreds of marriage settlements, but tracing women's separate property is sometimes a less straightforward task than locating a single illuminating document. States such as Pennsylvania did not formally recognize women's separate property, which leaves no starting point for researchers; some staThis is interesting. Care to expand? Why did they change?

tes' records are scattered or poorly organized. South Carolina is, fortunately, one

⁷ Cf., Laurel Thatcher Ulrich, *Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650-1750*, reissue ed. (New York: Vintage Books, 1991); Ellen Hartigan-O'Connor, *The Ties That Buy: Women and Commerce in Revolutionary America* (Philadelphia: University of Pennsylvania Press, 2011); Susan Branson, "Women and the Family Economy in the Early Republic: The Case of Elizabeth Meredith," *Journal of the Early Republic* 16, no. 1 (Apr. 1996): 47-71; Jeanne Boydston, *Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic* (New York: Oxford University Press, 1994); Sarah Hand Meacham, "Keeping the Trade: The Persistence of Tavernkeeping among Middling Women in Colonial Virginia," *Early American Studies* 3, no. 1 (Apr. 2005): 140-63; Joan M. Jensen, *Loosening the Bonds: Mid-Atlantic Farm Women, 1750-1850* (New Haven: Yale University Press, 1988).

⁸ Vivian Bruce Conger, *The Widows' Might: Widowhood and Gender in Early British America* (New York: New York University Press, 2009); Kirsten E. Wood, *Masterful Women: Slaveholding Widows from the American Revolution through the Civil War* (Chapel Hill: The University of North Carolina Press, 2004); Lisa Wilson, *Life After Death: Widows in Pennsylvania, 1750-1850* (Philadelphia: Temple University Press, 1992); Lisa Wilson Waciega, "A 'Man of Business': The Widow of Means in Southeastern Pennsylvania, 1750-1850," *The William and Mary Quarterly*, Third Series, 44, no. 1 (Jan. 1987): 40-64.

of very few states that made an effort, beginning in the late eighteenth century, to separately record marriage settlements. Even those states who recorded settlements may have been lost, destroyed when archives burned, or, some sources suggest, they may never have been filed at all as none of the parties even demanded legal intervention or enforcement.

Analyzing a wide range of documents mitigates the fragmentary and uneven nature of the historical record. Public and private records reveal that families responded to changes in the law, local and national economies, fairness to other children, and even consumer opportunities when they made gifts to newlyweds. Throughout the eighteenth and nineteenth centuries parents made gifts with an eye towards establishing their offspring in physical homes with material goods, but even these gifts reflected economic and social development. By the antebellum period, growing numbers of families incorporated intangible assets into their gifts as well, endowing couples with financial instruments that generated income. Thus, while the makeup of marital gifts changed, the significance and ultimate objective of such gifts remained the same.

Going to Housekeeping: Assembling the Material Assets of Marriage

Because a marriage formed a new household, married couples sought to materially establish themselves in a separate home soon after their weddings. Much of the negotiation and preparation before weddings before 1860 was less about the ceremony than about assembling a “portfolio” of property to launch the new couple into their joint physical and financial future. Letters and diaries are replete with discussions about what goods were required for a new household.

Historians have often overlooked the value, both financial and social, of domestic goods as well as women's domestic labor. Women traditionally contributed furniture, china, bedding, and other household goods as part of their dowries, while men were often expected to secure a new home. As Ellen Hartigan-O'Connor and Jeanne Boydston have so ably pointed out, women's very real economic activity and financial contributions were often overlooked because it took place under the veil of coverture. The contribution of goods are likewise dismissed as "private" and "domestic," but they often represented substantial investments, not only of money, but also of time and labor. Women were deeply involved in the selection and purchasing of finished furnishings and objects as well as in the acquisition of materials for goods they finished themselves. The goods couples received for their new homes reflected and embodied their social and financial capital as material representations of their current status and hopes for future prosperity.

Dowries accounted for the majority of household furnishings. In 1761, Hannah Callender Sansom made a careful list of the moveables she brought to her marriage that demonstrate how essential dowries were to the immediate and future material comfort of newlyweds. Despite the Quaker emphasis on plainness, the wealthy Callenders purchased many high-end items. In all, she received a durable mix of everyday and luxury goods for almost every room. Her dowry established hers as a respectable household, comfortably furnished and prepared for polite entertaining.

Most of the furniture was probably solid and handsome rather than ornate. Hannah recorded "my Parents give me" for the bedrooms sixteen "Walnut frame blue damask bottom chairs," two bedsteads, two dressing tables, and two chests of drawers.

Damask was actually costlier than leather for chair bottoms, which may be why they chose to keep these chairs away from dining areas. Walnut was a durable and beautiful wood, but did not have the cache of mahogany, suggesting that Hannah and her parents saw no need to spend extravagantly. Rather, they invested in presumably handsome furniture that would weather the wear and tear of continued use.

Hannah and her parents chose some more sumptuous items for public display. They equipped the “back Parlour” for genteel entertainments such as reading and cards, and the “Front Parlour” for hosting guests for meals and tea. As befit their high status, they also selected a Clock and case, Mohogany tea table” plus a “pair of tables, Mahagony,” for the front chamber.⁹ The judicious use of mahogany, a choice wood prized for its mirror like finish by early American elites, and the red leather chairs seats probably displayed a hint of worldly taste without violating the Quaker opposition to worldliness. All told, their furniture purchases, excluding the clock itself, cost over £150.¹⁰

A similar mix of utility and beauty characterized Hannah’s china collection,

⁹ *Diary of HCS*, [7 July] and [Aug 18] 1762, pps. 184-85, 189. On the cultural significance of mahogany, see Jennifer L. Anderson, *Mahogany: The Costs of Luxury in Early America* (Cambridge, Mass.: Harvard University Press, 2012), esp. chs. 1 and 7.

¹⁰ *The 1772 Philadelphia Furniture Book* lists suggested prices for a wide range of furniture in wood and mahogany; I calculated prices based on the second-simplest model in the appropriate wood. I assumed the pair of mahogany tables in the front parlor were china tables, based on Hannah’s large collection. Interestingly, the furniture book lists bedsteads with mahogany feet, but none with walnut. *The 1772 Philadelphia Furniture Book* (Philadelphia: Philadelphia Museum of Art, 2005). Hannah’s lists reported that in total she received “8 Walnut frame blue damask bottom chairs, bed & bed sted with walnut feet, Walnut Chest of drawers, two dressing tables, two Sconce Glasses, gilt edge, for the back Chamber. back Parlour, 8 Walnut frame leather bottom chairs, a Walnut Bookcase, a screen, tea table, 2 Card tables, 2 Sconce glasses. gilt edge.... in the Front Parlour, a large and lesser dining table, a half, dozen chairs with red leather bottoms, a Clock and case, Mohogany tea table, low Chair, Hand Irons, shovel & tongs, front Chamber chest of drawers, pair of tables, Mahagony, half dozen walnut chairs with dark blue damask bottoms, sconce glass gilt edge, bed and bedstead.”

which she also inventoried in her diary. She also recorded a purchase of additional “ware” from “Thompsons pot house” to complete her collection of simple essentials. “[M]y China” consisted of everyday items as well as serving ware for entertaining, including “8 Wine glasses, 2 decanters, 2 cruets, 2 salts of cut glass, 3 pair of tumblers, a pair beer glasses. a set of blue & white china for a tea table.” Hannah also recorded more ornate items as well, namely “burnt China” bowls, cups, and saucers” for the back parlour.¹¹ “Burnt” china, contrary to the suggestion of its American moniker, is beautiful, colorful imari porcelain from Japan. In vivid shades of red and blue, and often gilded, imari was fashionable and pricey, and would have served as a gorgeous reminder of Hannah’s privilege in 1762.¹²

Equipping new wives with mundane household tools was probably also common. While Hannah recorded a fire screen, tongs, poker, and fireplace grate, she may have omitted less exciting but essential items. Other Philadelphia brides recorded either purchasing or receiving a multitude of cooking tools, “jacks of various sorts with weights

¹¹ *Diary of HCS*, [Aug 19] 1762, 190: “Mame and I packed up my China, a burnt China dish, a half dozen plates, a half dozen burnt china Coffee cups & sausers, a half dozen enameled large cups & sausers, 2 quilted enameled dishes, 2 Large burnt bowls. 2 blue china Dishes, 1 dozen plates, 2 soop plates, 2 small china bowles, 1 delph dish, 8 Wine glasses, 2 decanters, 2 cruets, 2 salts of cut glass, 3 pair of tumblers, a pair beer glasses. a set of blue & white china for a tea table. (a case of large knives and forks with half a dozen table spoons (given by Sammy) and a case of sweat meat knives and forks.) for the back Parlour. Front [parlour] 1 dozen white stone plates, 4 dishes, 6 soop plates – 2 oblong, 2 large basons – 2 black tea pots, a half dozen blue and white cups and sausers.”

¹² On imari in America, see Clare Le Corbeiller and Alice Cooney Frelinghuysen, “Chinese Export Porcelain, *The Metropolitan Museum of Art Bulletin*, New Series, Vol. 60, No. 3, Chinese Export Porcelain (Winter, 2003), 5-60. China and chinoiserie were popular throughout the colonies; see cf. Robert A. Leath, “‘After the Chinese Taste’: Chinese Export Porcelain and Chinoiserie Design in Eighteenth-Century Charleston,” *Historical Archaeology*, Vol. 33, No. 3, Charleston in the Context of Trans-Atlantic Culture (1999), 48-61. Thanks to Neal Hurst for briefing me on eighteenth-century china. For an example of a tea set produced around the time Hannah made her purchases, see the Winterthur Museum and Library’s online catalog, museum object number 1959.0077.

and chains, crane hooks, frying pans, chafing dishes, spits, pot racks and pot hooks, ladles, flesh forks, dripping pans, bake ovens, cleavers, skewers, iron pots, iron skillets, sauce pans, brass and iron kettles, iron stew pans, coffee mills, fish kettles, and copper chafing dishes.”¹³ Mundane objects reinforced female domesticity and provided women the opportunity to demonstrate their housewifery skills and show their new husbands they made the right choice – even though these items might be used primarily by servants.

While other families may not have been able to match the Callenders’ lavish gifts, the pattern of sending furniture, dishes, and cutlery was common. When middling Virginia farmer Moses Hays’ daughter Sarah married in 1797, he wrote to inform her that “you will receive a little present from me . 8 sitting chairs 2 Solling chairs a pair of card tables, on[e] Hansome Side board. With one dozen table Spoons. & one Soup Ladle.” While not the complete equipage that wealthier families might offer, Moses made the most generous gift he could to establish his daughter comfortably. He took the time to add, “it is very Auckward to me Sally My Dear, to write letters, but where the transactions of business compell me, therefore Accept of this Scrawl.” As Moses, and many other parents, viewed it, wedding gifts were both business transactions as well as expressions of affection.¹⁴

As weddings became larger and more elaborate in the nineteenth-century, a wider circle of relations and friends offered gifts in the same vein. Weddings became more conspicuous social rituals where both families, but particularly the bride’s, had the opportunity to demonstrate their wealth, refinement, and hospitality to family members,

¹³ Summary of kitchen items for Mary and Elizabeth Chew, quote from Nancy E. Richards, “The City Home of Benjamin Chew, Sr., and his Family: A Case Study of the Textures of Life,” Cliveden of the National Trust, Inc. (1996), 22-23.

¹⁴ Moses Michael Hays to Sarah Hays Myers, April 24 1797, Meyers Family Papers, VHS.

friends, and allied peers of similar status. This may have reflected the growing privacy and sentimentality of the middling and elite white family as well as the policing of class boundaries; weddings displaced older traditions of hospitality directed outward to a broader, mixed-class community.

Both larger weddings and the emerging “tradition” of refined wedding gifts began to emerge among elites in antebellum era; by the 1870s, social critics were wringing their hands over the commercialization of the sacred and solemn wedding.¹⁵ After Catherine Palmer Allston’s “quiet wedding” in 1857, her mother reported a detailed list of gifts. “Cattie received very pretty presents, mostly silver,” she wrote another daughter. “Dr. Horlbeck and Harriet gave a handsome Bible, Maria two silver egg spoons, Allie a pickle knife and fork, and one of the Ravenels did the same. The other gave two butter knives. Anna Maria butter knives. Marianne Porcher salt spoons. Sallie salt ladles and mustard spoon. Nannie large ladle. Mr. Lockwood large ladle. Lucia butter knife and your Papa and myself one dozen dessert and ice tea. Leize Palmer a handsome cup and saucer plate and spoon and fork.”¹⁶ Between these and other gifts, Cattie would be able to set a table handsomely when she had company, or read scripture stylishly when alone.

In addition, like many other brides, Sally Franklin Bache and Hannah Callender Samson packed “cloaths” for their new homes. Fabric in early America was extremely valuable; in the inventories of the wealthy, they could rival the value of furniture. As Laura Edwards notes, fabric represented a form of portable wealth that was particularly

¹⁵ Vicki Howard mentions social critics’ concerns emerged in 1870s, suggesting it was an accelerating trend. See *Brides, Inc.*, 15-18.

¹⁶ Esther Simons Palmer to Harriet R. Palmer, 21 April 1857, in *A World Turned Upside Down*, 207.

associated with women in the eighteenth and nineteenth centuries.¹⁷ This included not only personal wardrobes but most likely linens, quilts, and towels she and friends had prepared over several years. Drapes, bed hangings, and other household items were probably purchased for new homes, and these woven trappings were expressions of both taste and status. Eighteenth-century women carefully placed these items in a dowry chest; by the mid-nineteenth century, the more familiar *trousseau* was in use. While the chests could be as simple as pine blanket chests, many families chose to carve or decorate the chest; depending on the period and region, they might include the bride-to-be's initials or colorful symbolic wishes for a happy marriage, particularly among the Pennsylvania Dutch.¹⁸ The *trousseau*'s persistence into the twentieth century reflects the persistence of the expectation that women should materially contribute the establishment of their new household, even as the contribution became primarily a symbolic expression of taste and values - a reflection of the elision of women's domestic labor as wives and mothers.¹⁹

Eliza Middleton Fisher's *trousseau* was sent from Paris in 1839 by an uncle and reveals that *trousseaus* were increasingly fashion-forward. While the *trousseau* was largely a feminine matter, women sometimes employed male proxy shoppers. Eliza's father budgeted five thousand francs, 3800 of which an uncle living in Paris spent on jewelry, linens, and accessories. Her uncle, John Izard Middleton, reported that he

¹⁷ Florence Montgomery, *Textiles in America*, introduction, chs. 1 and 2; Laura F. Edwards, "The Material Conditions of Dependency: The Hidden History of Free Women's Control on Property in the Early Nineteenth-Century South," in Sally E. Hadden and Patricia Hagler Minter, eds., *Signposts: New Directions in Southern Legal History* (Athens, GA: University of Georgia Press, 2013), 171-192.

¹⁸ Cf., on the persistence of the *trousseau* as a word and a concept: Vicki Howard, *Brides, Inc.: American Weddings and the Business of Tradition* (University of Pennsylvania Press, 2008); examples of dowry chests, "A Rich and Varied Culture: The Material World of the Early South," exhibit at DeWitt Wallace Museum, Colonial Williamsburg, June 2014.

¹⁹ Amy Louise Erickson, *Women and Property In Early Modern England*, (London; New York: Routledge, 1995), 92.

selected items with care from a wide and confusing array of options. “The difficulty” in selecting linens, he wrote, “was to steer clear of what you might judge parsimony on the one hand or Extravagance on the other – and this was no easy matter” when handkerchiefs alone ranged from 10 to 300 francs. “Mantelets,” short loose shawls, were out of style, so he selected “square shawls...of black silk for summer, & black Cashimere for winter” – luxurious but versatile items that Eliza could wear for years. After detailing his decisions, he concluded, “Here is... the longest article ‘on Fashion’ I was ever author of!”²⁰ Eliza appreciated his zeal; she wrote to her mother that her uncle “seems to have done his best in purchases – But has somewhat exceeded my orders – particularly in regard to *embroideries*, which he says are the *mania* of the day.”²¹ By the nineteenth century, it was more important to be current, reflecting engagement with changing trends in an increasingly commercialized society.

Other families spread out their support over a number of years rather than making a single large gift. If a woman was inheriting from her deceased father’s estate, paying in installments may have been the only feasible method, especially if the estate was complex and encumbered by debt. Robert Carter’s letters periodically recorded payments of his “Wife’s fortune” over decades in the early nineteenth century.²² Other families may simply have felt it more prudent to make smaller yearly gifts. Nathaniel Burwell’s caution in delaying marriage, unfortunately, went partly unrewarded; his father-in-law “paid nothing but £40 interest a year until 1785, and still in 1787, after Grymes' death, part of Susannah's dowry remained uncollected.” Nathaniel evidently refused to drag his

²⁰ J. Izard Middleton to EMF, 26 April 1839, cited in *Best Companions*, 42.

²¹ EMF to MHM, 28 May 1839, in *Best Companions*, 45; 163 n1.

²² Robert Carter Letter Book, 1727-1732, Alderman Library, U. Va., 66-68; Carter Letterbook, 1732-1781, Alderman Library, 81-82, 129-130, 136-137.

feet when his last sister married, for he “paid his remaining sister's marriage portion as well as all the women's shares of their brother Carter's estate promptly.”²³

Benjamin Chew kept running accounts from the 1760s-90s with his three daughters' husbands “By Way of Advancement... in Marriage” over several years. He primarily made cash payments to the husbands, but sometimes directly to his daughters, and often noted what they then purchased. The women furnished not only their kitchens – Mary and her husband's first purchased was £250 for furniture. Betsey and Sophia spread out their furniture purchases over several months. All three women purchased household linens, bedding, and various fabrics, in keeping with the expectations that women would furnish their new homes.²⁴

A home to furnish was another necessity for going to housekeeping that, if not supplied by the groom independently, could be given by either the bride's or the groom's family, either as an outright gift or a loan. John Hartwell Cocke set about renovating his inherited house in Surry, Virginia, shortly before his marriage in 1803; unfortunately, construction was not completed before the wedding, and so the newlyweds lived for several month's with Cocke's married sister. In the early 1790s, fellow Virginian William Stuart, an acquaintance reported, was building a fine house with "great rapidity" in anticipation of “tie[ing] the nuptial knot next month.”²⁵ William Irvine of Pennsylvania too inherited his family seat, but lived primarily in his father-in-law's Philadelphia

²³ Walsh et al, *Provisioning Early American Towns*, 18

²⁴ Dowry for Elizabeth (Betsey) Chew Tilghman (1772-1776, undated); Dowry for Mary Chew Wilcocks (1763-1774); Dowry for Sophia Chew Phillips (1796-1798, undated), all in Chew Family Papers, Series II, HSP.

²⁵ Miss Alexander, n.p., to [Mrs. Eliza Whiting, "Enfield", Prince William County], [post 1792 ante 1795], Blair, Banister, Braxton, Horner, Whiting Papers, Special Collections Research Center, Earl Gregg Swem Library, the College of William and Mary.

townhouse. Newlyweds might also rent lodgings, particularly if the groom's occupation made eventual relocation likely.

In early America, the agricultural emphasis often meant that wealthy women brought land to a marriage. In Pennsylvania, this practice was driven first by early land speculation among elites in western Pennsylvania and the Ohio Valley. Some elite men styled themselves gentleman farmers and oversaw cultivation themselves, or, unlike their southern counterparts, they rented their land for others to farm. The Chew family, for instance, engaged in extensive land speculation, as did the Merediths and Ogdens. For planter men, an advantageous marriage instantly expanded their holdings, wealth, and prestige. As Bertram Wyatt-Brown has shown, despite the growth of middle-class mores and occupations, even young professionals in the antebellum South frequently hoped to parlay marriage into landownership and slaveholding; James Henry Hammond is a notorious example of a meteoric rise from professional to planter.²⁶ In South Carolina, interrelated family networks continually shuttled vast plantation holdings between generations. To give only one example, six months after their marriage in 1769, William Skirving purchased nearly 350 acres from parents of his wife, Ann Hutchinson. Their daughter, also Ann, inherited the land and brought it to her marriage to Thomas Rhett Smith. Smith purchased a portion of his father-in-law's estate, which he sold in 1817 to his son-in-law for \$1, with the stipulation that it go to Smith's grandchildren.²⁷

²⁶ Bertram Wyatt-Brown, *Southern Honor*, 212-218. On the Southern middle class, see Jonathan Daniel Wells, *The Origins of the Southern Middle Class, 1800-1861* (Chapel Hill: University of North Carolina Press, 2004).

²⁷ Suzanne Cameron Linder, *Historical Atlas of the Rice Plantations of the ACE River Basin* (Columbia, S.C.: Published by the South Carolina Dept. of Archives & History for the Archives and History Foundation, Ducks Unlimited, and the Nature Conservancy, 1995), 23-24.

Because of their value, enslaved people often formed a part of wealthy women's wedding portions if they came from slaveholding families. By 1748, slaves were categorized as personal property under Virginia law, which uncoupled slaves from the land on which they labored. This made slaves into a moveable form of property that was more easily gifted.²⁸ South Carolina, however, considered slaves real property, which probably prompted families to rely upon trusts for daughters more than they did in other places; this may also explain why enslaved people appeared so frequently and in a wide range of numbers in South Carolina marriage settlements.²⁹ In Pennsylvania, the enactment of gradual abolition made elite families' continued investment in slavery less appealing. Marriages into slaveholding families, however, meant that many families in Pennsylvania continued to reap benefits from slavery, either directly as absentee owners or indirectly as a reserve of liquefiable wealth within a larger kinship network.

Women sometimes brought personal slaves to continue to attend to the new wife's personal needs in a new home. Enslaved women were the obvious choice because they could perform personal labor for their female owner and offered the prospect of future wealth in the ownership of their children. This was probably Benjamin Chew's reasoning when he purchased Minuta for his daughter Mary. In the urban slave society of colonial Philadelphia, a female slave was an excellent investment; she not only could perform household labor but was also expected to bear children who would be the property of her owners. Because Pennsylvania instituted gradual abolition in 1780, this practice disappeared there soon after. The exception was families with southern connections that owned slaves elsewhere.

²⁸ Salmon, *Women and the Law of Property*, 154.

²⁹ Salmon, *Women and the Law of Property*, 156, 158-59.

For women from slaveholding families, a familiar slave may have offered a degree of psychological comfort and continuity during the stressful transition from belle to mistress. Sarah Nelson Carter, a merchant's daughter brought one personal servant to her husband's plantation in 1742 in addition to her cash dowry, an enslaved woman named Belinda.³⁰ Elizabeth Bryan probably brought Rinah, a gift from her grandfather when she was a child, to her married home fifteen years later.³¹ Or, women's dowries might bring larger units of slaves to their husband's landholding. Theodorick Bland gave his daughter Frances twenty slaves as her dowry when she married John Randolph in 1770.³² Robert Carter had acted similarly in his 1733 will when he gave two of his daughters eighteen to twenty-five slaves, a full workforce for an overseer in Virginia's tobacco fields.³³

After the restrictions of primogeniture and entail were lifted, enslaved workers were often gifted to marrying children as part of entire working plantation, either to possess or use. Before 1782 in Virginia and 1791 in South Carolina, only women without surviving brothers might inherit directly.³⁴ For instance, by 1770 James Skirving had given his Elizabeth Skirving and her husband Philip Smith 1100 acres on the Ashepoo River in South Carolina, while her unmarried sisters received cash dowries under James's will.³⁵ Green Spring plantation entered the Lee family's possession when Hannah

³⁰ Walsh, *Calabash to Carter's Grove*, 48

³¹ Deed of gift, Elias Ball to Elizabeth Bryan, 28 December 1784, Ball Family Papers (1134) SCHS.

³² Philip Hamilton, *The Making and Unmaking of A Revolutionary Family: The Tuckers of Virginia, 1752-1830* (Charlottesville, Va.: University of Virginia Press, 2008), 42

³³ Walsh, *Calabar to Carter's Grove*, 87-88.

³⁴ Salmon, *Women and the Law of Property*, 142.

³⁵ Linder, *Atlas ACE*, 4; Abraham Blanding and J.C. McCord, eds., *The Carolina Law Journal* (Columbia, S.C.: Times and Gazette Office, 1831), vol. 1, 300.

Ludwell married William Lee in 1769; her father Philip Ludwell had acquired it through his marriage in 1680.³⁶ A few days before Martha Jefferson married Thomas Randolph in 1790, their fathers deeded them each a plantation. Martha received “the plantation called Wingo’s” – one thousand acres and twenty-seven slaves as well as “all the stock of work horses, cattle, hogs and sheep and the plantation utensils” on it.³⁷ Robert E. Lee gained his famous Arlington estate when he married in 1831.

Some families orchestrated the transmission of property through the female lines across generations. This was particularly the case in South Carolina, where the classification of slaves as real property encouraged the use of separate estates for women. Like the Anns Hutchinson, Elliott, and Smith, female descendants largely controlled Dalton plantation for over a century, for example. “Dalton was Ann Stock Smith’s legacy to her daughters Ann Burgh and Margaret,” and included land from “Ann [Burgh] Burnet’s great-grandmother, Ann Stock Hutchinson” and “Margaret (Young) Stock, Ann Burnet’s grandmother” added to the legacy.³⁸

Financial Assets: Cash & Investments

Cash was an appealing option in its flexibility, permitting couples to acquire the goods or property they lacked. Ditz finds that in Connecticut between 1750 and 1820, daughters’ dowries were typically comprised of cash and moveables. In agricultural areas, this may have been a strategy that helped preserve real estate for sons, particularly in the eighteenth century. Robert Carter received cash dowries upon each of his three

³⁶ Information available from finding aid for Lee Family Papers, VHS

³⁷ “Marriage Settlement for Martha Jefferson,” *The Papers of Thomas Jefferson Digital Edition*, ed. Barbara B. Oberg and J. Jefferson Looney (Charlottesville: University of Virginia Press, Rotunda, 2008).

³⁸ Linder, *Atlas ACE*, 165-67

marriages; his first wife added £1,500 sterling to his accounts in 1742. His cousin Carter Burwell was promised £1,250 when he wed Lucy Grymes in 1738. Carter's son Nathaniel also agreed to a cash dowry, of £800, in 1772.³⁹

Cash, of course, was easily transmuted into land, houses, and enslaved workers. In her study of Virginia "prodigy houses" – examples of opulent native architecture – between 1721 and 1770, Barbara Mooney analyzes the importance of dowry to these ambitious builders. She found that of twenty-five men whose wives' dowries could be discovered, seventeen brought cash, and only ten brought land, suggesting that liquid assets may have been preferable for men from wealthy families who might already stand to inherit real estate.⁴⁰ This strategy declined after 1785, when Virginia abolished primogeniture, and a similar shift took place in South Carolina, which followed suit in 1791. In the wake of the Revolution, Pennsylvania, Virginia, and South Carolina all enacted statutes requiring equal inheritance for all children, male and female, make cash dowries one of several options for endowing daughters.⁴¹ Nonetheless, the flexibility of cash was appealing, and strategic use prevented the splintering of plantation estates.

As the American economy diversified and investment options proliferated, women's dowries and marriage settlements increasingly included bonds, stocks, and shares. By the early national period, wealthy parents seem to have sought a mix of gifts that offered immediate payout such as property and cash, and growth-oriented instruments. In addition to cash and goods, Benjamin Chew chose gifts that would accrue

³⁹ Lorena Walsh, *From Calabar to Carter's Grove*, 48, 110, 124; Walsh, Anne Smart Martin, and Joanne Bowen, "Provisioning Early American Towns – The Chesapeake: A Multidisciplinary Case Study," (Williamsburg, Va.: Colonial Williamsburg Foundation, 1997), 18.

⁴⁰ Barbara Burlison Mooney, *Prodigy Houses of Virginia: Architecture and the Native Elite*, (Charlottesville: University of Virginia Press, 2008), 127, 88.

⁴¹ Salmon, *Women and the Law of Property*, 142.

value, a pattern that became increasingly common in the late-eighteenth century and continued into the twentieth.⁴² Chew gave financial instruments that would accrue value to each of his daughters. He forwarded interest on a bond to Mary in 1776, worth £30, and assigned Betsey and her husband a bond and mortgage from Thomas Nixon with a principal of £739.13.5, which would also generate interest income. Sophia received “H. Philips Note to Brown” of £918. He likewise assigned Mary a bond worth £500.⁴³ Harriet Elliott brought a whopping \$10,000 cash and a \$10,000 bond, which generated \$700 in yearly interest, to her union with Cuban expatriate General Ambrosio Gonzales in 1856.⁴⁴

As opportunities to purchase stock in banks, canal and railroad companies, and capitalized national, state, and city debt increased, shares began to make their way into women’s marriage portions. For instance, Philadelphian Harriet Chew’s marriage settlement included either stock or money that was subsequently invested; her brother-in-law and financial manager John Eager Howard reported in 1815 that her investments yielded dividends of \$360 from the Bank of Maryland, the Bank of Baltimore “in December \$175 ½ which will make half yearly \$535 ½,” the Mechanics Bank \$485 and the City Bank \$90.⁴⁵ Charlotte Ford’s parents included fourteen shares of the bank of South Carolina and \$700 worth of 6% stock of the City of Charleston when she married in 1823. In 1828, Susan Ball brought more than 1,250 shares of U.S., state, city, and bank

⁴² Howard, *Brides, Inc.*, 19.

⁴³ Dowry for Elizabeth (Betsey) Chew Tilghman (1772-1776, undated); Dowry for Mary Chew Wilcocks (1763-1774); Dowry for Sophia Chew Phillips (1796-1798, undated), all in Chew Family Papers, Series II, HSP.

⁴⁴ Antonio Rafael De la Cova, *Cuban Confederate Colonel: The Life of Ambrosio Jos'e Gonzales* (Columbia, S.C.: University of South Carolina Press, 2003), 126, 256, 417 n46.

⁴⁵ Marriage Articles of Harriet Chew and Charles Carroll of Homewood, 28 June 1800, and John Eager Howard to Benjamin Chew, 18 September 1815 Box 57 Chew Family Papers, Collection 2050, Historical Society of Pennsylvania.

stock worth nearly \$20,000 to her marriage.⁴⁶

Because marriages often triggered such significant outlays of wealth, whether in goods, land, slaves, cash, or investments, families sought to commit to this investment only after vetting future in-laws. They also collaborated to maximize the utility of their gifts, with each set of parents often trying to complement the other's gifts. While all families acknowledged that marriage was inherently speculative - that all due diligence could not guarantee either personal harmony nor financial security - some families took precautions. A small but significant minority of families employed legal protections for the property they gave to their children at marriage. Often, parents of daughters were particularly concerned. They sought assurances that their daughters would be well provided for if they should be widowed, and perhaps more importantly, that the property they contributed would descend to their daughters' children. To circumvent certain aspects of the common law, families in some colonies and states, including Virginia and South Carolina, could pursue "loopholes" permitted in equity law. The following chapter explores in detail how South Carolinians employed the options offered by marriage settlements.

⁴⁶ Marriage Settlement of Charlotte Ford, Vol. 8, 472-74; marriage settlement of Susan Ball, Secretary of State Miscellaneous Records, Vol. 9, 456-61, SCDAH.

Chapter 3

Protecting the Female Fortune: Marriage Settlements, Equity Law, and Women's Property

While English common law facilitated clear transmissions of property by limiting women's claims after marriage, many families chafed at the restrictions it presented. Equity jurisprudence offered women some relief from the handicaps of coverture, creating a limited but significant loophole. Administered in chancery courts, equity law developed in the early modern period to provide relief from some of the harsher aspects of the common law. One of these was coverture – a the insistence that upon marriage, husbands subsumed women's legal and financial identities, legally as well as ecclesiastically becoming “one flesh.” Coverture simplified property transmission by combining the legal interests of the spouses. As Amy Louise Erickson points out, “the basis of coverture was essentially an economic exchange,” where the “bride's marriage portion was exchanged for her maintenance during marriage, the groom's responsibility for her contracts (since without property she could not contract), and for a guarantee of subsistence in her widowhood, in the former of dower or jointure.” Property was managed according to a fairly simple set of rules that were intended to ensure the clear transmission of property, especially real estate, between generations.

Generally, this arrangement worked well, but the “fundamental difficulty” was that women, lacking a legal identity after marriage, had no recourse under the common law.¹ Erickson finds that, in response, propertied English women created various legal instruments to protect their property. If these instruments were challenged, they had

¹ Amy Louise Erickson, *Women and Property In Early Modern England* (New York: Routledge, 1995), 100.

recourse in equity, administered in Courts of Chancery.

Marriage settlements were a type of instrument that permitted a woman's family to place property into a trust, creating an estate distinct from that of her husband. While women's involvement with the management of their estates surely varied, because of married women's legal incapacity under coverture, these estate were administered by trustees but often permitted the husband management of his wife's assets. This represented a key strategy of wealth management for noble families in early modern England, and later for gentry and middling English and British colonial families.

Separate estates protected individual women's property from disposal by her husband, but more broadly they were tools for ensuring the rights of property holders to secure lineal inheritance – that is, the rights of the fathers of daughters to pass property along to their biological grandsons rather than risk losing it to sons-in-law. Fathers of sons might use them as well, substituting an annuity or cash payout for the widow's dower rights to one-third of her husband's real property. This allowed the paternal family to retain complete control of the covered property and to transfer ownership or trusteeship immediately to another male relative. Thus, in some instances, settlements reflect less a woman's inclinations than a father's strategy for distributing his wealth among his offspring.

Equity courts recognized the distinct interests and the vulnerable position of women within marriages and offered a modicum of protection for these interests. When the first separate estates were litigated in the late sixteenth century, "there was no hint of novelty," implying that customary practice had long established the rights of women to

make prenuptial agreements.² The development and perpetuation of women's separate estate gave lie to the notion of "unity of person" in marriage by preserving women's control of property, albeit indirectly through male trustees. Women might supplement their widow's rights to real property by carving out protections for their personal property, cash, or annuities. Women with marriage settlements thus retained some control of the property they brought to marriage, which was also secured from her husband's creditors, ensuring that she would be insulated from total impoverishment should her husband go bankrupt, die in debt, or abscond.

While the British North American colonies accepted the essential principals of women's status enshrined in the common law, their implementation of equity varied widely. While Virginia and South Carolina transferred much of the equity apparatus intact, the legal system of Pennsylvania was truncated, collapsing the distinctions between common law and equity. Marylynn Salmon finds that religious heterodox colonies took the Biblical injunction of wifely submission so seriously that they "created laws on the assumption that wives would indeed be submissive." By 1700, because land was almost the only property that could be offered as security for a loan, Pennsylvania's lawmakers had gutted women's dower rights by making all of a debtor's real property subject to seizure by his creditors – even though, under the common law, the wife retained the rights to one-third. Lawmakers also refused to secure women's assent to the sale of real property before 1770.³ Under the English common law, a married woman needed to affirm her consent to the sale of land in a separate examination by a judge

² Erickson, *Women and Property in Early Modern England*, 106.

³ Salmon, *Women and the Law of Property*, "created laws," 40; dower rights in debtor's property, 164; wife's assent to sale, 24.

without her husband present to ensure that she was not being coerced into giving up her dower rights.

Without separate court systems to rule on and enforce equity rules and procedures, Pennsylvanian women had far less legal recourse than their southern sisters, which in turn factored into Pennsylvania families' financial calculations before and during marriage. Even after the implementation of separate examinations, women's property rights in Pennsylvania were unevenly enforced. For instance, in 1779, Supreme Court justice Thomas McKean angered his wife Sally when he sold "your lot at Christiana Bridge" while Sally was away, adding that the "deed is to be executed of the courts." Sally's reply does not survive, but Thomas's answer suggests it was furious. He defended his actions, responding that "An unwillingness to sell it, as it was yours, made me ask a price I did not expect to get, but it turned out otherwise and I am contented, only you appear to be otherwise." Adding insult to financial injury, he huffed, "I thought you loved a Country life, but you seem now to prefer the Town. – Agreed; we will continue in one. The general character of the ___ is that they are fickle, ever changing, and never satisfied, but I flattered myself you were an exception."⁴

Legal Reform, Women's Property, and the Economy

Post-Revolutionary legal reform witnessed the gradual simplification of separate estates in several states. Legal scholars point to the growing emphasis on contract in liberal reform, but other scholars point out that the simplification of property transactions by streamlining older common-law processes, such as dower, responded to capitalist pressure. Linda Kerber, reflecting a growing scholarly consensus, argues that "capitalism

⁴ Thomas McKean to Sally McKean, July 20 and 30 1779, McKean Papers, box 11, HSP.

required that men's and women's economic relations be renegotiated."⁵ Expanding and developing markets increased demand for clear titles and rapid liquidity.

Near the close of the eighteenth century, many states, including Pennsylvania, shifted from assuming that the trustee had managerial control of the estate to assuming that, unless otherwise specified, women were empowered to make decisions about their trust property. As Salmon argues, this was in large part due to the weakening of assumptions about coercion – that women were vulnerable to press or threats by their husbands to dispose of trust property.⁶ On the one hand, this shift can be seen as progressive in that, when forced to choose between women's financial independence or assumptions of weakness, courts began to assume that women were competent. On the other hand, women who were subject to coercion had even less protection than they had under older legal rules that mandated private examinations. Pennsylvania, however, had been delinquent in enforcing separate examination requirements in the seventeenth and eighteenth centuries, so abandoning the concept of coercion may have been a more natural progression than it was in other states that implemented procedure more rigorously, including Virginia and South Carolina. Furthermore, as the following brief review suggests, the some limitations of the common law that spurred the growth of equity jurisprudence in England likewise motivated more families in Virginia and South Carolina to construct marriage settlements.

In 1769, an English Chancery ruling established a new precedent that permitted simple marriage settlements – prenuptial contracts between the intended spouses without

⁵ Linda K. Kerber, "Separate Spheres, Female Worlds, Woman's Place: The Rhetoric of Women's History," *The Journal of American History* 75, no. 1 (June 1988): 21.

⁶ Salmon, *Women and the Law of Property*, 104-8.

the use of trustees at all. The husband, in effect, was the trustee, but he was bound to administer the estate as directed by his wife. As Salmon concludes, this “indicated a basic change in attitude toward female contractual rights and women’s rights to own property in general.” Pennsylvania upheld the legality of such contracts in 1793, including provision’s for married women’s will-making. Despite domestic precedent for only enforcing trusts, the Pennsylvania jurists adopted the new English principle and upheld the legality of contracts between husband and wife.⁷

Given their continued acceptance of the threat of coercion, Virginia and South Carolina were slower to adopt simple settlements. South Carolina worked around accepting simple settlements by enforcing them by *creating* trust estates out of simple settlements. Despite the trend towards granting women increasing administrative powers, South Carolina jurists “maintained, however, that the nominal ownership by trustees was useful as a protective shield against husbands.”⁸ Virginia followed this example as well, deciding in two 1809 cases to enforce simple contracts by transforming them into trusts. Salmon concludes that, in contrast to Pennsylvania’s assumptions of the harmony of interests between husbands and wives, South Carolina and Virginia were more suspicious, evincing “a very real belief in the efficacy of male coercion.”⁹

Dower and jointure were additional legal practices designed to protect women. Jointure, which was widely accepted in the colonies, permitted the couple and their families to determine what property would be available to support a widow in case of her husband’s death by placing certain property under joint tenancy, in which the wife had a

⁷ Salmon, *Women and the Law of Property*, 112-13, quote 112.

⁸ Salmon, *Women and the Law of Property*, 115.

⁹ Salmon, *Women and the Law of Property*, 116.

life estate.¹⁰ In South Carolina, dower was interpreted according to English precedent as one-third of the value of the husband's real property at any time for life and absolute ownership of one-third of his personal property. Because South Carolina slaves were considered real property, parents transmitting property to their children had to take additional steps to create productive packages of land and slaves.¹¹ This impetus, plus the desire to avoid the rules of primogeniture in cases of intestacy, fostered unusually high levels of will-making. Furthermore, John Crowley finds that husbands' wills offered their wives increasing direct control over property as the eighteenth century progressed, and that daughters and sons were willed slaves in roughly equal numbers.¹² Sons, however, were more likely to receive land, as they had been in seventeenth century England. Salmon suggests that this high rate of testation...may indicate dissatisfaction with the law of intestacy, with regard to both primogeniture and widows' rights."¹³

In Virginia, however, legal departure from the common law undermined women's dower rights - particularly the state's peculiar construction of enslaved people as real, rather than personal, property, for purposes of inheritance, beginning in 1705.¹⁴ Presumably, this was an effort to keep productive estates more or less intact over successive generations by linking the land to enslaved laborers who made it profitable.¹⁵ This mainly affected white slaveholding women as widows, making women without prenuptial settlements increasingly vulnerable. As legal historian Mark McGarvie

¹⁰ Salmon, *Women and the Law of Property*, 86.

¹¹ Salmon, *Women and the Law of Property*, 156.

¹² John Crowley, "Family Relations and Inheritance in Early South Carolina," *Histoire sociale/Social History* 17, no. 33 (1984), 40-45.

¹³ Salmon, *Women and the Law of Property*, 158.

¹⁴ Salmon, *Women and the Law of Property*, 152.

¹⁵ Salmon, *Women and the Law of Property*, 156.

concedes, “[l]iberal changes to Virginia’s laws on inheritance and marriage, which generally granted greater freedoms and property rights to women, were limited, and in some instances completely overridden, by the Commonwealth’s laws on slavery.”¹⁶ In defining slaves as real property in 1727, the Virginia legislature directed that women not only lost their claim to slaves they owned before marriage, but that as widows they were entitled to life use of one-third of the value of the slaves – a position legislators confirmed in 1744, 1747, and 1752. Furthermore, if the widow removed the slaves out of Virginia, she forfeited her *entire* dower claim. St. George Tucker, in his influential *Commentaries* on Blackstone, marveled that creditors’ claims were preferred over that of the widow, “who is in a moral light, a creditor of an higher grade.”¹⁷

As McGarvie points out, the “American Revolutions and the succeeding years did not produce liberal reform in Virginia’s slave laws,” and as they pertained to women, became even less favorable.¹⁸ In 1776, probably in the interest of assuaging creditors, a new act gave husbands “an absolute estate” in their wives’ slaves, *even if* the land was entailed to pass directly to the couples’ children. Legal reforms of slave laws in the 1790s further eroded women’s claims. Even after enslaved people were redefined as chattel in 1792, the earlier limitations persisted, and after 1794, widows’ thirds were include “a life estate only in the third part of the surplus of the slaves of their husbands, after funeral debts and just expenses paid” – a departure from the common law precedent of a widows’ thirds being calculated *before* debts were paid. This unique set of limitations on slaves as

¹⁶ Mark Douglas McGarvie, “Transforming Society Through Law: St. George Tucker, Women’s Property Rights, and an Active Republican Judiciary,” *William & Mary Law Review* 47, no. 4 (February 2006): 1407.

¹⁷ Cited in McGarvie, “Transforming Society Through Law,” 1407.

¹⁸ Cited in McGarvie, “Transforming Society Through Law,” 1408.

“a kind of special assets” upended legal precedent, and Tucker “almost appears to surrender in his attempts to make sense of the legislation” in his *Commentaries* - as McGarvie comments, “a serious and troubling positions for a judge and professor of law to take.”¹⁹ This shift to a life estate, upheld in an 1811 case, also meant that if the widow remarried, she lost ownership of any slaves to her new husband.²⁰ This was clearly a departure from mid-eighteenth century practice. The well-known case of George and Martha Washington, for instance, followed the older pattern, and Martha retained her claims to the fifty slaves she inherited from her first husband despite her remarriage in 1759. Most other cases, however, related to less illustrious persons, were probably less well-documented and almost certainly less well-preserved. Nonetheless, both personal and private papers suggest the prevalence and logic behind evolving practices pertaining to marriage settlements and wills.

Marriage and Markets: The Case of South Carolina

From early colonization in the seventeenth century, marriage settlements in South Carolina were prenuptial agreements that took the form of a tripartite indenture between a bride-to-be, her legal trustee (often a father, brother, or another male relative), and her fiancé. Unlike several other states, South Carolina resisted the evolution of simple marriage settlements, which allowed a bride to contract directly with her groom; as a consequence, South Carolina marriage settlements were more complex legal documents in that they required a trustee and witnesses.²¹ They clearly lay out what property will be transferred to sons-in-law, and under what conditions. These agreements often directed

¹⁹ Cited in McGarvie, “Transforming Society Through Law,” 1408 and 1409.

²⁰ Salmon, *Women and the Law of Property*, 155-56.

²¹ Salmon, *Women and the Law of Property*, 114-5.

that some or all of the property would pass to the couple's children, and they sometimes reserved some or all of the property in trust for the sole use and benefit of daughters. Sole benefit could range from total control over the property, with the freedom to dispose of property and make a will, to merely receiving the rents, profits, or interest from the property managed by a trustee or trustees. Trustees were men, often but not always family members, who acted as the married woman's legal and economic representative and managed her estate on her behalf. Overall, property was settled more often for the joint use of the couple, giving the husband the use of the property or control over the income from it. Very infrequently, the settlement specified a division of benefit, granting the use of distinct portions to the husband and wife.

As other scholars have shown, the English colonies' implementations of law varied widely, giving rise to "many legalities" in early America.²² Pennsylvania's truncated legal system did not distinguish between the common law and equity law. Because this system was not clearly defined in Pennsylvania, even if families chose to draw up marriage contracts, enforcement was uneven, and settlements are submerged within the sprawling district and county records. Thus, the sense of what property Pennsylvania women brought to their marriages has been gleaned anecdotally from private papers, rather than legal records. As such, my conclusions regarding Pennsylvania are less rigorous than those for South Carolina.

Unlike Pennsylvania, South Carolina and Virginia strove to implement the English legal system faithfully, creating Chancery systems in which couples could create and enforce marriage settlements. A 1785 South Carolina law requiring the centralized

²² Taken from Christopher L. Tomlins and Bruce H. Mann, eds., *The Many Legalities of Early America* (Chapel Hill: The University of North Carolina Press, 2001).

registration of settlements, in part to prevent defrauding creditors with falsified trusts, and indexing and microfilming efforts by the state in the twentieth century, have made these documents easy to locate and navigate. Virginia's marriage settlements are not distinguished from other deeds and indentures, making them difficult to locate, and they appear to have continued to suffer from the recording problems that prompted South Carolina's 1785 law. In 1796, Sarah Blair Prescott was distressed to find that her improperly formatted and unrecorded marriage settlement would not protect her from her husband's creditors.²³ Because of these indexing and access issues, my quantitative data is derived from South Carolina sources and supplemented where possible with records and examples from Virginia and Pennsylvania.

Despite their limited use, marriage settlements are useful for exploring families' strategies for wealth management and growth. They frequently offer detailed schedules of the property being transferred by a bride to her groom and because they dictate the amount of control each partner had over said property, and they offer a glimpse of what property women contributed before their share was swallowed up in their husband's name and control. Those who filed settlements felt that the value of their property warranted the time and expense of securing legal protection. More often professionals or wealthy planters, a variety of trades people filed settlements as well – a range that probably closely reflects wider patterns of property distribution. Despite this skew, settlements probably reflect broader patterns of property transfer that were agreements between families secured by honor rather than law.

²³ S[arah (Blair)] Cary to [Eliza (Braxton)] Whiting, "Enfield," July 11, 1795; John Blair to Mary (Blair) Braxton Burwell Prescott, January 15, 1796; John Blair to [Mary (Blair)] Prescott, August 15, 1796, all from the Blair, Banister, Braxton, Horner, Whiting Papers, Special Collections Research Center, Swem Library, College of William and Mary.

Marriage settlements were fairly rare in the colonies, despite their widespread use in early modern England. While “marriage settlements were ubiquitous among the aristocracy and gentry” in the seventeenth century, their popularity failed to transplant to initially hardscrabble colonial soil.²⁴ Marylynn Salmon examined South Carolina from 1730 to 1830, conducting the only major assessment of marriage settlements in America. She estimates that they were employed by 1-2% of the population.²⁵ This number is probably too low; while certainly not widespread, Salmon did not have access to comprehensive indexes to South Carolina marriage settlements, which were filed in both their own system of records and in the miscellaneous records of the Secretary of State.²⁶ Using these indexes reveals twice as many settlements from 1751-1770, and about 80% more between 1771 and 1780. This suggests that while still rare, settlements were filed in some form by close to 4 or 5% of the marrying population.

Marriage settlements show one way in which generational security was consciously linked to market growth. As the nineteenth century progressed, families diversified the gifts they gave to marrying couples. In addition to traditional gifts of personal property or cash, parents began to purchase stocks, bonds, and bank and railroad shares on behalf of their daughters. This made women small-scale but cumulatively

²⁴ Erickson, *Women and Property In Early Modern England*, 100.

²⁵ Marylynn Salmon, “Women and Property in South Carolina: The Evidence from Marriage Settlements, 1730 to 1850,” *The William and Mary Quarterly*, Vol. 39, No. 4 (Oct., 1982), 655-85.

²⁶ Barbara R. Langdon, *South Carolina Marriages Volume I 1749-1867 Implied in South Carolina Equity Reports* (Aiken, S.C.: self published, 1991), *Volume II 1735-1885 Implied in South Carolina Law Reports* (1992), *Volume III 1671-1791 Implied in the Provincial and Miscellaneous Records of South Carolina* (1993), *Volume IV 1787-1875 Implied in the Miscellaneous Records of South Carolina* (1994), *Volume V 1749-1853 Implied in South Carolina Marriage Settlements* (1995), *Volume VI 1753-1843 Implied in the Miscellaneous Records of South Carolina* (1997), and *Volume VII 1794-1877 Implied in Miscellaneous Records and Marriage Settlements of South Carolina* (1999).

essential investors in a rapidly developing economy - perhaps a natural progression from early-modern single English women's role as small lenders of cash.²⁷ By including financial instruments that accrued value, parents hoped to endow daughters with gifts that would offer long-term security.

Quantitative analysis is an important tool because it assists scholars in identifying and analyzing patterns. For women's history in particular, where the details of individual lives may be difficult to tease out from behind the veil of coverture, quantitative analysis can suggest the broader framework in which most women lived. In this instance, analysis of this treasure trove of documents offers both tantalizing details and suggests a broader context of women's property holding in South Carolina. Looking at hundreds of documents shows clear trends that tie into broader economic and legal phenomena. The following analysis is based on a random sample of 345 documents that were analyzed to determine the kinds and quantities of property included in marriage settlements and the terms of their disposition and control.²⁸

This analysis confirms several of the significant patterns Salmon uncovered. These included a similar distribution of men's occupations, the declining proportion of widows making settlements, and the correlation between widows and control of the

²⁷ Amy M. Froide, *Never Married: Singlewomen in Early Modern England* (New York: Oxford University Press, 2005), 130-36.

²⁸ To generate a random sample, I created a database of all indexed marriage settlements (excluding repeat filings) identified in the Langdon indexes and used a random number generator to assign a numerical value, and then sorted by value. Due to time constraints, the sample for 1831-1850 does not reflect the proportion of estates filed in that period, an oversight which will be rectified in future. Ultimately the included documents were drawn from the following records: Marriage Settlements, vols. 1-20; Recorded Instruments - Miscellaneous Records of the Secretary of State, vols. GG, HH, II, KK, LL, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, ZZ, 3A, 3B, 3C, 3E, 3F, 3G, 3H, 3I, 3L, 3L, 3O, 3Q, 3R, 3S, 3V, 3W, 3Y, 3Z, 4B, 4C, 4E, 4G, 4H, 4L, 4N, 4O, 4Q, 4R, 4T, 4U, 4W, 4Z, 5B, 5C, 5E, 5H, 5I, 5L, 5M, 5N, 5Q, 5R, 5V, 5X, 5Z, 6A, 6B, 6D, 6E, 6F, 6G, 6H, 6I, 6K, and 7K, all held by the South Carolina Department of Archives and History, Columbia, S.C.

settled estate. The remainder of this analysis moves beyond questions of class and control to ask how these categories related to the property in the settlements, and these relationships over time. By breaking down the types of property rather than attempting to assign total values, this analysis explores how families' strategies for ensuring financial security reflected economic change over time, and the extent to which this change over time in turn affected women's control over the property covered by their marriage agreements.

The types of property that were most often mentioned in settlements were slaves, goods, agricultural land, and town lots. Plotting the frequency of these categories over time offers insights into how families whose daughters were marrying assessed their current assets and future opportunities. The following sections analyze the frequency each type of property and how they changed over time.

Table 1: Frequency of Property Types Included in Sample of South Carolina Marriage Agreements as Percent of Total, 1751-1850

Years	N	Goods	Slaves	Land	Stocks	Bonds	Cash
1751-1770	37	37.8%	91.9%	16.2%	0.0%	10.8%	24.0%
1771-1790	45	28.9%	78.0%	20.0%	2.2%	20.0%	27.0%
1791-1810	94	27.7%	93.0%	30.9%	3.2%	10.6%	11.0%
1811-1830	107	22.4%	81.0%	28.0%	11.0%	12.2%	6.0%
1831-1850	62	21.0%	82.0%	38.7%	13.0%	17.7%	14.5%
Total	345	26.1%	85.0%	28.4%	7.3%	13.6%	13.3%

The low early incidence of land inclusion is probably related to the practices of primogeniture and entail. Pennsylvania, with its principled disregard of English legal precedent, abolished primogeniture in 1683, but South Carolina did not until 1791.²⁹ Some South Carolina trusts before this included land – about 20% – but after 1790 the

²⁹ Salmon, *Women and the Law of Property*, 142.

inclusion of land subsequently increased, to almost 40%. Overall, only about one-quarter of settlements included land. This surely understates the amount of land that moved between brides and grooms because settlements were so rare; most land was simply transferred to the husband's total control, with the expectation that he would share his in-laws' interest in advancing the children of his marriage and that the protections of dower would offer his wife veto power over land sale and a portion of the estate if widowed.

Once freed of the restrictions of primogeniture and entail, South Carolina families opted to distribute land more equitably among their children regardless of gender. They may also have taken advantage of settlements to ensure that land passed to their biological grandchildren. By including land in a settlement but withholding the right to sell it, a woman and her guardians ensured that the acreage – often encompassing a complete farm or plantation – would pass intact as a productive estate to the next generation. In a sense, this arrangement performed the same function as copartency in that complete tract passed to biological grandsons without the risk of sons-in-law wasting or alienating it. Men generally retained their managerial control and could direct the use of the land and enjoy the profits; only about 20% of sole estates included land.

The importance of goods in marriage settlements declined through the first half of the nineteenth century. Nearly 40% of late-eighteenth century settlements included goods, typically household furniture, and often listed in great detail; this percentage fell to about 20% by the mid-nineteenth century. This decrease reflects the declining value and cost of furniture, fabric, and clothing as the nineteenth-century consumer marketplace expanded and the consequently reduced impulse to define and protect these forms of wealth.

Figure 1: Percentages of South Carolina Marriage Agreements in Sample Including Slaves, Goods, Town Lots, Land, and Livestock, 1751-1850

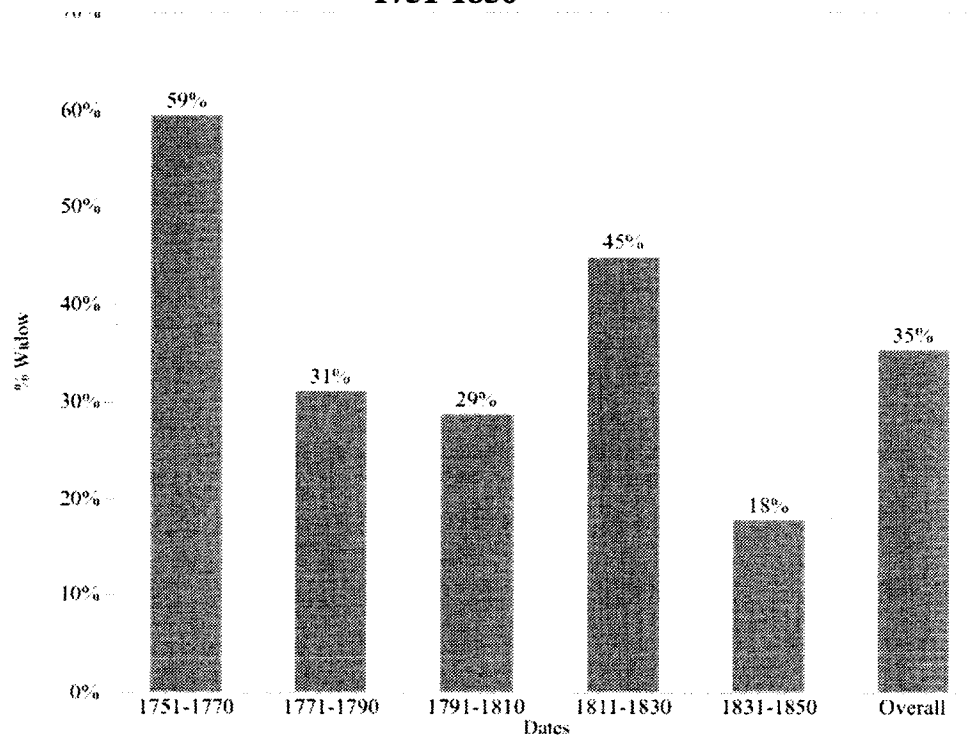


The declining proportion of widows creating marriage settlements also affects this figure, as widows were more likely to make marriage settlements in the first place *and* to include goods in them.³⁰ When Elizabeth Roffe remarried in 1767, she included a detailed listing of her possessions, which included not only mahogany furniture and silver, but a list of bedding, crockery, cooking equipment, and cutlery, including fire

³⁰ The legal and economic power of widows has been explored in several excellent books: Vivian Bruce Conger, *The Widow's Might: Widowhood and Gender in early British America* (New York: New York University Press, 2009); Linda L. Sturtz, *Within Her Power: Propertied Women in Colonial Virginia* (New York: Routledge, 2002); Kirsten E. Wood, *Masterful Women: Slaveholding Widows from the American Revolution Through the Civil War* (Chapel Hill: The University of North Carolina Press, 2004).

irons and a washing kettle. She agreed to give her new husband, cooper George Blaikie, control over the property on the condition that he ensure that she receive its current value – a staggering £5000 – for her own use if she survived him.³¹

Figure 2: Percent of Widows in Sample of South Carolina Marriage Agreements, 1751-1850



Goods appear to have been included when they constituted a significant portion of the total property under the settlement; settlements with goods included, on average, fewer enslaved people. The distributions of occupations also differs; of those listing occupations, 20% of settlements including goods were filed by tradesmen, who represented only about 11% of the settlements over all. In Pennsylvania, the papers of wealthy families also indicate that furniture formed a significant portion of a woman's

³¹ Marriage settlement of Elizabeth Roffe and George Blaikie, Recorded Instruments - Miscellaneous Records of the Secretary of State, vol. RR, 319-322, SCDH.

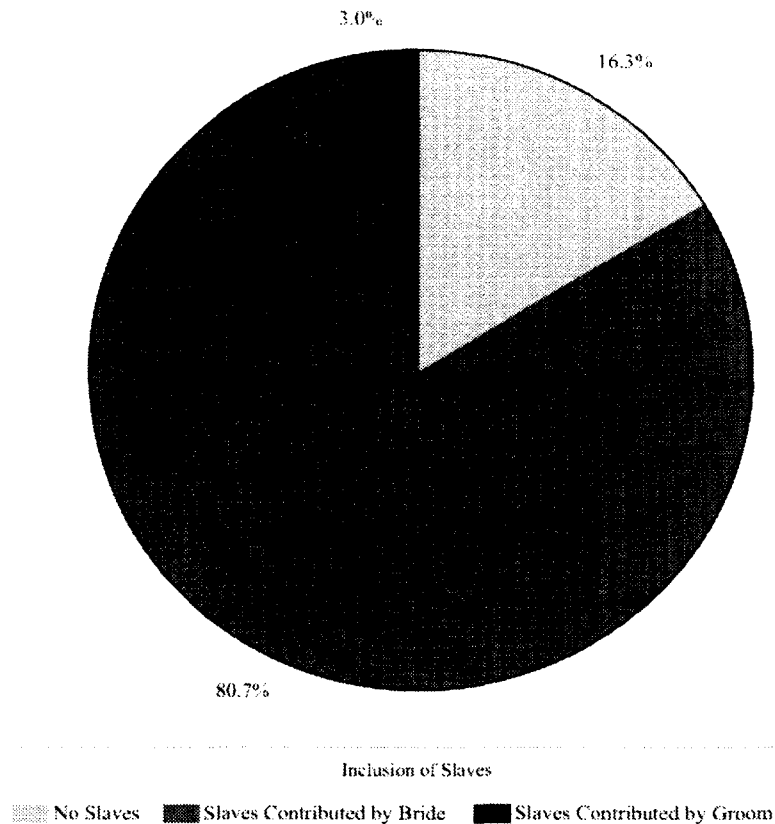
dowry in the late eighteenth century, as the previously discussed example of Benjamin Chew and his daughters shows.³² Within fifty years, furniture and other household goods, while still valuable, were declining relative to other types of property, if marriage settlements reflect broader patterns. Arguably they do – as the valuation of different types of property changed, families adjusted their investment patterns accordingly. In addition to the falling costs of furniture, more quickly changing tastes in the nineteenth century may have made furniture less of a long-term investment – it might lose style as styles came and went. Thus, families incorporated other assets into settlements that they hoped would maintain or increase in value. In South Carolina, those assets were slaves, land, and shares – in that order.

Unsurprisingly, throughout this period, the majority South Carolinians included slaves in their settlement – 85% of settlements included at least a partial share of an enslaved person, or the value of the labor thereof. All of the settlements but one included the “future issue and increase of the females” in the settlement, firmly linking property-holding married women’s financial gain to the reproductive exploitation of enslaved women. As Stephanie Jones-Rogers argues, women also prided themselves on slave ownership and the exercise of control of their human property.³³

³² Dowry for Elizabeth Chew Tilghman (1772-1776, undated); Dowry for Mary Chew Wilcocks (1763-1774); Dowry for Sophia Chew Phillips (1796-1798, undated), all in Chew Family Papers, Series II, HSP. Summary of kitchen items for Mary and Elizabeth Chew, “jacks of various sorts with weights and chains, crane hooks, frying pans, chafing dishes, spits, pot racks and pot hooks, ladles, flesh forks, dripping pans, bake ovens, cleavers, skewers, iron pots, iron skillets, sauce pans, brass and iron kettles, iron stew pans, coffee mills, fish kettles, and copper chafing dishes,” from Nancy E. Richards, “The City Home of Benjamin Chew, Sr., and his Family: A Case Study of the Textures of Life,” Cliveden of the National Trust, Inc. (1996), 22-23.

³³ Stephanie Elizabeth Jones-Rogers, ““Nobody Couldn’t Sell ‘Em but Her”: Slaveowning Women, Mastery, and the Gendered Politics of the Antebellum Slave Market”” (Ph.D., Rutgers The State University of New Jersey: 2012), ch. 1.

Figure 4: Inclusion of Enslaved People and Shares Thereof in Sample of South Carolina Marriage Agreements, 1751-1850



The peculiarities of undivided estates, where beneficiaries held enslaved people jointly, present the disconcerting problem of how to calculate the numbers of enslaved people included in a particular agreement. The strategy employed here was to quantify the share received, which resulted in sometimes-eerie fractions of people in this column. The deep irony of the chattel principle was highlighted in some of these settlements, where some women claimed, essentially, two-thirds of a person, or eight and a third, while others listed their enslaved workers in family units, some included infants not yet named.

As with other property, women brought enslaved people to their marriages in a wide range of numbers. Widow Jane Bishop brought one-third of the value of two people

to her marriage to mariner John Brooks in 1808. Jane Reilly Eliot brought the largest number of slaves, 142, to her 1782 marriage to Judge William Washington. Between these extremes, most women brought between one and ten slaves, with the median number being nine. The smaller number of large settlements tipped the mean higher, to 17.07. In total, these 196 settlements dictated the control of the bodies or value of 3,372.42 enslaved people.

Figure 5: Distribution of Enslaved People in Sample of South Carolina Marriage Agreements, 1751-1850

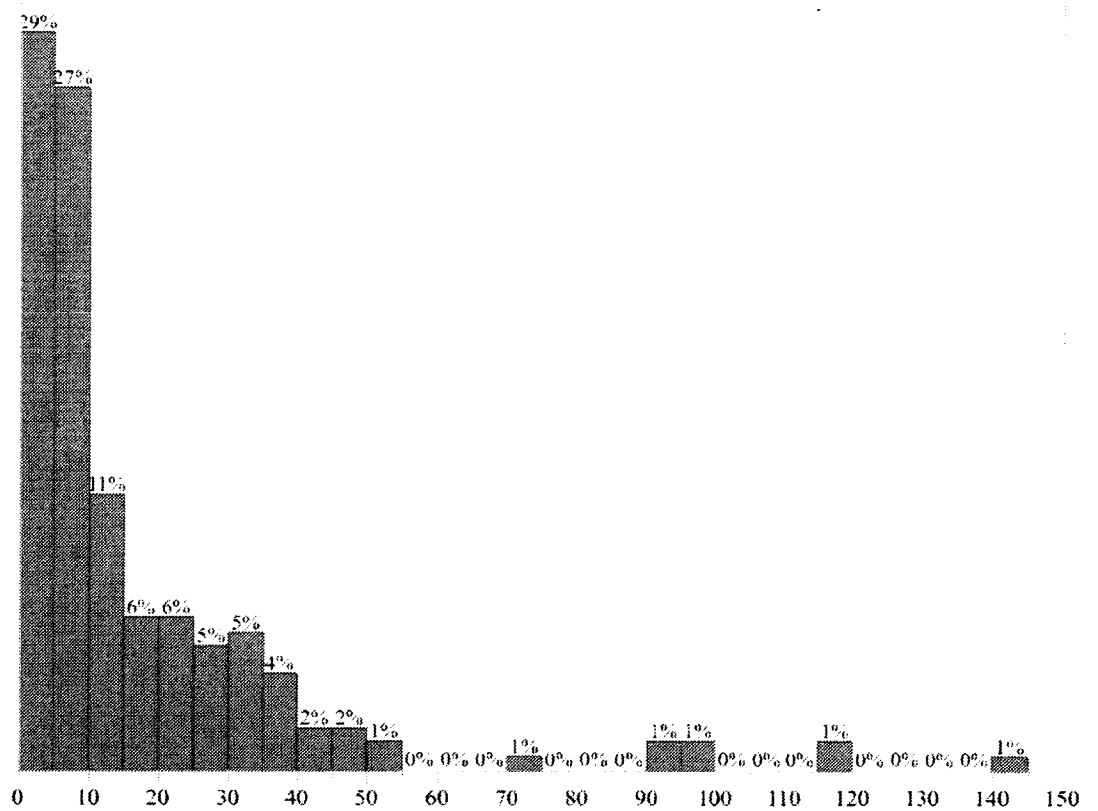
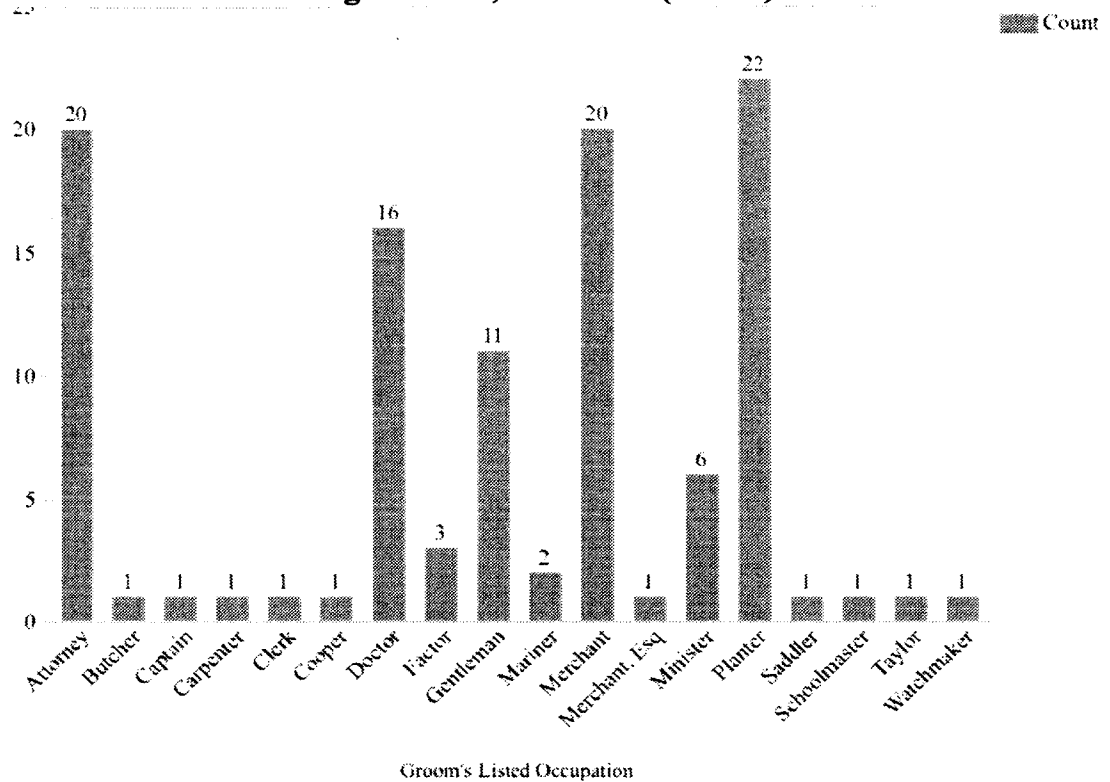
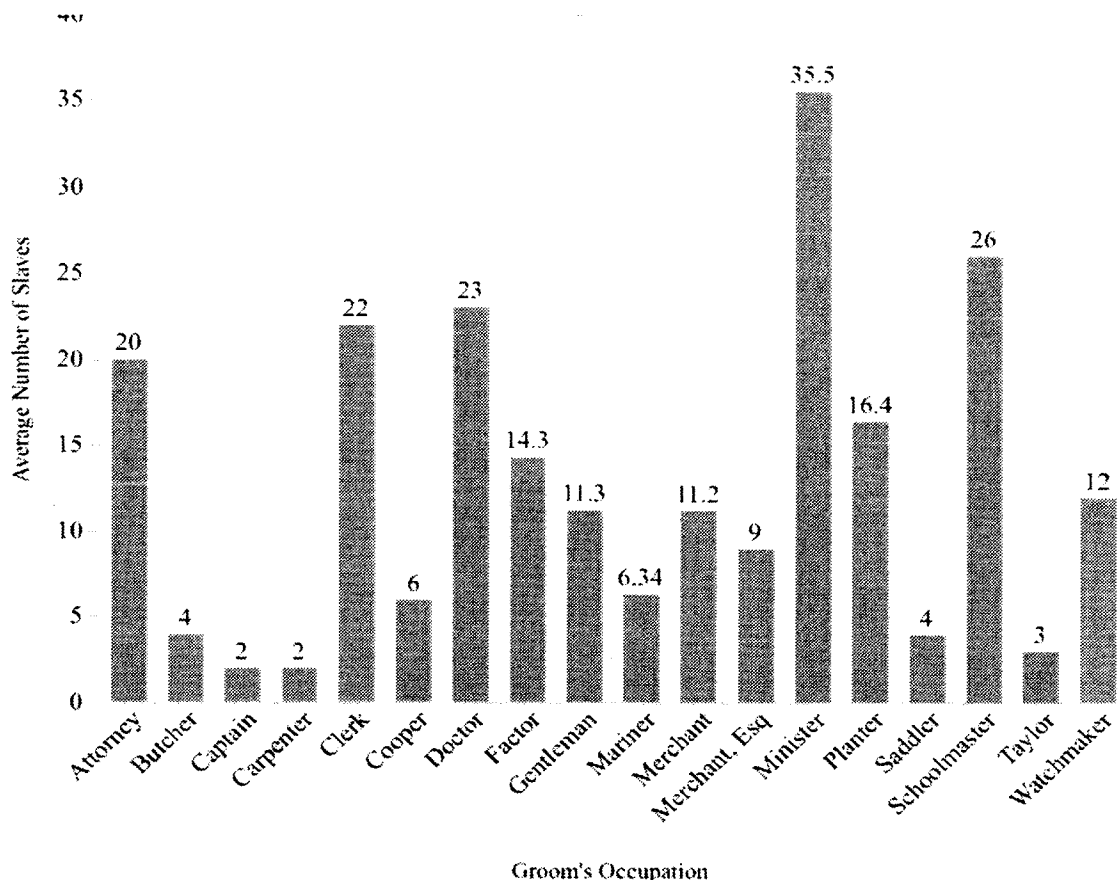


Figure 5: Groom's Occupation Listed in Sample of South Carolina Marriage Agreements, 1751-1850 (N=172)



As expected, planters, lawyers, doctors, and merchants typically held larger numbers of slaves than did tradesmen. This likely reflects the growing status of professionals, who, in slaveholding states, sought to leverage their social capital in marriages with women from slaveholding families. Enslaved people were useful not only to planters who need a large agricultural labor force, but also to professionals and artisans who might hire out their labor. Especially in Charleston, a hub of the slave trade, enslaved people could be sold for cash with relative ease, or, as became more common in the nineteenth century, used as collateral for debt. Fertile land also increased in value as the cotton economy expanded, and appeared in settlements more frequently, often as “packages” of plantations with workers.

Figure 6: Average Number of Slaves by Groom's Occupation in Sample of South Carolina Marriage Agreements, 1751-1850



Financial Instruments

Some settlements in South Carolina also included financial instruments. Initial calculations showed only 11% of shares between 1831 and 1850 included stocks – a puzzlingly low number. With investment in public and private stocks increasingly rapidly in the antebellum years, why were stocks showing up in such low rates? A partial answer has to do with a shift in recording and planning practices. Between 1810 and 1850, a growing number of settlements protected an *undetermined* marriage portion. Women were entitled to, or expected to become entitled to, estates that had not yet gone through the often-lengthy process of probating and distributing. These settlements simply laid out

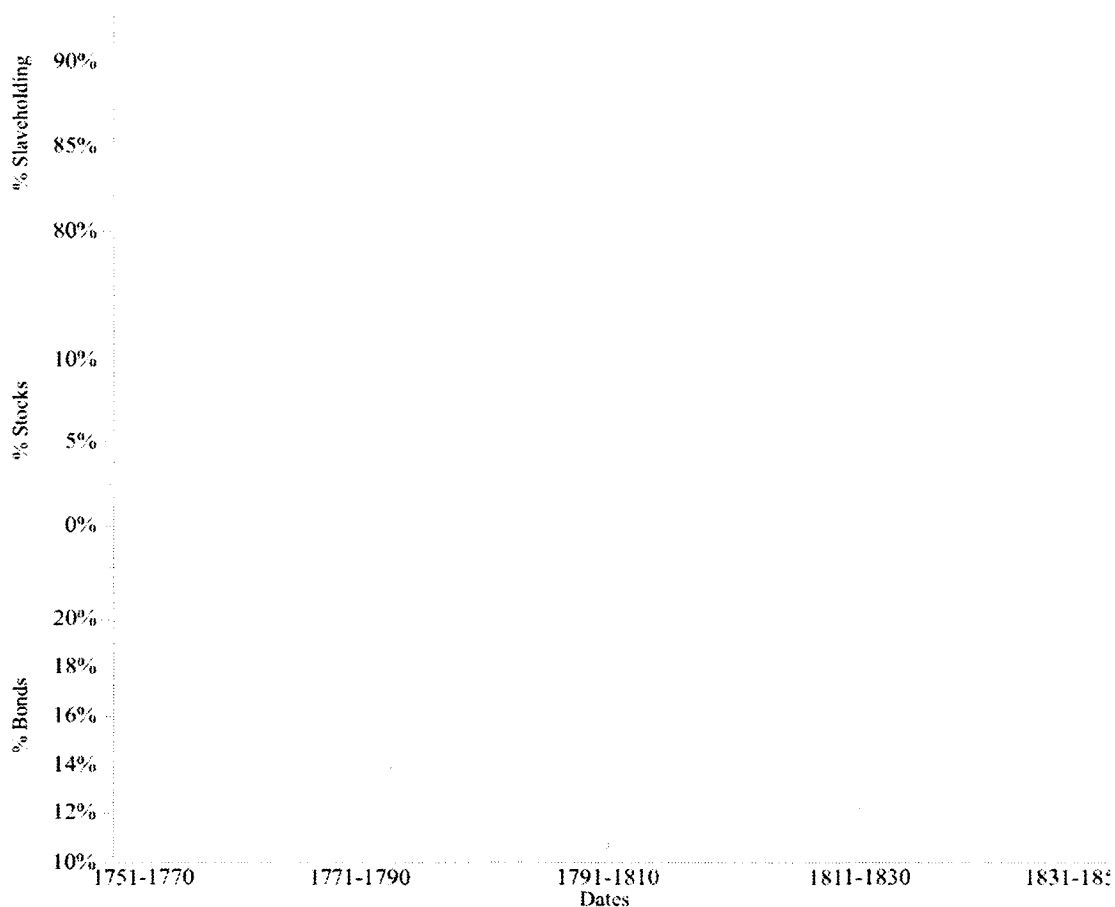
the terms of control for any and all property that the wife would eventually inherit.

When undivided estates are excluded, the proportions of stock ownership jump dramatically. Just over 10% of the settlements between 1810 and 1830 protected undivided estates; adjusting for this, we see a small increase of stock ownership from 11 to 12 percent. The big shift is in the next period; *half* of the estates in the 1830-50 sample set the terms of control for undivided estates. Excluding these bring the percentage of estates holding stocks to 25%, which suggests that marriage settlements reflecting growing involvement in the dynamic growth of banks and other institutions in this period. This suggests that while southern families continued to rely on slaves as wedding gifts, they gradually diversified these endowments to include financial instruments directly related to the growth of the market economy and financial sector.

As banks proliferated, so did the variety of investments included in marriage settlements. Reflecting the investment choices of a bride's father, most settlements after 1810 included stock in several institutions. This practice was not specific to South Carolina. Harriet Chew Carroll of Pennsylvania made a marriage settlement in which she waived her dower claim in exchange for an annuity and retaining ownership of her property. Her brother-in-law, president of a Maryland bank, managed her investments in four different banks, which yielded dividends in 1814 totaling \$1646. Harriet had access only to the dividends, not to the principal – an arrangement common in South Carolina settlements containing stocks.³⁴

³⁴ John Eager Howard to Benjamin Chew, Jr., September 10 1814; JEH to BC October 22 1814, both Box 57, Chew Family Papers, Historical Society of Pennsylvania.

Figure 7: Percentage of South Carolina Marriage Agreements in Sample Including Slaves, Stocks, and Bonds, 1751-1850



The settlements contain shares in wide ranges, but from a small number of institutions. The most commonly held shares were shares from banks local and state banks, with three holding shares in the Bank of the United States. Less often, settlements included shares from smaller organizations – two settlements included stock in insurance companies, one in a navigation company, and one in a regional railroad. The total stock holdings varied widely. Several settlements also included certificates for capitalized debt from the city of Charleston, the state of South Carolina, and, in one instance, of the United States. Anna Dexter contributed three shares in the Planters and Mechanics Bank

and two in the State Bank when she remarried in 1830. A decade later, Claudia Inglis had a more complicated settlement where she received one-fifth of nine shares of State Bank stock, twenty shares of Bank of South Carolina, and eighty-four shares Union Bank, plus one-sixth of \$1000 worth of South Carolina state stock at 6%. Christiana Woodruff's 1841 estate included an especially diverse portfolio of thirty-five "old shares" in the Bank of Charleston; seventy-two "subdivided shares" of the Company for the Inland Navigation from the Santee to Cooper River; \$3700 of State 6% stock; \$1227.93 of State 5% stock; \$4000 of 6% stock of the City of Charleston, and \$3000 of 5% city stock.³⁵

This analysis confirms that, at least in South Carolina, slaveholding was compatible with, even indicative of, engagement with the market economy; slaves and stocks were both investments with the potential for increased returns and largely dependent on the demand for agricultural products.³⁶ By expanding their investments from the people whose labor they appropriated to institutions that facilitated the buying, selling, and collateralizing of those people, South Carolinians' marriage settlements reflected the state's broader commitment to a market-engaged, slave-based agricultural economy. As such, the settlements' overall patterns of control – their allocation of power between men and women – suggest that the growth of capitalism in the early national South had little effect on women's access to and control over property.

³⁵ Settlement of Anna Dexter, South Carolina Marriage Settlements, SCDAH, Vol. 10, pp. 269-72; Settlement of Claudia Inglis, Vol. 14, pp. 323-25; Settlement of Christiana Woodruff, Vol. 15, pp. 94-98.

³⁶ The most recent work on the centrality of slavery to American capitalism is Edward Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (New York: Basic Books, 2014). Walter Johnson analyzes this in *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, Mass.: Belknap Press, 2013).

Questions of Control

In addition to dictating the kinds and quantities of property under the settlement's provisions, the documents also detailed the degree of control each spouse had over the property. Most estates were under joint control, which essentially gave the husband managerial control "for the joint use and benefit" of the couple and their children. He could hire out slaves, decide what to plant or produce, and invest the profits – as long as the principal in the trust remained constant. Just under half of the settlements permitted the "conversion" of one type of property to another – for instance, allowing trust slaves to be sold and their price invested in stocks or town lots. Only four percent of settlements dictated what might be called mixed or distinct control, where the husband controlled certain parts of the estate and the wife others. These arrangements ranged from the wife receiving the profits from her husband's management of the estate, to his control of land and her control of personal property, to a division of slaves into joint and separate groups.

Sole control, on the other hand, invested a woman's trustee(s) with the power to act on her behalf. Trustees were often a male relative of the bride, sometimes of her husband or deceased prior husband, or, increasingly, an attorney with no clear family ties. These arrangements ranged from merely customary, where a woman acted on her own behalf expect in instances where she needed legal representation, to passive, where the woman received profits and dividends from a trustee who made all the investment and management decisions. The general uniformity of the language, however, makes it hard to determine how these relationships functioned in reality.

Table 2: Characteristics of Random Sample of South Carolina Marriage Settlements, 1751-1850

Years	N	Percent of Total Made by Widows Before Remarriage	Percent of Total Including Clause for...		
			Sole Control of Estate	Protection from Husband's Creditors	Can Make Will During Husband's Lifetime
1751-1770	37	59.5%	56.8%	62.2%	40.5%
1771-1790	45	31.1%	42.2%	53.3%	66.7%
1791-1810	94	28.7%	39.4%	67.0%	31.9%
1811-1830	107	44.9%	37.4%	72.0%	25.2%
1831-1850	62	17.7%	41.9%	69.4%	24.2%
Total	345	35.4%	41.4%	66.7%	33.9%

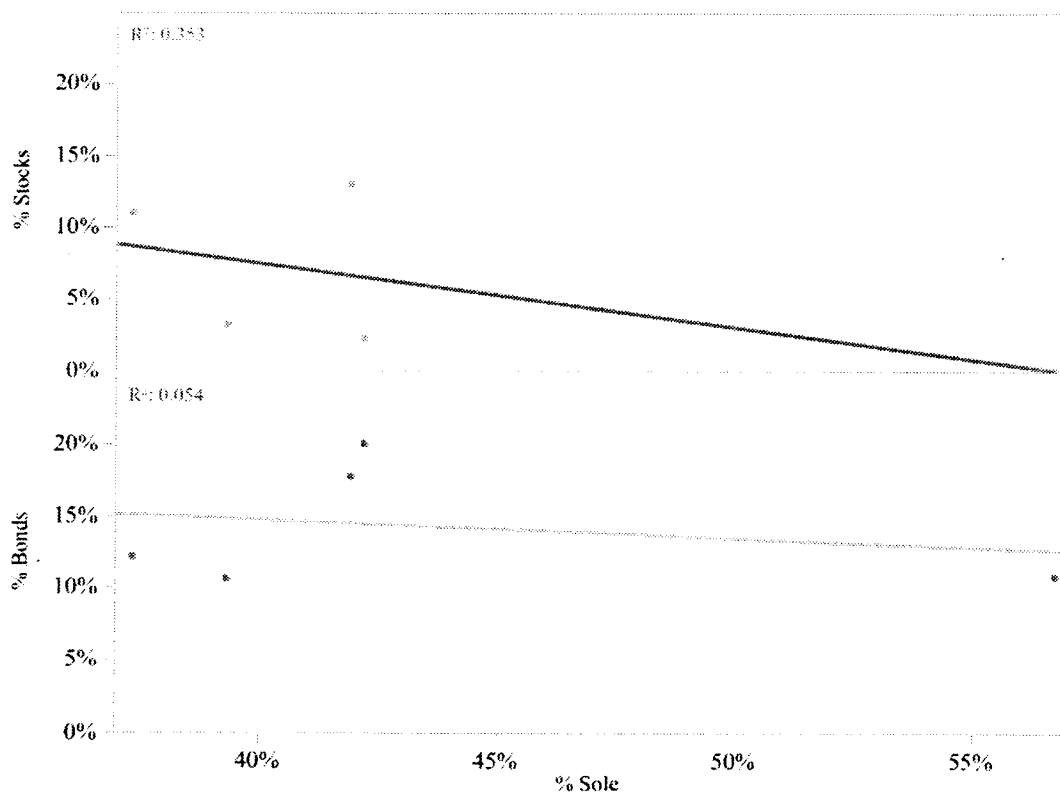
This analysis also considers how various forms of property related to whether a woman retained her property as a sole estate. As mentioned, widows were more likely to retain sole control of their estate, but frequently these were life estates with management rights for the benefit of children from a previous marriage. They were also more likely to bring goods to a marriage, which may partially explain the strong relationship between goods and sole control ($R^2 = 0.74$).

The relationship between slaveholding and control is less clear, likely because slaves continually constituted such a large portion of the property of marriage settlements. The average number of slaves in sole estates was slightly smaller than those in joint estates – 15.1 as compared to 18.2. Sole estates contained slaves at nearly the same frequency as the estates over all, 86.5% to 85%; 28.2% contained goods, 24.2% contained land, and 16.9% contained bonds, all within two or three percentage points of the aggregate averages.

Stocks appear to be correlated with *less* sole control over the estate. Only 4.2% of sole estates contained stocks, as compared to 9.55% of joint estates. Families that

included stocks as wedding portions also appear to have exercised more caution; three-quarters of stockholders included explicit debt protection clauses, while only two-thirds of estates in total included such protection. This implies a simultaneously conservative and progressive response to market development: while unwilling or unable to totally relinquish their investments in the traditional symbols of southern prosperity, families increasingly hedged their bets with investments they hoped would increase in value over time. The goal, however, was not to offer women independence, but rather to insulate family units from the shocks and setbacks of the market.

Figure 8: Relationship Between Percentage of Sole Estates and Percentage Including Stocks and Bonds in Sampled of South Carolina Marriage Agreements, 1751-1850



The Persistence of Patriarchy

The infrequent employment of marriage settlements and other protective measures after the maturation of the colonial and early national legal systems requires explanation. If settlements were “nearly ubiquitous” among the well-to-do in England in the seventeenth century, why did Americans fail to follow suit in the eighteenth or nineteenth centuries, when the both legal ability and economic incentive were established? Kathleen Brown finds that by the late seventeenth century, Virginia justices began to implement “literal interpretations of common law traditions that disadvantaged women in principle although occasionally affording them some legal protection in practice.” Brown suggests that this “aggressive” support of “patriarchal transmissions of property” may have been “in reaction to deviations [in] familial patterns” that resulted from the high mortality in early seventeenth century Virginia, which meant a disproportionate number of women were widows at some point. In the 1680s, “local courts more frequently intervened to defend the authority” of men as heads of household and to insist on married women’s legal incapacity - and by extension, their economic invisibility.³⁷ As Brown’s work shows, the resurgence of patriarchal legal privilege was essential to the maintenance of race-based slavery. A similar process took place in South Carolina, where the original vision for the colony was gradually eroded by the growth of African slavery, assisted in part by the influx of slave-owning Barbadian emigrants lured by the opportunity to acquire land. By the mid-eighteenth century, African slavery had displaced Indian slavery, and an elite class of both English and French ancestry had coalesced around a shared commitment to

³⁷ Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Chapel Hill: The University of North Carolina Press, 1996), 287.

white supremacy, undergirded by patriarchy.³⁸ While Pennsylvania's economy never relied on slavery to the extent of southern colonies, or even its nearer neighbors New York and New Jersey, its residents were not unfamiliar with slavery or immune to the prejudices racial slavery encouraged. For elite families in Pennsylvania, slave ownership before abolition was a means for "publicly proclaiming their financial success."³⁹ Thus, even in non-slaveholding states, slavery was widely recognized as symbolic of economic success and social aspirations.

Ultimately, ensuring elite women's access to property in people supported rather than undermined the slave-based economy.⁴⁰ Most parents endowing their daughters with separate estates did so not so much in the expectation of emotional or physical abuse from husbands and thus a safety valve in marriages, but rather to protect their grandchildren from financial hardship. In this sense, it was a partial recreation of the aristocratic system of entails which protected productive estates from being broken up for distribution among female heirs. Marriage settlements insulated women and their children from men's business failures, offering a modicum of stability to wealthy families in times of growing economic uncertainty, as the nineteenth century witnessed a series of wracking financial panics, the decline of the fertility of eastern planting land, and a

³⁸ Chapters I-VII in Jack P. Greene, Rosemary Brana-Shute, and Randy J. Sparks, eds., *Money, Trade, and Power: The Evolution of Colonial South Carolina's Plantation Society* (Columbia, S.C.: University of South Carolina Press, 2001) offer concise and excellent overviews on the demographic, political, and economic development of seventeenth-century South Carolina.

³⁹ Alan Tully, "Patterns of Slaveholding in Colonial Pennsylvania: Chester and Lancaster Counties 1729-1758," *Journal of Social History* 6, no. 3 (April 1, 1973): 285.

⁴⁰ Kirsten E. Wood, *Masterful Women: Slaveholding Widows from the American Revolution through the Civil War* (Chapel Hill: University of North Carolina Press, 2004); Stephanie Elizabeth Jones-Rogers, "'Nobody Couldn't Sell 'Em but Her': Slaveowning Women, Mastery, and the Gendered Politics of the Antebellum Slave Market'" (Ph.D., Rutgers The State University of New Jersey - New Brunswick, 2012).

speculative frenzy in western cotton land. Separate estates ensured women resources protected from their husbands' creditors and the transmission of property through the maternal line. For a handful of women, property secured through marriage settlements offered them a source of income their husband's could not control. Judges expressed discomfort with even this modicum of female independence even as they enforced the laws that created it, continually policing the boundaries of that autonomy.

Perhaps, then, colonial slavery, and the legal policies and practices designed to secure it, offers some explanation as to why women in British North America were unable to employ the same strategies for property protection as their English counterparts. White women in America benefitted in other ways from white supremacy, but it may be that these privileges came in part at the cost of some of their legal rights as established by English law. As a legal principle, "coverture was ostensibly an economic exchange" where "[t]he bride's portion was exchanged for her maintenance during marriage, the groom's responsibility for her contracts," and her maintenance should she outlive her husband.⁴¹ Yet English women frequently took measures to "evade" the legal limitations of coverture - to which English men consented - while American women rarely did so. As the following cases suggest, men in America in eighteenth and nineteenth centuries had firmly held beliefs about their entitlement to economic gain via marriage that may have been rooted as much in the imperative of patriarchal control as in economic dependence. Even when men consented to separate estates, they vigorously defended their right to at least some of their wives' dowries. Men's assertions of control form the basis of the following chapter.

⁴¹ Erickson, *Women and Property*, 100.

Chapter 4
“The consideration due to him as the head of his family:”
Husbands’ Rights, Property, and Masculinity

Despite shared legal and cultural heritage, for several British colonists and later Americans employed marriage settlements far less frequently than their English counterparts. The socio-economic distinctions between the mother country and her offspring likely conspired to make marriage settlements seem less necessary or useful: land in the colonies was plentiful, rather than scarce, and thus did not need to be as carefully managed as in England. Colonial elites did not have to manage noble lineages, and the class structure was more elastic, permitting families that could marshal sufficient resources to eventually elevate their status. Thus for American elites, marriage was a key opportunity to accumulate the wealth necessary for westward expansion, establishing plantations, or launching business enterprises. As the remainder of this chapter illustrates, American men widely expected to gain access to their bride’s wealth at marriage, and American women generally acquiesced. In the absence of economic and legal pressures to relinquish control of marital property, husbands were reluctant to cede this source of financial and social power. American men developed defenses of coverture based not only on the orderly transmission of property but also on the masculine right of husbands to control family property.

Men’s reactions to the proposal of a separate estate varied widely, but they consistently connected the acquisition of property at marriage and masculine prerogative. Men’s consent was only necessary for tripartite trusts, where the groom, bride, and a third party (usually the bride’s father or mother) agreed to the appointment of a trustee and the terms of the management of the separate estate. Postnuptial trusts could also be

established unilaterally in wills, and courts upheld the testator's right to set the terms for the posthumous distribution of his property. Prospective grooms might acquiesce to the premarital separation of some property, even a significant portion of a woman's portion, but most men insisted on receiving something as a sign of their power as husbands. They saw consenting to their total exclusion as emasculating, and an abrogation of their rights as husbands. Some even compared the denial of property to slavery or an inversion of sexual hierarchy— equating lack of control over resources to the total deprivation of their liberty and subjugation to others.

Some men resorted to deceit to secure what they viewed as their right to their wife's property. In 1840, Maria Abeline Shier Williams stood up to her late husband, Henry. They had been married a little under three years. While we have no indications of what their married life was like, Maria made sure that posterity would know that it had begun with a betrayal. As a widow, she filed a postnuptial settlement with the Secretary of State in South Carolina that recorded her late husband's misdeed. Maria had said her vows to Henry believing he had granted her a small but significant power – the right to control the property she owned already via a prenuptial settlement. Despite his promises, Henry apparently believed that he, as the man and husband, deserved total control over *all* of their combined assets. His cunning betrayal suggests how significant the issue of women's control over property was in antebellum America – not only financially, but psychologically. The little information Maria left behind is a stark reminder that property was power in early America, and that gender was a crucial variable in how both property

and power were distributed.¹

According to Maria, she and her family were eager to insure that the three enslaved people she inherited from her father would be secure from confiscation, should Henry's finances suffer. Furthermore, they had insisted that the slaves form a sole and separate estate, placing them under *her* direct control, notwithstanding her impending coverture. After her death, the slaves would go to their children rather than to Henry. This agreement was reached in December 1837; in the midst of the Panic, such a precaution was eminently sensible. Henry agreed – whether immediately, or only after pressure or negotiation, we cannot know. His subsequent actions, however, highlight the limitations of women's legal, and thus economic, power.

Henry apparently schemed to thwart his wife's plans. Marriage settlements were drafted before the wedding, and had to be filed within three months of the wedding date to be legally enforceable. This temporal gap left Maria vulnerable, and Henry took advantage of it. Before the settlement was filed, Henry, "by means violent and unfair, obtained possession of the said deed of Marriage Settlement and destroyed and made away with the same." Henry's intention, in "direct violation of the contract," was to "deprive his said wife... of the benefit and advantage of the said Marriage Settlement."² His objection was not directly stated, but probably Henry took issue with being deprived of access to Maria's property – one of the rights men expected when they married. Henry knew Maria had no recourse; now that she was married, she could not be take legal action without outside help. Henry could control or even sell her slaves, without her consent.

¹ Marriage Settlement of Maria Abeline Shier and Henry L. Williams, 1837, Miscellaneous Records, S.C. Secretary of State, 5X, 493-96.

² Marriage Settlement of Maria Abeline Shier and Henry L. Williams.

She was trapped.

Maria's early widowhood, three years later, gave her a rare opportunity to reassert her rights. Any sadness she felt seems to have been mingled with relief and bitterness, for she drafted and filed a new trust agreement shortly after his death. Furthermore, she chose to create a record of her husband's treachery, suggesting that her motive was not only her desire to create a trust for their infant son, but to expose her husband's duplicity and finally claim her rights. As their only child, baby Charles would inherit all of his father's property – including his mother's, unfairly gained – when he turned twenty-one. However, Maria still wanted control over the property that Henry had denied her three years before. Maria stipulated that she had a life estate in the named slaves, which would continue even if she remarried. After her death, they would be transferred to her son. Maria thus did not take advantage of the situation to privilege herself over her child, or in anticipation of remarriage, but only to provide herself with additional security during her widowhood and any potential future marriage – the intention of the original marriage settlement that Henry had destroyed.

We cannot know how many other women found themselves in a similar predicament. Marriage settlements, while extremely rare, were increasing - for instance, in South Carolina, only 61 women filed settlements between 1750 and 1759, but thirty years later, the number had more than tripled to 192 between 1780-90, and nearly doubled the following decade to 361. The rate of increase was slower in the antebellum period; in the 1850s, 471 couples registered settlements.³ But the numbers, at least of

³ These numbers come from a tally of settlements listed in Barbara Langdon's exhaustive indexes of South Carolina marriages; Marylynn Salmon likewise found an upward trajectory: "Women and Property in South Carolina: The Evidence from Marriage Settlements, 1730 to 1830," *The*

properly registered settlements, was a minuscule percentage of population; in 1790, while the federal census recorded 35,576 free white males over 16, only 25 marriage settlements were filed that year - a mere 0.0007%. In 1860, the rate had increased only a hair, to 0.00076%, with 42 marriage settlements and 55,046 free white males over 18. Suzanne Lebsock finds that before 1810, marriage settlements in Petersburg, Virginia, “were distinguished by their scarcity,” but increased between 1821 and 1860, from roughly 1 in 62 women filing settlements to 1 in 26.⁴

Thus, while the vast majority of women evidently accepted the gendered control of property, more families were at least seeking safeguards for married women, if not increased control. Even as the American economy became increasingly complicated, legal rules about gender and property remained largely static, leaving most women at the mercy of their husbands, and many worse off in the volatile antebellum economy. Within the legal strictures imposed by the states in which they lived, a growing number of women like Maria and their families sought to carve out a measure of security – and sometimes, power. In so doing, however, they ran up against deeply entrenched ideas about men’s rights to gain property at marriage.

While some men like Henry Shier resorted to deceit to access their wives’ property, other men appear to have accepted separate estates either as a matter of course or as a strategy to defend their newly formed family from the vagaries of the market economy. Businessmen and planters could be buffeted by the winds of fortune, and a separate estate provided a safety net against total destitution. Men and judges drew the line, however, at the total exclusion of men from their wives’ estates. Failure to acquire at

William and Mary Quarterly, Third Series, 39, no. 4 (October 1, 1982): 655–85.

⁴ Lebsock, *Free Women of Petersburg*, 76.

least some property at marriage was seen as a violation of a husband's rights as a man to represent his family economically and legally.

Women who had enjoyed the benefits of settlements might have been more likely to insist upon them for female kin.⁵ This reflects what Suzanne Leacock termed women's "personalism," "a tendency to respond to the needs and merits of individuals." As she presumably did for her daughters, Ann Elliott Morris also sought to secure a separate estate for her granddaughter Julia Morris. However, the shrewd South Carolina matriarch overstepped in 1843, as is revealed in an equity complaint filed that year. Ann was one of the guardians of her orphaned granddaughter Julia, and sought to ensure her future security. Julia was the heir to the majority of the extensive Hope Plantation property, as well as its improvements and eighty-six adult enslaved laborers and their children. While both Julia and her fiancée William Stebbins were raised in New York, they were married in Charleston, where her grandmother Morris was born and also held extensive property.

William's behavior suggests how some men could be receptive to separate estates. William swore that when he proposed to Julia, "he was ignorant that he was entitled to any property at all," until Ann Morris informed him of it. This seems unlikely – he was courting a well-educated, well-supplied orphan who lived with an exceptionally wealthy grandmother as her guardian. More likely, William was adhering to the rhetorical trope of unselfish romance popular with – and expected of – young people in the antebellum era.

Julia's grandmother was well aware of her granddaughter's wealth, however. In August 1841, "four months after his engagement" to Julia, Mrs. Morris "asked him if he

⁵ Suzanne Leacock, *The Free Women of Petersburg: Status and Culture in a Southern Town, 1784-1860* (New York: W. W. Norton & Company, 1985), defined xix; see also ch. 5, "Women Alone: Property and Personalism."

has any objections to settle his intended wife[']s property on her, Mrs[.] Morris stating at the time that as there was a probability of this Defendants going into business, she was very unwilling that her granddaughters fortune should be taken to pay her husbands debts, to which proposition the Defendant cheerfully agreed, and replied that he was anxious that his wife should enjoy her own property.”⁶ William may have simply thought it the fair thing to do, or he may have shared Mrs. Morris’s concerns about bankruptcy after the Panic of 1837. In either case, a separate estate ensured that Julia would have resources to fall back on in case of financial hardship.

Perhaps in the whirl of preparations, William forgot about that conversation, and his future grandmother-in-law didn’t bring it up again. But then, he later testified, standing before the altar on his wedding day,

five minutes before the marriage ceremony – in fact after he had stood up before the clergyman to be married... he was beckoned from the room by Mrs[.] Morris, who said to him that she hoped he was willing to do as he had promised in relation to a settlement of Miss Morris’ fortune, to which the defendant answered certainly, upon which he was carried into a small room where he found his intended wife and her Trustee present, and when a paper purporting to be marriage articles between the said defendant and his said intended wife... was handed to him for his signature which the defendant signed, ignorant of the contents of the instrument.⁷

Mrs. Morris had drawn up marriage articles in New York in early October of 1842 in anticipation of the wedding later that month, perhaps with the assistance of Julia’s trustee. While she informed her son-in-law Elias of her plan because she insisted he pay for the costs of filing the settlement, she carried them to Charleston with the

⁶ Julia Morris to Elias Vanderhorst, April 9 1841, Vanderhorst Family Papers, Box 197, folder 25; Simons & Simons Legal papers, SCHS, Box 31 (M) 41.

⁷ Simons & Simons Legal papers, SCHS, Box 31 (M) 41.

apparent intention of surprising the couple at the last minute.⁸

Men like William were forced to articulate their expectations of financial gain when these expectations were thwarted. After the wedding, Julia insisted she was as shocked as William to find that the document dictated the “total exclusion of her husband from the benefit of her fortune.” Mrs. Morris has miscalculated, however, in returning to New York to file the settlement - under New York’s law, a Bill had to be filed before the contract legally took effect, offering the newlyweds the opportunity to object.⁹ They chose to do so in South Carolina, perhaps aware of the courts’ sympathy towards husbands.

In his complaint, William argued that the articles were “so unjust, illiberal and contrary to what he had verbally agreed to” that he refused to accept them. He asked the court that “the said articles may be entirely set aside as obtained by surprise and in the place thereof, your Honors may order and decree such settlement of his wife[‘]s fortune as may protect her interests and that of the issue of the marriage, without depriving this Defendant of the consideration due to him as the head of his family.”¹⁰ Perhaps William was counting on receiving money or property necessary to start or augment his business, or he may have simply been insisting on his “consideration as the head of his family” on principle.

The court readily concurred. Judges in Chancery on previous cases like the Morris-Stebbins dispute had repeatedly expressed hostility to women’s control of

⁸ Ann Morris to [Elias Vanderhorst], October 4, 1842, Vanderhorst Family Papers, Box 198, folder 3. Julia had only determined the outlines of her wedding plans in late September: Julia Morris to Elias Vanderhorst, September 30, 1842, Vanderhorst Family Papers, Box 198, folder 3.

⁹ P. Lesesne to Elias Vanderhorst, March 8, 1844, Vanderhorst Family Papers, Box 198, folder 10.

¹⁰ Simons & Simons Legal papers, SCHS, Box 31 (M) 41.

property and zealously guarded husbands' rights. Thus, judges were in the peculiar position of having to uphold equity law even when they might personally oppose its effects. In the Stebbinses' case, the justice readily agreed with William's arguments that his consent had been obtained fraudulently and appointed a lawyer to inventory Julia's fortune and recommend a settlement more agreeable to the couple. Ultimately, Julia retained control of roughly half of the land, slaves, stocks, and bonds she inherited from her father's estate.¹¹ William agreed that this new settlement was perfectly fair.

The Morris-Stebbins example is an unusual one, in both subterfuge and outcome. Most men unhappy with their marriage settlements after the fact could do little about it. Courts were zealous in their enforcement of contracts, though as other examples show, they could creatively reinterpret the intent of some contracts to benefit husbands over wives. Indeed, courts were enforcing the rights of the *male* parties to the contract, and the sanctity of contracts more generally, rather than extending women special protections.

In some instances, the fiancé or his family might request a marriage settlement, based either on principle or interest. Charles Carroll of Carrollton is a clear example of a father who used marriage settlements to keep his estates intact one more than one occasion. When his son, Charles Carroll of Homewood, declared "my unalterable affection" for Harriet Chew of Philadelphia, he had to secure his father's support – but the support had strings.¹² Two weeks after his proposal, Charles wrote to Harriet's father to lay out his means of support, but also "to acquaint you fully with the conditions of my

¹¹ Simons & Simons Legal papers, SCHS, Box 31 (M) 41; S.C. Secretary of State, Recorded Instruments, Marriage Settlements, Vol. 15, 431-33, SCDAH; S.C. Secretary of State, Recorded Instruments, Marriage Settlements, Vol. 16, 116-120, SCDAH; P. Lesesne to Elias Vanderhorst, March 8, 1844, Vanderhorst Family Papers, Box 198, folder 10.

¹² Charles Carroll of Homewood to Benjamin Chew, Sr., [5 May 1800], Chew Family Papers, HSP.

Father on which my marriage with your Daughter must depend.” Probably hoping to predispose his future-father-in-law towards accepting the terms, Charles continued, “When two Young Persons Love, and are willing to sacrifice this happiness through Duty and Obedience to their Parents, it is incumbent on the latter to make every reasonable effort to promote their union.” His father, he reported, will “bear [the] expense of a full & genteel establishment for us.” Charles, Sr., agreed to purchase the couple land, pay \$10,000 for a house, plus contribute furnishings and slaves – in addition to \$5000 annually for their expenses.¹³

Charles Carroll, Sr., had two primary concerns, however: that his grandchildren share his Catholic faith, and that his property remain within the male line. After receiving assurances that she would face no pressure to convert, Harriet agreed to permit her children to be raised as Catholic. To protect his son’s inheritance, the elder Charles Carroll insisted that Harriet relinquish her right to her dower in her husband’s estate. This meant that if she outlived her husband, she could not claim one-third of the value of his estate for her support for the remainder of her life. In lieu of dower, Harriet would receive \$3,000 annually during her widowhood. Harriet also retained her “Estate Rights Propertys and Effects... under her sole entire and Exclusive Direction Controul and Disposition... the same shall not in any manner be in Power or Disposal of the Said Chas Carroll.”¹⁴ Charles, Jr., had earlier assured the Chews that “In case of an accident to me during [my father’s] life I can safely depend upon his honor for placing my Widow in

¹³ CCH to Benjamin Chew, Sr., 19 May 1800, Chew Papers, HSP.

¹⁴ Marriage Articles, 28 June 1800, Chew Papers, HSP – Tripartite indenture between Charles Jr. and Charles Sr. of the first part, Harriet Chew of the second part, and Benjamin Chew of the third part.

a Situation not dependant solely on the settlement which he has made on her.”¹⁵ Thus, while Harriet lost her dower rights, she could expect financial assistance should she outlive her husband – or, as ultimately happened, they should separate.

The elder Carroll likewise insisted that his daughters have marriage settlements. When Robert Goodloe Harper courted Kitty Carroll, the patriarch at first dismissed Harper’s suit, because Harper had not “fulfilled the stipulations of our Conversation on this subject. I then told him, & now repeat, that he must first acquire an *established* practice & income, sufficient to support, in a comfortable and decent way, himself and family, before I would permit his visits.” Carroll expressed skepticism regarding Harper’s future as well as present financial stability; Harper reported his current income was \$7,000, with an expectation of \$10,000 in future years. Carroll thought such expectations unrealistic, given the risk of “derangements of mercantile pursuits & property, and the political Changes with which our country is threatened (should they take place, as they probably will) must Certainly greatly diminish the business of the Courts, and may put an entire stop to it, and of Course to the profits of Lawyers.”¹⁶

Carroll further declared that “I shall never suffer any part of Kitty’s fortune to be applied to the payment of her husband’s debts” – in Harper’s case, about £4,000. Carroll expected that “Previous to his marriage with Kitty (an event however not likely to happen, or at distant day, if ever) a House must be purchased & furnished, & a carriage set up” – the essentials of a comfortable lifestyle for his daughter. Interestingly, however, Carroll assumed that “These and other items of expence will require considerable

¹⁵ CCH to Benjamin Chew, Sr., 19 May 1800, Chew Papers, HSP.

¹⁶ Robert G. Harper, Extract of letter from Charles Carroll of Carrollton to Richard Caton, Sept. 8, 1800, Harper-Pennington Papers, MS 431, MdHi.

disbursements, which surely ought to come out of the husbands, not the wives, fortune.” Other families’ decisions show that for most couples, the question of who provided the house was open-ended, but women often supplied the furnishings. In any case, Carroll insisted he could bear neither expense. “Under existing circumstances,” he concluded, “prudence dictates withholding my assent to his marriage with my daughter, and until these circumstances are changed, . . . I hope he will discontinue his attention and assiduities to my daughter.”¹⁷

It is unclear why Carroll relented, but Kitty eventually did wed Harper, and his elder daughter Mary also married a man whose finances Carroll doubted. Probably, he was persuaded by his daughters and by the prevailing sentiment that children should have latitude in selecting their spouses. Carroll reported Mary’s engagement unenthusiastically, writing that “I do sincerely wish she had placed her affections elsewhere; but I do not think myself at liberty to controul her choice.” Richard Caton, like Harper, was accepted conditionally, with the expectation that he “shall extricate himself from some debts, which he has contracted, and Shall get into a business sufficient to maintain himself, and a family.”¹⁸ Neither Harper nor Caton ever satisfied Carroll’s expectations for success and solvency. In his will, Carroll ordered the property set aside for Mary Caton placed in a trust protected from her husband’s creditors, creating a new marriage settlement.¹⁹ Charles, Sr.’s grandson entered into a marriage settlement with his

¹⁷ Robert G. Harper, Extract of letter from Charles Carroll of Carrollton to Richard Caton, Sept. 8, 1800, Harper-Pennington Papers, MS 431, MdHi.

¹⁸ CCC to Daniel Carroll of Duddington, Mar. 13, 1787, Harper-Pennington papers, MS 431, MdHi

¹⁹ Will of Charles Carroll of Carrollton, Nov. 18, 1831, published in Kate Mason Rowland, *The Life of Charles Carroll of Carrollton, 1737-1832: With His Correspondence and Public Papers*, Volume 2 (New York: G. P. Putnam’s Sons, 1898), 419, 420, 422.

fiancée, in which, like Harriet Chew, Mary Lee Digges renounced her claim to dower in exchange for a cash settlement – in Mary’s case, of only \$1500 per annum.²⁰

Like Charles Carroll Sr., other men also wanted to ensure that their daughters-in-law have some security should their sons suffer a financial setback. As a dutiful father and stepfather, St. George Tucker of Virginia was concerned for the financial futures of both his sons and daughters - particularly his son Nathaniel Beverley, known as Beverley. In 1807, Beverley, “without a shilling of property” or “any *certain* hopes... of future success” as a lawyer, wrote of his intention to marry. His bride-to-be was Polly Coalter, the younger sister of his law tutor, and already his sister-in-law - Polly’s older brother had married Beverley’s older sister. Beverley informed his father that his half-brother John Randolph had gifted Beverley 300 acres and nine slaves to allow him “a competent independence.” St. George, perhaps stung by his son’s implicit criticism of his own ability to settle his children, was mortified that his son would further burden his brother, who “if I am not mistaken... is still encumbered by his father’s debts.” St. George demanded his son delay the marriage until “by Industry and assiduity you have laid an actual foundation for your mutual support & that of your family, without the aid of your Brother.” He further insisted that his son enter into a “settlement properly drawn etc *before the marriage*” with Polly. St. George wrote to Polly’s brother John that he “by no means consent[ed] that Polly shall be left to the Vicissitudes of Life, of Virginia Laws, & Virginia Adjudications in Cases of *Widows*.”²¹ Beverley stubbornly proceeded with his

²⁰ CCD and Harriet Digges Lee, Marriage Settlement, Sept. 30, 1825, Anne Arundel County Land Records, Liber WSG no. 11, fols. 378-380. Thanks to Mary Jeske of the Carroll Papers for sending this to me.

²¹ St. George Tucker to John Coalter, December 4, 1808, Brown-Coalter-Tucker Papers, Manuscripts and Rare Books Department, Swem Library, College of William and Mary. Cited in

plans to marry, however, and it is unclear whether he and Polly contracted a marriage settlement. Ultimately, it would have mattered little; Polly predeceased Beverly, dying after eighteen years of marriage.

These examples suggest that the men and women who contracted marriage settlements saw them not only as a means of consolidating property, but as a form of insurance for women during widowhood. Consistently, parents or guardians broached the subject of protecting property. Young people, whether from lack of experience with finances and the law or because the emotional aspects of prospective matrimony distracted them, generally seemed to think them unnecessary. In some cases, men later regretted having relinquished control over the property their wives' brought to marriage. Their dissatisfaction is revealed in private correspondence and, in some instances, legal action.

Seeking Control: Exclusion from Fortune as Emasculation

Some men who consented to marriage contracts chafed at the restrictions they represented. While they took varying degrees of offense and of action, all argued that access to their wives' property was a fundamental right of husbands. To be excluded from this control undermined their status as men and masters.

At least one unhappy husband went so far as to sue his mother-in-law. In Virginia in 1805, James Hubard and his bride-to-be Susannah Wilcox signed a deed of trust before their marriage. The settlement allowed the couple joint use of the more than 6,000 acres and 82 slaves Susannah inherited.²² Within eighteen months, however, James rebelled

Hamilton, *The Tuckers of Virginia*, p. 120-22.

²² Indenture, May 8, 1805, Hubard Family Papers #360, Southern Historical Collection, the

against his lack of control over his wife's resources – and his related failure to profit by their marriage. In a scathing letter to his mother-in-law, he complained, “At the time that I married, I certainly had a right to expect pecuniary or money assistance. Susan was wealthy and her funds quite sufficient. But what assistance have they afforded me? None.... You are fully apprised of the fact that since our Marriage Susan's estate has not brought to my hands more than \$100.” While he did not put a dollar figure on his expectations for “assistance,” it clearly exceeded the paltry \$100 he had received. He railed against the marriage contract: “I little suspected at the time that I married into your family that in consequence of the Marriage contract or settlement between my Wife & myself, that any right was invested in you of controlling the use of the funds or Money belonging to my dear Wife.”²³ James evidently did not realize that the contract did not transfer authority from his mother-in-law to himself.

The issue of control was central; without it, Hubard felt “trampled on.” He accused his mother-in-law of paying a manager an “exorbitant salary” for allowing the estate to decline – an estate which, he complained, she had little right to, “because the Admin^x prior to her marriage with Dr. Wilcox was much embarrassed + declining and her affairs. After his marriage with her, he discharged her debts[,] improved her own estate, erected an expensive Mill on her land + indeed left her in a state of affluence.” He complained of her account keeping as her daughter's guardian, which was in fact required by law. “Under these circumstances,” he insisted, “to charge her only child for board, & the expense of dressing, and resorting were going to places of Amusement, it is certainly extremely unnatural if not highly absurd & unjust.” He was particularly outraged that she

Wilson Library, University of North Carolina at Chapel Hill.

²³ James Hubard to Susannah Watson Bolling Wilcox, November 3 1806, Hubard Family Papers.

placed a large payment to her late husband's estate into the trust, rather than in Hubbard's possession. Hubbard had evidently assumed that any payments after the date of the marriage settlement would automatically go to him. He demanded, "Can you suppose for one moment that I would submit to your control or direction or to that of such men as [the other trustees]?" His passive position in the trust made him a "subject of general talk & laughter."²⁴

A second key issue was that the entire estate of the late Mr. Wilcox was entrusted to Susan without reference to her mother's right to dower. Hubbard insisted that Mrs. Wilcox therefore had no claim to any of the trust property after that date. Hubbard thus felt himself doubly robbed – of his power by virtue of the control of his wife's property, and of additional property he considered rightfully his. James grandly declared, "no earthly power can ever make me so far to degrade myself, unless I have some stupidly committed myself in your marriage contract as to make me a slave – which I know I have not done."²⁵

The trouble was, however, that he *had* committed himself. The wording of the settlement did not dissuade him from launching a lawsuit to recover control of his wife's estate – an essential component of his husbandly identity. The case eventually made it to the Virginia Supreme Court, and was finally decided in November of 1814. The Supreme Court overturned a lower court's decision, and rejected Hubbard's claims on both counts. The wording of the deed, they concluded, "amply evinces the intention of the parties to limit its operations to the conveyance of [Susan's] interests, exclusively of her mother's," and upheld Mrs. Wilcox's claim to her widow's thirds. It also clearly limited Hubbard's

²⁴ James Hubbard to "Gentlemen," September 9 180[6], Hubbard Family Papers, SHC.

²⁵ James Hubbard to Susannah Watson Bolling Wilcox, November 3 1806, Hubbard Family Papers.

gains to the interests and profits, rather than the principal, of the estate. Despite the familial conflict her trust had caused, Susannah “Susan” Wilcox clearly saw the benefit in protecting her property in trusts. Hubbard died a few years after his suit against his mother-in-law, and when Susan decided to remarry in 1818, she took advantage of a deed of trust to protect her estate for the benefit of their three children.

Not all grooms were prepared to share *any* control of property with their wives and their wives’ trustees. As discussed in chapter 1, James Henry Hammond was an extreme example of the fortune hunter that wealthy families feared. Hammond, an ambitious former schoolteacher and rising political star, set his sights on the young, plain, and rich Catherine Fitzsimons in 1830. When her concerned mother and brothers proposed a settlement to protect the property she would inherit when she came of age, Hammond was furious. To a friend he raged that a settlement would “establish forever an inequality” between the spouses; he could not enjoy “all the riches of the earth” if they were held “under his wife’s petticoats.” This suggestive phrase, implying that Hammond would be sexually and thus thoroughly and unnaturally subjugated to his wife, reveals the extent to which Hammond saw property as the foundation of his power. The key to his social and financial apotheosis, he felt, was his acquisition of Catherine’s fortune.²⁶

To the Fitzsimonses, Hammond was far more diplomatic. Not wanting to betray “too much anxiety on the subject of property,” he sought the high ground and portrayed himself as wounded by their distrust. Separate estates, he declared, “were totally repugnant to my feelings & my principles,” alluding to the Biblical order that the two spouses become “one flesh.” Further, the clever lawyer argued, marriage settlements

²⁶ Cited in Drew Gilpin Faust, *James Henry Hammond and the Old South: A Design for Mastery* (Baton Rouge: Louisiana State University Press, 1982), ch. 4, quotes on pp. 59.

were downright un-American: “I have ever regarded them as at variance with the spirit and policy of our institutions... They are relics of the English laws made for the protection of their aristocracy.” As loyal republicans, the Fitzsimons had to permit the devolution of their fortune upon a son-in-law. Ultimately, Hammond received unfettered access to Catherine’s fortune – which would redound to her disadvantage.²⁷

Fighting Fraud: An Advantage of Contractualism

While courts consistently agreed that men were entitled to property by virtue of marriage, they had little tolerance for men who agreed to such conditions outlined in their marriage settlements but then attempted to destroy them by fraud. As contract law became increasingly central to the fledgling American legal system, women gained an advantage in that even if justices personally opposed marriage settlements, they were compelled to enforce these contracts. In cases like Maria Shier’s, in which she asserted after the fact that a separate estate had been created, there was little the court do to assist, if no documentary evidence could be found and her husband refused to consent to the creation of a postnuptial trust. But judges took seriously the intent of marriage settlements, despite their intermittent discomfort with them.

St. George Tucker, an unusually strong champion of women’s property rights, presided over an 1809 case that voided a series of transactions that, while technically within the letter of the law, violated its spirit. In 1800, Frances Peyton Tabb was recently widowed when her nineteen-year-old daughter, Mary, became engaged. Her late husband, John, had left behind a substantial estate, including 22,421 acres and 372 slaves, valued at

²⁷ Cited in Drew *James Henry Hammond and the Old South*, 58 and 62.

almost £32,000 in 1798.²⁸ Because John Tabb died intestate, his estate was divided into equal shares for his eight children. Whether Mrs. Tabb was concerned about either the motives or prospects of her prospective son-in-law is unclear, but she made Mary's marriage to Bathurst Randolph contingent on a marriage settlement. Randolph later claimed that Mary herself opposed the idea of a settlement, but the day before their wedding, Mrs. Tabb presented him with a contract wherein he waived any claim to the "estate both real & personal to which [Mary] is entitled as one distributee of her father," which he signed.²⁹ Mrs. Tabb set the same terms the following year when John Randolph Archer asked to marry her daughter Frances. The husband of her eldest daughter Martha, attorney William Giles, drew up this contract. Frances' inheritance consisted of multiple tracts, lots, and houses, livestock, and thirty-seven slaves.³⁰ In signing Giles's contract, Archer agreed that the property "would remain in the right and possession of the said Frances... held as an inviolable fund" and that he "never would sell or dispose of any part."³¹ Randolph's agreement was the same in principle; essentially, both men consented to enjoying merely life estates in their wives' property, rather than direct ownership.

Archer and Randolph may have jointly come up with a plan to secure their wives' property, or its value, against Mrs. Tabb's wishes and in violation of the spirit of the agreements they had each signed. In April of 1802, Frances Tabb Archer sold the entirety

²⁸ Laura Croghan Kamoie, *Irons in the Fire: The Business History of the Tayloe Family and Virginia's Gentry, 1700-1860* (University of Virginia Press, 2007), 174; "The Tabb Family," *The William and Mary Quarterly* 7, no. 1 (July 1, 1898): 49.

²⁹ Cited in Mark Douglas McGarvie, "Transforming Society Through Law: St. George Tucker, Women's Property Rights, and an Active Republican Judiciary," *William & Mary Law Review* 47, no. 4 (February 2006): 1417.

³⁰ Virginia Supreme Court of Appeals et al., *Reports of Cases Argued and Determined in the Supreme Court of Appeals of Virginia* (Joseph Gold, 1810), 401.

³¹ *Reports of Cases...* (Joseph Gold, 1810), 405.

of her estate for \$20,000; one month later, Randolph arranged for Mary to sell her estate to a third party collaborator, who then sold the properties for token amounts to Randolph - a common method of reassigning titles (because other than transmission through inheritance, all property had to be exchanged for or purchased, even if a token amount, to render the contract legally binding). Mrs. Tabb soon discovered the deception, and filed cases against both Archer and Randolph in the Richmond District Chancery Court. The Chancellor dismissed her complaint, ruling that the contracts had been freely entered into and were thus valid.³² Mrs. Tabb appealed, and her case made its way before Judge Tucker's Court of Appeals in 1809.

In deciding in Mrs. Tabb's favor, Tucker drew on "contract law theory, which formed the backbone of liberal reform during the early republic."³³ In so doing, Tucker could reason from the common law's commitment to contracts, avoiding statutory restrictions on women's property holding. Not only did Tucker uphold the terms of the original contracts to which the grooms had consented - he also pointedly praised Mrs. Tabb. Her conduct, he commented, "not only seems to stand above every imputation of impropriety, but to have been highly laudable and proper, and such as every prudent and affectionate parent, whether father or mother, would have done well to have pursued in such a case."³⁴ Tucker drew on common-law precedent to remind the court that "it would be unreasonable that the intermarriage, upon which alone the bond was to take effect,

³² William Walter Hening and William Munford, *Reports of Cases in the Supreme Court of Appeals of Virginia, from October 1806 to October 1809; and in the Superior Court of Chancery for the Richmond District from September 1806 to February 1809. Being All the Cases in the Four Volumes Hening and Munford's Reports. Condensed.*, ed. Lucian Minor (Richmond: A. Morris, 1857). 431.

³³ McGarvie, "Transforming Society Through Law," 1419.

³⁴ Hening and Munford, *Reports of Cases in the Supreme Court of Appeals of Virginia, from October 1806 to October 1809...*, 405.

should itself be a destruction of the bond.”³⁵ Thus while legal reform in Virginia disadvantaged women in several respects, judges’ increasing reliance on contract theory offered some recourse for those who did take preventative measures to protect women’s claims to their family property after marriage.

Judicial Hostility to Female Independence

St. George Tucker, however, was usually progressive; other justices expressed antipathy to women’s separate estates rooted in defense of male privilege. Less than five years after Tucker praised Mrs. Tabb’s protection of her daughters’ property, a fellow justice expressed distrust of women’s independent property ownership. In upholding the principle of women’s dower, Judge John Coalter - Tucker’s son-in-law and former pupil - pointed to England as an example of the negative consequences of expanding men’s testamentary power.

As dower eroded widow’s customary protections and men’s testamentary discretion increased in England, Coalter argued, “*A resort to marriage settlements is the consequence there, and soon would be here.*” He made clear that he thought that women’s property ownership endangered the system of gendered power - from which he, of course, benefitted. As a consequence of a marriage settlement, “the wife is rendered more independent there, than she was under the custom: she can make the house and bed of her husband as uncomfortable as she pleases, and losing nothing by it.” If marriage settlements remained rare, on the other hand, an unhappy husband could take steps to “leave her penniless at his death, she might find it her interest to conduct herself

³⁵ Hening and Munford, *Reports of Cases in the Supreme Court of Appeals of Virginia, from October 1806 to October 1809...*, 409.

better.”³⁶ Coalter opposed marriage settlements because property ownership was the foundation of husbandly authority - without the threat of penury during widowhood, or on the other hand, the promise of generous support, husbands lost an important tool for manipulating their wives’ behavior and ensuring their submission.

Using this reasoning – and drawing on some of the same logic of contract theory – Coalter upheld the validity of a deed from a husband to his children at the expense of his wife. In this instance, Mrs. Colgin, formerly Mrs. Lightfoot, was contesting several deeds whereby her late husband William made most of his estate over to his children by a previous marriage. Since it left almost no property from which Mrs. Colgin could claim dower, her lawyers argued that the deeds should be “set aside and made void as to her, as fraudulent and illegal,” and that her dower share should be assigned out of the entire property.³⁷ Anne Colgin and her lawyers drew on a statute passed in 1733 and confirmed in 1785, that permitted a widow to reject the provisions of her husband’s will if she felt that the traditional measure of dower would be more advantageous.³⁸

Judge Cabell agreed with Coalter, pointing out that a husband had the right to “waste or destroy his property[,]... sell it or give it away.” The fundamental presumption of the common law was that in “the union and identity of person of husband and wife, in a legal contemplation,” the “the law confides her interests, during the coverture, to his exclusive guardianship.”³⁹ Thus, a deed made by the husband, even if it was only to take effect at his death, was not like a will that a wife had the right to contest to increase her

³⁶ “Opinion of Judge Coalter, in the case of Lightfoot’s Executors v. Colgin and Wife,” Virginia Supreme Court of Appeals et al., *Reports of Cases Argued and Determined in the Supreme Court of Appeals of Virginia* (Joseph Gold, 1819), 55-56

³⁷ “Opinion of Judge Coalter,” 47.

³⁸ “Opinion of Judge Coalter,” 49-50.

³⁹ “Opinion of Judge Cabell,” 555, 557-558.

claims upon her husband's estate.

Thus, in America more than in England, female dependence was upheld and enhanced via jurisprudence. While simultaneously hostile to marriage settlements, by which means wives might protect themselves financially from irresponsible or vindictive husbands, judges upheld the right of husbands to circumvent the provisions of dower that should have mitigated the necessity of settlements in the first place. And as some cases in chapter seven will show, even the intent of marriage settlements might be destroyed when women sought to separate from abusive or spendthrift husbands. Fundamentally, American men, as individuals and as judges, clung tenaciously to their right to benefit economically by marriage and to assert male power through the acquisition of marital property.

Whether or once property was obtained, newly married couples sought to employ it to their best advantage. Few women took their dissatisfaction with their husband's control of property to court; most probably accepted the limitations of coverture as an unremarkable reality. One might hope, as well, that most husbands sought to treat their wives fairly while making the best decisions possible for their children's maintenance and advancement. Most couples seem to have accepted the legal and economic merging of spouses and moved into married life looking to use their joint property and family connections to their mutual advantage. As the next chapter shows, marriage created networks between families that were critical for borrowing money and property, for creating business connections, and, in crises, for reabsorbing and redistributing assets and expenses

Chapter 5
“To maintain a Family in the Stile of a Gentleman:”
Leveraging Kinship and Managing Resources During Marriage

In the last decades of the eighteenth century, the development of financial infrastructure, land speculation, the North’s nascent industrialization and shift to wage labor, and the South’s slave-based cash-crop economy drew Americans more deeply into a financial system that demanded increased numeracy, precision, and record keeping.¹ The growth of the plantation system and of industry and the proliferation of banks and investment vehicles demanded even more widespread numeracy; geographical expansion prompted more frequent communication and the management or movement of far-flung assets; and the growing complexity of the economy created new categories of knowledge workers including clerks, bankers, brokers, factors, and lawyers to track and manage the flow of resources. While women were formally excluded from these professions, they used their economic and social knowledge to enhance their male kin’s professional opportunities. Women’s labor in the form of relationship-building and the maintenance of kinship networks illuminates the wider workings of the early American economy beyond what is revealed in ledgers and accounts.

Women’s economic roles evolved to take advantage of new economic

¹ Patricia Cline Cohen, *A Calculating People: The Spread of Numeracy in Early America* (New York: Routledge, 1999); Caitlin Rosenthal’s forthcoming book, *From Slavery to Scientific Management: Accounting for Control in Antebellum America*, argues that slaveowners employed modern business practices in their pursuit of profit – see Rosenthal, “Storybook-Keeper: Narratives and Numbers in Nineteenth-Century America,” *Common-Place* 12, no. 3 (April 2012), <http://www.common-place.org/vol-12/no-03/rosenthal/>; Caitlin Rosenthal, “Plantations Practiced Modern Management,” *Harvard Business Review* (Sept. 2013), <https://hbr.org/2013/09/plantations-practiced-modern-management>; Katie Johnston, “The Messy Link Between Slave Owners and Modern Management — HBS Working Knowledge,” January 16, 2013, <http://hbswk.hbs.edu/item/7182.html>.

opportunities as they developed. While historians have focused a great deal of attention on the development of “republican motherhood” and “domesticity,” both of which defined women as private and non-economic, Jeanne Boydston shows how this ideology deliberately obscured women’s economic contributions to not only the household economy, but American the economy as a whole. Women recognized that the domestic ideals they strove for were predicated on their husband’s financial success and continued to work to further it. While well-off antebellum women might not copy letters or maintain business ledgers as often as their colonial great-grandmothers, they still gathered and relayed information about economic risks and opportunities, sought to manage the resources with which they were entrusted, negotiated the everyday management of their household economies, and, when they actively controlled their own property, made investment and management decisions themselves.²

Women’s actions can be as difficult to recover as women’s thoughts, because the veil of coverture often obscured married women’s participation in markets and other economic institutions. But numerous scholars have made clear that wives’ roles throughout the eighteenth century included economic responsibilities, as they cooperated with husbands to maintain and improve their material circumstances.³ Laurel Thatcher

² In *Ties That Buy*, Ellen Hartigan O-Connor demonstrates the centrality of women’s intermediary status for the economic functioning of households. In slaveholding states, as Stephanie Jones-Rogers shows, women asserted their rights and privileges as slaveowners. She compellingly argues that “the sale, purchase, exchange and use of commodified African American bodies entwined southern slaveowning households and slave markets, and the connection forged between the two made it possible for white women to engage in slave market activities from afar.” Stephanie Jones-Rogers, “Couldn’t Nobody Sell ’em but Her: Slaveowning Women, Mastery, and the Gendered Politics of the Antebellum Slave Market,” Ph.D. diss. (Rutgers University, 2012), 152.

³ Cf. Jeanne Boydston, “The Woman Who Wasn’t There: Women’s Market Labor and the Transition to Capitalism in the United States,” *Journal of the Early Republic* 16, no. 2 (July 1, 1996): 183–206; Joan M. Jensen, *Loosening the Bonds: Mid-Atlantic Farm Women, 1750-1850*,

Ulrich finds that colonial women were “involved in trade on more than one level,” and out of necessity acted as “deputy husbands,” handling financial matters on their family’s behalf, albeit with their husbands’ permission. As Ulrich points out, “[t]o talk about the independence of colonial wives is not only an anachronism but a contradiction in logic. A woman became a wife by virtue of her dependence” on her husband.⁴ Dependence, however, did not mean inaction.

Women as well as men sought to exploit family resources. Gifts, loans, and favors circulated among families allied by marriage. Personal communication facilitated these exchanges, and collapsed the distance between all sorts of markets and the home. Men relied on family connections as they navigated the changing economy, calling on not only fathers and brothers, but also on fathers- and brothers-in-law for advice and assistance. Women’s letters, however, often overlooked as domestic and noneconomic, reveal their engagement with family business and finances. Women’s letters to one another and to male kin forged and strengthened the social connections between families, fostering the trust necessary for conducting business. Like men’s letters, they often also relayed economic information, which was critical for economic decision-making.

Class, literacy, and economic development may have moderated the extent of women’s involvement in the financial aspect of their households. While Mary Beth Norton argues that literate women’s grasp of family finances before the American Revolution was tenuous and inexact, Ellen Hartigan-O’Connor contends that

rev. ed. (New Haven: Yale University Press, 1988); Julia Cherry Spruill and Anne Firor Scott, *Women’s Life and Work in the Southern Colonies* (New York: W. W. Norton & Company, 1998).
⁴ Laurel Thatcher Ulrich, *Good Wives: Image and Reality in the Lives of Women in Northern New England, 1650-1750*, rev. ed. (New York: Vintage Books, 1991), ch. 2, “Deputy Husbands,” 27, 35, 37.

Revolutionary-era women were routinely handling money and utilizing credit.⁵ Norton credits the disruption of the Revolution with forcing many women to learn the intricacies of household accounting, but other scholars point out that fewer women assisted in business directly after 1800 and that women's formal education, while expanding, was often ornamental rather than practical.⁶ It may be that each of these arguments has merit; women, and many men, may have had little need for exact valuation and numeracy in a cash-poor colonial economy, while the Revolution brought many former colonists into a new system of currency and taxation during and after the war, forcing both women and men to become more precise in their reckoning.⁷

The separation of work and home for elite and middling white Americans was gradual and uneven. Many historians emphasize the ways in which southern slave-based plantations remained mixed sites of domesticity and production, even as southerners created a small but significant middle class and more generally embraced the many of the same ideologies of womanhood as their northern neighbors.⁸ For northern women, disengagement with "productive" labor and the expansion of reproductive labor did not mean that northern women withdrew from family finances or market participation. Even as economic development prompted changes in the gendered allocation of labor,

⁵ Norton, *Liberty's Daughters*, 5-7; Ellen Hartigan-O'Connor, *Ties That Buy*.

⁶ Norton, *Liberty's Daughters*, 216-218; Susan Branson, "Women and the Family Economy in the Early Republic: The Case of Elizabeth Meredith," *Journal of the Early Republic*, Vol. 16, No. 1 (Spring, 1996), 47-71; Kelley, *Learning to Stand and Speak*.

⁷ For example, Sarah Damiano's dissertation explores how women engaged with both finances and the law in eighteenth-century New England. Her dissertation, "Gender, Law, and the Culture of Credit in New England, 1730-1790," is forthcoming from Johns Hopkins.

⁸ Jones-Rogers, argues that slave ownership in fact often brought the market to the household: see "Nobody Couldn't Sell 'Em but Her," ch. 2, "'She thought she could find a better market': White Slaveowning Women, Enslaved People's Quests for Freedom and the Convergence of the Slave Market and the Antebellum Household"; see also Jonathan Daniel Wells and Jennifer R. Green, eds., *The Southern Middle Class in the Long Nineteenth Century* (Baton Rouge, La.: Louisiana State University Press, 2011).

women's investment in their household's economic success remained unchanged, even while their specific strategies shifted.

From Production to Consumption: The Reorganization of Gendered Labor

In the mid-eighteenth century and into the nineteenth century, particularly in the South, the distinctions between households and sites of production or business were blurry and porous. The close physical proximity, if not overlap, of commercial and domestic spaces in the colonial and early national periods meant that most wives in artisan and professional households probably had frequent contact with the family business; only the wives of landed and merchant elites could afford the distance, physical and intellectual, from their husbands' pursuits. Even then, such distance may be overstated, particularly because a majority of Americans lived in rural or semi-rural settings, few homes were the purely private spaces. Even in the mid-nineteenth century, when the middling- and upper-classes embraced the ideal of total domesticity, business continued to impinge on and overlap with private and social life. Even if women did not handle accounts or manage their husbands' business correspondence, their social labor as hostesses facilitated commercial activity.

Even within households where spouses cooperated on commercial endeavors, the division of labor or level of involvement varied. Philadelphian Elizabeth Meredith's efforts, for example, helped make her husband Jonathan's tannery business as successful as it was. Elizabeth kept the accounts, assisted with correspondence, negotiated face-to-face with vendors and clients, and provided food and board for apprentices. Whether she was involved with or understood the chemical and physical processes in tanning is

unclear, but she, her husband, and their children recognized the value of her efforts. Benjamin Franklin attributed his rise from artisan to gentleman to his wife, Deborah, who did not set type but who folded and stitched pamphlets, ran their storefront unassisted while he was gone (including selling salves made by her mother), and managed the household finances independently. Widows Elizabeth Timothy of South Carolina and Virginian Clementina Rind took over their late husbands' printing businesses when they died, and continued their work seamlessly.⁹ Rind filled her husband's shoes without missing a single issue, and the following year was awarded government printing contracts in her own right. South Carolinian Eliza Lucas Pinckney was a successful and innovative planter before and during her marriage. Many slaveholding women tracked their slaves and other property as meticulously as any man.¹⁰ In antebellum Pennsylvania, Rebecca Webb Pennock Lukens took over the management of her husband's Brandywine Ironworks when she was widowed in 1825. Rather than delegating the management of the business, she remained deeply involved, raising her three daughters while expanding the ironworks into the basis for Lukens Steel, a future Fortune 500 company, despite "difficulty and danger of every side."¹¹ The frequency with which widows ably filled their husbands' shoes - as tavern keepers, merchants, tradespeople, and planters - suggests that many women were familiar with, if not the craft or trade itself, the business

⁹ Dorothy A. Mays, "Elizabeth Timothy," *Women in Early America: Struggle, Survival, and Freedom in a New World* (ABC-CLIO, 2004), 400-401; Kirsten E. Wood, *Masterful Women: Slaveholding Widows from the American Revolution through the Civil War*, Gender & American Culture. (University of North Carolina Press, 2004), 17-19; Jane D. Carson, *Clementina Rind: A Research Report*, Colonial Williamsburg Foundation Library Research Report Series, RR-47 (Williamsburg, Va.: Colonial Williamsburg Foundation, 1956).

¹⁰ Cf., Jones-Rogers, "Couldn't Nobody Sell 'em but Her," ch. 4, "'That 'oman took delight in sellin' slaves': White Women and the Re-Gendering of the Slave-Trading Community."

¹¹ Judith Scheffler, "... There Was Difficulty and Danger on Every Side': The Family and Business Leadership of Rebecca Lukens," *Pennsylvania History* 66, no. 3 (July 1999): 276-310.

of running it and the utilization of financial and social networks.¹²

Their antebellum daughters, however, often filled different positions. As the strata of wealthy artisans was displaced by managers and professionals – individuals who managed information or the labor of others, rather than laboring themselves – the role of wives as co-managers evolved as well. As professionals such as lawyers, doctors, and merchants began to move their offices from the home, an impressive house, comfortably furnished as a site for genteel leisure, contributed to their reputation and success. New divisions of labor reflected the gradual shift from the middle- and upper-class home as a site of production to a site of consumption. This shift, however, was a prescriptive ideal for well-off women, and did not reflect the realities that most women, at least in urban areas, experienced. Claudia Goldin analysis of Philadelphia censuses and directories from 1790 to 1860 shows that among white female household heads, women's overall labor force participation declined less than 15% over those seventy years. Wealth was a major factor in predicting women's labor force participation, and some of the withdrawal of wealthier women from the labor force was offset by the growing entry of women into factory work.¹³

¹² Cf. Patricia Cleary, "'She Will Be in the Shop': Women's Sphere of Trade in Eighteenth-Century Philadelphia and New York," *The Pennsylvania Magazine of History and Biography* 119, no. 3 (July 1995): 181–202; Lucy Simler, "'She Came to Work': The Female Labor Force in Chester County, 1750-1820," *Early American Studies* 5, no. 2 (Oct. 2007): 427–53; Sarah Hand Meacham, "Keeping the Trade: The Persistence of Tavernkeeping among Middling Women in Colonial Virginia," *Early American Studies* 3, no. 1 (Apr. 2005): 140–63. On widows, cf. Lisa Wilson Waciega, "A 'Man of Business': The Widow of Means in Southeastern Pennsylvania, 1750-1850," *The William and Mary Quarterly*, Third Series, 44, no. 1 (Jan. 1987): 40–64; Vivian Bruce Conger, *The Widows' Might: Widowhood and Gender in Early British America* (New York: New York University Press, 2009), ch. 5, esp. 129-137, 146-151; Kirsten E. Wood, *Masterful Women: Slaveholding Widows from the American Revolution through the Civil War* (Chapel Hill: University of North Carolina Press, 2004).

¹³ Claudia Goldin, "The Economic Status of Women in the Early Republic: Quantitative Evidence," *The Journal of Interdisciplinary History* 16, no. 3 (January 1, 1986): Table 2, pp. 388-

But to take the ideological division of home and work at face value, as Jeanne Boydston shows in *Home and Work*, is to accept and replicate the social hierarchy of labor developed in the early republic. Anya Jabour's analysis of the marriage of Elizabeth and William Wirt highlights the gradual and contingent nature of this transition. When the Wirts married in 1802, Elizabeth not only managed the domestic economy – allocating time, labor, and cash for various necessities – she also acted as office manager, keeping her husband's correspondence and “legal papers in order” and managing his assistants when he was absent. Elizabeth's monitoring, organizing, and forwarding of correspondence, as well as collection of legal fees, was essential for the success of William's practice in its early years. But within two decades, after William's rise to prominence and success, Jabour finds that “William claimed a position as the primary breadwinner, and Elizabeth – after many protests – abandoned her role as a domestic producer to become a consumer.”¹⁴

While women's work in family businesses became less direct, it persisted in other ways. Cathy Matson summarizes much of this research when she points out women “did not become secluded in a moral economy” of private and domestic labor.¹⁵ Elite and middling women might not act as clerks or secretaries as often, but they still helped spouses and children to forge important economic connections, sought outlets for goods

89, and Fig. 1, p. 391. See also Claudia Goldin and Kenneth Sokoloff, “Women, Children, and Industrialization in the Early Republic: Evidence from the Manufacturing Censuses,” *The Journal of Economic History* 42, no. 4 (December 1, 1982): 741–74. On regional differences in industrialization, see Cynthia Shelton, “The Role of Labor in Early Industrialization: Philadelphia, 1787-1837,” *Journal of the Early Republic* 4, no. 4 (December 1, 1984): 365–94.

¹⁴ Anya Jabour, *Marriage in the Early Republic: Elizabeth and William Wirt and the Companionate Ideal* (Baltimore: Johns Hopkins University Press, 1998), 30-31, 100-101.

¹⁵ Cathy Matson, “A House of Many Mansions: Some Thoughts on the Field of Economic History,” in Matson, ed., *The Economy of Early America: Historical Perspectives and New Directions* (University Park, Pa.: Pennsylvania State University Press, 2011), 66-67.

or services, and invested in business ventures. For instance, Alice Izard offered her opinions when two of her daughters joined with a brother-in-law to sell ginseng to China. Margaret Izard Manigault and Anne Izard Deas had contributed to Margaret's husband's brother's "adventure in Ginseng" in 1820 and again in 1821. While Alice at first worried that the trade should have been for "silks instead of Teas," she was able to leverage her relationship with her sister's son, Henry Barclay, who undertook to sell it "advantageously."¹⁶ At least twice in this "adventure," the Izard women took advantage of connections formed by marriage to pursue business interests.

Banking on Family: Expectations, Equity, and Family Finances

The intergenerational distribution of wealth begun at marriage continued throughout a couple's joint lives. This assistance ranged from outright gifts, to interest-free loans, or even loans with interest. Children anticipated these gifts, and, at least by the early nineteenth century, often had clear expectations of equity among siblings. The expectation of equitable distribution almost certainly varied by time and place because of the legal restrictions upon inheritance in the colonies, derived from English legal precedent. But anecdotal evidence indicates that parents were mindful of fairness to their children – a daughter's marriage or widowhood sometimes prompted her father to revise his will to reflect her receipt of her marriage portion or to account for her new financial position.

One instance suggests how deeply held ideas about equitable distribution were in Pennsylvania. In 1805, Elizabeth Meredith and her husband, Jonathan, invested \$20,000

¹⁶ Alice DeLancey Izard to Margaret Izard Manigault, August 14 and 28, 1821, Manigault Family Papers, SCL.

in their eldest son's importation business, evidently expecting to be repaid with interest. They also made gifts to each of their five sons and two daughters when they got married – a practice of which their children were aware and evidently watchful. When their youngest son, Jonathan Jr., married in 1806, he had been in Baltimore for less than two years, laying the foundations for what would ultimately be a thriving legal practice. When his father sent him \$2500 a few months after he announced his engagement, Junior assumed the money was a gift in light of his impending marriage. His baffled father insisted he “never even dreamed of giving you that sum,” but had sent it to be invested on his behalf in light of his financial troubles – which included responsibility for the debts of a son-in-law.¹⁷ Two years later, Jonathan Sr. repeated his demand – evidently more stridently, based on his son's petulant reply. Junior refused to believe “that the *language* was dictated by you.” Wounded by the letter's “harsh and illiberal *spirit*,” Junior asked, “why am I of all *your children* to be thus dealt with?” His siblings, he wailed, “have each of them been given infinitely more than myself, & have been permitted to enjoy it, while the little that has been bestowed on me must be restored immediately, fully, nay with *interest*.... Have the other children refunded with *interest* the thousands & tens of thousands they have received, or am I simply because I have obtained less than they, to restore all, *nay more than all?*” The variety of financial transfers within family – formal and informal, cash and in-kind – could create confusion and hurt feelings when not clearly defined. In this instance, Junior's assumptions regarding an equitable distribution of property and presumption of financial assistance upon marriage were misplaced.

¹⁷ Jonathan Meredith Sr. to Jonathan Meredith Jr, June 8 1807, Box 1, Chew Family Papers, Historical Society of Pennsylvania.

Others parents took more offense at their children's sense of entitlement, particularly if they felt their generosity was being abused, because distributing wealth and demonstrating affection were often conflated. For instance, Edmund Ruffin of Virginia drew an implicit connection between money and love when discussing his children. His daughter Agnes married, without his approval, physician Thomas Stanly Beckwith in 1838. A newcomer to Petersburg, Beckwith struggled to support his family, and torpedoed his medical career in 1846 in a public and acrimonious battle with the Petersburg Medical Faculty. Like her siblings, Agnes had received \$2500 as her marriage portion, which Ruffin felt Beckwith had "lavishly squandered." Since their marriage, "Agnes & her children have been suffering great privations...although greatly aided by the affectionate generosity of her brothers & sisters." Ruffin had personally contributed another \$1000 "in sundry items." When he made another division among his children, he "increased" Agnes's share "by \$2000 more than any others, because of her necessities." But Beckwith, he fumed, was incorrigible and would be "wasteful & spendthrift, as long as he can find anything to spend - & lazy & heedless of the future, even if the next week his wife & children would be without bread, except to be furnished by the kindness & charity of their kindred."¹⁸

In 1857, fed up with the "laziness & worthlessness [of] Dr. Beckwith," Ruffin settled Agnes's future share of his estate, which he valued at nearly \$16,000, to her and her children's sole benefit via a deed of trust. Agnes's marriage, Ruffin railed, "has been

¹⁸ Edmund Ruffin Diary, January 2 1857, in William Kauffman Scarborough, ed., *Diary of Edmund Ruffin: Toward Independence: October 1856-April 1861* (Baton Rouge: Louisiana State University Press, 1972), 22. Suzanne Lebsock discusses this feud in *The Free Women of Petersburg*, p. 61-62.

the greatest curse & trouble of my life.”¹⁹ When “her despicable husband” decided to return to Petersburg for another stab at a medical practice, Ruffin wished “he was gone so far that he would never be heard from again” as the “next best thing to his death,” and decided that if they crossed paths in Petersburg, he would “pass him as a stranger.”²⁰ If Ruffin hoped that the distance would cool Agnes’s feelings towards her husband, he was disappointed. Soon after, Agnes sold the property her father had carefully protected to follow her husband.

Ruffin was so incensed he cut his daughter out of his life entirely. “It is a most deplorable state of things for a father,” he lamented, but “I prefer entire separation from Agnes & her family.” Agnes apparently did not appreciate her father’s efforts to assist her, and Ruffin took this slight very personally. While Ruffin was open to assisting any of her children “as show promise” in obtaining a “proper & suitable education,” he refused to make any additional investment’s in his daughter’s financial welfare, and admitted he was so embittered against the Beckwiths that he “could not feel *love*” for his grandchildren.²¹ Financial assistance was an expression of love; when affection ceased, so too did Ruffin’s sense of financial obligation. In 1863, after the death of her sister and the deprivations of war, Agnes pleaded with her father to relent. Declaring he could not “put off & put on love, according to my changes of temper, or expediency,” he coldly informed her, “I have *no daughter* left alive.”²² His suicide at the end of the war foreclosed any possibility of reconciliation.

¹⁹ Edmund Ruffin Diary, March 10 1857, in Scarborough, ed., *Diary of Edmund Ruffin*, 44.

²⁰ Edmund Ruffin Diary, May 31 1857, in Scarborough, ed., *Diary of Edmund Ruffin*, 79.

²¹ Edmund Ruffin Diary, November 8 1857, in *Diary of Edmund Ruffin*, 121-22.

²² Edmund Ruffin to Agnes Beckwith, January 13 1863, Edmund Ruffin Papers, Mss1R8385a, Section 25, Virginia Historical Society.

Other family members might see opportunity in another's misfortune. In one instance, siblings schemed to secure the property granted to brother at the expense of his wife. When Charles Carroll, Jr., proved incapable of managing himself or his property, his sisters and their husbands sought to persuade Charles, Sr., that they deserved the property instead. To do so, they sought to undermine the claims of their sister-in-law, Harriet, to the property, by dismissing her claims of abuse and accusing her of abandoning her husband. A letter from one son-in-law, Robert Caton, to the other, Robert Harper, revealed detailed knowledge of the property under Charles's control and outlined their possible use of it. Caton considered it "unjust" that Charles, Jr., would inherit his father's "personal Estate consisting of stock, negroes, &c. attached to his several Estates." Those estates, Caton told Harper, were capable of yielding profits, and, they hoped, the elder Carroll could perhaps be persuaded to forgo supporting "make the stock of Negroes &c payable for out of the proceeds of the landed Estate, by annual instalments [*sic*] to his daughters. This would be still more just, should the Estate devolve to Charles the grandson, and be accumulating during a minority."²³ The plot was foiled in part by the vigilance of Harriet's sister and brother-in-law, who advocated on behalf of Harriet and her children with Charles, Sr.²⁴

Family politics revolved around property in death as well as marriage, and the case of the Drayton-Heyward-Coleman family highlights the sensitivity of issues of property distribution. The death of Maria Drayton, followed a few months later by her son, Henry Edward Drayton, sparked nasty controversies over their wills. An "eleventh-hour revision" to Maria's will had altered the disposition of property in favor of Henry,

²³ Robert Caton to Robert Harper, January 10 1813, MS 431, Maryland Historical Society.

²⁴ Cf., John Eager Howard, Sr., to Benjamin Chew, Jr., June 13 1814, Chew Papers, HSP.

and his brothers suspected his second wife, Mary, of manipulating her bed-ridden mother-in-law. The family barely avoided “terrible scandal of a lawsuit between brothers” by agreeing to leave the contested portion out of probate.

Henry’s death later in 1862 further strained family feeling. The Draytons were baffled that Henry’s will appointed Anna Peace, the sister of Henry’s first wife, guardian of Henry’s son – and of his fortune. Anna Coleman Peace’s family had been outraged over the “disgrace” of Anna’s marriage to Edward Peace, who had divorced his first wife, in 1854. Her own brother Robert declared that “Death for her would have been better than this,” and consequently Anna had largely been cut off from the family.²⁵ Despite attempts to have her replaced as guardian, Mrs. Peace raised Coleman and managed his fortune, cutting him off from the rest of his Drayton family – perhaps in retaliation for her own treatment.²⁶

Property could also smooth attempts to repair fractured bonds. After her husband’s death, Mrs. Bruce reached out to her estranged daughter, Jane, and her husband by offering them the use of her store and “when she dies if she has any thing she will give it to your son that you have named after Mr Bruce.” Jane had desired reconciliation for the decade since she disobeyed her parents to marry Samuel Jones. She and her husband accepted the offer, and within six months had moved back to South Carolina from Connecticut and made up with Mrs. Bruce.²⁷

²⁵ Robert Coleman to Harriet Coleman [June 1813], Coleman Papers Collection, Series 1 1759-1904, Lancaster Historical Society.

²⁶ *Passim*, Coleman Papers Collection, Series 1 1759-1904, Folders 39 and 46, Lancaster Historical Society; Parker family papers 1787-1904, Coll. 1802, HSP; Drayton Family Papers, Coll. 1584, Series 2d, William Heyward Drayton Legal Files, HSP.

²⁷ Store offer: John Jami[?] to Samuel P. Jones, 21 Feb. 1796; estranged from family: Jane Bruce to Samuel Jones, n.d. [1786], and Agnes [?] to Mrs. Bruce, 3 Apr. 1787; reconciliation: A.

Many of the economic benefits of marriage were less quantifiable. The proximity of kin, by blood or marriage, offered advantages that were difficult to quantify but which entered into men's business and professional planning. When Dr. Roderick Murchison attempted to tally these intangible benefits around 1817. Contemplating moving his practice to the Virginia frontier, he weighed both financial and personal factors. "By moving to the westward," he surmised, he had better financial prospects from the "progression in value of Town lots: the many opportunities of speculation in the surrounding country: The fertility of the land in cultivating a small farm, in addition to "the fees of a physician being liberal, wherever there is wealth and fertility [of] land." In Orangeburgh, he expected he could earn only about \$500 per year, but would "live among my wifes [*sic*] friends, which must conduce much to her happiness." Furthermore, "In case of misfortune befalling my family, the soothing kindness and attentions of relatives and friends await us." One potential misfortune was a rapidly expanding family: "but in the event of a numerous family, methinks my finances could scarcely suffice to educate them in that way, best calculated to promote their happiness." While he ultimately trusted that matter to divine Providence, more materially, a nearby family network might offer a source of free or cheaper clothes, food, and education, or a financial safety net if they did slip into poverty. Fortunately for his wife, the lure of the west did not win out; Eliza and her daughter were still in Orangeburgh, among her family, when Roderick died in 1820.²⁸

Gordon to Mrs. Jones, 20 Sept. 1796; running store: Jane Bruce Jones to Samuel P. Jones, 12 Jan. 1797, all from Jane Bruce Jones Papers, Bruce-Jones-Murchison Collection, South Caroliniana Library.

²⁸ R. Murchison, memo, ca. 1817, legal-sized box, Jane Bruce Jones Papers, South Caroliniana Library.

The Kindness of Kin: The Value of Labor and Services

Murchison's calculations reflected the reality that much of the value that circulated amongst family members was intangible - reciprocal donations of labor that assisted particular couples in times of need, and information useful to financial planning and business strategy. Female kin were particularly attuned to helping one another secure reproductive labor. Newlywed women frequently welcomed the experienced assistance of older female relatives as they established their households. Unmarried sisters in particular, unencumbered by personal domestic obligations, circulated through extended visiting, often assisting recently married sisters and new mothers or nursing ill relatives.

For elite women, however, securing the labor of others was often the more appealing option and a task with which most were already familiar as the managers of large and wealthy households. As slavery declined in northern states, urban housewives helped one another locate and hire white servants. Southern women often did the same, particularly in instances where a white servant was preferable, but still had the option of securing enslaved labor. Securing acceptable white servants was a continual challenge in both the north and south, but southern women of course had the option of coercing enslaved labor if no white labor could be found. Ellen Randolph Coolidge certainly appreciated the convenience of commanding slave labor after she moved to Boston, where "The curse of domestic life in New England is the insolence and insubordination of the servants and the difficulty of getting any that do not give more trouble than they save." While northern women struggled to hire respectable nursemaids and to manage the expenses of hiring servants, Ellen noted that "where there are slaves it is no matter how

much work you make there are always plenty of people all the better for having something to do."²⁹ Thus while wives regardless of region had similar demands for household labor, northern and southern women faced different managerial challenges regarding the training and retention of the women they directed.

The urgent matter of securing nurses in particular often mobilized family networks. Elite women viewed the labor of nurses as essential – as one young mother with two toddlers and an infant facing the imminent departure of her nurse informed her husband, “I am not fond of minding children, little Miss Vanderhorst requires a great deal of attention.”³⁰ Both male and female kin helped one another search for nurses, and particularly wet nurses, in both formal and informal markets. Correspondence of the Cox and Chesnut families between Pennsylvania and South Carolina suggests that northern women noted (and perhaps envied) the greater availability of enslaved nurses and wet nurses in the south. Esther Cox wrote from Philadelphia to her daughter in Camden to congratulate her on the birth of a daughter in 1803 and commented on her nursing arrangements: “We are all rejoicing that Mrs. Baldwin is with you, being sure of her care and attention to you - besides you have your good old black Nurse too, I suppose, while Mrs. Baldwin is engaged with dear little Mary.”

Like a growing number of nineteenth-century white southern women, Mary Cox Chesnut preferred to have a white nurse, and thus faced the same hiring and retention problems that her northern contemporaries did. Like other female kin, her mother helped

²⁹ Ellen Coolidge to Virginia Trist, May 29 1826 and October 15 1830, Correspondence of Ellen Wayles Randolph Coolidge, 1810-1861, Accession #38-584, 9090, 9090-c Special Collections, University of Virginia Library, Charlottesville, Va.

³⁰ Ann Morris Vanderhorst to Elias Vanderhorst, August 30 1830, Vanderhorst Family Papers, Collection 1169, South Carolina Historical Society.

her search for suitable employees, primarily within a network of female relations and friends. When Mrs. Baldwin's return was uncertain, Esther mentioned "an excellent Nurse, and Housekeeper" who might be available.³¹ Elizabeth Cart similarly assisted her sister, and "after frequent attempts succeeded in getting a Nurse for you," who was currently nursing for an acquaintance.³² When respectable married women could not be found, elite women helped one another to hire lower-class white women who may have been pushed into the labor market by personal circumstances. Alice Izard twice recommended servants "with the misfortune of having a Child, without having a Husband."³³

Southern women still had the option of purchasing or hiring an enslaved wet nurse or nursemaid if they did not already own one. Stephanie Jones-Rogers finds that newspapers regularly advertised the lactational and emotional services of black mothers, and that both male and female kin assisted new or soon-to-be mothers in navigating this market.³⁴ The circulation of enslaved women is often difficult to track; unlike the discussion of searching for, hiring, and managing white laborers, enslaved labor was often more informally procured. Families and neighbors probably often made face-to-face arrangements that left no clear documentary record. Esther Cox alluded to these private negotiations when she relayed news of an expectant daughter, who "has no

³¹ E[sther] Cox, to Mary Chesnut, 14 September 1803, 13 January [1805], 17 February 1807 Papers of the Cox and Chesnut Families, South Caroliniana Library Digital Collections, <http://digital.tcl.sc.edu/cdm/search/collection/coxches>

³² Elizabeth Cart to Julia Cart Ball, April 7 1848, Ball Family Correspondence, Collection 0369.01, South Carolina Historical Society.

³³ Alice DeLancey Izard to Margaret Izard Manigault, 14 Aug. 1805 and 1 March, 1819, Manigault Family Papers, SCL.

³⁴ Jones-Rogers, "Couldn't Nobody Sell 'em But Her," ch. 3, "Black Milk: Maternal Bodies, Wet Nursing, and Black Women's Invisible Labor in the Antebellum Slave Market."

prospect of being a Nurse - she must provide one against the Child arrives, but it is most probable, it will have a premature entrance into Life, for Sally is very weak." Sally's difficulties after delivery two years later hint further at the local and informal circulation of nurses, though Esther does not specify if they were white or black. Mary Chesnut was "fortunate" to have "so good a substitute in your own House," but "Your poor Sister Sally has had great trouble." Sally was evidently determined to suckle her infant herself, despite low milk supply, "and she perservered [*sic*] so long that she almost starved the Child." When the reason for "the Child's weakness" was realized, "they instantly procured a Nurse, and the baby revived, & appeared quite well."

The alacrity with which this nurse, and later a second, was secured suggests that a neighbor may have "donated" or hired the service of an enslaved mother. When the first, unnamed nurse fell sick, "they got another who was forced to bring her own Child along with her, they seem all to be doing well again." Because Sally "has really had a Hospital in her House," with a sick white nursemaid as well as a sick wet nurse, Esther send "our black Eve" to help as well. Within a two-week period, Sally's community had provided her with not one but two wet nurses and at least one additional enslaved laborer.³⁵

Because breastfeeding was a matter of urgency, elite white women also stepped in to nurse one another's infants until replacements could be found. When Elizabeth Izard delivered prematurely, their neighbor "Mary's G[ran]d. Daughter comes three or four times a day to nurse" the infant until an enslaved woman was ready.³⁶ The Izards had

³⁵ Esther Cox to Mary Chesnut, 23 June 1807 and 5 Feb. 1809, Papers of the Cox and Chesnut Families, South Caroliniana Library Digital Collections, <http://digital.tcl.sc.edu/cdm/search/collection/coxches>

³⁶ Alice Izard was likely referring to Mary Gibbes Barnwell, whose granddaughter Mary Barnwell Means had given birth the previous June.

clearly planned for this, but the idiosyncrasies of gestation disrupted their plans; they had “Eleanor in view for a continuance, but she goes as much beyond her time as her Mistress was within hers.”³⁷ The reproductive labor of not only care but nourishment itself were assets that free women circulated among themselves, either personally or by hiring a free or coercing an enslaved surrogate to perform this labor on their behalf. Elite wives’ cooperation amongst themselves to provide labor directly or indirectly was essential to the management of elite household economies. Delegating much of the physical labor of cooking, cleaning, and childcare to servant or enslaved women freed wealthy wives to assist in the management of their husbands’ affairs, whether directly through “office management” or more subtly through the maintenance of relationships and the circulation of timely financial information.

The information shared within and between overlapping kin networks was vital not only to women’s household management but also to men’s business prospects and families’ larger financial planning. As professions like medicine, law, and banking grew in specialization and prestige, family members might also call upon one another for expertise. Doctors participated in long-established practices of circulating medical knowledge, but with added authority as their occupation became increasingly coherent and prestigious. As legal and financial knowledge become more sophisticated, family members offered these services for free. For instance, Harriet Chew Carroll married and moved to Maryland, she lived near her sister and brother-in-law, John Eager Howard. Howard performed most of the management of Harriet’s trust on behalf of Harriet and her legal trustee, her brother Benjamin. Harriet was able to claim these valuable services

³⁷ Alice DeLancey Iazard to Margaret Iazard Manigault, 18 April 1816, Manigault Family Papers, SCL.

for free by virtue of her relationship through marriage. Benjamin also managed the estates of his unmarried sisters, settled the estates of various family members after their deaths, and offered free legal advice – all while managing his own bustling legal practice.

The supply of timely information was one of the most valuable services kin could perform, especially as economic complexity and uncertainty increased. Information did not come only from family members, but kin formed a central component of these networks of information. Relatives in other states could prove especially useful for businessmen and planters whose income depended on the behavior of distant buyers. Both men and women relayed prices for crops, land, slaves, and goods. For example, as migration to cotton-planting states became more appealing, individuals turned to kin already in place for information. Lawrence Lewis and his son-in-law Edward Butler corresponded for over a decade about not only family matters but also their respective planting prospects and the prices of slaves, land, sugar, and cotton. For instance, in 1837, in a letter that also mentioned a birth and two deaths, Lewis shared his thoughts on land prices in Louisiana. “I am firmly of the opinion,” he wrote, that Louisiana land prices were artificially inflated”& that in a short time those who have purchased will be compelled to sell again & that so large a quantity of Land will be thrown into the market as to reduce it very much” – that is, he saw a bubble on the verge of bursting. His advice, therefore, was to sell high now and buy low later, “at half price,” suggesting in particular “a splendid Estate” of eight hundred acres near the Butlers, whose indebted owner would soon be forced to lower his \$32,000 asking price.³⁸ Lewis was so impressed with Butler’s success as a sugar planter that he was planning to relocate to Louisiana from his

³⁸ Lawrence Lewis to Edward G. W. Butler, April 10 1837, Butler Family Papers, Historic New Orleans Collection.

“desolate” estate at Woodlawn, prevented only by his sudden death.

“God grant he may succeed, & make good use of his property:” Loans of Property and the Limits of Feeling

Families members might also work together to reallocate previously distributed family resources to maximize the utility of gifts and bequests. After partible inheritance was implemented in Virginia and South Carolina, brothers-in-law sometimes cooperated to reassemble large estates by selling portions to one another.³⁹ While contemporaries explained the late-eighteenth century abolition of primogeniture by reference to political philosophy, recent scholars point out that the shift from primogeniture to partition is a reflection of economic pressures as well as political principle – it gave testators increased control over the disposition of their property and also made real estate more liquid.⁴⁰ William Elliot amassed most of his landholding from his in-laws. In 1828, when his father-in-law died, he bought out the other heirs to secure titles to Bluff, Middle Place, Smilies (which he sold several years later to his brother), and Social Hall plantations, and in 1838 he purchased the 1600-acre Pon Pon plantation from his widowed sister-in-law. Presumably these relatives by marriage cooperated by offering reasonable, or perhaps generous, terms for the sales.⁴¹

While William Elliott’s family was willing to cooperate, numerous families found self-interest pitted against affection. When sons or sons-in-law faced financial trouble, family members frequently rushed to assist with loans or gifts that they expected would

³⁹ Lee J. Alston and Morton Owen Schapiro, “Inheritance Laws Across Colonies: Causes and Consequences,” *The Journal of Economic History* 44, no. 2 (June 1, 1984): 277–87.

⁴⁰ Graziella Bertocchi, “The Law of Primogeniture and the Transition from Landed Aristocracy to Industrial Democracy,” *Journal of Economic Growth* 11, no. 1 (March 1, 2006): 43–70.

⁴¹ Linder, *ACE River Atlas*, 114, 411.

be short-term. But when short-term financial need evolved into chronic money troubles, parents and siblings by both blood and marriage had to weigh their duty to their immediate dependents against the needs of adult children who were supposed to be self-supporting. Ultimately, many individuals chose to protect the interests of future generations from the missteps of their parents, passing property to grandchildren in preference for children.

Loans and leases of property were one method families could employ to assist struggling members while limiting the potential costs to themselves, and family members circulated furniture, houses, enslaved people, and even unmarried daughters. Charles Carroll of Maryland required his sons-in-law to put up the property they received for wedding gifts as collateral for loans or deducted the amount from his daughters' portions in his will; in the end, Carroll owned almost everything he had given his children, and he put it towards his grandchildren's inheritances. When her daughter's kitchen was robbed, Alice Izard sighed, "I fancy I come in for a share of the loss, for I let all the Kitchen furniture I had in use at Lansdowne, in your Kitchen. Pray... let me purchase what is necessary in that way."⁴² The loaner might even request payments of rent on their real estate (not their sisters or aunts), turning a potential loss into a modest gain. Alice Izard just that when she asked her son Ralph to "pay a moderate rent" on her Charleston home while she was traveling, with the added bonus that "it will be pleasing to me to have one of my Son's [*sic*] occupy the dwelling of their Father."⁴³

Unlike donating money or securing credit, permitting the use of property would

⁴² Alice DeLancey Izard to Margaret Izard Manigault, 16 April 1816, Manigault Family Papers, SCL.

⁴³ ADI to MIM, 20 March 1816, Manigault Family Papers, SCL.

not undermine the position of the lending family. Mathurin Gibbs abandoned legal practice for planting in 1837, and bankrupted himself in six years. After being forced to sell his property at auction, his wife's brother and aunt stepped in to lease the Gibbses the late uncle's plantation, called Jericho. Reflecting in his journal in the midst of their relocation, Gibbs mentioned "the kindness of friends have afforded myself and family a home in the Parish of St. James Santee, on Hell-Hole swamp; the place called Jericho, where I am again to begin world... In our removal we have been assisted kindly & liberally by my wife's immediate relations." Gibbs' slippage between friends and relations is misleading, as he was related to the actual owners of his new home; a few days later, he reported on the progress of their move: "Our friends are still kind to us; four wagons are employed to aid us in removing and we are all activity." Perhaps, for Gibbs, it was emotionally easier to attribute the Balls' and Poyas' actions to the kindness of friends than the obligation of kin. Later diary entries hit that their reliance on Maria Gibbs' kin continued after they were settled; a year later, Maria was consulting with her brother about the sale of "their negroes" (in fact her brother's) in order to purchase other's from her uncle's estate. Perhaps assisted by close proximity, three of Mathurin's daughters would subsequently marry into the Ball family despite their father's impecunity.⁴⁴

In other instances, long-suffering family members eventually had to limit their assistance to debtors. Nancy Izard Deas was perhaps the least fortunate of Alice and Ralph Izard's privileged children. Nancy married William Allen Deas, over her family's objections. Deas was son of wealthy merchant-planter émigré from Scotland, who trained

⁴⁴ Entries 19 and 23 Dec. 1844, 6 Jan 1845, Journal of Mathurin Guerin Gibbs, Vol. 13, Ball-Gilchrist Papers, SCL.

as lawyer and served as a politician; Nancy apparently thought his “want of fortune” could be easily overcome. But despite his many connections and advantages, Deas struggled to maintain his family’s elite lifestyle; unlike his brothers, his law practice never flourished, and his business and planting schemes never succeeded. Her mother, Alice Izard, sighed to another daughter, “Her lot is a hard one; but she brought it on herself & does not repine; at least she does not appear to do so.” Family members evidently made short-terms loans of cash, but to little avail. After another attempt at planting collapsed, Deas sold forty enslaved workers “at \$450 each, & all together, which amounts to \$18,000” to Nathaniel Heyward, a brother-in-law by marriage – Heyward’s wife Henrietta Manigault was Ann Deas’s sister’s Margaret’s husband’s sister.⁴⁵

Despite their straitened finances, Nancy Deas remained conscious of the debts they owed, taking advantage of the sale’s creation of liquidity – “a little command of cash” – “to return the 185 dollars I have so long owed” her sister Margaret. Alice Izard expressed her hopes for the Deases to her daughter Margaret, pointing out that “The interest on this sum will be a small income, but it will be a better one than he has ever made. Should he succeed in business as a Lawyer, it will be a good help to keep his family. God grant he may succeed, & make good use of his property.”⁴⁶

William, unfortunately, did not. Less than a month later, Alice fretted to Margaret that he had determined to relocate to Charleston, even though “It must be acknowledged that he has not the means of living here upon his income, & that his endeavours to reinstate himself in the business of a Lawyer have not been successful.” This was

⁴⁵ Michael James Heitzler, *Goose Creek, South Carolina: A Definitive History 1670-2003* (Charleston, S.C.: The History Press, 2005), Vol. 1, 257-61; Alice DeLancey Izard to Margaret Izard Manigault, 20 March 1816, MFP, SCL.

⁴⁶ Anne Izard Deas to Margaret Izard Manigault, 24 May 1816, MFP, SCL.

evidently temporary, because Alice also noted that the Deases were contemplating a move to Lexington – following a well-trod path of ambitious young professionals hoping to flourish in less populated areas. As had many mothers before her, Alice detested the idea of her daughter moving to a remote city, with “Lexington... seem[ing] to me almost out of the World. Should anything happen to her... she will have no friend near her to alleviate her sufferings, yet Mr. Deas finds everything answerable.” The relocation never happened, and by 1820 William had invested in a salt work, evidently unwisely. Alice Izard had almost surely already funneled money to the Deases before, but was still “truly grieved at the accounts from Mr. Deas, & at the impossibility of sending the sum her wishes to possess.” As widow with numerous adult children and a growing number of grandchildren, however, Alice had to think strategically about her finances.

Despite her impulse to help yet again, Alice realized that “Were I to do more than I have done, & still continue to do, I should run the risk of subjecting his family, as well as my own to great distress. I wish something could be done for him.” She had hoped to sell her church pew, with the intention of sending the money to the Deases, “that he might have made a further trial with his salt works; but I think it most probably that it would have failed, like all his other trials, so perhaps it is best as it is.”⁴⁷ She remained willing to host her daughter and grandchildren, or to pay for items for the children, but self-interest prompted her to limit cash gifts to the Deases once she realized it would jeopardize her personal finances.

In another instance, it was a grandfather’s concern for his grandchildren that eventually overrode the impulse to assist his son-in-law. Stephen Duncan, originally from

⁴⁷ ADI to MIM, 10 April 1816, and 20 Aug. 1820, MFP, SCL.

Pennsylvania, sought to assist his son-in-law from his new home in Mississippi. Duncan's daughter Sarah Jane married fellow Pennsylvanian William Irvine in 1833, but died shortly after giving birth to their third child in 1839, after which their unmarried aunt Emily Duncan in Philadelphia largely raised the children. William overextended his investments, and his finances ultimately collapsed in 1854. When William filed for bankruptcy, forcing him to auction off his property, including the Irvine family home and farm, Duncan stepped in and purchased William's estate in its entirety.⁴⁸

Perhaps because the property, Brokenstraw, was William's patrimony, William prevailed on Stephen to permit him to manage it on Stephen's behalf. Like William Allen Deas, William Irvine's many business pursuits came to little, and Stephen repeatedly made loans and cash advancements to his son-in-law. After several years of William's unprofitable management and quixotic speculations, Stephen's concern for the future security of his granddaughters prompted him to withdraw the estate from William's supervision. "I am sorry to trouble you," Stephen wrote, "but I wish now while I live, to convey that property [Brokenstraw] to your children & their issue." Perhaps anticipating William's opposition, Stephen continued that, because his holdings were extensive and complicated, "this should be done by me, & not by my Executors."⁴⁹ The following year, in a letter to his sister, Stephen reviewed the staggering store of wealth he expected to bequeath to William's daughters: "All these sums, together with the amount received by their mother, at her marriage, will amount to the gross sum of *Five Hundred & forty Thousand, nine hundred and Ninety-seven 61/100 Dollars*, say \$540,997.61. Thus

⁴⁸ Writ of *Fieri Facias*, writ of *Venditioni Exponas*, Deed from the Sheriff of Warren County to Stephan Duncan, 7 Dec 1855, Irvine-Newbold Family Papers (Collection 1890), HSP.

⁴⁹ Stephen Duncan to William A. Irvine, 4 February 1860, Irvine-Newbold Papers, HSP.

placing them together on an equal footing with each of my children.” Stephen agreed to pay William the profits of some property sales with interest, totaling \$282,175.48 due in 1863. “But,” he concluded emphatically, “inasmuch as these advances were made to save their father, & save this property for his children; *my estate is not to be held responsible, for any deficiency, which may arise from the sales, not covering the amount advanced, & the Interest thereon.*”⁵⁰ Having already lost potential interest income through his advances to William, Stephen ensured that his granddaughters alone would received the maximum benefit from his remaining enormous wealth by settling with his son-in-law and preemptively securing his estate from any future claims William might make.

Even Edmund Ruffin, despite his alienation from his daughter and grandchildren, unquestioningly considered it his duty to use his property for the advancement of future generations. The object of family wealth management was not only to amass a fortune but also to ensure its transmission through generations, and he only abandon this aim when he felt his daughter was failing to fulfill her obligations of filial obedience and respect. Marriage created conduits between individuals and nuclear families through which extended kin networks transferred various forms of wealth or wealth-enhancing services, linking families through a mutual interest in the couple’s children.

Parents and siblings, however, had to monitor their generosity when aiding struggling kin, precisely because of their concern for not only their children, but their children’s children. When it became clear that a couple was incapable of managing financially, close kin had to make the difficult decision to prioritize their immediate

⁵⁰ Extracts of letter from S. Duncan to E Duncan, 26 February 1861, Irvine-Newbold Papers, HSP.

family's wellbeing above that of married children or siblings - in essence, choosing to reallocate their investments to other who might make better use of that wealth. The default position, regardless of region, was to consider the financial impact on not only children, but also on grandchildren. This same logic applied under more troubling circumstances as well; when families discovered that a daughter or sister was suffering in an unhappy or even violent marriage, wealth management was a key concern, with grandchildren's financial interests sometimes taking priority over an individual woman's welfare.

Chapter 6
“I fear some interference will become necessary to rescue her:”
Property and Private Responses to Marital Breakdown

Marital disintegration affected women, men, and their extended families in profoundly different ways. Women’s legally-imposed financial dependence left them with far fewer resources with which to extricate themselves from marriage. Even when women had separate trusts held in their name, the property reserved was rarely sufficient for their indefinite support. Women’s families grappled with the issue of securing or denying financial support to sisters or daughters when marriages crumbled. Both wives’ and husbands’ families worried about the effect of marital troubles on the reputations of the families and the futures of the couples’ children.

Three thorny issues were associated with questions of women’s post-marital separate support: emotional cruelty, physical violence, and sexual infidelity.* The following examples show that while families wanted to ensure the happiness and safety of married daughters, they often hesitated to act, waiting until circumstances were dire to intervene decisively. While both women’s and men’s families worried about disgracing the family name, abused women’s families also had to decide if they would invest additional money or property in married sisters or daughters, who had, in essence, already received their share of family resources. To do so would drain resources allocated for other family members, particularly the next generation. Thus, marital discord rippled out beyond the estranged couple, forcing their parents, siblings, and other close relatives to wrestle with, in essence, weighing the financial worth of an individual woman’s safety

* While there were surely men who were psychologically tormented or physically attacked by their wives, no instance of that dynamic appears in the primary sources considered here.

and happiness and her children's emotional wellbeing against other considerations, including the risks to the same children's prospects of inheritance and their family reputation when they entered the marriage market.

Throughout the colonies and states in the period under study, contemporaries agreed that marriage, an institution that dictated gendered dependence and dominance through the control of resources, should be difficult to reverse. Before 1857, absolute divorce in England could only be granted via an Act of Parliament to men whose wives had been convicted of adultery in both ecclesiastical and criminal courts, a process so costly it was open only to noblemen.¹ Those who could afford litigation only brought suit when all attempts to settle matters privately failed, as plaintiffs stressed in divorce depositions.

Scholars interested in marital dissolution have to date focused primarily on rare divorce proceedings, which offer in-depth descriptions of the couple's marital troubles and reveal the legal reasoning behind granting or denying a divorce request. Studies of domestic violence are likewise often based on legal sources, which reveal some strategies for using the law to minimize or avoid, rather than escape, spousal abuse by private prosecution and bonds for keeping the peace between spouses.² Furthermore, many

¹ Lawrence Stone, *Broken Lives: Separation and Divorce in England, 1660-1857* (Oxford University Press, 1993), and Stone, *Road to Divorce: England, 1530-1987* (Oxford University Press, 1995).

² On the use of the law to mediate cases of domestic violence, see Stephanie Cole, "Keeping the Peace: Domestic Assault and Private Prosecution in Antebellum Baltimore," Christine Daniels and Michael V. Kennedy, eds., *Over the Threshold: Intimate Violence in Early America* (New York: Routledge, 1999), p. 148-169; see also Ann Taves, ed., *Religion and Domestic Violence in Early New England: The Memoirs of Abigail Abbot Bailey* (Bloomington, Ind.: Indiana University Press, 1989); Julie Hardwick, "Early Modern Perspectives on the Long History of Domestic Violence: The Case of Seventeenth-Century France," *The Journal of Modern History*,

studies of intimate abuse are based on the depositions created when filing for divorce or legal separation.

The difficulty and expense of obtaining a judicially or legislatively-decreed separation or divorce complicated ending marital obligations. There were two types of divorce in early America, adopted from the English legal system. Divorce *a mensa et thoro*, “from bed and board,” was a legally sanctioned separation, which allowed the couple to live and administer their finances separately while remaining legally married. *A vinculo matrimonii* was an absolute divorce, which ended the marital relationship and permitted the innocent (but not the guilty) spouse to remarry.

Most of the British North American colonies, including Pennsylvania and Virginia, offered both variants of divorce. Initially, divorce proceedings were handled by the general assemblies, and most early petitions were brought by men whose wives were guilty of adultery. South Carolina was singular in that it refused to grant absolute divorces for any reason, on the grounds that they lacked an ecclesiastical court, but did permit separation agreements to be filed with the Secretary of State and suits for separation and alimony in courts of chancery. After the American Revolution, Pennsylvania and Virginia were among the states that expanded access to absolute divorce, though the procedure remained expensive and onerous enough to discourage many applicants. South Carolina alone remained steadfast in its refusal to recognize absolute divorce under any circumstances.³

By the early nineteenth century, petitions increased to the point that most

Vol. 78, No. 1 (March 2006), pp. 1-36.

³ Glenda Riley, *Divorce: An American Tradition* (New York: Oxford University Press, 1991), 34-39.

legislatures, including Virginia, delegated their authority over divorce to the chancery court system. Pennsylvania, on the other hand, construed marriage as a civil rather than strictly religious covenant, and did not institute separate equity courts. The Great Law of 1682 permitted the Governor to grant the divorce of spouses convicted of adultery, and in 1705, the grounds were expanded to include additional sexual crimes, namely sodomy, buggery, and bestiality. In 1785, Pennsylvania enacted a divorce law that had been invalidated before the Revolution on the grounds that it was in violation of English law. The Supreme Court was empowered to grant divorces, and the grounds were expanded to include cruelty and desertion for four years (reduced to two years in 1815). Divorce became much more widely available in 1804, when county Courts of Common Pleas could decide divorce cases.

Pennsylvania recognized both absolute divorce and divorce from bed and board, and in 1817 began permitting women to choose between the two types – the first severed all financial obligations but permitted remarriage, while the second preserved the wife’s rights to alimony and dower in her husband’s estate.⁴ Virginia, though the General Assembly received its first plea for divorce in 1786, did not grant a legislative divorce until 1803, when Dabney Pettus sought to be released from the bonds of marriage when his wife bore a mulatto child. In Virginia, as in England, adultery was the sole grounds for absolute divorce. In 1827, to lessen the burden of a swelling number of divorce petitions, Virginia courts of equity began to grant divorces from bed and board, as well as annulments; the legislature retained the prerogative to grant absolute divorces. In 1848, complaining of the time divorce petitions took away from more pressing matters, the

⁴ Smith, *Breaking the Bonds*, ch. 1.

legislature granted authority over all divorces to the chancery courts, but continued to be plagued by petitions. In 1851, the new state constitution explicitly ended divorces by private bill, and all authority over marriage shifted to the judiciary.⁵

Yet while marriages were difficult to end, families still recognized that assisting daughters still under coverture used resources earmarked either for the parents' support, the support of other children, or the future support of grandchildren. Hesitating to help daughters in terrible marriages may appear heartless, but in the context of the mid-eighteenth to mid-nineteenth centuries, contemporaries saw it as an unfortunate but necessary side effect of a family strategy that relied on marriage to allocate property and a system that saw families as the basis of social order. Legal and social conventions conspired to justify women's dependence; once that dependence was transferred from parents to husbands, further investment in daughters was an economic drain on their natal families that they could not expect to recoup. Property anxieties were often masked by discussions of moral obligation, but the effect was the same: women were urged to resist potentially disrupting the orderly transmission of property between generations by remaining with their husbands. The hesitation of close kin to intervene in dysfunctional marriages shows how the complex social and economic interconnections created by marriage continued to act as a counterweight against the companionate ideal of marriage and the sentimental family.

Rather than pursue legal action, the vast majority of unhappy couples that wanted clear and enforceable divisions of property or provisions for alimony privately reached agreements that released the wife from her obligation to live with her husband and settled

⁵ Buckley, *Great Catastrophe*, 77-78.

property claims. Thus, these solutions were legally binding agreements, but they were created without the expense and embarrassment of a lawsuit. Many marriages were dissolved entirely informally – often through mutual agreement, sometimes by abandonment. Some of these cases appear in legal documents as well, when an injured party sought legal recognition of an existing situation. While wives had to wait years to prove their husband’s desertion, husbands could repudiate their wives in newspaper ads, listing them alongside absconded slaves and publicly withholding the financial and social credit upon which married women depended.⁶ The economic stakes of an elite marriage made one working-class response, running away, untenable. Too much property and power was at stake in elite marriages. Wealthy women were not only concerned about maintaining their own privileged lifestyle, but that of their children, who might suffer as a result of the social stigma associated with divorce or separation.

Most couples, therefore, effected separations outside the courtroom. The spouses might file separation agreements within the chancery system, to ensure that the husband’s financial responsibility to his separated wife were clearly articulated. Most unhappy couples, however, relied upon family members to help negotiate an informal separation. The critical issue was ascertaining how the wife would be supported. Even wealthy families were reluctant to assume the long-term costs of supporting another member indefinitely – especially when some, if not most or all, of the resources allocated to the estranged wife remained in the control of her husband. Typically, while offering insight into how couples thought resources should be divided, these records offer no insight into the particular problems between the couple.

⁶ Kristen Denise Sword, “Wayward Wives, Runaway Slaves, and the Limits of Patriarchal Authority in Early America” (PhD diss., Harvard University, 2002), 117-18.

In constructing postnuptial separation settlements, couples and courts often fell back of precedents developed in early modern England. Drawing on the legal tradition of dower, wives in early America frequently received the same portion of property they would have received on their husband's death – one-third of personal property outright and a life interest in the same portion of real estate – and, employing the custom of paraphernalia, their wearing apparel and jewelry.⁷ Alternatively, couples might agree to, or the court might order, the return of the property to wife brought to marriage, alimony payments in lieu of property, or a combination. If a woman already possessed a separate estate sufficient for her support, she might simply seek her husband's consent to live elsewhere. Typically, these agreements barred women from seeking a dower portion upon their husbands' death; in essence, these agreements permitted them to inherit early.

Critically, these private separation agreements also spared the couple from detailing their “unhappy differences” to outsiders, which legal suits required, and offered wealthy separating couples flexibility with regards to the kinds and quantities of property or money a wife could receive. In South Carolina and Virginia, these were typically created through trusts, and frequently included enslaved people. In 1768, James Poyas transferred a house on King Street in Charleston to his wife Elizabeth, as well as promising an annuity of four hundred pounds. He also returned an enslaved woman, “House Linnen,” tables and chairs, a mahogany bedstead with its mattress, curtains, and covers, and her plate and kitchen equipment – most likely the tangible portion of her dowry.⁸ In 1817, Mary Singleton McRa received thirty slaves from her estranged

⁷ Salmon, *Women and the Law of Property*, 66-67, 141; Erickson, *Women and Property in Early Modern England*, 26, 145.

⁸ Separation Agreement, James and Eliabeth Poyas, 29 Sept. 1768, S.C. Sec. State. Misc.

husband, in a trust administered by her father, who presumably hired out the slaves and supported Mary on the profits.⁹ While families surely haggled over the exact divisions of property, inheritances rules offered a guide for acceptable divisions of value.

Most families, and most women themselves, did not consider mere unhappiness grounds for pursuing legal action. Women had to live with the consequences of the most momentous choice of their lives. Parents, siblings, and friends cooperated to ease or soothe emotional distress, but refused to challenge a husband's authority publicly or directly. Actual or imminent physical danger, or deliberate and severe neglect, more materially violated a husband's vows to protect and provide for his wife and children. Women threatened with violence or destitution could more easily secure family and community support, but still only rarely aired their grievances in court.

While each family facing marital trouble faced unique circumstances, each confronted similar obstacles: legal limits on women's property holding; the difficulty of obtaining legal relief; social stigmas surrounding separation and divorce; and the financial imperative to secure property for the separated wife. Public costs and private pressures coincided to keep most women out of the courtroom. Even those women who did have the financial resources and access to the legal expertise necessary to file for divorce were often pressured by their families to shield their troubles from wider knowledge.

Wives' emotional investment in their marriages and belief in the companionate

Records, Vol. NN, 379-81.

⁹ Mary's trust was mentioned in a suit un Chancery after her death, wherein her grandchildren disputed her estranged husband's right to will his estate to two illegitimate children. James Sanders Guignard Richardson, state reporter, *Reports of Cases in Equity, Argued and Determined in the Court of Appeals and Court of Errors of South Carolina ...: December, 1844, to [May, 1846; November, 1850, to May, 1868] ...* (A.S. Johnston, 1852), 98.

ideal of marriage and the redemptive power of the wife may also have acted as powerful psychological inhibitors to separation, perhaps as significant as legal obstacles. Social norms encouraged women to accept blame for marital dysfunction, and as a result many wives initially resolved to conceal their husbands' flaws and endure the situation in the hopes of his eventual reform.¹⁰ Patterns of extended visits were one strategy for relieving conflict temporarily, as they simultaneously minimized and masked marital conflict. Location was often another issue, as women frequently moved away from their parents at marriage and thus may have lacked local sources of refuge and support. Even more starkly for wives, husbands were the automatic legal guardians of children, and were within their rights to deny mothers access to them. Women frequently voiced this concern, and angry husbands wielded this threat deliberately. Between their own wellbeing and access to their offspring, most women sacrificed themselves.

Wealthy white women may also have been limited by upper-class expectations of domestic privacy. Contemporary evidence suggests that early modern working-class wives were more likely than their elite counterparts to disclose abuse, call upon neighbors for aid, and take their husbands to court for violent behavior. Concerns about status may have inhibited wealthy wives from making complaints, thus jeopardizing the social capital of the family.¹¹ Very likely, most unhappy spouses simply endured their marriages as best they could. Without relatives willing and able to help them craft long-term solutions, women in particular had little recourse.

¹⁰ Cf., Ann Taves, ed., *Religion and Domestic Violence in Early New England: The Memoirs of Abigail Abbot Bailey* (Bloomington, Ind.: Indiana University Press, 1989); Martha Tomhave Blauvelt, *The Work of the Heart: Young Women and Emotion, 1780-1830* (University of Virginia Press, 2007), ch. 5.

¹¹ Hardwick, "Early Modern Perspectives on the Long History of Domestic Violence," p. 29-32.

Informal solutions, without any documented agreement, spared families the humiliation of public rumor and the cost of court proceedings, but left separated wives vulnerable. With no means of enforcement, women were reliant on the honor of estranged husbands, and moral and emotional pressure did not ensure prompt remittances – even when husbands were well meaning. Edwin Burnley moved to Mississippi in the 1840s, after nearly two decades of marriage. His wife and “two *dear dear helpless* little children” were suddenly dependent on her brother, William Gwathmey. Despite his many protestations of affection and respect for his wife and children, Edwin insisted he was “incapable of leading them, in the ways of morality, virtue, and religion, but I have a fathers love for them.” He offered to transfer all of his property, aside from the slaves he wanted to take to Mississippi, to William for his sister’s benefit.¹² If he did so, the property was evidently insufficient for the maintenance and education of the children. In 1850, he was admitted he “was not aware of being so much in arrears, for the board, tuition, &c of my children, as it was unexpected to me, to learnt he amount that is unpaid,” but was unable – or unwilling – to pay the balance. He could forward about \$800, but “I have no means of paying anything more at this time, and as for the future, I expect to be more pressed to meet my engagements, than I ever have been before.”¹³ It is unclear if Burnley’s wife was able to divorce him, if they were reconciled, or if she died, but his “Wife desire[d] to be remembered aff’y” to Gwathmey in 1854.¹⁴ The extant letters suggest that though they prosecuted Burnley for abandonment, attaching his

¹² Edwin Burnley to William Gwathmey, February 5 1847, Gwathmey Family Papers, 1790–1982, Mss1G9957cFA2, Virginia Historical Society.

¹³ Edwin Burnley to William Gwathmey, January 17 1850 and March 14 1850, Gwathmey Family Papers, VHS.

¹⁴ Edwin Burnley to William Gwathmey, January 20 1854, Gwathmey Family Papers, VHS.

slaves, his subsequent distance made it difficult to enforce any agreements they had.

“Buried Alive:” Wives’ Dependence and the Difficulty of Marital Separation

The challenges of marital misery affected even the most distinguished families. In 1840, Eleanor Parke Custis Lewis, granddaughter of Martha Custis Washington, vented to a long-time friend about her daughter’s miserable marriage. While she at first thought Edward George Washington Butler, a career soldier turned sugar planter, “amiable” when he married her daughter Parke in 1826, by 1840 Nelly despised her son-in-law – and he her. Nelly claimed that Parke “has suffered almost ten years of sorrow & privations of every kind, & for the last six years the most brutal treatment—except *striking* her which he knew every *man* on the coast... would have resented.” He mistreated his children as well; his ten-year-old son told his mother he often thought of drowning himself. Butler’s “unprovoked & gross insults had driven me from the home of my only remaining daughter,” she fumed.¹⁵

His motivation, she believed, was both personal and financial. Struggling as a planter, Butler hoped for a future inheritance from his wife’s family, even though he had already received an undivided moiety in over 10,000 acres in Virginia when he married Parke 1826. “As long as Mr L[ewis, Nelly’s husband] lived & [Butler] thought he might expect anything he carefully concealed from us his feeling towards my unfortunate child, & as far as he could his hatred of me,” Nelly reported, “but now he has nothing but what I can give out of my annuity of \$1000, I have nothing, & therefore he keeps no terms.”

While Nelly claimed that “Nothing would prevent my childs leaving him forever

¹⁵ Nelly Custis Lewis to Elizabeth Bordley Gibson, December 20 1840, in Brady, ed., *Beautiful Nelly*, 232.

but the power he has over her poor children, she could not leave them to certain destruction,” in this representation of the circumstances she overlooked the crucial issue of property. Even if Parke had been able to gain custody of her children, neither Parke nor Nelly had sufficient means of support. Nelly stretched her annuity from her husband’s estate by living with family and friends; Parke had no separate property to fall back on, and if she left without a legal separation she risked being divorced for abandonment and cut off from her children permanently.

With no alternative to living with her husband, who refused to let her travel, Parke’s only consolations were her children, and the small mercy that her husband cared enough about his neighbors’ “resentment” to refrain from beating his wife. Nelly hoped to “collect of money due me \$1000” which she planned to give to Parke, hopeful that the cash “might induce his consent” to let Parke and the children travel to Virginia. She evidently hoped in vain, and after the deaths her other two adult children in 1839 and 1847, she had an expanding household of small children to help look after. With insufficient resources to share, Nelly apparently never considered legal recourse. Many families probably also suffered behind closed doors, but others pursued alternatives, either privately or publicly. In so doing, they were forced to rearticulate the expectations of spousal support and property transfer at the heart of early American marriage contracts.

The long and sad histories of Thomas Jefferson’s daughter and granddaughter make plain that the third President and his family were also limited by the legal culture and social structures of early Republican Virginia. Jefferson had made no prenuptial settlements for his daughters or granddaughters, despite his own chronic indebtedness

and his familiarity with Virginia law. Like many fathers, he may have felt he did due diligence in seeing his daughter Martha and his granddaughter Ann married to the sons of friends from prominent families, although both women married fairly young at seventeen. Yet when their husbands proved improvident and volatile, Jefferson was largely passive, failing to leverage his legal knowledge and social clout to assist them.

Martha Jefferson's courtship was remarkably brief. After spending her adolescence in Paris, she was engaged within a month of her return to America to Thomas Mann Randolph, Jr., a third cousin. His father, Thomas Mann Randolph, Sr., was a boyhood friend of Thomas Jefferson and a prominent plantation and slave owner; as his eldest son, Tom was heir presumptive to Tuckahoe Plantation and its enslaved workforce. Martha and Tom had met as children as well, but only two or three times. On renewing their acquaintance, Jefferson approved of studious, earnest young Tom.

As in so many cases, Jefferson employed the language of sentiment when discussing Martha's engagement. He claimed that, "according to the usage of my country, scrupulously suppressed my wishes, that my daughter might indulge her own sentiments freely" – but overlooked that Martha's choices were limited and that her "sentiments" were framed by the financial reality of marriage.¹⁶ From birth, Martha had been groomed to attract a spouse within the elite social strata, and to seek qualities in a potential husband that correlated with a privileged upbringing and suggested future prosperity. Martha's sentiments, like most elite girls', were "free" as long as they remained within their certain financial and social boundaries.

Two days before Martha and Tom married on February 23, 1790, their fathers

¹⁶ Thomas Jefferson to Madame de Corny, April 2 1790, *Papers*, 16:290/
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deeded them each a plantation. Tom received a tract of 950 acres of his father's 14,000 acres, with forty slaves plus the "stock and utensils" to work it, and expected more upon his father's death. Martha received "the plantation called Wingo's" – one thousand acres and twenty-seven slaves as well as "all the stock of work horses, cattle, hogs and sheep and the plantation utensils" on it.¹⁷

Precautions to protect Martha may have seemed unnecessary, but the newlyweds' financial foundations were built on shifting sands. Tom's mother, Ann Cary Randolph, had passed away about one year before they married, and Thomas, Sr., evidently discontent as a widower, soon turned his attentions to the seventeen-year-old daughter of a wealthy neighbor, John Harvie. In July 1790, an anxious Martha Randolph wrote to her father, expressing her concerns. Jefferson admonished her that "Colo. Randolph's marriage was to be expected. All his amusements depending on society, he cannot live alone" - alone apparently meaning without the comfort and assistance of a wife, for there were still several unmarried children residing with him at Tuckahoe. Martha mentioned that John Harvie was negotiating a settlement for his daughter Gabriella that undermined her husband's interests; her father's advice was for Martha to ingratiate herself to her father-in-law as a method to promote "your interests which might be injured by a misunderstanding" if they objected too stridently to the marriage. Despite the interfamily friction, Thomas, Sr., married Gabriella in September.¹⁸

Alas, their young stepmother promptly produced a son, who was also christened

¹⁷ "Marriage Settlement for Martha Jefferson," *The Papers of Thomas Jefferson Digital Edition*, ed. Barbara B. Oberg and J. Jefferson Looney (Charlottesville: University of Virginia Press, Rotunda, 2008).

¹⁸ Thomas Jefferson to Martha Jefferson Randolph, 17 July 1790, *The Papers of Thomas Jefferson Digital Edition*.

Thomas Mann Randolph. Tom was still reeling from this emotional and psychological blow when his father died in 1793, leaving the eldest son to manage the debt-ridden estate. His father's revised will shocked Tom and Martha. Not only did the new will name his infant half-brother heir to Tuckahoe Plantation, his presumptive inheritance as the eldest son - it also appointed Tom only as executor of the estate, not guardian of the younger children, whose care was entrusted to Gabriella's father.¹⁹

A distraught Tom wrote to his father-in-law that he suspected that Harvie was responsible for this "unaccountable and mortifying omission since we being by Nature pointed out for this trust and by custom regarded as the most proper persons for it, it wears the appearance of a suspicion of inability." Tom lamented that he had arrived too late to supervise the drafting of the will, because "[w]e know well that my father himself would not have left them in other hands and suspect strongly from this and many other circumstances that he was when the will was signed almost insensible." Harvie's guardianship meant that he controlled and managed the minor Randolph children's estates until they came of age, yet the actual responsibility for their care and education fell almost entirely to Tom and his older siblings. Yet Harvie was spared the "invidious, dangerous and difficult" duties of executorship, which Tom accepted only because it permitted him to better defend his and his siblings' material interests in their father's estate. Tom would spend years trying to settle his father's \$64,000 of debt, while in 1797 Gabriella remarried and granted guardianship of the youngest Thomas Mann Randolph to her new husband.²⁰

¹⁹ Kierner, *Daughter of Monticello*, 86-96.

²⁰ Thomas Mann Randolph, Jr., to Thomas Jefferson, 30 November 1793, *The Papers of Thomas Jefferson Digital Edition*; Lyon G. Tyler and Earl Gregg Swem, eds., *Genealogies of Virginia*

The vagaries of plantation production and the expenses of Tom's political career compounded this initial setback. Tom, like his father-in-law, was plagued by debt, both inherited from his father and accumulated during his term as Governor of Virginia. His difficulties in making a profit from planting, even with the assistance of the wedding gifts, were further strained by the regular arrival of new children, eventually totaling eleven. Cynthia Kierner, in her biography of Martha Jefferson Randolph, suspects that Randolph began drinking due to his anger and anxiety over his dim prospects and loss of status. Tom's failure to provide for his family adequately soured his temper and strained his relationships with Martha, his father-in-law, and his children. Alcohol made his temper more ungovernable, and eventually prompted Martha to permanently retreat to Monticello with her younger children.²¹

With both an improvident husband and father, Martha struggled to educate her children and support herself after her erstwhile providers' deaths. She had long ago relinquished dower rights to her husband's estate, leaving her no hope that there might be some support coming to her after Tom's death.²² After her father's death and the sale of Monticello, Martha depended upon her adult children to house and supply her. Her will, drafted in 1835, was a mere handful of sentences. She divided her small cash and stock holdings among her five daughters, and her personal property among her sons and sons-in-law. She bequeathed a slave each to two sons, and "nothing but my love" and a share of her books to the youngest. Two sons-in-law received specific portions of the plate that

Families from the William and Mary College Quarterly (Baltimore: Genealogical Publishing Co., Inc., 1982), 280.

²¹ Cynthia A. Kierner, *Martha Jefferson Randolph, Daughter of Monticello: Her Life and Times* (Chapel Hill: University of North Carolina Press, 2012).

²² Kierner, *Daughter of Monticello*, pp. 76-81, 88, 89, 152, 156, 159-60, 162, 172, 182, 186, 187, 189-90, 192-93, 228-30.

was to be divided among all her heirs. The son-in-law to whom she was closest received her father's clock.²³ The daughter of the nation's third President died in genteel poverty.

Despite her own experience, Martha's daughters had much the same preparation for marriage – or lack thereof. Her older daughters spent prodigiously on their “coming out” seasons in Washington; Martha justified the expense with the hope that they would attract wealthy husbands with their fine pedigree and polished manners. The speculation yielded uneven dividends. The third and fifth of Martha's six surviving daughters never married, the fourth married Jefferson's secretary, the youngest married a doctor, and the second married into Boston's mercantile elite; but the eldest, Ann Cary Randolph Bankhead, fared even worse than her mother. Her parents and grandfather had few resources to share, and declined to propose any legal action to dissolve the marriage or secure a separation, despite more than sufficient grounds.

Ann married at seventeen to twenty-year-old Charles Bankhead, the son of a family friend, whose failings exceeded even those of her father. Ann's marriage was continually marred by drunkenness and outright violence. Though her parents had created a trust for her upon her marriage, consisting of one-third of a 1450-acre tract, it was subject to her husband's ineffective management.²⁴ Like her father, Ann's husband was unsuccessful as a planter and turned to drink. Unlike Tom, Charles Bankhead was openly and extremely violent towards his wife. In 1815, Jefferson recorded that Charles “had committed an assault of the greatest violence,” forcing Ann to “take refuge in her mother's room.” Even the presence of Martha and other family members did not deter

²³ Will reprinted in Kierner, 263.

²⁴ Draft of Marriage Contract between Charles Bankhead and Anne Cary Randolph, 17 September 1808 published in “Jefferson Quotes & Family Letters,” Thomas Jefferson Foundation, Inc., <http://tjrs.monticello.org>, 2015.

him. Martha, Tom, and Jefferson intervened only when confronted with Charles Bankhead's brutality towards Ann when they were at Monticello. Further imperiling Ann's and her children's security, Bankhead was profligate. Martha made the bitter, futile suggestion to hire "a keeper to prevent him from doing mischief, and let him finish himself off at once" through drinking. But Charles Bankhead did not perish as quickly or as easily as his wife's family wished.

Ann's family sought to shield her from financial hardship, despite the strain on their resources. Her father, already indebted himself, assumed many of his son-in-law's financial liabilities, presumably to ensure that the Bankheads could avoid bankruptcy. Jefferson belatedly created a separate estate for Ann to try and shield some property from her husband's creditors. But neither was willing to insist on a permanent separation, or even that the Bankheads live at Monticello permanently; Charles could also not be persuaded to return to his father's house. Even after he publicly stabbed his brother-in-law, Ann continued to live with him, bearing and raising children while enduring both psychological physical violence. Perhaps the public scrutiny the former President and his family feared deterred them from taking decisive action, but, regardless of their reasoning, they drew the line at investing financially in propping up the marriage, rather than intervening in the courts to end it. Unlike her mother, Ann Bankhead did not live to see the ignominy of impoverished widowhood. She died at Monticello in 1826, shortly before her grandfather, from complications due to childbirth.²⁵

The legal dependency enforced by coverture left women like Ann Bankhead and Martha Randolph with few options when their husbands and fathers failed to take

²⁵ Kierner, *Martha Jefferson Randolph*, p. 141, 144, 168-69, 174, 199-200.

precautions to secure them separate support. Land speculation, market crashes, or agricultural exhaustion increasingly victimized women trapped in a legal system out of step with economic realities.

“She says *she will leave him... but will go first to his father:*” Securing Wives’ Support in Private Separations

As the previous examples suggest, historical analysis of marital dysfunction is often complicated by a paucity of documents, whether created by contemporaries’ reluctance to commit such sensitive issue to paper or by their descendants’ embarrassment regarding their forbears’ failings. The survival, then, of a wealth of letters documenting the miserable marriage of Harriet Chew Carroll offer an exceptionally vivid picture of the disintegration of a marriage, her family’s attempts to intervene, and the ultimate, private resolution reached between the Chews and Carrolls. Harriet’s experience reinforces the impression that even when life or limb *was* in danger, families were slow to act, and the aid they offered was limited. Harriet’s ordeal would most likely have lasted much longer without the support of her father-in-law – an ally on which few women could rely.

Neither the Chews nor the Carrolls could have predicted the sad course of Harriet and Charles’ marriage when they wed in 1800, both age 25. Charles was “handsome, beautifully mannered,” the only son of a signer of the Declaration and heir to one of the largest fortunes in Maryland. Harriet was the charming and attractive daughter of the Attorney General of Pennsylvania. Charles’ interest was first expressed to Harriet’s father in May of 1800, when he announced his “unalterable affection for your Daughter” was

the “real object of my frequent visits in your Family.”²⁶ He promised that his father, Charles Carroll of Carrollton, would provide an annuity of at least \$5,000. The elder Charles, though he would have preferred a Catholic daughter-in-law, was “much pleased with the intended connexion” to an illustrious family and promised not only an annuity, but also a 130-acre estate, and \$10,000 to build and furnish a handsome house, soon named Homewood.²⁷

At first, Charles was “a Husband... perfectly formed to make me truly happy.”²⁸ Harriet’s uncle declared “Charles is a most worthy young Fellow, with an Honest benevolent Heart,... a kind affectionate Husband, and as well calculated as any young Man I ever knew for the Enjoyment of domestick Happiness.”²⁹ After thirteen months of marriage, Harriet, though still homesick, wrote glowingly to her brother that the “affectionate attention & watching anxiety of kind husband, with the blooming health of my lovely infant... ought to console me... perhaps a little time will reconcile me & make me as I ought to be more energetically grateful for the blessing[.]”³⁰

Whether through failure to write or later loss, an epistolary silence descended. Charles periodically wrote friendly letters about business concerns or the health of his wife and the five additional children she bore between 1802 and 1809. By the summer of

²⁶ Charles Carroll of Homewood to Benjamin Chew, Sr., May 5 1800, Chew Family Papers (Collection 2050), The Historical Society of Pennsylvania. I take the opportunity to express my sincere gratitude to Sally Mason, Ronald Hoffman, and Mary Jeske for permitting me to study many transcriptions meticulously prepared for the Carroll Papers Project for the forthcoming *A Patriarch in the Early Republic: Charles Carroll of Carrollton’s Papers, 1782-1832*, which allowed to verify previous transcriptions and access many additional documents, and for their insights on the relationship described herein. Any errors are entirely my own.

²⁷ Elder Charles’ support: CCH to Benjamin Chew, Sr., May 19 1800, Chew Papers, HSP; John Eager Howard to Philip Nicklin, June 12 1800, Chew Papers, HSP.

²⁸ Harriet Chew Carroll to Benjamin Chew, Jr., November 25 1802, Chew Papers, HSP.

²⁹ Joseph Chew to Benjamin Chew, Jr., February 12 1801, Chew Papers, HSP.

³⁰ Harriet Chew Carroll to Benjamin Chew, Jr., August 9 1801, Chew Papers, HSP.

1811, Harriet's mother worried her daughter was unwell, "tho every one tells me She is better... I must own there is not that appearance that I could wish." Harriet's sister Catherine concluded that "weakness of system, seems to be the chief cause of her pallid cheeks." Conspicuously absent are mentions of Harriet's happiness, particularly alongside mentions of how "happily situated" sister Margaret Howard was nearby.³¹ The Chews had not yet discovered the depths of Harriet's sorrow.

Probably in 1810 or 11, Charles began a rapid and inexorable descent into alcoholism. By 1812, Harriet's sister Sophia warned their brother Benjamin, Jr., "I greatly fear that some interference will become necessary to resque[sic] her from becoming a victim to her sensibility – to her illrequited affections."³² Despite Harriet's "struggling daily to bear with, to reclaim, and to conceal the weakness of Him who might have [made] her the happiest of women," Sophia confirmed that "[t]he evil" of Charles's drinking "has gradually progressed," from "a *private* indulgence... first whispered & at length generally observed."³³ Charles's public intoxication and subsequent scandalous behavior now jeopardized the Carroll family name and endangered Harriet and their children.

Addiction to alcohol and frequent intoxication were only part of the problem. Harriet's sister Maria also reported a troubling change in the once-charming Charles. No longer "affectionate and attentive," unless he was begging for forgiveness, his "temper" was lately "petulant, violen[t] & vindictive at all times... If he is not in one state [drunk], the other is quite as bad to bear I mean the temper, which is really so entirely changed,

³¹ Elizabeth Oswald Chew and Catherine Chew to Benjamin Chew, Jr., 22 June 1811, Chew Family Papers, HSP.

³² Sophia Philips to Benjamin Chew, Jr., June 6 1812, Chew Papers, HSP.

³³ Sophia Philips to Benjamin Chew, Jr., June 11 1812, Chew Papers, HSP.

that it alone would create misery – but in fact, he is seldom free from the other evil, more or less, which I suppose causes the latter.” Endorsing the idea that marriage should be a source of happiness, she wrote mournfully, “There is such a *total want* of domestic happiness” that “*all* my hopes are at an end, after so many solemn promises that are broken.”³⁴ But without financial as well as emotional support, Harriet could not leave.

Harriet’s siblings immediately recognized that such support would have to come from Charles’s father, Charles Carroll of Carrollton. Sophia reported that she subtly brought the issue to Charles, Sr.’s attention while visiting with Harriet; as the holder of the purse strings, his permission was required before Harriet went anywhere, lest her apparent abandonment anger the patriarch. Despite their concern, Harriet’s siblings wanted to ensure that they would not be required to support her and her five children; never did they suggest fleeing to Philadelphia without “the old gentleman’s” express consent. However unhappy Harriet’s marriage might be, they expected her husband or his father to arrange financial support.

Harriet was fortunate that her father-in-law was fond of her. Although Harriet “shr[a]nk from the thought of a *public* separation,” Charles, Sr., “concurr[ed] a visit to Philadelphia was necessary to recruit her health and broken spirits. He highly approved of it and said it was necessary on account of the children that she should take care of her self.”³⁵ Charles, Jr., straightened himself out for several weeks; Harriet returned; he shortly relapsed. This pattern continued, with absences and reformations of varying duration, until 1816.³⁶ By March 1816, Charles’s “gradual increase of the unfortunate

³⁴ Maria Chew to Benjamin Chew, Jr., 20 January 1813, Chew Papers, HSP.

³⁵ John Eager Howard to BC, 18 March 1813, Chew Family Papers, Box 56, HSP.

³⁶ Harriet’s resistance was not only emotional or psychological but also religious, as she was

propensity” was so consuming that he “said he would do with only cologne water” after consuming all the liquor, wine, and beer at Homewood.³⁷

Losing hope, the elder Charles began considering arrangement for Harriet’s separate maintenance. “The old gentleman has for some time been proposing her return to Phila as the only expedient he can adopt,” promising this time to “fix her in a house & establishment” in order to resume the previous arrangements of house arrest for supervising his ill son and limiting his access to alcohol. As she had before, Harriet delayed. But by June, relations at Homewood had sunk to their ugliest depths. Charles, Jr. grew openly verbally abusive as well as physically threatening, denigrating his wife’s most precious asset, her character, “charg[ing] her to the servants of having” lovers at the house. He further “threatens to bring female visitors into the house which he is not restrain’d by any principle for doing.” In fact, he had already publicly consorted with prostitutes, “slandrous” stories Harriet refused to believe, until her father-in-law found an “acct. for \$70 hack hire for women.”³⁸

Harriet Chew Carroll finally accepted that her marriage to Charles Carroll of Homewood was over in 1816. For four years, she had “looked a shadow” of her former vivacious self; her pretty face was marred by strain and worry. The final straw came the night of June third. Charles “had been very violent all night... throwing every thing in his

deeply committed to the idea of wifely piety bringing about redemption. Cf. John Eager Howard to Benjamin Chew, Jr., March 25, 1813, Chew Papers, HSP, and Harriet Chew Carroll to Archbishop John Carroll, April 29 1813, courtesy of the Chew Papers Project. For another historical discussion of an abusive relationship, see Ann Taves, ed., *Religion and Domestic Violence in Early New England: The Memoirs of Abigail Abbot Bailey* (Bloomington, Ind.: Indiana University Press, 1989).

³⁷ Margaret Chew Howard to BC, March 10 1816, Chew Papers, HSP. Charles, Sr., listed “ardent spirits, either, eau de Cologne, wine & strong beer” as forbidden drinks when he had his son under hired supervision again in 1816. CCC to Captain James Craig, June 11, 1816, MS 203, Maryland Historical Society.

³⁸ MCH and JEH to BC., April 21 1816 and JEH to BC June 2 1816, Chew Papers, HSP.

way about the house[,] banging at all the doors with all his exertion – whilst she & her children were locked up in her *own* room in fear & dread of *their* lives.”³⁹ The following day, “having left him bad She says she will leave him – but will resolutely adhere... to her own plan – not to leave the house... but will go first to his father.” Her resolve may have been strengthened by Charles’ lack of remorse; the following day Henrietta saw “when he could get the ear of Harriet thro the day it was to revile & abuse her in the *gravest* & most degrading manner,” repeatedly “desir[ing] her to be off & take all her brats with her.”⁴⁰ Finally, “all her conscientious scruples have... [b]een overcome by the conviction that her life & her children’s safety require the decided measure to be adopted, and that a longer contin[u]ance under the roof of such a monster, would expose them to the most imminent danger.”⁴¹ With her father-in-law’s help, Harriet began to plan her permanent exit from the marriage.

Convinced this separation “will be permanent, or of several years duration,” Charles, Sr., drew up directions and appointed agents for the support of his daughter-in-law and grandchildren. The old gentleman carefully considered Harriet and the children’s lifestyle; he sought to ensure that the children receive the education and environment that would bolster their status. In addition to a financial annuity of \$4000, he divided the furniture at Homewood in half to partially equip Harriet’s separate household. The documents describing these provisions echo the formal language of contracts and wills, but were never witnessed and registered in court to render them legally inviolable. The division of money and property also reflected legal precedents about the allocation of

³⁹ Henrietta Chew and Margaret Howard to BC, June 4 1816, Chew Family Papers (Collection 2050), the Historical Society of Pennsylvania.

⁴⁰ Ibid.

⁴¹ Catherine Chew to Ben Chew June 5 1816, Chew Papers, HSP.

property to wives and children under wills and formal separations agreements.

In physically dividing his son's household, Charles, Sr., signaled the permanence of the division, breaking up Charles, Jr.'s household almost as if he had died. Charles, Sr., authorized the removal of furniture from two downstairs rooms plus "four beds and three mattresses and blankets and sheets thereto belonging, and a proportion of the plate at Homewood" and whatever else "may be proper for Mrs. Carroll's use." He also Harriet her a "coache and horses" and servants to guarantee the privileged lifestyle she and her daughters led. Because slavery was no longer legal in Pennsylvania, he "indented" a family of four and two additional women "to serve her till they attain twenty eight years of age, which I understand may be done by the law of Pennsylvania." He dismissed his wayward son's input, stating, "I am confident he will not object to parting with the property to render the future situation of a wife once dear to him and his children as comfortable, as his compliance with my wishes and his duty will make it by alleviating the circumstances that have occasioned it."⁴²

Clearly, by this point, Charles, Sr., was more concerned with protecting his grandchildren than with rehabilitating his son. Charles, Jr., he finally accepted, was a lost cause.⁴³ He shifted his attention to arranging for the support and education of his grandchildren, particularly the only surviving boy, the youngest Charles. He once again hired guardians for Charles, Jr. The son who threatened the Carrolls' social and financial standing was stripped of his privileges and hidden away, and the family's resources devoted to the next generation.

⁴² CCC, "Requests and directions to Col. Howard & Messrs. Caton & Oliver," MS 203, Maryland Historical Society, courtesy of the Carroll Papers Project.

⁴³ CCC to Mary Caton, April 26, 1816, Carroll-McTavish Papers, 1652-1867, MS 220, MHS, courtesy of Carroll Papers Project.

Ultimately, the Chews and Carrolls likely considered their combined efforts successful; the Carroll children escaped the social stigma of Charles's dissipation and were quietly accepted into elite Philadelphia society. Her husband never recovered. He died shortly after his fiftieth birthday, "hopelessly addicted to alcohol," totally estranged from his wife and daughters, "a source of endless heartbreak and despair" to his father.⁴⁴ Charles of Carrollton carefully supervised the education of his grandson, Charles of Doughoregan, and to the family's relief, the youngest Charles inherited none of his father's vices. Harriet focused on educating her daughters, who married well but not spectacularly, and never remarried.

While Harriet's safety and happiness certainly concerned the Chews and her father-in-law, their actions suggest that the desire to protect their families' reputations and the Carroll children's future marriageability largely determined their behavior. They long hoped Charles would reform and perform his roles as a husband and father. Charles, Jr., ultimately lost the patriarchal prerogatives of control over his wife, children, and property *only* when his violent and uncontrollable behavior became an imminent public disgrace. Separation was a solution for protecting Harriet from harm and the children from corruption while minimizing the visibility of Charles's misbehavior and protecting the younger generation's social standing - but it does raise the uncomfortable question of what might have happened had Charles, like Edward Butler, had been able to maintain a respectable facade. As it was, rather than publicize Harriet's ordeal with divorce proceedings, the Chews and the Carrolls chose to dismantle the union as discreetly as

⁴⁴ Ronald Hoffman, in collaboration with Sally D. Mason, *Princes of Ireland, Planters of Maryland: A Carroll Saga, 1500-1782* (Chapel Hill, N.C.: The University of North Carolina Press, 2000), p. 389.

possible, out of court and out of public view. Harriet was, comparatively, lucky: the Chews and Carrolls ultimately found a settled solution for her support. As the next case demonstrates, such agreements might prove impossible to reach, even if families sought legal recourse.

Nancy Shippen Livingston of Pennsylvania was one of the rare women among the elite who openly considered a divorce, and her case highlights the various challenges to women's legal suits. Nancy ran up against not only legal obstacles, but also stony opposition to such legal action from her family. Nancy's distress and her husband's misbehavior did not meet her family's threshold for what justified the drastic action of divorce, although her husband was jealous, irrational, adulterous, and eventually cast her out of his house. Nancy was ultimately only saved from an untenable situation by the willingness of her family to take her in and a sympathetic mother-in-law – resources on which not every woman could rely.

A believer in romantic love, Nancy had high aspirations for a marriage based on affection. Her father, however, pressured and persuaded her to accept a more finically advantageous match. She soon regretted, as her former fiancé Louis Otto described it, being “married in a hurry and given up to a man whom she dislikes.”⁴⁵ Despite Otto's protests and her own professions of love, she broke their engagement to hastily wed wealthy New Yorker Henry Beekman Livingston on March 14, 1781. Her father was relieved she submitted to his pressures to marry for money. Financial security did not bring Nancy contentment, however.

⁴⁵ [Louis Otto] to Nancy Shippen, “Sunday Morning” [1781], Box 4, Shippen Family Papers, Manuscript Division, Library of Congress, Washington, D.C.

Nancy quickly became acquainted with her husband's terrifying temper, ongoing adultery, and irrational jealousy. Even Henry's mother, the formidable Margaret Beekman Livingston, recognized his moral failings; in one recollection about her children, she referred to have raised "3 estimable brothers and six Sister's" [*sic*] when she actually had ten children.⁴⁶ Consciously or not, she omitted Henry from this list of her virtuous offspring. Henry's serial adultery and expanding brood of illegitimate children were open secrets around Clermont, and a continual source of embarrassment and pain for Margaret. "I am a Mother," she would later write to Nancy, "and every Misconduct every Sin and Immorality recoils upon my heart and makes it Vibrate with ten fold force."⁴⁷ Complicating Nancy and Henry's tense relationship was her discovery that, within weeks of the wedding, she was pregnant. Her daughter's future inheritance would prove to be the sticking point with her family when she sought their support for divorce.

The Livingstons' marriage steadily deteriorated. Nancy's pregnancy, rather than bringing the couple together, raised new issues of power and control. Nancy wished to return to Philadelphia for the birth, where her doting mother and physician father could care for her and the new baby, but Henry refused to permit Nancy to travel. Her mother, Alice Lee Shippen, became frantic at Henry's obstinacy. On September 25, 1781, three months before Nancy gave birth, Alice sent an agitated letter telling Nancy she had sent to "France for baby Linnen but you must expect nothing from me unless you come here."

⁴⁶ Quoted in Ethel Armes, *Nancy Shippen: Her Journal Book* (Philadelphia: J.B. Lippincott Company, 1935), 115.

⁴⁷ Margaret Beekman Livingston to Nancy Shippen Livingston, October 28 1787, Box 4, Shippen Family Papers, LOC. According to one family historian, Henry "cut a wide swath through the female population of Dutchess County, resulting in a staggering number of bastard Livingston babies of a variety of hues, religious persuasions and social classes." Clare Brandt, *An American Aristocracy: The Livingstons* (Black Dome Press, 1990), 138-40, 146n.

Alice also included a scripted paragraph she proposed Nancy deliver to Henry's mother, in the hopes that Margaret could use her influence to persuade her son.⁴⁸ Henry remained obstinate. The Shippens proposed sending Nancy's uncle Joe to retrieve her, but "Col. L. [Henry] has told me positively I shall not come... O! My dear Mamma what cruelty to deprive me of being with the best of parents at this critical period."⁴⁹

In this instance, even a separate source of income may not have helped; Nancy alleged that some form of agreement, perhaps legal, was necessary to secure her husband's consent to her departure. In a letter of October 4, she told her mother that, "If my Uncle Joe comes for me my Papa must give them *Papers* to bring with him to try to do what they can for me." While Henry at first said "they shall have no weight with him," he apparently relented, for Nancy added in a postscript that "Col. L [Henry] says if I will give him the *papers* he will let me come, & that if I do not I shall never [be permitted to] come." Perhaps under his mother's influence, or with the security of a formal guarantee of her return, Henry finally permitted Nancy to leave for Philadelphia in late October, presumably grudgingly.

Her stay in Philadelphia offered only a brief respite from marital difficulties. Nancy gave birth to her only child, named Margaret for her mother-in-law and called Peggy, on December 26th 1781, and enjoyed several pleasant and relaxing months with her parents before being summoned back to Clermont. Resuming cohabitation with her husband must have been tense and unpleasant, though there are no letters extant for nearly a year and a half. At some point during this time, she discovered her husband's

⁴⁸ Alice Lee Shippen to Nancy Shippen Livingston, September 25 1781, Box 4, Shippen Family Papers, LOC.

⁴⁹ NSL to ALS, October 4 1781, Box 4, Shippen Family Papers, LOC.

propensity for “squandering money on miserable undeserving objects” – those objects being Henry’s series of mistresses and multiple illegitimate children. Further scandalizing Nancy was that most of Henry’s children were mixed-race. The final straw was Henry’s plan to relocate to Georgia in order to gather all of his offspring under his roof, far from the judgement and interference of his family. Whether Nancy would be expected to share the house with a mistress or the extent to which she would be involved with his mixed-race children is unclear. This revelation prompted Nancy to gather her belongings and her toddler and return to Philadelphia once more.⁵⁰

Despite Henry’s flagrant violation of social norms, Dr. Shippen soon encouraged Nancy to return to New York, reminding her pointedly that baby Peggy’s “fortune depended on [Henry’s mother’s] pleasure.”⁵¹ Margaret Beekman Livingston controlled the bulk of the Livingston fortune and could ensure Peggy’s education, maintenance, and eventual inheritance. Shippen was reluctant to risk his granddaughter’s future wealth, even at the price of his daughter’s happiness. Perhaps he was prompted by the precarious state of his own finances or worry over his wife’s declining health. In any case, Shippen insisted that even if Nancy could not stay in New York, “the Child shou’d go at any rate – that he cou’d not be answerable for the Childs losing her fortune which she certainly wou’d do, if I kept her from her Grandmother.”

Only the threat of separation from her daughter persuaded Nancy to attempt to reconcile with her husband. Nancy was firmly bound to her husband not only for his financial support but because the control of children was automatically granted to husbands. Nancy felt her “whole soul is wrapp’d up in” her daughter; parting with Peggy

⁵⁰ Armes, *Nancy Shippen Journal*, 128-29.

⁵¹ Nancy Shippen Livingston Journal, May 16 1782, Box 2, Shippen Family Papers, LOC.

would make her “the most miserable of woman kind.”⁵² Despite her distaste for her husband, she resolved to take Peggy to New York herself in the hopes that Henry “might relent – & we might live happily together *once more*.”⁵³ Nancy’s hope was short-lived. When she arrived in at her mother-in-law’s house in New York, Henry refused to see her at all. His reply to her apologetic letter “was such a one! [that] I am asham’d to transcribe it.”⁵⁴ Henry made it clear that she would not be welcomed back to his house. Despite her sympathy for Nancy, Margaret Livingston insisted that baby Peggy remain in New York; Nancy had no option but to submit - only men had legal claims to their children.

Rejected by her husband, a bewildered Nancy returned to Philadelphia, her empty arms aching for her daughter. What transpired in the winter and spring of 1785 sealed the fate of her marriage: she would never return to Henry’s house. While the details are vague, Nancy’s journal reveals a sudden offer of reconciliation and then a painful reversal. It is not clear if Henry was genuine but unstable, or toying with her, but he dashed Nancy’s hopes of some sort of reunion. Before their scheduled meeting, he sent word to Nancy that he was leaving the following morning, darkly adding he was taking his “Passage by Water in the hopes that some happy accident may rid you of a Painfull Restraint and me of my Woes.”⁵⁵ Baffled, Nancy “shew’d it to Papa & received his advice on it.” Henry’s abrupt departure foreclosed the possibility of reconciliation and “destroyed all my hopes” of returning to New York and Peggy. Even her father finally

⁵² NSL Journal, May 16 and 17 1782, Box 2, Shippen Family Papers, LOC.

⁵³ NSL Journal, “June [August] 7” 1783.

⁵⁴ NSL Journal “June [August] 8” 1783

⁵⁵ Henry Beekman Livingston to NSL, “eight o’clock” [February or March 1785], Box 4, Shippen Family Papers, LOC.

agreed that “it will never do for me to return to my inflexible husband.”⁵⁶ Nancy would not see Henry again.

At twenty-two years old, Nancy existed in legal limbo, cut off from her husband’s support but still bound to him by coverture. Henry refused to support her, and her wealthy mother-in-law, sympathetic as she was, appears to have spent her fortune only on her granddaughter; no letters or journal entries record any financial help for Nancy. Dr. Shippen “[saw] the consequences of my unhappy choice too late,” she wrote in April of 1783, but “the die is cast--& my life must be miserable!”⁵⁷ The doctor’s plans for a secure, even sumptuous, life for his daughter had backfired. Not only was Nancy unhappy, she received not even the material benefits of matrimony. Her dependence had reverted back to her father, who had sought to ensure he would be spared the expense of her support when he manipulated her into rejecting Otto and accepting Livingston.⁵⁸ She was separated from her husband but still encumbered by the limits imposed by marriage; unlike a widow, Nancy did not regain her legal identity or property rights.

After several years of de facto separation, Henry “proposed applying for an authorized separation.”⁵⁹ Nancy initially refused, “because [she] thought it cou’d not be obtained without injury to the reputation of both the parties concerned,” but wrote in June of 1787 to inform Henry that she had reconsidered. New York had recently changed its

⁵⁶ NSL Journal, March 4 1785, Box 2, Shippen Family Papers, LOC.

⁵⁷ NSL Journal, April 10 1783, Box 2, Shippen Family Papers, LOC.

⁵⁸ NSL Journal, April 10 1783, in Armes, *Nancy Shippen*, p. 139; on Nancy’s failed divorce suit, Armes, *Nancy Shippen*, 257, 267-72, 291; on Livingston’s “devorse” maneuvers, Armes, *Nancy Shippen*, 286-88. On divorce in New York, see Basch, *Framing American Divorce* and *In the Eyes of the Law: Women, Marriage, and Property in Nineteenth-Century New York* (Ithaca, N.Y.: Cornell University Press, 1983).

⁵⁹ NSL to Henry Beekman Livingston, 31 June 1787, Nancy Shippen Livingston Letter Book, Shippen Family Papers, Box 4, LOC.

divorce statute, and Nancy had learned that “in NY the mode of procuring ~~divorees~~ separations... is much facilitated.” She would consent the separation, which would require to her waive her dower in Henry’s property, if Henry would first “settle a portion of your estate on our dear little girl... that she may in some measure be independent.” Henry evidently balked, accusing Nancy of greed; perhaps Henry was loathe to commit a significant amount of wealth to his one legitimate child at the expense of his numerous illegitimate children. Nancy composed a carefully deferential reply to his accusations, writing to “assure you that it is not from mercenary but just motives that I beg leave to defer the separation by law you desire me to consent to untill you agree to contribute to the maintenance and education of your child.” Her father, she assured him, was willing to pay a portion of Peggy’s expenses, but “propriety” as well as pragmatism required his financial commitment. She concluded by informing Henry that “[y]our charming little girl is well and sends you her love & duty,” before signing “your humble & obedient servant.”⁶⁰

Henry refused to comply, and it was his mother who acted as Nancy’s staunchest ally when he threatened to pursue the separation without Nancy’s consent. Though she loved her son, Margaret Livingston recognized that his “Sins and Immorality” made Henry an unsuitable husband and father. By late 1787, Margaret had already resolved that Peggy “must not be often with... her Father and she shall not.”⁶¹ Margaret sympathized with Nancy, but her primary concern was almost certainly Peggy’s future financial security. With that goal in mind Margaret offered Nancy support and most likely worked to undermine her son’s efforts. Margaret’s encouragement probably explains much of the

⁶⁰ NSL to HBL, [Fall] 1787, NSL Letter Book, Shippen Family papers, Box 4, LOC.

⁶¹ Margaret Beekman Livingston to NSL, October 28 1787, Box 4, Shippen Family Papers, LOC.

difference between Nancy's frantic pleas to her versus Nancy's composure in her correspondence with Henry, as when Nancy crisply informed Henry in an undated letter that his plans to petition the current court had been derailed. The prestigious lawyer he had planned to hire, she wrote, "declines the business you have given him... it will be necessary to send in your petition 30 days before the Supreme Court meets, I give you this information that you may employ another lawyer" - likely sending her estranged husband into a paroxysm of rage. "I hope very soon to hear from you that you agree to assist my Father in providing for your little girl," Nancy continued calmly, "in this case I will concur in soliciting the separation you so much desire⁶²." But neither affection nor reason would persuade Henry to perform what Nancy and Margaret saw as the minimal fatherly duty of providing for Peggy. Margaret sadly reported to Nancy that Henry was only interested in claiming custody of Peggy in order to access her estate; once he had it, "he w[ould] never care a straw where she is⁶³."

When the private agreement proved impossible to reach, it was Nancy's mother-in-law who encouraged her to consider petitioning for a divorce, while Nancy's own family was reluctant to support her quest for a divorce. The stigma of divorce was too powerful. When Nancy wrote to her uncle Arthur Lee, a lawyer, for advice, she received only sarcasm in reply. He expressed disgust that the letter "talks of Divorce with as much nonchalance as of a discarded Lover." Nancy evidently asked which lawyers in New York were most "learned & successful." Arthur's example of learned lawyers was "one—who married an old woman himself being very young," while the most successful married a woman with an enormous dowry. Dr. Shippen, too, appears to have refused to

⁶² NSL to HBL, late 1787, NSL Letter Book, Shippen Family papers, Box 4, LOC.

⁶³ MBL to NSL, 1789, cited in Armes, 270.

assist his daughter. He likely shared Arthur Lee's reflexive revulsion towards divorce, compounded with his concern for his granddaughter's future fortune. Margaret Livingston lamented her grandchild's "singular... fate, an unnatural Father combined with her Grand parent to exclude her from the common ties of hospitality, even a shelter under their Roof."⁶⁴ Arthur pointed out to Nancy that her father's support was essential to pursue a divorce petition, and if they were to petition the next session of the Supreme Court, they had no time to waste.⁶⁵

The documentary record is fragmentary and the details unclear, but *both* Nancy and Henry made ultimately unsuccessful attempts to divorce the other. In late 1790, after a year of preparation, Nancy charged Henry with a "breach of obligation" in New York's Court of Chancery, with the assistance of Aaron Burr – the lawyer whom Arthur Lee had derided for marrying an "old woman."⁶⁶ Her father, perhaps persuaded of Henry's adultery as well as eager to secure some financial support for his daughter, agreed to support the case. Proof of Henry's adultery was readily furnished; a colleague of Burr's reported that Dr. Shippen informed him of, "and doubtless, Persons of good Character" in New York would confirm, Henry's "cohabiting with a woman... his having children by [her] and his supporting them under his roof."⁶⁷ The woman in question was Mary Van Kleef, who was named in Nancy's case as having begun an affair with Henry on May 8, 1787. It is unclear if Van Kleef was of only European descent, or if she was the mother of some of Henry's mixed-race children.

⁶⁴ MBL to NSL, 1789, cited in Armes, 268.

⁶⁵ Arthur Lee to NSL, July 11 1789, Box 2, Shippen Papers, LOC.

⁶⁶ *Anne Home Livingston v. Henry Beekman Livingston*, Petition for Divorce, Dec. 7, 1790, NYCC Cases, Papers of Aaron Burr, reel 19.

⁶⁷ W. Barton to Aaron Burr, 3 September 1789, Papers of Aaron Burr, reel 2.

Ironically, it was likely Margaret herself who persuaded Nancy to withdraw the suit. Shortly before the suit was filed, Margaret wrote to Nancy that “I have the satisfaction to inform you that a great change has taken place in [Henry’s] Life and conduct – the woman is dismissed and it is his Wish, joined with mine, that the child shall return to me I have his Solemn promise that he will not take her from me and I have every reason to believe his Sincerity.” Perhaps anticipating Nancy’s bewilderment and suspicion, Margaret continued, “you my dear Madam will I fear object against it but you have no reasonable cause as you well know my attachment to the dear child.”⁶⁸ Her use of “reasonable cause” may have been a deliberate choice of words – chancery suits were referred to as “causes.”

Henry may well have put on a show of reform as a strategy to weaken Nancy’s resolve. His ultimate aim appears to have been to avoid being forced to support Nancy and to gain access to Peggy’s inheritance from Margaret, probably in order to support his other children. He challenged her suit in April on a technicality, pointing out that Nancy had not maintained her residence in New York and thus had no standing to petition its courts.⁶⁹ It was blatantly conniving, however, because four days *earlier*, Henry had filed for a divorce on the basis of desertion in Connecticut, where divorce was far easier to obtain.⁷⁰ While the documentary record ends abruptly, it is likely that both cases were dismissed due to lack of standing, leaving Nancy and Henry locked in a legal stalemate.

⁶⁸ MBL to NSL, 6 October, 1790, Shippen Family Papers, Box 4.

⁶⁹ *Anne Home Livingston v. Henry Beekman Livingston*, Demurrer, 29 April 1791, NYCC Cases, Papers of Aaron Burr, reel 19.

⁷⁰ Divorce Petition, Henry Beekman Livingston, Salisbury, 25 April 1791, Litchfield County Superior Court, cited in Sheldon S. Cohen, “‘To Parts of the World Unknown’: The Circumstances of Divorce in Connecticut, 1750-1797,” *Canadian Review of American Studies* 11, no. 3 (January 1, 1980): 275–6, 291n3.

By 1792, Henry had dropped all pretense of reform. He began to plan to move to Georgia with at least one of his African-American mistresses and her illegitimate mixed-race children; in response, Margaret determined to keep Henry out of Peggy's life entirely. She realized too late that only a "divorce" would free Nancy from her legal incapacity and permit her to challenge Henry's power to remove Peggy. Peggy's social standing and moral development were at stake, but while under coverture, Nancy was unable to intervene.

The threat of social and racial contamination finally motivated Margaret to act decisively. While Margaret cared deeply for Peggy, her responses suggest that it was concern for Peggy's social capital, more than her emotional wellbeing, that prompted such dramatic actions. Horrified that the "child of one of the first families of the United States" might be brought up "in a family without a white woman in it," Margaret conspired with Nancy to hide Peggy from her father, even when he threatened to sue her. But this was only a temporary solution; only Nancy could hope to challenge Henry's parental rights. As a "*feme sole*," Margaret asked, "are you not as much entitled to be her Guardian as he[?]" As Henry continued with his plan to gather his mistresses and their children in his household, divorce seemed to be the only way to shield Peggy from corruption and infamy. "Will your Father, your B^r your 2 Hon^d uncles, will none interfere [on your behalf?]" Margaret begged.⁷¹ Nancy's family, however, had already attempted a suit and failed; perhaps another was too legally complicated or personally taxing for Judge and Alice Shippen, for no mention was made of further legal action. As a married woman, Nancy was legally powerless over Peggy.

⁷¹ MBL to NSL, October 29 1792, Box 4, Shippen Family Papers, LOC.

More powerless to shape the future of her children, however, was Henry's mistress or mistresses. What Margaret and Nancy saw as an unmitigated disaster for Peggy was probably a singular opportunity for Henry's mistress(es) and their children. Nancy likely never considered that the women she dismissed as "miserable undeserving objects" shared the same maternal impulses, or that, while her consent might have been made without a full grasp of Henry's character, her choice was also not a result of social marginalization, economic duress, or physical coercion. For all Nancy's protestations of powerlessness, her social standing and her parents' wealth gave her privileges almost unimaginable to the marginalized women Henry took as mistresses.

Having ventured down the legal path only to find unsurmountable obstacles, Nancy and her allies were forced to forge a private route. Nancy and her mother-in-law continued to clandestinely shuttle Peggy between New York and Pennsylvania for years - instructing Peggy to write under an assumed name for a time, even collaborating to thwart a bill of *habeus corpus* Henry filed demanding that Nancy produce their daughter.⁷² In 1797, when she turned sixteen, Peggy renounced the Livingston fortune and moved to Philadelphia, where she lived with her increasingly embittered and reclusive mother until Nancy's death in 1841. Peggy died unmarried in 1888.⁷³

Thus, Nancy's story suggests how challenging it was not only to garner support

⁷² Margaret Beekman Livingston hid Peggy from her father for years by the time she sent Peggy to Philadelphia, appalled by her son's plan to live openly with his mixed-race mistress and illegitimate children. Armes, *Nancy Shippen*, chs. IV and V; quotes from Louis Otto to Nancy Shippen, March 1781, in Armes, p. 108, and Nancy's journal, May 16 1783, in Armes, *Nancy Shippen*, 145; Margaret Livingston's admission of son's adultery and hiding Peggy in letters to Nancy Shippen, in Armes, *Nancy Shippen*, 283-287; divorce attempt, 267-70, 291-92 - Nancy may have let the suit lapse when she realized she might lose access to Peggy; brief summary in Randolph Shipley Klein, *Portrait of an Early American Family: The Shippens of Pennsylvania Across Five Generations* (Philadelphia,: University of Pennsylvania Press, 1975), p. 211-214.

⁷³ Armes, *Nancy Shippen*, 298-301.

for a divorce petition, but also to meet the threshold required for relief. Many women like Nancy who enjoyed the most access to legal knowledge and the social connections to use it were likely also simultaneously discouraged from using it. And even if family members were persuaded and a lawyer secured, securing a favorable judgment was never a guarantee. The key factor for an estranged woman's allies was often financial; in Nancy's case, it was the hope of financial support that may have finally pushed her father to support a divorce suit. Not only Nancy's family but Henry's mother insisted that marriage entailed financial obligations, though Nancy was willing to exchange her right for support in the form of dower to secure Peggy's inheritance. But many women, like Nancy, may have decided that the price of legal freedom - almost certain loss of access to children - was too high.

Like courtship, estrangement forced couples and their families to define divisions of property and expectations for support or gain. Women's families sought to ensure that they were not burdened with the support of a married woman. They did so in a number of ways - by encouraging reconciliation, by intervening to demand private arrangements, by settling separate property on her, or by assisting her with a legal suit.

In every instance of marital disharmony, concerns about women's financial support and the transmission of property overshadowed concerns about women's welfare. While expectations for happiness and acceptance of women's entitlement to physical safety as well as financial support increased, families recognized the central role of property in marriage when they made separations and divorces contingent on the financial maintenance of separated spouses. In every instance, families counseled women to excuse or endure her husband's faults. Only when women were physically endangered

or husbands clearly intransigent did families act, often slowly and cautiously, to renegotiate the terms of a couples' marriage. Even then, wives' families sought to share the costs with the husbands'. When husbands were implacable or dangerous, most families quietly made private arrangements, hoping to keep scandalous behavior from becoming public knowledge. Families only resorted to public, legal measures when securing property or income for an abused daughter and her children was not otherwise possible, and then only in dire circumstances.

Chapter 7
“Unhappy Differences Have Arisen:”
Seeking Legal Solutions to Abuse and Adultery

As plaintiffs stressed in their depositions, formal divorce was the final alternative, only considered after all attempts to settle matters privately failed.¹ Divorce petitions and suits asked legislatures and judges to do what the spouses had been unable to agree upon privately: divide the family property to secure support for the wife, and release them from the obligations to cohabit. Both petitioners and the authorities they petitioned emphasized the gravity of their decisions – injured spouses by describing litanies of abuse and abandonment as they requested assistance. Legislatures and judges, however, were reluctant to intercede, predicting social chaos and moral deterioration if the bonds of matrimony were too easily slipped.

Many female petitioners, in fact, did not seek a total dissolution of the marital relationship. Absolute divorce was available only to an innocent spouse who had to convince the legislature or a judge that the guilty spouse deliberately refused to support them, was an imminent physical threat, or both. The criteria for divorce were so stringent that few couples could hope to meet them. Most female petitioners pled instead for a divorce from bed and board, which would permit them to live apart from their husbands while maintaining their legal union.

Despite the liberalization of divorce law after the American Revolution, throughout the nineteenth century divorce remained rare, costly, and scandalous. Both states legislatures and courts demanded heavy burdens of proof and frequently denounced

¹ Cf. Buckley, *Great Catastrophe of My Life*; Schweniger, *Families in Crisis in the Old South*; Chused, *Private Acts in Public Places*; Stone, *Broken Lives*; Smith, *Breaking the Bonds*.

divorce as immoral and destabilizing. For instance, in Maryland, 1,386 divorce cases were brought to the state legislature between 1782 and 1850, averaging approximately twenty suits per year, only about one-third of which were granted.² Virginia's legislature heard 583 petitions for divorce between 1786 and 1850, of which they granted 153.³ In Pennsylvania, where marriage was treated more like other contracts, the Supreme Court heard 367 divorce cases in a much shorter period, 1785-1815, of which they granted about half. When county courts were empowered to hear divorce cases in 1804, populous Chester County heard 66 cases by 1840, of which they granted almost two-thirds.⁴ In South Carolina, although they granted no absolute divorces until 1867, the records of the Courts of Equity and the Secretary of State reveal hundreds of separation agreements reached either through mutual agreement or suit.⁵

In Pennsylvania and Virginia, where absolute divorce was a possibility, a formal separation might still be more appealing for financial reasons. When Mrs. Armistead undertook "Devorce" proceedings in Virginia in 1826, she "seems not to have understood its effect." She did not realize that her husband's petition "would in any way impair her Dower Rights," but when apprised of it, she withdrew her consent to her husband's

² Loren Schweninger, *Families in Crisis in the Old South: Divorce, Slavery, & the Law* (Chapel Hill, N.C.: The University of North Carolina Press, 2012), p. 73. Legislative divorce was available until 1850 in Maryland, although in 1841 the judiciary was also empowered to hear divorce cases. For a thoughtful consideration of the limitations of legal sources, see Julie Hardwick, "Seeking Separations: Gender, Marriage, and Household Economies in Early Modern France," *French Historical Studies*, vol. 21, no. 1 (Winter, 1998), p. 157-180.

³ Buckley, Tables A.1 and A.4.

⁴ Smith, *Breaking the Bonds*, Table 1, p. 27; Table 4, p. 36.

⁵ Salmon, *Women and the Law of Property*, ch. 4, "Divorce and Separation," esp. 64-67. The challenge with identifying separations is that they are sometimes difficult to distinguish from other postnuptial settlements, but many are noted in Barbara Langdon's extensive indexes of *South Carolina Marriages* in a number of sources and collections. Volume I covers equity reports, where contested settlements were adjudicated; Volume V indexes marriage settlements specifically, some of which were postnuptial separation agreements.

proceedings. The solution her lawyer proposed was very much in keeping with the pattern in South Carolina. "If Colo A would do Mrs A. Justice by restoring to her the property which came by her and is now in his possession," David Garland suggested, "then there would be no objection to the Devorce, but untill he does that it should not be granted." Mrs. Armistead expected to reclaim control of what she saw as rightfully hers.⁶

As previously discussed, women in Virginia and South Carolina benefited from a tradition of equity jurisprudence that permitted them to more easily create separate estates. Women in Pennsylvania, on the other, while not afforded such protection, had the advantage of more lenient statutes surrounding divorce and the option of choosing total freedom from the marriage bond, or, more commonly, legal separation and alimony. In each of these processes, families renegotiated women's access to property and money, repeatedly articulating shared assumptions about men's rights to marital property, the economic contributions of wives, and the dependence of married women.

Domestic Violence, Legal Intervention, and Women's Financial Support

When one partner did not consent to the terms of a separation, a court could intervene to determine the terms. Judges and legislatures drew on the rules of inheritance that informed couples' private separation agreements, often returning to women the property they brought to marriage or granting women the equivalent of their dower. Awards of alimony or divisions of property, even administered in equity, reflected the common law's privileging of men, who were awarded custody of children and thus a greater share of marital property. Women's portions or awards were generally

⁶ David Garland to William Waller, 15 December 1826, Garland Family Papers, VHS.

administered through trusts, which were placed under the control of a male trustee.

Divorce was in no way intended to offer women independence.

These practices were complicated in some instances, however, by the United States' expansion into former French and Spanish territories, where women's property rights were enforced according to civil law. These transitional legal spaces could create confusion, and occasionally, opportunity for estranged wives. One case suggests how conflicting legal regimes of marriage significantly shaped the experiences of one troubled and mobile family.

Jacob Bieller, originally of South Carolina, had two troubled marriages that required legal intervention. He married his first wife in 1790. They had a son, but subsequently she confessed to adultery when she bore another child after her long absence from home. Jacob received an annulment – which nullified his marriage and permitted him to remarry – in Georgia in 1802 and paid his former wife \$864 to relinquish all claims on him.⁷ He remarried in South Carolina in 1818, had a daughter, and was living in Louisiana in 1834 when his daughter Elizabeth eloped and her mother, his second wife, Nancy, went with her. Jacob accused his daughter's husband, “a certain Judge [Felix] Bosworth,” of “Robbing me of my wife & Daughter both with there [*sic*] trunks of clothing.”⁸ Felix insisted that he “will never do anything to wean your daughter from you but on the contrary I will use every exertion to keep alive in her bosom the most affectionate feelings” for her father, and assured Jacob that “no pains will be spared to

⁷ Annulment, State of Georgia, 1802, Folder 11, Jacob Bieller Papers, in the Alonzo Snyder Papers, Ms. 655, Louisiana State Library Special Collections.

⁸ Jacob Bieller account of slaves, written out to deny wife and daughter's claims, September 13 1834, Folder 6, Bieller Papers, LSU.

smooth and soften family pains.”⁹ No reconciliation was forthcoming, however.

Nancy’s accusations against Jacob shortly after the elopement suggest that neither Elizabeth nor Nancy had many “affectionate feelings” toward him by 1834. Nancy received a judgment for “a Divorce or Separation from her husband” on the grounds “first that he kept a concubine in their common dwelling & elsewhere publicly & openly and secondly, for excesses, cruel treatment and outrages towards her which rendered living together insupportable.” The court dismissed the (probably interracial) adultery charges against Jacob, but, took seriously Nancy’s testimony that Jacob had threatened her with a gun, “gave her a blow on the head with a Stick by which she bled profusely,” and “finally on the 11th August 1834, the day on which she left their common dwelling, he threatened he would kill her in the event that his Daughter should elope with or without the knowledge of the Pttf.” The judges ordered that Jacob pay Nancy alimony each month or divide their marital property. In May 1835 a distressed Jacob informed a friend that “the deputy Sheriffe[sic] serv[ed] me with a notice that the 5th monthly allimony[sic] was due, say \$100, in March I had paid the sheriffe[sic] \$400.”¹⁰ The alimony may have been a temporary solution, for the couple spent the next two years haggling over a division of property.

The Biellers’ divorce decree was administered, not under the common law or even the equity tradition of England, but the civil code of the continent, put in place by the previous colonial powers of Spain and France. Because the Biellers “removed to the State of Louisiana in 1810 when the old civil code was in force, and their respective

⁹ Felix Bosworth to Jacob Bieller March 19 1835, Folder 6, Bieller Papers, LSU.

¹⁰ Joseph Bieller to Hon. GL Guion May 14 1835, Folder 6, Bieller Papers, LSU.

rights must be tested & established by the provisions of that Code – 4th Louis^a Rep: page 188 – 5th n.v.... page 569.” Under the civil code, “all property in possession of the parties is considered by the Law *community* property,” one half of which was Nancy’s due, rather than the one-third she might have claimed under the common law in lieu of dower.¹¹ For two years they made offers and counter offers, before they finally agreed that Jacob would purchase Nancy’s half of their Mississippi land for \$60 an acre, divide the slaves equally, and make a final payment of alimony.¹² Jacob had a final card to play, however; in his will, he left his entire estate to his son’s children and explicitly disinherited his daughter for eloping while a minor, which was permitted until the civil code, but not by common law.¹³ When the Bosworths sued, on the basis that the annulment of Jacob’s first marriage made her half-brother illegitimate, they received a shock. The court not only upheld Bieller’s will – they declared that Georgia had no standing to annul a marriage made in South Carolina in the first place. Thus, in an instant, Jacob was rendered a bigamist, Nancy a fornicator, and Elizabeth a bastard. As such, Elizabeth’s claim was void.¹⁴ Thus while the civil code had benefitted Nancy, it ultimately disadvantaged her daughter.

The Fragility of Separate Estates

While many women suffered for want of separate support secure from spendthrift

¹¹ *Bieller vs Bieller*, Louisiana Supreme Court (1845), copy of case in Folder 16, Bieller Papers, LSU.

¹² Felix Bosworth to Jacob Bieller, August 14 1836; Nancy to Jacob August 16; Felix to Jacob, August 16; Felix and Nancy to Jacob, August 18; Jacob to Nancy August 19; Nancy to Jacob, August 19, Folder 7, Bieller Papers, LSU.

¹³ Draft of Jacob Bieller’s Will, December 15 1834, Folder 15, Bieller Papers, LSU.

¹⁴ “In the Supreme Court of Louisiana: Felix Bosworth & Wife vs. Thomas Bieller, Executor et al,” copy in Folder 19, Bieller Papers, LSU.

or violent husbands, separate property did not always offer security. As shown in previous chapters, the idea that marriage should transfer property from wives to their husbands was widely endorsed. Male prerogative could even override women's legal protections if the allocation of property appeared to undermine a husband's authority. Particularly in South Carolina, a husband's right to his wife's property was of equal weight with her security.

South Carolina courts upheld a husband's right to the property obtained by marriage even if his treatment of his wife was deplorable. Marion Singleton Deveaux had inherited substantial property from both her father and her first husband when she married her second husband, Episcopal clergyman Augustus Converse, in 1849. Upon her marriage, she revoked the sole use of her father's property and ordered it held for the joint use of herself and her husband. In 1853, legal complications required that a new settlement be drafted, and by this point, the Converses had begun to quarrel. Marion sought to regain sole use of the estate, but because she was married, she needed her husband's consent – which he refused to grant. Ultimately, she acquiesced to his demand for control of one quarter of her estate.¹⁵

The Converses' relationship continued to deteriorate to the point of shocking violence. In January 1854, Marion's daughter from her first marriage was the terrified witness to an assault. Augustus held Marion "by the hair of her head in a constrained and painful position on the damp floor of the piazza, exposed to the chilly atmosphere, for the greater part of the night, when her daughter, with the view of releasing her [mother] from

¹⁵ J.S.G. Richardson (State Reporter), *Reports of Cases in Equity, Argued and Determined in the Court of Appeals & Court of Errors of South Carolina, Vol. IX, From Nov., 1856 to Dec., 1857, Both Inclusive* (Charleston: McCarter & Co., 1858), 541-43.

[Converse's] unrelenting grasp, attempted with a pair of scissors to cut off her mother's hair, he threatened her so violently, as to frighten her into desisting from her purpose." He held her there until dawn, when, exhausted, he offered to release her if she would go with him to his room. But once there, Augustus again lost his temper. "[I]t was from that room that by a back door she made her escape and fled from his presence, bleeding, lacerated and bruised. Her lip was cut... There was a contusion on or under her eye from a blow, witnessed by Mrs. Moore, before the enactment of the hair-pulling scene. And her arm was bruised, and black and blue from the wrist to above the elbow." After hiding in the cotton house for a day, being fed secretly by sympathetic slaves, Marion and her daughter were ultimately forced to flee the following night to a neighbor's house when Augustus discovered their hiding place and announced his intention to board them up inside until she consented to his terms. While Augustus gathered up boards and nails, Marion and her daughter fled through the fields, barefoot, in their nightclothes.¹⁶

When Marion sought help from the courts, however, she was rebuffed. The court agreed that she was obviously unsafe with her husband and released her from the obligation to live with him. However, when Marion sought to recover her property and her previous name, she found that the law was not on her side. While they decried Converse's behavior, the judges were "unable to grant the plaintiff the relief which she seeks in reference to this estate." In the first place, they affirmed the sanctity of contract inherent in the marriage settlement, assuming it had been entered into freely and without coercion (though a dissenting judge questioned this assumption). Furthermore, the court pointed out that no matter how abhorrent a husband's behavior, "that does not divest him

¹⁶ *Reports of Cases in Equity... Court of Appeals & Court of Errors of South Carolina, Vol. IX, 538-39.*

of any estate legal or equitable.”¹⁷ Instead of returning Marion’s estate, the judges separated the property into individual moieties (halves) to secure the rents without Marion and Augustus having to communicate.¹⁸ On one level, granting Augustus access to income ensured he was able to pay his debts and contract other obligations that contributed to a local and national economy. On a broader level, this consistent support of husbands’ rights helped to uphold the sexual hierarchy that was an essential component of a patriarchal slave society.

The judges also refused to grant Marion alimony, another potential avenue for recovering the rents generated by the portion of the estate held by her husband. She did not in fact request it, but the judges were careful to point out that they would have denied it if she had. Alimony, the court declared, was to guarantee the subsistence of dependents and “never allowed where the wife has a separate estate sufficient for her subsistence in comfort.” “Whatever may have been his misconduct in conjugal relations,” the judges decided, “we do not perceive the propriety of unnecessarily impoverishing him.” Instead, Marion was ordered to pay the quarter-share of rents due her husband.¹⁹ In 1857, she paid him a lump sum of \$24,250.00 to free herself of Augustus’s claims of her property, which would then allow her to will it to her children without encumbrances.²⁰

Perhaps most injuriously, the court rejected Marion’s request to legally resume

¹⁷ James Sanders Guignard Richardson, *Reports of Cases in Equity, Argued and Determined in the Court of Appeals and Court of Errors of South Carolina...*, Vol. IX (A.S. Johnston, 1852), 542.

¹⁸ Richardson, *Reports of Cases in Equity... Court of Appeals & Court of Errors of South Carolina*, Vol. IX, 543.

¹⁹ Richardson, *Reports of Cases in Equity... Court of Appeals & Court of Errors of South Carolina*, Vol. IX, 535, 571, 549.

²⁰ “The State of South Carolina,” Copy of Declaration of Payment, February 20, 1857, Singleton-Deveaux Family Papers, South Caroliniana Library.

the use of the surname Deveaux and drop the detested Converse. The move was not only “without a precedent,” as the judge observed, “[i]t seems also to be wrong in principle.” He callously enquired, “How do I know that these parties may not become reconciled? Reunions more improbable have occurred.” Dismissing Marion’s request, and overlooking the physical and psychological toll of Augustus’s abuse, he blithely declared that change of name would “close the door to reconciliation.”²¹ Marion, however, resumed the use of her previous name socially. This may have been an accepted social practice - a collective agreement by a woman’s acquaintances to refrain from reminding her of a painful past. Another example of this phenomenon is Elizabeth Custis Law, who dropped the use of her married name when her husband moved to Vermont and divorced her in 1811.²² Both women’s wishes were socially respected, if not legally recognized.

Other settlements did not divide a woman’s estates but were intended to protect the whole from her husband’s debts and liabilities. However, as Marylynn Salmon and others argue, judges increasingly favored creditors against the interest of women’s separate estates. For example, in 1829 Henrietta Schmidt married A.B. O’Bannon with a marriage settlement that held her estate in trust for the “joint use and benefit” of the couple. O’Bannon proved to be alcoholic, adulterous, and violent, “behaving like a Madman” and threatening her with loaded pistols, prompting Henrietta to quit his house permanently in 1842.²³ O’Bannon soon proved a bankrupt as well, and his creditors sued

²¹ *Reports of Cases in Equity...in the Court of Appeals & Court of Errors of South Carolina, Vol. IX*, 540.

²² “Elizabeth Parke Custis Law,” Mt. Vernon Digital Encyclopedia, <http://www.mountvernon.org/research-collections/digital-encyclopedia/article/elizabeth-parke-custis-law/>; Charlene M. Boyer Lewis, *Elizabeth Patterson Bonaparte: An American Aristocrat in the Early Republic* (Philadelphia: University of Pennsylvania Press, 2012), 135.

²³ Simons & Simons Legal papers, SCHS, Box 32 (O) 01.

for payment. Henrietta's lawyers argued that the estate under settlement was secure from his debts, but the court created a loophole to favor the creditors. Pointing to the designation of *joint use*, they divided the state into equal moieties (halves), in essence granting Henrietta a separate estate of half of her money, and making the other subject to O'Bannon's debts.²⁴ This interpretation stripped Henrietta of half of the property the settlement was intended to secure, privileging contracts between men over the contract between spouses.

Infidelity and Marital Property

Men's conduct, however, brutal, did not legally void their claims to the property they acquired by marriage. Women's reproduction was still strictly regulated as a matter of not only morality but of property, while male sexual privilege thrived largely unchecked. Female sexual misconduct, on the other hand, was punished more fiercely than most violence. Feminist scholars have explicitly connected the control of female sexuality to the transmission of property from men to their biological children, often drawing on the theories of Engels and Marx. As Gerda Lerner summarizes Engels, once men acquired private property through livestock husbandry or agricultural surpluses, "men sought to secure it to themselves and their heir... [b]y instituting control of women's sexuality through the requirement of prenuptial chastity and by the establishment of the sexual double standard in marriage."²⁵ In her analysis of the

²⁴ J.S.G. Richardson (State Reporter), *Reports of Cases in Equity, Argued and Determined in the Court of Appeals & Court of Errors of South Carolina, Vol. VII, From Nov., 1854; to May., 1855; Both Inclusive* (Charleston: McCarter & Co., 1855), 226.

²⁵ Gerda Lerner, *The Creation of Patriarchy*, rep. ed. (New York: Oxford University Press, 1987), 22.

evolution of patriarchy under feudalism and capitalism, sociologist Mary Murray concludes that, while this transition “may have restructured property relations more explicitly along the lines of gender, in my opinion it also created possibilities for *challenging* male privilege.”²⁶ Murray roots much of this change in individualistic concepts of property relations and the rise of wage labor - both of which were still emerging in the eighteenth and early nineteenth centuries.

By the mid-nineteenth century, women had long been encouraged to endure infidelity. Indeed, male infidelity and resultant illegitimacy were common enough occurrences that in 1795, South Carolina passed a law limiting the amount of property men could will to mistresses and bastards.²⁷ In addition, because male extramarital sexuality was tacitly condoned, men but not women had the option to seek emotional and sexual fulfillment outside of matrimony. While male sexual infidelity violated the marriage contract, it did not bring down the condemnation and ostracism that female adultery did. Women’s sexual impropriety, on the other hand, created not only public scandal but private panic: a wife’s adultery threatened orderly transmission of property from fathers to their biological children by potentially including children fathered by another man.

An instance of spiritual counseling shows quite clearly that while male sexual infidelity was seen as sinful, Christianity could be effectively marshaled to convince women to remain in tainted unions. The 1817 marriage of Mary Randolph to Hill Carter united two of the most prominent families in eastern Virginia. While her husband of

²⁶ Mary Murray, *The Law of the Father? Patriarchy in the Transition from Feudalism to Capitalism* (New York: Routledge, 1995), 76.

²⁷ Kennedy, *Braided Relations*, 80.

thirty years lavished praise on her, signing one letter, “So farewell my precious Darling wife. Your devoted & ever loving husband who doats on his darling wife,” Mary by then suspected Hill of sexual infidelity with an enslaved woman.²⁸ In 1848 and 1849, Mary wrote to Reverend N. B. Okeson, her spiritual advisor, about the proper Christian responses to adultery, both female and male. Mary sent two separate questions to Okeson. In November 1848, she asked if, as a Christian slave mistress, she could sell a female slave for committing adultery. After a lengthy disquisition on Christian duty, Okeson concluded that slaves were “ignorant” enough of God’s law to require forgiveness and correction, rather than punishment. While white women were held to a higher standard, enslaved women had some flexibility; perhaps because there was no legal foundation recognizing slave marriage, they were willing to accept some moral murkiness as well.

Mary followed up two months later by asking if Christian wives should leave adulterous husbands. Mary continued to ask hypothetically, never clarifying if she was still discussing slaves, or if she was asking for herself or a friend. This likely permitted her to reconcile religious and social injunctions for wives to be submissive to their husbands’, an aspect of which was shielding his weaknesses and tolerating his failings. Perhaps she assumed it would be clear enough that she was referring to her husband, given her previous inquiry. Okeson was either informed, or assumed, that it was in fact Mary’s husband who had erred, referring in his answer to “yr. husband.”²⁹

Okeson’s thoughts on white men’s adultery were more complicated – he took fully twenty-six pages to explain them. After expounding on the religious foundations of

²⁸ 7 July 1848 H.C. [Hill Carter], Shirley, to Mary B. Carter, Hickory Hill, Hanover Co., Va. Shirley Papers, CW.

²⁹ Rev. N.A. Okeson, Brooklyn, N.Y., to Mary B. Carter, January 30 1849, Shirley Papers, CW.

marriage and establishing that it was a dissoluble contract, he concluded that, “When man is the offender, woman has just as much right, in the sight of God, to put him away.” Because Hill had violated their marriage covenant, he continued, “it is your privilege (*and perhaps your duty*) to separate from him.” Strictly speaking, Okeson concluded, Mary was freed from the contract of marriage by Hill’s bad behavior.

But, Okeson continued, Mary leaving Hill would have ongoing negative consequences. One of these was “cast[ing] reproach” upon their children. While Hill’s adultery, especially with an enslaved woman, did not jeopardize their children’s inheritance, public knowledge of their father’s sin might still reflect badly on them. Erosion of their social standing could hurt the children’s chances of making advantageous marriages themselves if they were tainted by their father’s immorality. This could cost Mary’s children and even grandchildren future financial security.

Furthermore, in staying, Mary would “not add to that influence, which is now so great in the world, operating against the institution of matrimony.” By remaining in her marriage, no matter how soiled, Mary would help uphold matrimony as an institution. “Marriage... the most stringent bulwark of society,” Okeson claimed, was under attack. While Okeson focused on the moral and social chaos that widespread separations might cause, it would also complicate the orderly transmission of property.

Evidently Okeson was persuasive. As much as her husband’s unfaithfulness hurt her, Mary remained at Shirley. Unfortunately, her influence was insufficient to reform her husband – in 1851, Okeson mentioned Hill again, marveling “That Mr. Carter should, notwithstanding the efforts and prayers of yourself and so many other pious, godly

people, remain the impenitent and unbelieving one is truly incomprehensible."³⁰

While social and moral pressure convinced many women to endure their husband's adultery, others found cohabitation in the face of infidelity unbearable and refused to remain with their husbands. James Henry Hammond, whose grasping had secured him his wife's fortune and thus a position as a wealthy planter, eventually slipped up in concealing his affairs. Biographer Drew Gilpin Faust speculates that Hammond's marriage for money and power left him unfulfilled by his meek and simple wife. While Faust attributes this to a need for love, arguably sexual gratification mingled with the desire for dominance were Hammond's primary motivations. Catherine's discovery in 1840 of her husband's sexual exploitation of their adolescent nieces may have troubled or disgusted her enough to refrain from sexual relations with Hammond for a period of years, but it did not prompt her to leave. Indeed, Catherine may have seen his "dalliances" as reflection of her own inadequacy, or even laid some of the blame on her nieces. Hammond reported that after the discovery, Catherine "watched...with lynx eyes and harrassed [him] with suspicion."³¹ None of the three molested girls would ever marry; public knowledge of their youthful sexual indiscretion evidently made them taboo.

While Hammond's repeated molestations of his nieces were "dalliances," he also carried on long-term sexual relationships with enslaved women. Despite Catherine's vigilance, it was not until 1850 when "want of caution" revealed his long-standing sexual involvement with Sally Johnson, which began when she was eighteen, *and* with her daughter Louisa, which commenced when Louisa was twelve. While it is unclear if the

³⁰ Rev. N.A. Okeson to Mary B. Carter, October 6 1851, Shirley Papers, CW.

³¹ JHH Diary, 15 December 1850, SCL, cited in Bleser, *Secret and Sacred*, 212. Hammond referred to his sexual encounters with his nieces as "dalliances" and congratulated himself for not "seducing" them in his diary on 9 Dec. 1846, cited in Bleser, 171 and 174.

relationships were simultaneous or successive, Hammond acknowledged children by both women. In an 1856 letter to his son Harry, who also had a sexual relationship with Louisa, he ordered, “Do not let Louisa or any of my children or possible children be the Slaves of Strangers. Slavery *in the family* will be their happiest earthly condition.”³²

In the face of this revelation, Catherine chose a different course of action than she had a decade earlier. She made it clear that she was unwilling to tolerate an ongoing affair. Perhaps the stigma of interracial sex drove her actions. Hammond reported that she demanded “concessions... to which I am averse, because they involve injustice and cruelty to others.”³³ Presumably, Catherine insisted he sell one or both women to ensure a permanent end to the affairs. When Hammond refused, Catherine took their daughters (but not their sons) and returned to her parents’ house in Charleston, and later rented rooms in Aiken and Augusta. Hammond’s refusal may have been out of consideration for Sally and Louisa, as well as his children by them, but underlying this was his unwillingness – which he cast as inability – to sacrifice the sexual gratification of the “great craving of my nature.”³⁴

Ultimately, Hammond’s insistence on keeping Sally and Louisa was an assertion of power, as well as a sense of obligation to the women and his children by them. He admitted in 1850 that he long “tried...fully... & failed wholly” to remain “immaculate,” but in 1852 justified his refusal to send his mistresses away by insisting that to do so would be a “surrender,” and make him “a *pardoned* convict – slave & prisoner [to Catherine] day & night & execute her vengeance on my accomplices. This is too

³² JHH to Harry Hammond, February 19 1856, JHH Papers, SCL.

³³ JHH Diary, December 15 1851, SCL.

³⁴ JHH Diary, December 15 1850, SCL.

much.”³⁵ While he professed affection and esteem, even love, for Catherine, he could never submit to her.

Catherine eventually relented after protracted negotiations with her husband. Hammond’s proposal in 1852 to send Louisa to serve as Catherine’s mother’s or sister’s maid was declined. It was not until 1855 that Catherine accepted defeat and returned to her husband. Perhaps her family’s tolerance ran out, and because she had supported Hammond’s insistence on marrying without a settlement, she had nothing set aside for her support. The terms of their ultimate agreement, if recorded at all, are not extant; Sally and Louisa remained, but were quartered far from the main house.³⁶ Hammond, realizing Catherine’s predicament as a *femme covert*, held firm on his refusal to submit to her demands.

Having sacrificed her financial security in a bid to win Hammond’s affection by abetting his refusal to agree to a settlement, Catherine had few options but to return to her husband’s house if or when her family’s support dried up. And while her mother and brothers were surely infuriated that had relented and released Catherine’s fortune to an unfaithful Hammond, self-interest may have dictated their choices. Her brothers had children of their own; her mother was living on the proceeds of her share of her late husband’s estate. As abhorrent as they found her husband, the Fitzsimonses may have concluded that as long as Catherine’s life was not in danger – only her happiness – she would have to accept the result of her youthful insistence on marrying the fortune-hunting Hammond.

³⁵ JHH Diary, December 15 1850 and July 29 1852, SCL; JHH to Marcellus Hammond, August 11 1852, JHH Papers, SCL.

³⁶ The estrangement and reconciliation are discussed in Faust, *James Henry Hammond*, 313-17.

While women's pursuit of divorce was often hindered by familial apathy or objections, men were encouraged to divorce unfaithful wives. While typically couched in the language of honor, families were equally concerned that their properties not devolve upon bastard children. For men, sexual honor through control of female sexuality *and* control of property were mutually reinforcing; indeed, women's sexuality was legally treated as a form of property owned first by fathers and then husbands, rendering adultery a form of theft or trespass.³⁷ Thus marriage was, as a legal construct, about managing property *in* female sexuality in order to control the movement of property *through* women via reproduction.

As such, woman's suspected adultery prompted swift responses from her husband's family as they sought to restore their honor and protect their property from potential bastards. Families were horrified not only by the moral taint of female impurity but also by the possibility that their property might devolve on a biologically alien child or children. When female adultery was not sufficient to secure a divorce, or divorce was completely unavailable as it was in South Carolina, husbands might accept legal separations as means to rid themselves of unfaithful wives. These separations required injured husbands to support their wives but freed the spouses from the obligation to live with each other, and kept men's property entirely within their biological family.

In most states, white women's sexual infidelity definitively violated the marriage contract and justified divorce, while a man's adultery alone was rarely, if ever, sufficient

³⁷ William Blackstone, *Commentaries on the Laws of England, Volume 3: A Facsimile of the First Edition of 1765-1769* (University of Chicago Press, 1979), 139-40; Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South*, 25th anniversary edition (New York: Oxford University Press, 2007), 298-302.

grounds for granting a wife's plea for a divorce. Ironically, South Carolina's implacable opposition to divorce meant that men and women alike could not unburden themselves of adulterous spouses, inadvertently offering fallen married women a sliver of security because husbands continued to be legally required to support them. Thus in South Carolina, an innocent woman who could no longer cohabit with her husband could be left to rely on her family, because by leaving she forfeited her claims to her husband's support; yet a guilty woman could claim alimony if her husband refused to live with her.

Two admittedly spectacular cases illustrate the irony of the sexual double standard. Sarah Rutledge's affair shocked elite Carolinians and reverberated through elite networks along the eastern seaboard. Sarah, the daughter of the first American Episcopal Bishop of South Carolina, was raised with every advantage in education. In 1791, at fifteen, she married prosperous planter and lawyer John Rutledge, Jr., who was eleven years her senior. The marriage was socially and financially beneficial for Rutledge, who received Poplar Grove plantation as a wedding gift.³⁸ The marriage appeared to hum along smoothly until the beginning of 1804, shortly after Rutledge concluded a term in the U.S. House of Representatives. Rutledge intercepted letters from his wife to a young doctor, Horace Senter, which were, according to fellow South Carolinian and avid gossip Catherine Read, "full of the most lascivious passion." The affair had continued for several years; preoccupied with both planting and politics, Rutledge had inadvertently afforded his wife time and space for illicit passion to flourish.

Like many elite southern families, the Rutledges made summer pilgrimages to the

³⁸ Lawrence Sanders Rowland, Alexander Moore, and George C. Rogers, *The History of Beaufort County, South Carolina: 1514-1861* (Columbia, S.C.: University of South Carolina Press, 1996), 272.

more healthful climate of Newport, Rhode Island. Sarah and Horace met in Newport when he assisted with the delivery of her son in July 1800, which, Read drily noted, "One would have thought it would have operated as an antidote." Their connection eventually brought Dr. Senter to South Carolina, where the affair continued until 1804. Sarah apparently "expresse[d] her detestation of her Husband" and "propose[d] leaving the country" so they could be together. This was clearly not a brief dalliance or a single slip, but a sustained, passionate affair. "It would make your blood run Cold to think that a Woman educated as she has been & mixing with genteel Society should be so abandoned," Read shuddered.³⁹

An enraged John Rutledge acted immediately and violently. John challenged Horace to a duel; when Horace fled, John tracked him to Savannah, Georgia, just across the river from the home the Rutledges shared. There, John fatally shot the twenty-four-year-old doctor in the leg.⁴⁰ Catherine Read, while she did not begrudge Rutledge his honorable revenge, blamed Sarah, rather than Horace, deeming him a "poor Unfortunate Young man" who had been led astray. She reported to a friend that "In his dying moments [Senter] declared he never should have thought of such a thing had she not proposed it & that she led him to all," which she believed, declaring the loss of the promising surgeon and obstetrician a "pity:" "He has dearly paid for his enjoyment."⁴¹ John was never prosecuted; the affair was scandalous enough that his actions were seen

³⁹ John Rutledge, Jr., to Rev. Robert Smith, July 15 1800, John Rutledge Papers, #948, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill; [Catherine Read] to "My Dear Betsy," 26 February [1804], Read Family Papers, South Caroliniana Library.

⁴⁰ George Champlin to Elisha Reynolds Potter, 8 February 1804, Elisha Reynolds Potter, Sr. Papers, MSS 629 SG 2, Rhode Island Historical Society; [Read] to "My Dear Betsy," 26 February [1804], Read Family Papers, SCL.

⁴¹ [Catherine Read] to "My Dear Betsy," 26 February [1804], Read Family Papers, SCL.

as justified. Friends wrote him letters of sympathy, explicitly condoning his actions.

As rumors of the adultery and (widely accepted as justified) homicide sent shockwaves rippling through webs of elite connection from South Carolina to Rhode Island, John Rutledge considered his options for ridding himself – legally – of his wife. While none blamed him for his decision to “detect & destroy the villain” who had “broken up your household,” neither could his friends offer much advice.⁴² Fellow lawyer Uriah Tracy suggested he plead his case in Connecticut, where the laws considered marriage simply a civil contract that could be easily dissolved, and required only a brief residency period before a litigant was eligible to proceed in the state’s courts. Tracy was “extremely desirous that you should come to Connecticut, if you can console yourself to the delay... I really do not know of any State in the Union, where in respect to *time*, & every other circumstance, so facile a method to accomplish your purposes, presents itself.” This was in mid-February, just over a month since word of Senter’s death had reached his home state.⁴³ If Rutledge wanted to legally free himself of his wife, Connecticut was his best legal option; but if, as an Episcopalian, he wanted an ecclesiastical divorce, friends of his wife’s powerful father may have blocked his path.

For reasons he declined to document, or which were recorded in papers since lost, Rutledge legally separated from, but did not divorce, Sarah. It may have been too challenging to meet the requirements for divorce out of state. But to separate from Sarah, he had to ensure she had enough property or income to live comfortably – for legally she was still his wife, and he had a legal duty to maintain her according to her station. The

⁴² J Mason to John Rutledge, Jr., March 25 1804, John Rutledge Papers, #948.

⁴³ Uriah Tracy to John Rutledge, Jr, February 15 1804, JR Papers; George Champlin to Elisha Potter, February 8 1804, Elisha Reynolds Potter, Sr. Papers, MSS 629 SG 2.

potentially painful process of dividing the estate was eased by the existence of Sarah's marriage settlement. Fellow lawyer Thomas Colbert proposed that, in essence, the Smith property go with Sarah, the Rutledge property stay with John, and the creditors of each estate would be satisfied out of anything left after the "necessary & becoming Maintenance of the Family."⁴⁴

Her support secure but her reputation beyond repair, Sarah Rutledge sailed to England, where she remained for the rest of her life. Her son acted as her agent to secure her money for rent and other necessities out of her estate, though never, it seems, was it as much or did it appear as quickly as she hoped. Sarah spent the remainder of her life exiled from family and friends, and evidently invested much time and energy in spiritual repentance. She read her Bible frequently, commenting on passages she found particularly relevant to her own experiences. Her husband faded from the political scene to devote himself to planting until his untimely death in 1819, at fifty-three. Sarah died in England in 1852, as a widow supported by her late husband's estate.⁴⁵

While John Rutledge clearly wanted to be rid of his wife, other cuckolded husbands had to be persuaded to attempt legal action. When Edward, a son of the wealthy Middleton family of Philadelphia and South Carolina, returned from a naval tour of duty with a mysterious new wife, his family was suspicious. After Edward returned to sea, his family soon concluded their suspicions were well-founded and mobilized to minimize both the damage to their son's honor – and the potential waste of their property on an adulterous daughter-in-law and potential future bastards. As gossip swirled, the

⁴⁴ Thomas Corbet to John Rutledge, Jr., July 18 1805, John Rutledge Papers, #948. Miscellaneous Records of the Secretary of State of South Carolina, Vol. 3Q, p.584, Vol. 4C, p. 134-35.

⁴⁵ *Passim*, papers held privately by Malinda Rutledge-Carlisle.

Middletons took the unusual step of printing two pamphlets laying out their charges against Edward's wife as they prepared for a divorce suit.

Edward met the teenaged Edwardina de Normann in Naples and, charmed into what his family deemed "idolatry," married her on January 13 1845. He had not consulted his family regarding this "connexion, which they regretted as of dubious respectability." Edward and Edda, as she was called, lived in his birthplace of Charleston until 1847, when Edward brought his wife and one-year-old son to Philadelphia to live with his parents while he was at sea in the Mediterranean.⁴⁶ When Edda first arrived in Philadelphia, the Middletons were unimpressed by her Italian heritage and claims of royal descent – it did not help her case that in this instance she alleged a connection to the Princess of Wales, who had left her husband and lived notoriously in Italy.

More troubling, however, was Edda's behavior. An early warning came from Edward's friend Thomas Huger that she "from the time of their marriage flirted desperately & most imprudently in all directions."⁴⁷ Despite their reservations, Edda endeared herself by her "affectionate and attentive" conduct toward her in-laws, with whom she lived when Edward returned to sea. Yet the Middletons never fully accepted her, in large part due to her failure to act appropriately as a married woman.⁴⁸

Edda's behavior confirmed the Middleton's fears of her lowly background, and word of her imprudent behavior soon reached South Carolina from Philadelphia. Edda

⁴⁶ "Paper book in the matter of the petition of Edward Middleton to the General Assembly of the Commonwealth of Pennsylvania, for a divorce from his wife," 2-3, Middleton Family Papers, SCHS.

⁴⁷ Eliza Cope Harrison, ed., *Best Companions: Letters of Eliza Middleton Fisher and Her Mother, Mary Hering Middleton, from Charleston, Philadelphia, and Newport, 1839-1846* (Columbia, S.C.: University of South Carolina Press, 2001), 412-13

⁴⁸ Harrison, ed., *Best Companions*, 459

danced too freely at balls and told ribald jokes in polite company. The Middletons tolerated her social missteps while trying to minimize them for two years, during which Edward was at sea for long periods. In December of 1848, for example, Edward's aunt Eliza Fisher mentioned that Edda was, and had been "told... a thousand times, viz: that she encouraged the attentions of gentlemen too much in her husband's absence." Edda was planning to travel to Europe alone, but Eliza quashed the idea by telling her she had "been indiscreet and imprudent in her Conduct, and was too young & inexperienced to be trusted to travel alone."⁴⁹ In 1849, the Middletons concluded that Edda was beyond hope and undeserving of a place in their family.

One elite South Carolinian wrote her sister that Edda had been "regarded only as a coquette till the accidental betrayal of a letter exposed her vicious conduct."⁵⁰ That vicious conduct was an alleged clandestine affair with Henry McCall, a wealthy *married* Philadelphian. When Edda admitted imprudence but denied adultery, she succeeded only in convincing her besotted husband, rather than his enraged parents and siblings. The Middletons' account suggests that the discovery of the affair was a more concerted effort than an accident.

The Middleton family took unique precautions to confirm their suspicions and present their evidence after they decided to close ranks against their erstwhile daughter-in-law. They compiled evidence that ultimately appeared in two pamphlets published for private distribution. They even undertook official depositions of the servants who could offer the most damaging evidence, most likely in the hopes of winning a legal divorce. Edda acknowledged receiving bouquets from McCall on numerous occasions, perhaps

⁴⁹ [Eliza Fisher] to Williams Middleton, 9 Dec. 1848, Folder 9, Box 4, fiche card 32

⁵⁰ Louisa Porcher to Adèle Allston, 16 Oct. 1849,

implicitly confirming that she had ridden in his carriage alone to some of those balls, as the Middletons claimed. She admitted to Edward that she had foolishly allowed McCall to visit her at late hours, but protested that it was because she never slept before two o'clock. She conceded that he had kissed her hands and arms, but insisted that they regarded each other with strictly sisterly and brotherly affection and that "she never dreamed of loving him, neither did he me."⁵¹ While she recognized her "folly" in acting imprudently, Edda insisted she had not violated her vows.

The Middletons even recruited their servants to bolster their case, crossing class lines to, for a change, encourage lower-class women to air their employer's secrets and act as guardians of morality. The servants, Hannah Fenney and Dora Deighton, offered details that undermined Edda's protestations of innocence. They reported that on evenings when McCall visited, Edda beforehand changed out of her dress, and "after making a most careful toilet," changed into her nightclothes. McCall entered the house using a key Edda had given him. While the author went to great lengths to insist upon the good character of these servants, he also included a witness of a higher class. One winter evening in 1849, Edda had invited a Miss Fannie Smith from Trenton to stay overnight at the Middleton's house as her guest. The following day, realizing Edward's brother was aware Harry McCall had visited, Edda panicked.⁵² She "went to Miss Smith in great alarm, saying she had got into a *scrape*," begging Miss Smith to lie for her and say that she had stayed up for the visit by McCall in the public drawing room. Shocked, Miss Smith refused, informed Edward's sister, and promptly returned home. To summarize the detailed story previously laid out, the author added thunderously, "MEETINGS AFTER

⁵¹ "Paper Book," 11.

⁵² "Paper Book," 12.

MIDNIGHT, BY APPOINTMENT, IN A DARK ROOM – THE ENTRANCE BY PASS-KEY – THE RECEPTION IN A NIGHT DRESS – THE PERMISSION OF FAMILIARITIES, KISSING, &c. What more is wanted?”⁵³

The Middletons simultaneously condemned and excused Edda’s behavior based on class and nationality. While they were disgusted with her behavior, they implied that Edda could not be expected to know better. Therefore, much of the responsibility for the mess on their hands lay with Edward, for foolishly marrying a foreigner without consulting his family. One pamphlet declared that the family was distressed that their new daughter-in-law was “educated at Naples, where the standards of female virtue is lower than in any part of the world.” The author reinforced this point later in the pamphlet when reported that Edda had told a Navy officer that “she intended to take the privileges of an Italian wife” – presumably sexual freedom. The second pamphlet also referred to the “general licentiousness” prevailing in Italy.⁵⁴ Furthermore, Edda’s mother was allegedly educated by the Princess of Wales, a notorious adulterer – and “what was to be expected for the morals of the adopted child of that grossly licentious and vulgar woman? What was not to be *feared* for those of her daughter?” To make matters worse, months after the marriage, Edda revealed to Edward that her parentage was not merely of “doubtful respectability, [but] was in fact infamous:” not only was she born out of wedlock, but her father was a forgery convict banished to Botany Bay.

The Middletons evidently circulated the pamphlets among family members and perhaps close friends, to facilitate a united front against Edda. Upon receiving a copy of the pamphlet from his brother Williams, John Izard Middleton replied, “your enclosure of

⁵³ “Paper Book,” 15.

⁵⁴ “Paper Book,” 13

the 28th Apl. has mortified me beyond measure; howbeit there is but little surprise mingled with my mortification: for if a man will take a wife from the Stairs he must expect the natural consequence.” John implied that at least he, if not all the Middletons, had genuinely given Edda a chance: “I did, I confess, expect that entering into a good family & being united to a devoted husband would exercise a salutary influence in correcting, in the unfortunate individual alluded to, habits & propensities she must have contracted under the maternal roof.”⁵⁵

Despite the Middletons’ efforts to control the narrative, rumors abounded that Edda’s behavior became even more scandalous after she left Philadelphia for New York before returning to Europe. Cousin Sidney Fisher reported that in New York, Edda “took one lover after another, was openly the mistress of the keeper of a fashionable hell in New York & also passed thro other various hands.”⁵⁶ His brother Joshua was so disgusted by Edward’s hopes of reconciliation that he suggested he “assume the romantic name of de Normann,” simultaneously suggesting Edward’s exclusion from the family and his loss of manhood. Women as well as men demanded that Edward act decisively. An infuriated Eliza Fisher insisted her brother divorce “the vile little hussy,” and in the meantime keep his “strumpet wife” away from the wagging tongues in Philadelphia. Edward, she railed, was “dishonouring us all.” Sidney reminded Edward that Southern men were permitted, even expected, to “shoot or stab his injurer wherever he should find him without notice.”

While the Fishers harped on honor, the Middletons were more concerned with

⁵⁵ John Izard Middleton to Williams Middleton, 8 May 1849, Middleton Place Papers, Folder 12, Box 4, fiche 34, SCHS,

⁵⁶ Fisher, *Philadelphia Perspective*, 295.

protecting Edward's share of property and money through legal means. That Edda's dissipation might be supported by their fortune must have seemed unbearable. Edda apparently hoped to capitalize on the family's desperation to be rid of her, while they hoped to use her financial dependence against her. Williams hoped that Edda's greed might be turned to their advantage. "As the case now stands she is trying to make him pay for the gratification of getting rid of her," he wrote his sister. But, alone in Europe with a child to care for, "she *can* be made to feel that her very bread depends upon coming into *his* terms & that *she* will have to fee lawyers in establishing any claim on him." The Middletons hoped to force Edda to return to the States, hand over the child, and perhaps, like August Converse did with Marion Deveaux, accept a settlement to be gone from their lives forever.⁵⁷ As Edward's heir, the Middletons argued, the child had to be raised by them, and away from Edda's negative influences.

Edward himself seems to have been reluctant in the proceedings, to the disgust of his family. Indeed, the pamphlet writer conceded that he was "under the influence of a fascination," forcing his family to act to protect "his welfare and honor" from "unhappiness and disgrace." He returned from sea in July 1849 to the "dismal news" that Edda had, against the Middletons' wishes, taken their infant son to New York to escape the scandal in Philadelphia. His brothers and cousins urged Edward to act immediately and decisively. His brother John "trust[ed] Edward will take signal vengeance on the destroyer of his domestic prospects. If he does not, he is a disgraced man for ever." For South Carolinians as well as some northern elites, including Sidney and Joshua Fisher, this meant dueling, as John Rutledge had immediately done upon discovering his wife's

⁵⁷ Williams Middleton to Eliza Fisher, 15 Dec 1850, Folder 3, Box 5, Middleton Place Papers, fiche 37

infidelity. But Edward balked. He expressed “conscientious scruples” against dueling; furthermore, from a legal standpoint, if he died without a divorce, Edda might inherit his estate.⁵⁸ He “permit[ted] himself to doubt the sufficiency of the evidence to establish with certainty the crime of Adultery,” to the fury of the family who was convinced of her guilt.⁵⁹ His cousin Joshua Fisher railed that if Edward did not seek a divorce, “By no one connected with you could you ever again be recognized as kinsman. You could not live here [in Philadelphia] or in Charleston. In the Navy you would be pointed at & scorned by every man of honour – & change of country & of name would be the only & last advice that I should give you.”⁶⁰ His brother Williams complained to their aunt that the proceedings were being dragged out not only by Edda’s recalcitrance but also by “Edwards own supiness & want of a proper & manly bearing.” Edward’s refusal to immediately renounce Edda bewildered and annoyed his family, who were eager to shed this disrespectable association.

When he was finally goaded – or forced – to seek redress by his family’s determination and Edda’s disappointing attempts at extortion, Edward confronted legal difficulties. He had been born in South Carolina and was technically still a citizen of that state, and that was where his family initially looked for relief. Edward’s brother Williams hoped that Edda’s behavior would “put it out of *her* power, ever to obtain a shilling by way of maintenance from a Carolina jury.”⁶¹ He and his family were evidently unaware of the absolute prohibition on divorce there. When they discovered it, they were

⁵⁸ Sidney Fisher Diary, 184-85.

⁵⁹ Joshua Francis Fisher to Edward Middleton, January 14th 1851 [copy sent to Williams Middleton], Middleton Place Papers, SCHS.

⁶⁰ J. F. Fisher to Edward Middleton, 14 Jan. 1852, Middleton Place Papers, SCHS.

⁶¹ Williams Middleton to Eliza Fisher, 15 Dec 1850, Middleton Place Papers, SCHS.

dismayed by the prospect of Edda having a permanent claim on Edward's money and property.

Like other individuals seeking a divorce, Edward considered a change of venue. Flexible residency requirements and the variation in state laws created loopholes through which determined men might slip, as Henry Livingston attempted to by petitioning in Litchfield and Thomas Law successfully did when he moved to Vermont for the sole purpose of obtaining a divorce.⁶² As a sailor, Edward never remained in Pennsylvania the nine months necessary to become a citizen, and thus it was unclear if he could petition the legislature. The Middletons decided to proceed anyway, and Edward signed the petition for a divorce *a vinculo matrimonii*, which in Pennsylvania was treated as akin to an annulment that would free him from any claims for alimony Edda might make.⁶³ Edward's lawyer argued that the Constitution of the state did not require residency to bring a suit against a citizen who had committed a crime (in this case, Edda, who had resided there a year and was accused of adultery), which the court apparently accepted. However, later case law suggests that the Middletons sued on the grounds of abandonment, rather than adultery, after Edda returned to Europe at the end of 1849. Despite vigorously petitioning the Pennsylvania Assembly, which in 1850 still had to pass acts authorizing divorces, Edward was not granted a divorce.⁶⁴ Defeated, the

⁶² "Elizabeth Parke Custis Law," Mt. Vernon Digital Encyclopedia, <http://www.mountvernon.org/research-collections/digital-encyclopedia/article/elizabeth-parke-custis-law/>

⁶³ "Paper Book," 3; Salmon, *Women and the Law of Property*, 67-68.

⁶⁴ The Senate actually voted on and rejected Edward's petition three times over three and a half months. *Journal of the Senate of the Commonwealth of Pennsylvania* (Harrisburg: J. M. G. Lescure, 1850), vol. I: petition introduced Jan. 5, 41; Judiciary Committee rejects, 213; reintroduced as Bill 250, 223; rejected 15 yeas to 13 nays, 318; rejected 11 to 19, 588; rejected 7 to 25 on Mar. 21, 614.

Middletons either consented to private arrangements with Edda, or settled for a legal separation.⁶⁵ Compounding their disappointment was the humiliation caused by the scandalous details of the case circulating in several newspapers.⁶⁶ It is unclear whether later legal action or Edda's death freed Edward to remarry in 1865.⁶⁷

Both John Rutledge and Edward Middleton lived for years as married men with unfaithful wives on the other side of the Atlantic, to whom they were forced to uphold their financial obligations. The precise arrangements made for Edda's support are murky, but John Rutledge and his wife drafted an indenture establishing a trust for her property and appointing an agent to manage Sarah's finances. Sarah Rutledge relied on her son John, Jr., to send her funds, which never seemed as sufficient or regular as she might hope. After she died in England in 1852, the settlement of her estate fell to her son Hugh. It was probably an English friend or neighbor who packed up the letters Sarah had saved, along with her bible, and delivered them to Hugh when he came to administer her estate.⁶⁸ For a handful of women, the difficulty of obtaining a divorce worked in their favor. Particularly in South Carolina, wives could depend on some form of support from their husbands, even when guilty of violating deeply held norms around women's sexual morality and jeopardizing the orderly transmission of property.

Families turned to courts as a last resort for securing or protecting property when marriages unraveled. When an understanding could be reached, estranged couples in states with equity systems could file postnuptial settlements with minimal fanfare; when

⁶⁵ Sidney George Fisher, "The Diaries of Sidney George Fisher, 1849-1852," *The Pennsylvania Magazine of History and Biography*, Vol. 86, No. 2 (Apr., 1962), 183 n3.

⁶⁶ "The Middleton Divorce Case," *The Sun* (Baltimore), Feb. 11, 1850, [1]; "Revelations in High Life," *The Star of the North* (Bloomsburg, Pa.), Mar. 7 1850, [1];

⁶⁷ "Married," *The New York Times*, Oct. 11 1865, 5.

⁶⁸ *Passim*, papers held privately by Malinda Rutledge-Carlisle.

couples could not come to an agreement, families might reluctantly turn to courts. But justices' embedded notions of female dependence and husbands' right offered many women only limited relief. Husbands' property rights were held to be so fundamental that even egregious violence did not dissolve them. Thus, even battered wives with separate estates might see their expectations of financial independence destroyed - even as they repudiated their dependence on their husbands.

Female violators of the marriage covenant, on the other hand, had no sacrosanct claim to property. Furthermore, female extramarital sexuality was excoriated. Yet the same system that made it difficult to unhappy wives to extricate themselves from their marriages made it difficult for men to rid themselves of adulterous wives. In the majority of divorces, couples were permitted to live independently and apart, but still legally bound to one another.

Conclusion

Economic patriarchy died a slow death – if indeed it is dead. As this project demonstrates, marriage in what eventually became the United States of America has always been centrally concerned with the allocation of family resources in response to changing economic contexts. Since the founding of the Republic, it has also been about the ways in which the American state regulates family form and function. By better understanding a transitional period in early American history and the formative period of American law, we are better able to appreciate the ideological and legal precedents employed in current debates.

In exploring the economic functions of marriage, this dissertation investigates some of the contours of gendered power as created and reflected in social norms and in the law. Coverture, the central tenet of women's legal and thus economic subordination to their husbands, eroded only gradually. While women largely won the right to their wages by the end of the nineteenth century, it was almost the end of the twentieth when married women won the right to open a checking or credit account without their husbands' permission.¹ Women's citizenship was a chronic question in the United States. In 1806, Napoleon insisted on the dissolution of his nephew's marriage to Elizabeth Patterson of Maryland, but until Maryland eventually granted a formal divorce in 1813 her legal nationality was unclear, jeopardizing her property rights. After her divorce, she made a point of resuming her maiden name and traveling under a U.S. passport to

¹ Coontz, *Marriage: A History*, 255.

reaffirm her nationality.² Before World War I, a husband's nationality determined the citizenship of his wife, jeopardizing the citizenship of American-born women who married immigrant men while automatically conferring citizenship on immigrant women who married Americans.³ In the second half, domicile rules, which automatically designated a woman's domicile wherever her husband was regardless of her physical location, even prevented some women from receiving tuition benefits while their husbands were deployed in Vietnam.⁴ In short, marriage continued to be, by law, an economic institution in which the state treated the husband as the representative of the family unit. Men's and women's efforts to navigate making and maintaining marriages reflected the legal structure as well as economic pressures and culturally accepted sexual inequality. While marriage has been emptied of much of its sexual bias, many of its economic functions still persist – as do cultural and social pressures and assumptions about the roles and privileges of husbands versus wives.

Married Women's Property Acts

On the surface, the Married Women's Property Acts of the antebellum period appear to be a significant shift away from coverture. However, as Gregory Alexander cautions, these laws "modified rather than revolutionized," much like divorce reform in the Early Republic.⁵ Beginning in the 1830s and 40s, northern feminists argued that the marriage bond was a form of enslavement that unfairly appropriated women's labor and

² Charlene M. Boyer Lewis, *Elizabeth Patterson Bonaparte: An American Aristocrat in the Early Republic* (Philadelphia: University of Pennsylvania Press, 2012), 110-111, 133-34, 167-68.

³ Candice Lewis Bredbenner, *A Nationality of Her Own: Women, Marriage, and the Law of Citizenship* (Berkeley: University of California Press, 1998).

⁴ Hartog, *Man and Wife*, 17.

⁵ Gregory S. Alexander, *Commodity & Propriety: Competing Visions of Property in American Legal Thought, 1776-1970* (Chicago: University of Chicago Press, 2008), 133.

relegated them to reliance on men. They contended that the failure of husbands to provide for their wives demanded a legal means for all wives to easily acquire and manage resources. Even in emotionally fulfilling marriages, coverture meant that women might be impoverished through their spouses' error or fecklessness.⁶ In the 1840s and 50s, legislatures in many states passed married women's property acts that allowed women independent economic actions explicitly to extend to women a modicum of protection from unpredictable markets or an inadequate husband. Significantly, the first state to do so was not New York, which has received more scholarly attention, but Mississippi. Pennsylvania passed its married women's property act on the heels of New York in 1848, while Virginia and South Carolina declined to pass any before the Civil War. Continued reliance on agricultural production in these states saw less capital-intensive development, which likely reduced the pressure to streamline property transmission, and unlike Mississippi and other southern states that passed Married Women's Property Acts, seaboard slave states were not engaged in the speculative frenzy that accompanied the spread of cotton agriculture. Despite the patchwork of laws, all shared similar perspectives rooted in the common law.⁷

Simultaneously, however, these laws offered economic benefits in that they

⁶ Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998), chs. 4 & 5; Sue Davis, *The Political Thought of Elizabeth Cady Stanton: Women's Rights and the American Political Tradition* (New York: New York University Press, 2008), ch. 2 & 3; Nancy Isenberg, *Sex and Citizenship in Antebellum America* (Chapel Hill, N.C.: The University of North Carolina Press, 1998), ch. 6.

⁷ Basch, *In the Eyes of the Law*; Richard Chused, "Married Women's Property Law: 1800-1850" *Georgetown Law Journal* 71 (June, 1983): 1359-1425, and "Late Nineteenth Century Married Women's Property Law: Reception of the Early Married Women's Property Acts by Courts and Legislatures," *The American Journal of Legal History* 29, no. 1 (January 1, 1985): 3-35; Peggy Rabkin, *Fathers to Daughters: The Legal Foundations of Female Emancipation* (Westport, Conn.: Greenwood Press, 1980); Elizabeth Warbasse, *The Changing Legal Rights of Married Women 1800-1861* (New York: Garland Publishing, 1987).

reduced the transactions costs created by coverture in common law, permitting property to move more efficiently through an economy developing at a rapid pace. Women’s property rights during coverture meant that in most states, limitations in equity required wives’ approval before any real property they brought to marriage could be conveyed – that is, they were supposed to formally waive their dower rights before deeds could be secured. By clarifying ownership and simplifying conveyancing, the married women’s property acts allowed families to move property with more speed and confidence.⁸

The catalyzing event that set off the first wave of women’s property acts was a crippling economic panic, rather than feminist agitation. Passed in 1839 in reaction to speculative crash in cotton land and slaves after the Panic of 1837, Mississippi’s statute created automatic separate estates for women. Married women retained legal ownership of their property, permitting families to shield some of their property from their husband’s creditors, but wives still required their husbands’ permission to dispose of this property. Four of the five provisions pertained to ownership of slaves. While Texas, technically an independent republic, went so far as to permit women to veto sales of their property and write wills in 1840, Maryland’s law, passed in 1843, limited women’s rights only to real property, including slaves. New York’s 1848 law was more like Mississippi’s in permitting women rights to personal and real property.⁹ The laws

⁸ Gregory S. Alexander, *Commodity & Propriety: Competing Visions of Property in American Legal Thought, 1776-1970* (Chicago: University of Chicago Press, 2008); Lester Lindley, *Contract, Economic Change, and the Search for Order in Industrializing America* (New York: Garland Publishing, 1993). For an economist’s analysis confirming historians’ arguments, see Amy Lydia Gignesi, “Relinquishing Control: The Married Women’s Property Acts in Mid-Nineteenth-Century America” (Ph.D. dissertation, American University, 2004).

⁹ Jeffery Clymer, *Family Money: Property, Race, and Literature in the Nineteenth Century* (New York: Oxford University Press, 2012), 90-91; Peggy A. Rabkin, *Fathers to Daughters: The Legal Foundations of Female Emancipation* (Westport, Conn.: Greenwood Press, 1980), 22.

ultimately did little to challenge patriarchy because, as Peggy Rabkin points out, the focus was on property moving from fathers to daughters and eventually to grandchildren; real power over the protected property never rested in the married woman's hands.

Furthermore, the Married Women's Property Acts reflected the developing legal and social understanding of "property-as-commodity," whereby previous limits on alienation were "'feudal' restraints... were viewed as objectionable precisely because they interfered with the market's liberating function."¹⁰ As Woody Holton argues, the emphasis in the United States Constitution on the enforcement of contracts offered a basis for the first round of Acts, and that subsequent feminist agitation for expanding women's property rights was an unforeseen catalyst for expanding women's rights to their property and wages.¹¹ Similar reforms were pursued in England, Canada, and Latin America, suggesting that these developments were not rooted solely in Anglo-American legal liberalization but responses to commodification and the intensification of capitalism. Removing this legal snarl allowed capital to flow to meet the demands of the market, and may have prevented some women and children from becoming public charges, but did not fundamentally challenge "economic patriarchy."¹²

The disruption and dislocation of the Civil War interrupted movements along the eastern seaboard, challenged prevailing gender ideologies, and hardened regional prejudices. Regional prejudices were sometimes rooted more in personal feelings of loss or deprivation occasioned by the war. While Leora Sims of South Carolina boasted that her "hot southern blood" had "not one drop of Yankee blood," many Confederates in fact

¹⁰ Alexander, *Commodity & Propriety*, 159.

¹¹ Woody Holton, "Equality as Unintended Consequence: The Contracts Clause and the Married Women's Property Acts," *Journal of Southern History* 81, no. 2 (May 2015): 313–40.

¹² Alexander, *Commodity & Propriety*, 158.

had family ties to the North, including some who had been born there.¹³ Tryphena Holder Fox wrote to her mother in Massachusetts that her family in Louisiana, “like thousands of others here in the South suffered terribly,” leaving her with an “*ingrafted* hatred of anything in a Yankee Uniform.”¹⁴

Individuals navigating postwar society expressed a range of emotions when it came to north-south unions in the postwar period – yet as we have seen, numerous examples of such union demonstrate that cross-region marriages continued to take place. Southerners deeply opposed to North-South marriages discussed them as if they were interracial or immoral. Southern women who married northern men risked lowering their estimation in their family and friends’ opinions. Louis DeRosset of North Carolina admitted that he could not bring himself to congratulate a friend on her marriage to a Union naval officer because “my heart turns in disgust from such an unnatural union.” When Bella Swain married a federal officer, her father refused to attend the wedding. Women, too, sometimes felt similar revulsion. Nannie Haskins resolved to break off all communication with an acquaintance with a “Yankee beau.” Haskins felt her friend “carried on shamefully... any girl that had one particle of modesty would not have talked as she did.”¹⁵ Yet even as these feelings hardened into Lost Cause ideology, North-South marriages were symbols of national reconciliation – an imaginary re-coupling of the

¹³ Loera Sims to Harriet R. Palmer, December 9 1861, published in Louis P. Towles, ed., *A World Turned Upside Down: The Palmers of South Santee, 1818-1881* (Columbia, S.C.: University of South Carolina Press, 1996), 317.

¹⁴ Cited in Marilyn Mayer Culpepper, *All Things Altered: Women in the Wake of Civil War and Reconstruction* (McFarland, 2002), 138.

¹⁵ Cited in Victoria E. Ott, *Confederate Daughters: Coming of Age during the Civil War* (Carbondale, Ill.: Southern Illinois University Press, 2008), 65.

Union and the Confederacy that would give birth to a re-United States.¹⁶

As they had in the antebellum period, professions of regional identity often masked more complicated webs of kinship. When Alicia Middleton was asked to be a bridesmaid in post-vellum South Carolina, her brother forbid her to have any association with a “mixed” marriage – despite their mother’s Rhode Island birth.¹⁷ Meta Grimbball relied on New York relatives to manage her New York property before the war and afterward to help her regain property confiscated from her Confederate husband.¹⁸ And the Shippen Family continued to graft Virginia branches onto its Pennsylvania family tree: Thomas Lee Shippen, whose mother Alice Lee was Virginian, married a Virginian himself in 1791, as did his son William in 1817 and his grandson Thomas in 1860.¹⁹ William Drayton, a wealthy pro-slavery South Carolinian who relocated to Pennsylvania in 1833 due to his discomfort with South Carolina’s political belligerence, died before he could see his eldest son become a general in the Confederate Army while two of his younger sons joined the U.S. Navy; after the war, the northern Drayton siblings helped their struggling southern brother.²⁰ Kinship, region, and politics rarely neatly meshed.

While politics and personal experience drove a wedge between regions, it was the unchanged economic logic of marriage that sometimes overrode these prejudices. Both women and men continued to seek economic parity or advantage in marriage, just as they

¹⁶ Patrick Gerster and Nicholas Cords, *Myth and Southern History: The New South* (University of Illinois Press, 1989); Melissa J. Homestead, *American Women Authors and Literary Property, 1822-1869* (Cambridge University Press, 2005); Jane Turner Censer, *The Reconstruction of White Southern Womanhood, 1865-1895* (LSU Press, 2003); Jamin Creed Rowan, “Urban Sympathy: Reconstructing an American Literary Tradition” (Ph.D. dissertation, Boston College, 2008).

¹⁷ Cited in Daniel E. Sutherland, *The Confederate Carpetbaggers* (LSU Press, 1988), 233.

¹⁸ February 20 1866, Margaret Ann “Meta” Morris Diary, SHC.

¹⁹ Arthur Meredyth Burke, *The Prominent Families of the United States of America* (Genealogical Publishing Com, 1908), 428-30.

²⁰ See finding aid to the Drayton papers, HSP, for a summary.

had before the Civil War. For instance, in the 1870s Sue Hubbard (granddaughter of James Thruston Hubbard and Susanna Wilcox) used many of the same metaphors and employed the same criteria that had been prominent in the antebellum years in her appraisals of the marriage market. She targeted wealthy, older men with little regard for region. She was temporarily engaged to a widower of “old Knickerbock stock,” whom she claimed was a millionaire. In discussing her flirtations in postbellum Washington, D.C, she wrote her mother, “I have done pretty well on small capital.... There are not many girls in the City who have a member & a senator in their train.” The member in question was, in her opinion, “*The most brilliant catch in the house* – rich, the finest scholar in Congress & very fine looking.” Another romance was with Congressman Martin Clardy, who she thought was a “better chance” than Senator Zebulon Vance because he was “younger & richer & had no children to bother.” After flirtations with a New Yorker, a Virginian, a Missourian, and a North Carolinian, South Carolinian Sue Hubbard married Marylander John Taylor Crow in February 1881. She was thirty, and his third wife. Crow was nearly sixty, with a daughter only six years younger than Sue. He died in March, barely a month after their wedding. Sue may have married again, had she not died nine months later.²¹

While the context had changed dramatically, Sue’s experience suggests that throughout the eighteenth and nineteenth centuries women – and men – employed many of the same strategies towards the same end: finding a financially suitable spouse. Neither the Married Women’s Property Acts nor the Civil War altered this goal. This pressure remained in large part because of the legal and consequently financial dependency of married women, which persisted in various ways into the twentieth century and lingers

²¹ Censer, *The Reconstruction of White Southern Womanhood, 1865-1895*, 25–30.

even now in certain “traditional” practices that represent the last vestiges of the system of coverture. Women taking their husband’s names upon marriage (or when individuals and institutions presume they have) echo the husband’s legal representation of his wife; the legal principle of spousal privilege assumes the unity of interests of husband and wife.

Modern Meanings of Marriage

This study, while focused on 1750 to 1860, engages questions with which the American public continues to wrestle, questions which the historic ruling of the Supreme Court in *Obergefell v. Hodges* legalizing same-sex marriage will not fully settle. Late-twentieth and early twenty-first century public debates over same-sex marriage often reference the history of marriage. Progressive arguments emphasize marriage as personal expression, while conservative stances insist that the foundation of marriage is sexual reproduction. In concluded the decision in *Obergefell*, Justice Anthony Kennedy described marriage as the “profound” form of union, “for it embodies the highest ideals of love, devotion, sacrifice, and family.... a love that may endure even past death.”²²

As gay and lesbian couples fight for the privileges of marriage using the language of romantic love and free choice, and social critics bemoan the decline of marriage and the rise of single motherhood, the history of the economic functions of marriage is especially important to acknowledge. As Stephanie Coontz points out, while matrimony is no longer the “credentialing process that people had to go through to gain adult responsibility and respectability... [it] still allows two people to merge resources, divide tasks, and accumulate more capital than they could as singles.”²³

²² *Obergefell v. Hodges*, No. 14-556 U.S., slip. op. at 28 (June 26, 2015).

²³ Coontz, *Marriage: A History*, 276.

State recognition of marriage offers benefits that reflect the economic functions of marriage as administered through law. Excellent scholarship on the late-nineteenth and twentieth centuries trace the protracted battle to define and redefine the role of the state in marriage, which continued to be concerned with the legal rights surrounding marital property and the political and social ramifications of these rights.²⁴ Same-sex couples seeking legal protections are, in some ways, demanding the rights granted by the “unity of interest” principle – tax-filing advantages, the ability to inherit with spousal privileges, recognition of child custody, and to make end-of-life decisions for their partners. These arguments, however, are in a sense turning coverture on its head. Rather than rooting their unity-of-interest argument in patriarchal assumptions about male superiority, they are based in an insistence on the recognition of two adults’ emotional commitment.

Although Justice Ruth Bader Ginsburg points out that the law no longer dictates that marriage take the form of “a dominant and subordinate relationship” based on biological sex, heterosexual marriage still betrays deeply rooted sexual inequality.²⁵ Married women earn less and are less likely to advance in their careers than married men, are penalized for having children while men are not, and still do more caring work and home work. The federal tax structure still favors a breadwinner-homemaker family structure, discouraging “second earners” from working full time – usually wives, especially during their childbearing and rearing years.²⁶ Thus despite the rhetorical

²⁴ Cf., Coontz, *Marriage, A History*; Nancy Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge, Mass.: Harvard University Press, 2000); and Hendrik Hartog, *Man and Wife in America: A History* (Cambridge, Mass.: Harvard University Press, 2000).

²⁵ Transcript of oral arguments of April 28, 2015, in *Obergefell v. Hodges*, No. 14-556 U.S. 92015), pp. 10 and 70.

²⁶ Nancy Folbre, *The Invisible Heart: Economics and Family Values* (New York: The New Press, 2002), 228; Margaret L. Usdansky and Wendy M. Parker, “How Money Matters: College,

emphasis on egalitarianism in marriage, persistent assumptions about the sexual division of labor still create obstacles to sexual equality in heterosexual American households, which require both awareness and effort to overcome.

It remains to be seen whether same-sex marriage, as some feminists hope, will strip matrimony of its historic presumptions of inequality between spouses, customarily based on sex, and reconfigure marriage as a sexually equitable arrangement.²⁷ Others argue that marriage itself is too freighted with assumptions about a gendered division of labor, and that it reinforces the marginalization of other family structures.²⁸ Some European countries, notably Sweden, have attempted to address inequality through government policies, including ones that subsidize childcare and treat parental leave for childcare as gender-neutral, in an effort to incentivize men to perform more domestic labor.²⁹ Insisting on marriage as either a timeless institution or as purely emotional matter obscure the workings of patriarchal power in marriage and the institution's flexibility and responsiveness to economic development in America's early history.

Motherhood, Earnings, and Wives' Housework," *Journal of Family Issues* 32, no. 11 (November 1, 2011): 1449–73.

²⁷ Hannah Alsgaard, "Decoupling Marriage & Procreation: A Feminist Argument for Same-Sex Marriage," *Berkeley Journal of Gender, Law & Justice* 27 (2012): 307–38.

²⁸ Susan B. Boyd, "Marriage Is More than Just a Piece of Paper: Feminist Critiques of Same Sex Marriage," *National Taiwan University Law Review*, Vol. 8, no. (2013), 263-297.

²⁹ Swedish Institute, "Gender Equality in Sweden," *Sweden.se*, accessed November 30, 2015, <https://sweden.se/society/gender-equality-in-sweden/>. Comparison to U.S. policies punctates the news cycle: cf., Katrin Bennhold, "In Sweden, Men Can Have It All," *The New York Times*, June 9, 2010, <http://www.nytimes.com/2010/06/10/world/europe/10iht-sweden.html>; Erin Killian, "Parental Leave: The Swedes Are The Most Generous," *NPR.org*, updated Aug. 11, 2011, <http://www.npr.org/sections/babyproject/2011/08/09/139121410/parental-leave-the-swedes-are-the-most-generous>; Katy Hall and Chris Spurlock, "Paid Parental Leave: U.S. vs. The World," *The Huffington Post*, posted Feb. 2, 2013, http://www.huffingtonpost.com/2013/02/04/maternity-leave-paid-parental-leave-_n_2617284.html; Michael Martinez, "Dads Cherish Sweden's Parental Leave - CNN.com," *CNN*, April 5, 2015, <http://www.cnn.com/2015/04/05/living/cnnphotos-swedish-dads-parental-leave/index.html>.

In moving forward in these debates, the patriarchally configured economics of marriage must be acknowledged. By interrogating household economics as the political economy of family, we begin to see the ways in which “free choice” in romantic love and allegedly unbiased laws are still-evolving expressions ideologies of power in the form of property and other forms of wealth. The emergence of a more equitable system requires acknowledging and addressing the lingering legacies of inequality engendered by marriage law and practice in early America.

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- Wood, Peter H. *Black Majority: Negroes in Colonial South Carolina from 1670 through the Stono Rebellion*. Reissue edition. New York: W. W. Norton & Company, 1996.
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- . *The Shaping of Southern Culture: Honor, Grace, and War, 1760s-1890s*. Chapel Hill: University of North Carolina Press, 2001.
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- . *Revolutionary Backlash: Women and Politics in the Early American Republic*. Philadelphia: University of Pennsylvania Press, 2007.
- . "The Family Factor: Congressmen, Turnover, and the Burden of Public Service in the Early American Republic." *Journal of the Early Republic* 33, no. 2 (2013):

Zakim, Michael, and Gary John Kornblith, eds. *Capitalism Takes Command: The Social Transformation of Nineteenth-Century America*. Chicago: University of Chicago Press, 2012.

Zeigler, Sara L. "Uniformity and Conformity: Regionalism and the Adjudication of the Married Women's Property Acts." *Polity* 28, no. 4 (July 1996): 467–95.

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Curriculum Vitae

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EDUCATION

- Ph.D., 2016 Early American History, the College of William & Mary
Dissertation: "Uniting Interests: The Economic Functions of Marriage in
America, 1750-1860."
- M.A., 2008 American History, the College of William & Mary.
- B.A., 2006 History with interdisciplinary honors, Schreyer Honors College, the
Pennsylvania State University, University Park Campus.
- B.A., 2006 Women's Studies with interdisciplinary honors, Schreyer Honors College,
the Pennsylvania State University, University Park Campus.

EMPLOYMENT

- 2014 – Associate Historian, Department of Historical Research and Training, the
Colonial Williamsburg Foundation.
- 2013 Proofreading and citation verification for François Furstenberg, *When the
United States Spoke French: Five Refugees Who Shaped a Nation* (New
York: Penguin Press, 2014).
- 2010 Interpretive Specialist, The Captain John Smith Chesapeake National
Historic Trail and The Star-Spangled Banner National Historic Trail,
National Park Service.
- 2008 Seasonal Park Ranger, Interpretation, Jamestowne National Historical
Park, National Park Service.

PRESENTATIONS

- 2015 “Banking on Kinship in Early America,” Society for Historians of the Early American Republic Annual Meeting, Raleigh, North Carolina, July 16-19.
- 2015 “The ‘Matrimonial Lottery:’ Family Financial Strategy and Gender in the Early American Republic,” Business History Conference, Miami, June 24-27.
- 2015 “‘Meer Mercenary Views:’ Marital Strategy and Economic Volatility in the Late-Eighteenth and Nineteenth Century South,” Southern Association for Women Historians Conference, Charleston, June 11-14.
- 2015 “Property, Power, Progress? Quantitative Analysis and Early American Women’s History,” Women’s History in the Digital World Conference, The Albert M. Greenfield Digital Center for the History of Women’s Education, Bryn Mawr College, Bryn Mawr Pennsylvania, May 20-21.
- 2014 “Marriage and Markets: Dowry Patterns and Economic Complexity in Early America,” Histories of American Capitalism Conference, Cornell University, Ithaca, New York, November 6-8.
- 2014 “Investing in Daughters: A Quantitative Analysis of Marriage Settlements from South Carolina, 1750-1850,” Social Sciences Historical Association, Toronto, November 6-9.
- 2014 “‘The consideration due to him as the head of his family:’ Hostility to Women’s Separate Estates in the Early National South,” Society for Historians of the Early American Republic, Philadelphia, July 17-20.
- 2013 “One Flesh, Two Estates: Patriarchy, Property, and Power in the Southern Early American Republic,” Social Science History Association, Chicago, November 21-23.
- 2013 “Erasing Indiscretion: Memory and Mutilation in the Diary of Louisa Cocke,” Traces of Early America: An Interdisciplinary Graduate Student Conference, The McNeil Center for Early American Studies, Philadelphia, September 26-28.
- 2013 “‘I greatly fear that some interference will become necessary to resque her:’ Out-of-court Responses to Spousal Abuse in the Early Republic,” Society for Historians of the Early American Republic, Saint Louis University, St. Louis, Missouri, July 18-21.

- 2013 “Pious Devotion vs. Patriarchal Authority: Louisa and John Cocke and Issues of Authority in the Early 19th Century,” Eastern American Studies Association Conference, Eastern Mennonite University, Harrisonburg, Virginia, March 22-23.
- 2012 “The Courtship of Louisa Maxwell Holmes: Matrimonial Ideals, Miscommunication, and Misery in the Early Republic,” Arts & Sciences Graduate Research Symposium, the College of William & Mary, Williamsburg, Virginia, March 23-24.

FELLOWSHIPS AND AWARDS

- 2015 Regional American History Dissertation Award, National Society of the Colonial Dames of America.
- 2014 Provost Dissertation Completion Fellowship, the College of William & Mary.
- 2014 Arts & Sciences OGSR/Graduate Student Association Conference Funds, College of William & Mary.
- 2014 Morton Graduate Student Travel Grant, Lyon G. Tyler Department of History, the College of William & Mary.
- 2014 SSHA/Tilly Graduate Student Travel Award, Social Sciences Historical Association.
- 2014 Guion Griffis Johnson Visiting Scholar Grant, the Southern Historical Collection, the University of North Carolina, Chapel Hill, NC.
- 2014 Arts & Sciences Graduate Research Grant, the College of William & Mary.
- 2014 Lewis P. Jones Visiting Research Fellowship, the South Caroliniana Library, the University of South Carolina, Columbia, SC.
- 2014 Graduate Research Grant, Lyon G. Tyler Department of History, the College of William & Mary.
- 2014 Provost Summer Grant for Graduate Research, the College of William & Mary.

- 2013-2014 Graduate Fellow, The Lemon Project: A Journey of Reconciliation, the College of William & Mary.
- 2013 Dean's Prize for Graduate Student Scholarship on Women, the College of William & Mary.
- 2013 Provost Summer Grant for Graduate Research, the College of William & Mary.
- 2013 Arts & Sciences Graduate Research Grant, the College of William & Mary.
- 2013 Arts & Sciences Conference Travel Grant, the College of William & Mary.
- 2012 Gilder Lehrman Short-term Research Fellowship at the Colonial Williamsburg Foundation.
- 2012 François André Michaux Fund Resident Research Fellowship at the American Philosophical Society.
- 2012 Arts & Sciences Graduate Research Grant, the College of William & Mary.
- 2011 Frances Lewis Fellowship in Gender and Women's Studies, the Virginia Historical Society.
- 2011 Provost Summer Grant for Graduate Research, the College of William & Mary.
- 2011 Arts & Sciences Graduate Research Grant, the College of William & Mary.
- 2011 Provost Summer Grant for Graduate Research, the College of William & Mary.
- 2010-2011 George Washington Fellow of the General Society of Colonial Wars, Lyon G. Tyler Department of History, the College of William & Mary.
- 2010 Arts & Sciences Graduate Research Grant, the College of William & Mary.

TEACHING EXPERIENCE

The College of William & Mary

Upper-level

Feminist Activism (Instructor of Record: Spring 2013).

Lower-level

U.S. History to 1877 (Instructor of Record: Spring 2013, Summer 2011, Fall 2009).

History of South Asia (Teaching Assistant: Fall 2008).

Western Civilization (Teaching Assistant: 2007-2008).

PUBLICATIONS

“Interpreting ‘Physick:’ The Familiar and Foreign Eighteenth-Century Body,” *The Appendix*, Vol. 2, no. 2: *Bodies* (April 2014).

OTHER PROFESSIONAL EXPERIENCE

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| 2014 | Training in macro- and microeconomic theory and statistical methods, History of Capitalism Summer Camp, Cornell University. |
| 2014 | National Institute for American History and Democracy Internship, Galt & Pasteur Apothecary Shop and the Digital History Center, The Colonial Williamsburg Foundation. |
| 2011-2012 | Historic Trades Internship in Medical History, Galt & Pasteur Apothecary Shop, The Colonial Williamsburg Foundation. |
| 2011-2012 | Consultant, History Writing Resource Center, the Lyon G, Tyler Department of History, the College of William & Mary. |
| 2007 | Christopher Wren Association Fellowship for Historical Editing, Omohundro Institute of Early American History and Culture, Williamsburg, Virginia. |
| 2006-2007 | Apprenticeship in Historical Editing, the Omohundro Institute of Early American History and Culture, Williamsburg, Virginia. |

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