

Small fortunes : property, inheritance and the middling sort in Stockport, 1800-57.

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Small Fortunes: Property, Inheritance and the Middling Sort in Stockport, 1800–57

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Thesis submitted for the title of
Doctor of Philosophy (Ph.D.) in Geography

February 2000



Abstract

This thesis is concerned with understanding some of the social relations of property transmission among the middling-sort community of the northern industrial town of Stockport in the early-nineteenth century. Studies of the social relations of property in nineteenth-century England have often been written around the concept of class. The thesis begins with a brief, but critical, evaluation of recent theoretical and empirical studies of class. This is done in order to highlight some of the difficulties of using class as a conceptual framework for understanding the importance of property within the social worlds of those who owned it. An alternative approach is advanced which foregrounds the study of property itself. It is argued that by paying attention to the practices of property ownership and transmission it is possible to explore both the material and discursive significance of property to its owners. The following chapter reviews the literature on inheritance in order to demonstrate the range of issues that the study of property transmission can cast light upon. In addition, it sets out a methodology for studying property transmission practices, highlighting the importance of exploring inheritance within its legal, social, economic and local contexts. Accordingly, chapter three introduces Stockport as the local context for this study, examining the way in which economic opportunity, risk and uncertainty affected strategies of property accumulation, ownership and transmission.

The remainder of the thesis investigates various spheres of the lives of the middling sort – including politics, professionalism, social networks, the family and business activity – through the lens of property transmission. Focusing on the national scale, chapter four begins this task by considering the reform of the legal machinery of succession. The protracted political debates that surrounded these reforms are examined in order to highlight the ways in which reformers aimed to create a legal system that guaranteed the rights of middling-sort, male property owners to securely and freely transmit all kinds of estate. Retaining an interest in legal matters, the next chapter moves the focus back to the local level by exploring the ways in which the making of wills and the disposal of estates forged a variety of social networks among Stockport's middling sort. As well as creating a demand for professional knowledge and expertise, such activities provided a source of status for those involved. It is also argued that such processes were central to the creation of gendered discourses of property transmission. Through a detailed examination of inheritance strategies recorded in the wills of Stockport's inhabitants, chapter six examines the role of property transmission in the social reproduction of middling-sort families. Particular attention is paid to the way in which inheritance strategies hinged upon gendered understandings of property and domesticity. The final chapter looks at inheritance and the family firm, demonstrating the close links between business survival and family provision. Resisting historiographical convention, it is argued that this evidence reveals the importance of considering the interconnectedness of the different spheres of the life of the middling sort rather than assuming their separation. The thesis concludes by restating the importance of property in disclosing the social worlds of the nineteenth-century middling sort. It also sets out the significance of the research in understanding the role of property and the middling sort in nineteenth-century Britain.

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Acknowledgements

The research for this thesis was undertaken in the Department of Geography at Queen Mary and Westfield College, University of London and was funded by a Queen Mary and Westfield College Graduate Teaching Studentship. This assistance is gratefully acknowledged. I would like to thank Philip Ogden, Nigel Spence, Ray Hall, Steve Gaskin and other colleagues in the department for providing such a supportive and vibrant environment in which to carry out the research and the other duties of my post. I am also grateful to the University of Luton and to my Head of Department, Paul Shaw, for allowing me to complete the study while beginning a new lecturing job.

The research owes a great deal to the help and advice of the staff of a number of different libraries and record offices around the country. In particular, I would like to thank the staff of Queen Mary and Westfield College Library, The British Library of Economic and Political Science, The University of London Library, The Guildhall Library, Manchester Central Library, The Society of Genealogists Library and The British Library. I would also like to acknowledge the help of the staff of the Public Record Office, the Family Records Centre and Lancashire County Record Office. Most of the archival research was undertaken at the Cheshire County Record Office and at Stockport Heritage Library. The excellent services of the Cheshire County Record Office and particularly Jonathan Pepler, Marlene Hassall, Derek Joinson and Peter Tomlins made the task of reading over 650 wills a pleasant and enjoyable experience! At Stockport I was ably and cheerfully assisted by David Reid, Margaret Myerscough, Ann Hartley, Ros Lathbury, Margaret Wilde, Carole Perry, Barbara Chadwick, and Brenda Smith.

In the early stages of the research Nick Blomley, Eddie Higgs and Dror Wahrman offered some useful advice and encouragement. More recently, Richard Wall and Michael Winstanley have kindly responded to queries about specific issues. I am also grateful to Robin Mackie for providing me with a copy of an unpublished paper. Richard Pierce kindly helped to clarify a number of legal matters and Ian Gregory provided assistance in setting up a computer database. Ed Oliver is also to be thanked for producing the maps which appear later in this volume. David Lambert of the Federation of Family History Societies and Brenda Smith of the North Cheshire Family History Society greeted my requests for help with enthusiasm and interest. I would also like to thank Shelia Hartley and Tom Bradley for sharing with me information about their nineteenth-century Stockport ancestors.

Parts of the thesis have been presented to conference audiences and the comments and questions of participants have been important in developing and rethinking ideas. I am particularly grateful to Geoffrey Crossick, James Foreman-Peck, David Jeremy, Penny Lane, Roger Lee, Philip Ogden, and Bill Rubinstein who have all commented on written drafts of various parts of the thesis. Jon Stobart has generously read most of the study and has made many useful observations and suggestions. I am very grateful to him for his help and insight.

Whilst preparing this thesis I have also had the pleasure of editing a book with Jon Stobart on the themes of property and inheritance in towns.¹ This has been a rewarding and enjoyable experience. Discussions with the contributors to this volume – Geoffrey Crossick, David Green, Penny Lane, Ann McCrum, Lorna Scammell, Jon Stobart and Bill Rubinstein – have stimulated the development of my own thinking on the subject of inheritance. Accordingly, their contributions to the book have been extensively cited throughout this study. My own contribution to the volume draws upon chapter five of this thesis. I have also incorporated parts of chapters one and two into an introduction to the book co-written with Jon Stobart.

It has been a privilege to have Miles Ogborn and Humphrey Southall as project supervisors. Their guidance, support and commitment has been superb and I am sincerely grateful for their patience and assistance. I have learnt a great deal from both. David Green has also helped in numerous ways. As well as encouraging me to do doctoral research he has also acted as an unofficial third supervisor. I am extremely appreciative of his willing advice and supportive friendship. My initial interest in the subject matter arose from work I carried out as a research assistant for David on a Nuffield Foundation funded project examining wealth-holding in nineteenth-century London.² While some the ideas for this thesis emerged from that project, the research presented in the chapters below remains independent from the London study and has a different topical, empirical and theoretical focus.

Finally, I would like to thank my family. My father died while I was researching this study. However, his enthusiasm and support remain a constant source of inspiration. I am very grateful to my mother for her never-ending help and encouragement and for generously funding some of my travel expenses. My sister Jenny and her husband Phil are to be thanked for kindly providing me with accommodation and hospitality while I was working in Chester. My wife Julie has been my closest support. I thank her for her encouragement, patience and example.

While acknowledging the help and support of the above people, it is necessary to state that this thesis was composed by me and is based upon my own original and independent research. The study has not been submitted for any other qualification.

Alastair Owens
February 2000

¹ Stobart, J. and Owens, A. (forthcoming, eds) *Urban Fortunes Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot

² The main findings are reported in Green, D R. and Owens, A. (1997) 'Metropolitan estates of the middle class, 1800–1850: probates and death duties revisited', *Historical Research*, 70 (173), pp. 294–311.

CHAPTER ONE

Introduction

During the late-eighteenth and early-nineteenth centuries Britain underwent a profound economic and social transformation. While economic historians have recently questioned the magnitude of the so-called ‘industrial revolution’, the social consequences of economic change remain an enduring source of scholarly interest.¹ Industrialisation brought a multitude of new opportunities for the accumulation of wealth, and the financing of Britain’s economic growth led to the emergence of a variety of new forms of property. Indeed, one of the most conspicuous social changes that accompanied industrialisation was the significant increase in the number of people who owned property. However, while wealth and property have been recognised as key sources of social and economic power in nineteenth-century Britain, historians have been reluctant to study in detail the social relations that were generated by their emergence. This thesis is concerned with identifying and understanding some of these social relations. It focuses on the urban middling sort of a key industrialising locality whose status, power and identity were founded upon the accumulation of property. It aims to understand the social significance of property to the middling sort by examining how, in certain specific contexts, it became a basis of their power and identity. It also seeks to identify the professional and informal social relations that enabled the accumulation of property. Finally, the study attempts to interrogate some of the ways in which property was central to the middling sort’s reproduction as an identifiable social group.

¹ For a more gradualist interpretation of economic change see Crafts, N. F. R. (1985) *British Economic Growth During the Industrial Revolution*, Oxford University Press, Oxford. In response, however, see Berg, M. and Hudson, P. (1992) ‘Rehabilitating the industrial revolution’, *Economic History Review*, Second Series, XLV (1), pp. 24–50.

In exploring these matters the study focuses on the social relations of property *transmission*. More specifically, it examines property transmission at the point of death through an exploration of inheritance practices. An important feature of the ownership of private property was the ability to transmit its benefit to others. Within nineteenth-century Britain, inheritance was a key mechanism by which property was passed on to other people. It was a practice of considerable material and symbolic significance to the middling sort whose continued power and status depended upon the possession of property. Through a series of close-focused studies of various aspects of the inheritance process, this thesis aims to understand the social relations of property transmission that were created as a result of the widening ownership of wealth in a key industrialising town. It focuses first on the creation of appropriate national legal infrastructures that were required to transmit new forms of property in new ways. It then explores the practices and processes that surrounded the making of wills and disposal of estates at a more local level. This involves an examination of the sources of knowledge and expertise that enabled property transmission. Attention then turns to assessing the impact of inheritance on the middling sort itself by looking at how property was transmitted, who it was transmitted to, and what purpose it served within the social worlds of property owners. Particular attention is paid to the family and the social relations of the domestic sphere which provided a formative social context for the middling sort. Finally, the study examines property transmission and its relationship to business activity, exploring how the social goals of inheritance impacted on family firms.

At a theoretical level the study seeks to address the timely question of the role of property in producing social change. In focusing on property transmission, it explores the significance of materiality and discourse in shaping social experience among the middling sort. In summary, the thesis presents a number of fresh insights into the relationship between property, inheritance and the middling sort in nineteenth-century England at both local and national scales. The remainder of this introduction defines and sets out a context for the themes dealt with elsewhere in the study. It maps out key issues and directions, defines the scope of the thesis and provides a fuller justification for its particular geographical focus.

Property and middle-class formation

The social relations of property have traditionally been explored through the concept of class. Indeed, property has been at the conceptual heart of most theories of class formation. Within the Marxist tradition, for example, property undergoes theoretical translation to become capital, the unequal distribution of which forms the main axis of differentiation between the working class and the bourgeoisie. Weberian theories of class also put property at the centre of their conceptual apparatus, highlighting its importance in determining an individual's 'class situation'. With varying degrees of consciousness and commitment, a wide range of historical studies of class in industrialising Britain have adopted these theoretical frameworks which emphasise the importance of property in constituting social relations.² It is, however, not the intention of this study to explore the social relations of property through the concept of class. Indeed, rather than adopting class as a theoretical framework for understanding the social relations of property, it is necessary to advance a critique of historical studies of class formation in order to formulate a different approach.

In spite of the central role property plays in theories of class formation, very few historical studies have given much explicit attention to the way in which property was implicated in the construction of classes and the relations within and between them. Frequently, property is reduced to a 'structural mechanism' and confined to a passive role in the formation of social relations. Only rarely have historians explored the meanings and social practices connected with property ownership and the way in which they shaped social relations between and within classes.³ Part of the reason for this might be that, until recently, historians have tended to concentrate on studying those social classes that did not possess property rather than those who did. Thus, ten years ago the Marxist social historian Theodore Koditscheck was able to observe that 'in contrast to the veritable cottage industry which has developed around the making of the English working class, contemporary scholarship has ... produced virtually nothing on the class formation of the bourgeoisie.'⁴

² See, for example, Thompson, E. P. (1963) *The Making of the English Working Class*, Penguin, Harmondsworth and Morris, R. J. (1990) *Class, Sect and Party. The Making of the British Middle Class, Leeds, 1820–50*, Manchester University Press, Manchester.

³ See, for example, Davidoff, L. and Hall, C. (1987) *Family Fortunes: Men and Women of the English Middle Class, 1780–1850*, Routledge, London, especially part two, pp 197–315.

⁴ Koditscheck, T. (1990) *Class Formation and Urban Industrial Society: Bradford, 1750–1850*, Cambridge University Press, Cambridge, p. 30.

Yet, while there has been an outpouring of studies of the English 'middle class' in the eighteenth and nineteenth centuries, the last ten years has also witnessed a profound re-thinking of the nature of class history. The rethinking of class echoes a wider loss of confidence in some of the traditional theoretical tools of social history. Prominent in the resulting conceptual clearout has been the rejection of certain theoretical narratives of class formation. While some historians have preferred a wholesale abandonment of class, identifying broader historical projects like studying the history of 'the social', others have attempted to rework its definitions and de-centre its role as a category for historical explanation.⁵

The complex conceptual genealogy of class has become something of a burden to historians, imposing a rather constraining theoretical paradigm on the exploration of social relations in nineteenth-century Britain. It has therefore become rare for scholars to pursue the agenda set by Koditscheck and produce histories of the *making* of the middle class, an approach which draws upon the somewhat discredited theoretical infrastructures of Marxism. Such approaches have been criticised for ignoring or marginalising other forms of social relations such as those founded upon gender or race.⁶ Yet, as Margaret Hunt has recently observed, 'class in the orthodox Marxian sense ... may be obsolete, but many of the historical questions that have traditionally surrounded it are not.'⁷ Accordingly, many historians have refocused, rather than completely abandoned, their interest in class related issues. Indeed, the emphasis of recent studies has turned to considering the ways in which the 'middle class', as both an idea and as an identifiable section of industrialising society, can be understood through the different social activities its 'members' were engaged in. Two examples illustrate this approach. Firstly, Dror Wahrman has examined the political narratives of 'middle class' activists in order to try to understand the ways in which the label 'middle class' became an important badge of identity over the late-eighteenth and

⁵ Patrick Joyce has perhaps been the most vocal critic of certain theoretical understandings of class. See Joyce, P. (1991) *Visions of the People: Industrial England and the Question of Class, 1848–1914*, Cambridge University Press, Cambridge and Joyce P. (1994) *Democratic Subjects. The Self and the Social in Nineteenth-Century England*, Cambridge University Press, Cambridge. Defences and modest reformulations of the concept of class can be found in Kirk, N. (1996, ed.) *Social Class and Marxism: Defences and Challenges*, Scolar Press, Aldershot.

⁶ For a critique of class that recognises 'other visions of the social order' (p. 1) see, for example, Joyce, *Visions of the People*

⁷ Hunt, M. (1996) *The Middling Sort Commerce Gender and the Family in England, 1680–1780*, University of California Press, Berkeley, p. 14.

early-nineteenth centuries.⁸ Secondly, Leonore Davidoff and Catherine Hall's study of the 'middle class' attempts to demonstrate how the identity and experience of the men and women of the English 'middle class' centred around the gendered material and ideological separation of private and public spheres.⁹

The thematic nature of such approaches has meant that historians have become less confident in identifying the 'middle class'. The variety of different thematic lenses through which the 'middle class' can be viewed inevitably reveal different groups of people and suggest different conceptions of class. Indeed, there has been a recognition that it would be impossible to delineate the 'middle class' exactly and that such a rigid conception of social structure is theoretically unsatisfactory. As Simon Gunn has recently noted, such an approach ignores the diffuse nature of the 'middle class' and very fluidity of middle-class identity.¹⁰ Such crises of identification and problems of definition have caused some historians to abandon the label 'middle class' altogether. Instead, a range of different 'metaphors of the middle' have been deployed either in an attempt to be more sensitive to the languages of social description that were used by contemporaries, or to side-step problems of identification and the theoretical quagmire of languages of class.¹¹ The 'middling sort' is one such phrase that has been widely adopted as offering a convenient and historically sensitive label of description without imposing too many conceptual constraints.¹² For similar reasons it is also the term used in this study. However, the label 'middling sort' is not deployed in order to describe a precise group of people with certain identifiable characteristics. It is used in a more fluid sense to denote a broad social position, which might take on a variety of different meanings and include a range of different people at different times and in different places.

⁸ Wahrman, D. (1995) *Imagining the Middle Class: The Political Representation of Class in Britain, c. 1780–1840*, Cambridge University Press, Cambridge.

⁹ Davidoff and Hall, *Family Fortunes*

¹⁰ Quoted in Boyd, K. and Mc William, R. (1995) 'Conference report: historical perspectives on class and culture', *Social History*, 20 (1), p. 96.

¹¹ These themes are critically reviewed in Crossick, G. (1991) 'From gentleman to residuum: languages of social description in Victorian Britain', in Corfield, P. J. (ed.) *Language, History and Class*, Basil Blackwell, Oxford, pp. 150–178 and Crossick, G. (1994) 'Metaphors of the middle: the discovery of the petite bourgeoisie, 1880–1914', *Transactions of the Royal Historical Society*, Sixth Series, 4, pp. 251–279.

¹² See for example Hunt, *The Middling Sort*, where such a label is used in order to be sensitive to the particular historical context of her study (the eighteenth century) and in order to address questions raised by the concept of class without having to consider 'the fortunes of a group of French intellectuals over the last three decades' and the 'often abstruse debates' that have surrounded the theoretical demolition of class (p. 14).

This rethinking of class has had important implications for the study of the social relations of property. Property is not something that has figured prominently in any of these thematic studies of the middling sort.¹³ In part, it would seem that this is a result of the critique of class that has marginalised the social significance of property. Property's implication in materialist conceptions of class formation seems to have deflected some historians from continuing to consider it. The result has been that the emphasis of more recent theoretically informed studies of class has been on cultural and political discourses rather than social and economic relationships. Consequently, property has been sidelined as a concept worthy of theoretical reflection or empirical study. Yet to ignore property would seem an unwise move. Not only does its neglect result in an obscuring of the economic bases to social identity, it also sustains the false assumption that economic processes are somehow separate from political and cultural ones. This study is therefore prompted by both the restricted theorisation and superficial treatment of property within studies of class formation and by the lack of consideration given to property within newer approaches to the study of social relations that have emerged from critiques of class.

Property and the middling sort

It would, however, be erroneous to claim that the question of property ownership has been completely ignored by social and economic historians of industrialising Britain.¹⁴ At a broad level, research by W. D. Rubinstein has raised some important questions about the geography and sources of 'middle-class' wealth-holding.¹⁵ His claim, recently challenged, that commercial and financial wealth was pre-eminent over industrial wealth has allowed him to identify important regional differences in the nature of property ownership.¹⁶ His controversial suggestion that London, rather than the industrial north, was the centre of wealth-making in nineteenth-century Britain has been connected to wider debates concerning the so called 'failure' of the British

¹³ An exception is Davidoff and Hall, *Family Fortunes*

¹⁴ Property ownership has also been studied from the perspective of consumption. However, the focus of the vast majority of this work is on the early modern period and for this reason it is not considered here. For a selection of studies carried out under the consumption banner see, for example, Brewer, J. and Porter, R. (1993) *Consumption and the World of Goods*, Routledge London and Fine, B. and Leopold, E. (1993) *The World of Consumption*, Routledge, London.

¹⁵ Rubinstein, W. D. (1981) *Men of Property The Very Wealthy in Britain Since the Industrial Revolution*, Croom Helm, London and Rubinstein, W. D. (1988) 'The Victorian middle classes: wealth, occupation and geography', *Economic History Review*, Second Series, XXX (4), pp. 602–623.

¹⁶ A recent challenge to Rubinstein's thesis has come from Nicholas, T. (1999) 'Wealth making in nineteenth- and early twentieth-century Britain: industry v. commerce and finance', *Business History*, 41 (1), pp. 16–36.

'middle class'.¹⁷ This theme has in itself been an enduring axis of scholarly attention and an important historical narrative for understanding the social relations of property.¹⁸ Rubinstein dissents from the view that Britain's industrial decline can be attributed to an anti-entrepreneurial manufacturing class and argues instead that the reasons for Britain's poor industrial performance relative to other nations can in part be explained by its comparative strength in other areas of economic activity.¹⁹ He attaches considerable importance to commercial and financial activities that were predominantly located in London and the south east. While such arguments raise some interesting questions about the broad role of wealth and property in nineteenth-century Britain, the focus of Rubinstein's research on an extremely wealthy minority within the 'middle class' (those leaving personal property valued at over £100,000) qualifies some of his claims because of its lack of consideration of those with smaller fortunes. Furthermore, his somewhat limited and mechanistic approach to the study of the wealthy and their property leaves space for an examination of other ways in which property can shed light on the nineteenth-century 'middling sort'. Indeed, while Rubinstein's work usefully foregrounds the study of property in identifying the nineteenth-century 'middle class', his concentration on issues of wealth-holding and economic performance is scarcely less constraining than some theories of class formation.

A critique of Rubinstein's work offers a way of developing an alternative approach to the study of the social relations of property transmission.²⁰ Martin Daunton has taken Rubinstein to task over his limited focus on the very wealthy. Following Daunton's observation that those with smaller fortunes 'were numerous and, for the bulk of the nineteenth century were central to the broad re-organisation taking place', this thesis

¹⁷ Evidence for the pre-eminence of London is provided in Rubinstein, *Men of Property*; Rubinstein, 'The Victorian middle classes' and Rubinstein, W. D. (forthcoming) 'The role of London in Britain's wealth structure: further evidence', in Stobart, J. and Owens, A. *Urban Fortunes Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot.

¹⁸ Summaries are provided by Gunn, S. (1988) 'The failure of the Victorian middle class: a critique', in Seed J. and Wolff, J. (eds.) *The Culture of Capital: Art, Power and the Nineteenth-Century Middle Class*, Manchester University Press, Manchester, pp. 17–44, and Hickox, M. S. (1995) 'The English middle-class debate', *British Journal of Sociology*, 45 (2), pp. 311–423

¹⁹ Rubinstein, W. D. (1993) *Capitalism Culture and Decline in Britain, 1790–1990*, Routledge, London.

²⁰ Such a critique should of course be mindful that Rubinstein's work does not profess to be interested in the social relations of property, and claims a more limited interest in issues of wealth holding. Nevertheless a more extensive critique of Rubinstein's work discloses some of the different ways in which historians of the nineteenth-century middling sort might study property and its transmission.

investigates property ownership among the less well off.²¹ Such an observation also informed earlier research I conducted for David Green, which examined wealth-holding in nineteenth-century London.²² Utilising the same sources as Rubinstein – probate documents – this study examined wealth-holding amongst the capital's modest social majority rather than its super-rich minority. Initially, this thesis was conceived as a companion comparative study to that project, looking at the structure of wealth-holding in northern industrial towns in an attempt to subject Rubinstein's claims about the geography of property ownership to further scrutiny. However, it soon became apparent that while probate studies of wealth structure were interesting and useful, they offered only a very narrow way of examining the social relations of property among the nineteenth-century middling sort.

While studies of wealth-holding may *suggest* social stratification they disclose little about the social meanings of wealth. One of the defining hallmarks of the middling sort of nineteenth-century England, both to contemporaries and historians, was their accumulation of property. At its most fundamental, property was a visible marker of social difference. Its possession, in a variety of forms, allowed the middling sort to distinguish itself from the 'working class'.²³ At another level, association of the nineteenth-century middling sort with new forms of property differentiated it from the landed aristocracy. However, these differences did not simply exist, they had to be produced through the use of property in a variety of ways that made it socially significant and meaningful.

Property played a central role in the social reproduction of the middling sort. It was not just a marker of social difference, or a basis of relational identity, it also textured the internal composition of the middling sort and formed the basis of other social relationships. Property offered a foundation for collective consciousness and formed an axis around which internal social relationships were constantly being created and re-created. It also sustained many of the tensions and divisions within the middling

²¹ Daunton, M (1989) 'Gentlemanly capitalism and British industry', *Past and Present*, 122, p. 132.

²² Between March and September 1994 I worked as a research assistant for Dr. David R. Green at King's College London on a Nuffield Foundation sponsored project *Wealth inequality and the trades: small fortunes in London, 1790–1860* (Grant: Soc/100 748). The main findings of this study are reported in Green, D. R. and Owens, A. (1997) 'Metropolitan estates of the middle class, 1800–1850: probates and death duties revisited', *Historical Research*, 70 (173), pp. 294–311.

²³ Crossick, G. and Haupt, H-G. (1995) *The Petite Bourgeoisie in Europe: 1790–1914, Enterprise, Family and*

sort by structuring, for example, relations of domination, subordination and resistance between men, women and kin. From the 1830s, property became the key qualification for the participation of the men of the middling sort in local and national politics. It was also central to the male middling sort's involvement in urban 'civil society', which lay somewhere between these social relationships with kin and those they sustained with the state.²⁴ Indeed, as well as generating specific, professional forms of social contact, property provided a basis upon which a multitude of other social relations could be mapped. As such, property also became an important arena where such relations could be imposed, codified, reinforced or contested.

The accumulation, ownership, consumption and transmission of property penetrated the lives and experiences of the middling sort in a variety of ways. In public and private, at work and at home, in the political sphere and in the realms of leisure and consumption, property was central to the group's existence. Rather than discarding property, it would therefore seem an apt moment to subject it to further scrutiny and investigate the ways in which it was thoughtfully and actively implicated in the formation and reproduction of social relations. This thesis takes on this task by examining some of the different contexts to middling-sort life within which property mattered.

Inheritance and the social relations of property

Rubinstein's somewhat restricted approach to studying wealth and property stems from his limited use of the sources that cast light on property transmission. Particularly notable is his analysis of probate records simply to 'count' wealth. In conducting research on wealth-holding in nineteenth-century London, it soon became apparent that the valuation of personal property for the purpose of probate (the main aspect of the source which interests Rubinstein) was part of a much more complex social process of inheritance. Furthermore, it was evident that additional analysis of probate documents could help to uncover a whole series of social relationships that revolved around the transmission of property. These ranged from the professional forms of social contact involved in the disposal of estates and the production of the

Independence, Routledge, London, p. 201.

²⁴ Morris, R. J. (1998) 'Civil society and the nature of urbanism: Britain, 1750–1850', *Urban History*, 25 (3), pp. 289–301.

will upon which probate was granted, to the social relations revealed by patterns of gifting and strategies of provision within wills. It became apparent that a more detailed consideration of the processes of property transmission could capture something of the variety and complexity of the social relations of property that were fundamental to the lives of the middling sort.

In trying to understand the broad importance of property within the lives of the nineteenth-century middling sort, the study of inheritance does, of course, have its drawbacks.²⁵ It is centred on a particular point in the life course which, although very significant to overall patterns of property ownership, is necessarily only a 'snap shot' of a longer and more complex process of the accumulation and transmission of property that created and depended upon a variety of social relations over the entire life course. Indeed, decisions made in anticipation of death about what to do with property often hinged upon what had been done in the past and upon expectations for the future use of property. It would be entirely wrong to suggest that inheritance offers the possibility of uncovering all the manifold and complex ways in which property figured in the life-worlds of the nineteenth-century middling sort. Clearly, therefore, the study of the social relations of property through inheritance has to be approached with caution. Nevertheless, used with care, studies of inheritance can provide rich rewards for historians interested in the social relations of property at the point of death.

While studies of property transmission in nineteenth-century Britain have generally, though not exclusively, focused on the reconstruction of patterns of wealth holding, studies of inheritance in other contexts have provided valuable insights into the social relations of property that a more detailed consideration can disclose.²⁶ A critical review of this literature can be found in chapter two. The chapter builds on the insights gained from this survey to sketch out an approach and methodology for studying inheritance. A broad approach is advanced which revolves around scrutinising a wide range of practices and processes associated with property

²⁵ Some of these are outlined in Crossick, G. (forthcoming) 'The meanings of property and the petite bourgeoisie', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes: Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot.

²⁶ An exception to the wealth-holding approach is the consideration of inheritance in Davidoff and Hall, *Family Fortunes*.

transmission at death and paying careful attention to the context in which inheritance took place. This includes a consideration of how decisions about the disposal of property were made, how wills were drawn up, and what sources of knowledge expertise and help were required to perform these activities. It also entails an exploration of the role of the law in shaping customs and practices of property transmission and in providing a powerful normative grid through which inheritance could take place. The approach also includes a more detailed consideration of the social strategies revealed by wills, examining how these sources of expertise and knowledge were put together to ‘craft’ a strategy of property transmission and identifying their intended consequences. This means attending to basic questions of who got what, how much, in what proportions and upon what conditions?

The approach put forward also stresses the importance of examining the broader social contexts within which property transmission took place. In part this is to address criticisms that the study of inheritance only provides a crude snap shot of the social relations of property at a unique point in the lifecycle of ownership. In particular, the thesis points to the need to understand inheritance within the context of the family, work and enterprise. It also highlights the need to see property transmission within the context of the locality, the dynamic economic and social geographies of which structured strategies of ownership and transmission. In summary then, the study of inheritance pursued in this thesis recognises that property transmission was a thoughtful and active process embedded within specific spatial and temporal contexts which need to be understood in order to fully appreciate the social relations of property transmission.

Property and inheritance in an industrialising town: Stockport

Within nineteenth-century society, property, inheritance and succession were matters of both national concern and local significance. Accordingly, this thesis focuses on both these geographical scales. However, the emphasis is primarily on the local scale, and specifically on an urban context, as it was here that the transmission of property mattered most. The towns and cities of nineteenth-century England were key venues for property accumulation and key loci of power for the emerging middling sort. As R. J. Morris has remarked, they were ‘the locations and structures within which the

middle class sought, extended, expressed and defended their power.²⁷ They were, therefore, frequently the places where wealth was most conspicuously produced and consumed.²⁸ However, as more than just a theatre for accumulation, the urban landscape also imbued property with meaning and significance. It was within such localities that property took on some its most obvious material forms – cottages, messuages, warehouses, mills, machinery, goods, personal possessions – that could be used, seen, displayed and marvelled at. Within the more immediate context of the neighbourhood property became a source of pride, status, and political power. Equally, it was within the locality that property could become a burden, a source of worry and the cause of embarrassment. In fact, as chapter three demonstrates, the accumulation and loss of property were part of the drama of everyday life for the nineteenth-century middling sort. This drama took place within the cities, towns and neighbourhoods of industrialising Britain. It therefore makes good sense to explore the social relations of property and its transmission primarily at a local scale.²⁹

The initial plan was to study Manchester and to compare it to London. However, it was eventually decided that such a town would be too big for the kind of detailed research being proposed. In addition, there have been a number of recent studies of the Mancunian middling sort, one of which has dealt quite extensively with issues relating to wealth and property ownership.³⁰ The particular choice of Stockport was made after a systematic survey of its archival holdings and those of seven other similar north west industrial towns – Blackburn, Bolton, Bury, Lancaster, Oldham, Preston and Wigan (see Table 1.1).³¹ The archive surveys revealed Stockport to be particularly rich in accessible source material. Most of the main source of testamentary documents was held in a single archive in Chester.³² Unlike the

²⁷ Morris, *Class, Sect and Party*, p. 14.

²⁸ This is not to deny the complex and extensive geographies of production and consumption that stretched way beyond such towns.

²⁹ Stobart, J. (forthcoming) 'Geographical networks of property transmission', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes: Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot argues that it was also within the locality that most property transmission took place

³⁰ Gunn, S. (1992) 'The Manchester middle class, 1850–1880', Unpublished University of Manchester PhD Thesis, especially Chapter Three. See also Hewitt, M. (1996) *The Emergence of Stability in the Industrial City: Manchester 1832–1867*, Scolar Press, Aldershot.

³¹ For the purposes of this study Stockport is defined as the parish of Stockport in the county of Cheshire and not the Stockport Civil Registration District/Poor Law Union. The latter included the township of Heaton Norris which, while functionally being part of Stockport, was north of the River Mersey and therefore strictly in Lancashire and part of the parish of Manchester.

³² Additional material is held in York and London. However, the vast majority of Stockport wills are kept in Chester. See discussion in Chapter Two.

Table 1.1
Archive survey of north west towns

	<i>Wills and probate sources</i>	<i>Trade directories</i>	<i>Newspaper</i>	<i>Other sources on property</i>	<i>Other sources</i>	<i>Population</i>	<i>Other comments</i>
Blackburn	Held at LRO BI FRC Consistory Ct of Chester, published index 1800-1842, Prerogative Cts of York and Canterbury unindexed (calendared by year)	From 1818 but infrequent until 1870s	Blackburn Gazette 1793, Blackburn Standard 1836, Blackburn Times 1855	Rate books from 1836, some business records	Vestry minutes	11,980 (1801) 63,126 (1861)	Well established and resourced archive
Bolton	Held at LRO, BI, FRC. Consistory Ct of Chester, published index 1800-1842, Prerogative Cts of York and Canterbury unindexed (calendared by year)	From 1811	Bolton Chronicle 1825	Rate books 1770-1837, considerable business records and papers	Various local government records Useful collection of biographical notes	12,549 (1801) 78,395 (1861)	Well resourced archive, but town has already been extensively studied
Bury	Held at LRO, BI, FRC. Consistory Ct of Chester, published index 1800-1842, Prerogative Cts of York and Canterbury unindexed (calendared by year)	From 1815 but infrequent until 1860s	Bury Mercury 1831 (limited lifespan), Bury Times 1855	Rate books 1800-1845 and 1849-50	Various local government (e.g. vestry Minutes 1823-30, council records 1846-1876)	7,072 (1801) 31,101 (1861)	Town too small for study
Lancaster	Held at LRO BI FRC Consistory Ct of Chester, published index 1800-1842, Prerogative Cts of York and Canterbury unindexed (calendared by year)	From 1818 but infrequent until 1840s	Lancaster Gazette 1803, Lancaster Guardian 1837	Rate books from 1801, valuation lists from 1808	Some local government records and records of institutions	9,030 (1801) 17,365 (1861)	Town too small for study
Oldham	Held at LRO, BI, FRC. Consistory Ct of Chester, published index 1800-1842, Prerogative Cts. of York and Canterbury unindexed (calendared by year)	From 1817 but infrequent until 1850s	Oldham Advertiser 1852	Rate assessments 1754-1867, otherwise archivist unsure	Some local government records and records of institutions	12,024 (1801) 72,333 (1861)	Archivist at Oldham Local Studies Lib. suggested holdings in state of neglect
Preston	Held at LRO, BI, FRC Consistory Ct of Chester, published index 1800-1842, Prerogative Cts of York and Canterbury unindexed (calendared by year)	From 1818 but infrequent until 1850s	Preston Pilot 1831, Preston Chronicle 1831, Preston Guardian 1844, Preston Herald 1855	Rate books destroyed in fire	Local government records including borough minutes	11,987 (1801) 82,985 (1861)	Considerable number of secondary studies already exist
Stockport	Held at CRO, BI FRC Consistory Ct of Chester, computer index 1800-1858, Prerogative Cts of York and Canterbury unindexed (calendared by year)	1787, 1811 and at regular intervals (every 3-4 years thereafter)	Stockport Advertiser 1822, N Ches Reformer 1837, Stockport Mercury 1847	Poor Rate Books, (Savings) Bank Records, Business papers.	Local government, Stockport Sunday School, religious institutions	14,830 (1801) 54,861 (1861)	Few secondary studies Local archive well indexed and resourced
Wigan	Held at LRO, BI, FRC Consistory Ct of Chester, published index 1800-1842, Prerogative Cts of York and Canterbury unindexed (calendared by year)	From 1818 but infrequent until 1870s	Wigan Gazette 1836, Wigan Times 1849, Wigan Observer 1855	Land tax assessments and poor rate books	Some local government records (e.g. Poor Law)	10,989 (1801) 37,658 (1861)	Town too small for study?

Key BI (Borthwick Institute) CRO (Cheshire Record Office) FRC (Family Record Centre), LRO (Lancashire Record Office)

testamentary documents for Lancashire towns, this material was fully indexed on a computer database, allowing easy identification of Stockport testators.³³ The town also possessed a range of other material that provided information on issues relating to property ownership and transmission. This included: a good run of trade directories from c. 1811; a commercially-oriented, local, weekly newspaper published continuously from 1822; records of a variety of local institutions such as savings banks, religious and voluntary organisations; business papers for a small number of prominent industrialists; and a reasonable selection of administrative documents such as poor law records and select vestry minutes. Stockport was also a town that had not been extensively studied. While two significant publications have explored the social history of the town's working classes and other studies have focused on the town's role in industrialisation, relatively little has been published on the social history of Stockport's middling sort, and nothing specifically on the question of property ownership.³⁴

In line with other manufacturing towns, Stockport grew rapidly over the first half of the nineteenth century. Between 1801 and 1841 the population of the town almost quadrupled from 14,830 to 54,681 persons. Much of this growth can be explained by the spectacular rise of the cotton industry which acted like a magnet drawing migrants into the town in search of employment. By the mid-1830s Stockport was second only to Manchester as the largest centre of cotton manufacture in the world.³⁵ Contemporary commentators were both amazed and shocked by the growth of the town. While James Butterworth saw this phenomenal growth as evidence that Stockport should 'rank among the chief towns in the British empire' others, such as Friedrich Engels, dwelt on the more negative aspects of industrialisation describing it as one of the 'duskiest, smokiest holes' in the entire manufacturing district.³⁶ Stockport's economy was, however, not solely based on textile manufacturing. Since

³³ Available at: <http://www.users.zetnet.co.uk/blangston/chswills/index.htm> (site accessed 22 December 1999).

³⁴ Glen, R. (1984) *Urban Workers in the Early Industrial Revolution*, Croom Helm, Beckenham and Kirk, N. (1985) *The Growth of Working Class Reformism in Mid-Victorian England*, Croom Helm, London both focus on the town's labouring classes. Unwin, G., Hulme, A. and Taylor, G. (1924) *Samuel Oldknow and the Arkwrights: The Industrial Revolution at Stockport and Marple*, Manchester University Press, Manchester is a more general study of the economic development of Stockport than its main title suggests. The only significant study that deals with Stockport's middling sort remains unpublished: Giles, P. M. (1950) 'The Economic and Social Development of Stockport', Unpublished University of Manchester M. A. Thesis.

³⁵ Kirk, *The Growth of Working Class Reformism*, pp. 47-53.

³⁶ Butterworth, J. (1827) *A History and Description of the Towns and Parishes of Stockport, Ashton-under-Lyne, Mottram in Longdendale and Glossop*, W. D. Valey, Manchester, p 246, Engels (1845 1969) *The Condition of the*

the twelfth century the town had been an important market centre within northern Cheshire – a function that it retained through much of the nineteenth century. In addition to a prominent community of industrialists, the town's middling sort was swelled by large numbers of other propertied individuals including shopkeepers, publicans, artisans, brokers, bankers, lawyers, and schoolteachers. While manufacturers were significant, they did not totally overshadow those from other occupational backgrounds. Indeed, as in other industrialising towns, the opportunities for accumulating property in Stockport were broad and diverse.³⁷

Stockport was thus *par excellence* a centre of wealth-making in early-Victorian Britain. Chapter three looks at the risks and uncertainties that impinged upon making a living in early nineteenth-century Stockport. In doing so, it points to some of the ways in which the volatile nature of the local economy and the prevailing moral economies of wealth were important in conditioning the way people owned and transmitted property.

Outline of the remainder of the thesis

The remainder of the thesis is made up of a series of detailed studies of inheritance and property transmission in Stockport and beyond. Chapter four has a national focus. Rather than considering inheritance strategies in a local context, it looks more broadly at the theme of will making, estate disposal and property transmission in industrialising England by examining contemporary legal reform. It considers what pressures the emergence of new forms of wealth in the early-nineteenth century placed upon the legal infrastructure of succession. To what extent did the ascendancy of personal forms of property, particularly associated with the middling sort – stocks, shares and business assets – along with the increasing commercial exploitation of real estate, expose a legal system ill-equipped to deal with the transmission of non-landed forms of wealth? The chapter also explores the efforts of the early Victorians to reform these legal infrastructures through an examination of the 1837 Wills Act and the 1857 Ecclesiastical Courts Act. While the former streamlined and simplified the rules for making wills, the latter abolished ecclesiastical jurisdiction over testamentary

Working Class in England, Granada Publishing, St. Albans, p. 77.

³⁷ On the mixed nature of the urban middling sort reflecting the variety of sources of wealth in industrialising towns see Nenadic, S. (1991) 'Businessmen, the urban middle classes and the "dominance" of manufacturers in nineteenth-century Britain', *Economic History Review*, Second Series, XLIV, (1), pp. 66–85.

affairs and established a new civil court of probate. The course of reform is examined to investigate the way in which new forms of property and the social relations founded upon them drove the agenda for change. Particular attention is paid to the way in which the reforms were propelled by the identification of a propertied, male, middling sort whose existence demanded a legal system that guaranteed the possibility of securely and flexibly transmitting the new forms of property that were pivotal to its power and identity. The chapter concludes by considering the broader implications of these reforms for understanding the relationships between property and the middling sort in industrialising towns like Stockport and the process of Victorian state formation.

In the next chapter the focus is moved back to Stockport to investigate the process of will making. In part, this entails a consideration of legal matters in a more local context. The chapter begins by exploring the variety of ways in which property might be transmitted to others at the point of death. It then concentrates on the process of testamentary disposition by looking at who made wills, how and when they were made, and why? It seeks to identify the social relationships that were generated by the practices of will-making and estate disposal. This includes an examination of the role of professional people – lawyers, clergymen, brokers and auctioneers – in making wills and in dealing with the formalities of disposing of estates. It also explores the more informal social networks that were relied upon to make wills and transmit property to others, examining who was involved and why. A central concern of the chapter is to assess the extent to which will-making activities pushed the private matter of inheritance firmly into the public sphere. The chapter concludes by considering how this cocktail of social practices and legal knowledges created specific meanings for the transmission of property by will. In particular, it explores the way in which prevailing gendered legal discourses of inheritance were reinforced through the material social practices of will making.

Chapter six considers how Stockport testators disposed of their property through a detailed examination of the inheritance strategies contained in a random sample of five hundred wills. Attention is first paid to the range of property that was transmitted by will. This is done in order to identify the broad patterns of property ownership among Stockport's middling sort and to see if there were any significant differences

between men and women. The next section of the chapter examines the extent and scope of testamentary beneficence. It focuses on the social and geographical extent of bequesting. In the main, central, section of the chapter, attention is turned to the family as the main recipients of testamentary dispositions. It considers the way in which the strategic disposal of property through post-mortem trusteeship acted as a form of intergenerational welfare provision among the middling sort. It also examines how Stockport's male testators treated different family members in different ways. Particular attention is paid to the way in which inheritance was used to reproduce the gendered domestic order of the family. The final section of the chapter explores strategies of bequesting to non-family members in order to understand the varying motives that lay behind inheritance. The chapter concludes by assessing the wider role of inheritance in the social reproduction of the middling sort.

The final empirical chapter focuses on one of the most important forms of property and sources of wealth among the middling sort of early nineteenth-century England: enterprise and the family firm. Examining the experience of three key occupational groups within Stockport – cotton manufacturers, tailors and drapers, and publicans and brewers – the chapter centres on the question of business life cycles and firm longevity. It examines the life span of family businesses and considers the significance of the impact of inheritance and post-mortem estate provision upon the survival of firms.³⁸ It traces the ways in which inheritance directly impacted on the future of the firm. Exploration of these issues allows for a re-evaluation of the meanings of work, enterprise and entrepreneurship among the middling sort in industrialising towns. It is argued that the business activity of the middling sort needs to be assessed against the social goals of producer capitalism and not against more abstract notions of economic efficiency. This, it is argued, has important consequences for understanding the structure and performance of the economy of nineteenth-century industrial towns. Finally, the chapter points to the ways in which the findings pose questions about the interconnectedness of the private sphere of the family and the public sphere of work and enterprise. A critique of the separate spheres thesis, a key theoretical tool for interpreting the experience of the Victorian middling sort, is advanced.

³⁸ Nenadic, S (1993) 'The small family firm in Victorian Britain', *Business History*, 35 (2), pp. 86–114.

Conclusion

The aim of this study is to provide insights into the social relations of property transmission among the urban middling sort of nineteenth-century Stockport by examining in detail processes and practices of inheritance. It casts light on the way in which the ownership of property both generated and reinforced certain forms of social relations. Through the study of social practices of property transmission, it aims to show how the ownership of wealth was both a material and discursive matter. As such the study opens up new ways of thinking about the material conditions of human existence that have been at the centre of recent debates in social history surrounding the concept of class. It also offers more specific insights into the role and importance of the middling sort in an age of profound social and economic change. Thus, as well as contributing to debates about the social relations of property, the thesis also provides a detailed empirical consideration of the complex ways in which family, work, law, gender and the locality impacted on the lives of this important social group.

CHAPTER TWO

Wills, inheritance and the social relations of property

Introduction

A recent study of property transmission in contemporary Britain has claimed that ‘in a society based upon the ownership of private property ... it is difficult to overestimate the importance of inheritance.’¹ The attraction of inheritance to scholars stems from the unique and tangible insight that it provides into the social relations of private property within societies like that of nineteenth-century Britain. It offers a window onto the mechanisms of social and economic reproduction. As Jeffrey Longhofer has remarked, inheritance is a process that ‘reproduces or contradicts the economic, political and social relations of specific social formations.’² At one level, it is revealing of the intimate social relationships between property owners their family, kin and friends, while at the same time an aggregate view of property transmission reveals the importance of inheritance in ‘sustaining and entrenching material inequalities in society.’³ It therefore provides detailed evidence of the ways in which some of the most important social and economic ‘institutions’ of modern society – the family, social class and private property – have been sustained. At a more pragmatic level, inheritance is also an unusually well documented process in the life course of property owners and part of its attraction to researchers undoubtedly lies in this documentary accessibility.

This chapter has two principal aims. The first is to critically discuss other studies of inheritance in order to outline an approach for this study. The discussion focuses on

¹ Finch, J., Mason, J., Masson, J., Wallis, L. and Hayes, L. (1996) *Wills, Inheritance and Families*, Clarendon Press, Oxford, p 3.

² Longhofer, J. (1993) ‘Toward a political economy of inheritance: community and household among the Mennonites’, *Theory and Society*, 22, p. 340.

³ Hamnett, C., Harmer, M. and Williams, P. (1991) *Safe as Houses Housing Inheritance in Britain*, Paul Chapman

the relationship between inheritance and four key themes that are of central importance to the arguments made in later chapters of the thesis: law, family, gender and the economy. Emphasis is laid on the issues and debates that are particularly relevant to understanding inheritance in nineteenth-century urban England. However, the remarkable dearth of research on inheritance in nineteenth-century England has necessitated consideration of a range of studies from different historical periods and places. The second aim of this chapter is to describe and evaluate the sources and methodologies that have been used for studying the social relations of property transmission within this thesis. Discussion focuses in particular on the use and interpretation of wills as the key documents for interrogating the patterns and processes of inheritance and the social relations founded upon them.

Property, inheritance and testamentary disposition

In its broadest sense, inheritance refers to the transmission or derivation of a material or symbolic asset or quality. This study is concerned with a more specific kind of inheritance, namely the process of transmitting property at death. According to Ronald Chester, inheritance can be defined as ‘the process of succession to the property of a decedent, whether by operation of law or custom, or pursuant to a decedent’s power to leave property by will.’⁴ It is, as Finch and her colleagues remark, an activity which is ‘centrally concerned with the transmission of property down generations.’⁵ This thesis focuses on the second of the modes of inheritance identified by Chester: the transmission of property by will, correctly referred to as testamentary disposition.

Both historical and contemporary western thinkers have regarded inheritance and testamentary disposition as being key features of private property. John Locke, for example, saw inheritance as a natural privilege of humankind, arguing that ‘every man is born with ... a right ... to inherit with his brethren, his father’s goods.’⁶ Indeed, in conceiving of property as a set of rights, Locke viewed the ability to transmit property as one of the most fundamental of these rights. William Blackstone

Publishing, London, p 76.

⁴ Chester, R. (1982) *Inheritance, Wealth and Society*, Indiana University Press, Bloomington, p.11. A ‘decedent’ is a legal term for a deceased person.

⁵ Finch et. al, *Wills, Inheritance and Families*, p. 3.

⁶ Quoted in Chester, *Inheritance, Wealth and Society*, p. 14.

went even further by using inheritance as an important justification for considering private property as a worthy basis of citizenship. He claimed that ‘the transmission of one’s possessions to posterity has an evident tendency to make man a good citizen and a useful member of society.’⁷ Although more inclined to question the moral legitimacy of inheritance, John Stuart Mill also regarded the disposal of property by a will or other means as an intrinsic feature of private property. He argued that ‘a bequest is one of the attributes of property: the ownership of a thing cannot be looked upon as complete without the power of bestowing it, at death or during life, at the owner’s pleasure.’⁸ More recently, Ronald Chester, echoing John Locke, has suggested that ‘inheritance must be seen as ancillary to property.’⁹ Indeed, the ability to transmit property can be thought of as corollary to the idea of ‘exclusive ownership’ which has come to dominate theoretical understandings of property in Britain over the past several hundred years.¹⁰ To dispose of property is, perhaps more than any other act of appropriation or alienation, to claim the exclusive right to its ownership.

In contrast to this Western liberal conception of property which tends to view it as a ‘thing’ over which individuals exercise exclusive rights, anthropological definitions of property frequently emphasise the social and relational context of its existence.¹¹ Property, it has been argued, is ‘conceivable only in the context of communities of people.’¹² Inheritance, by its very nature, emphasises these social aspects of ownership. It exposes the social web within which property as a ‘thing’ took on meaning, significance and purpose. As Finch and her colleagues have convincingly demonstrated, inheritance reveals the way in which property figures in ‘how people might conceptualise the claims of others upon them, in the context of their own family

⁷ Blackstone, W. (1979) *Commentaries on the Laws of England*, Volume II, ed. A. W. B. Simpson, University of Chicago Press, London, p. 11.

⁸ Mill, J. S. (1891) *Principles of Political Economy with Some of Their Applications to Social Philosophy*, Book II, George Routledge and Sons, London, p. 160.

⁹ Chester, *Inheritance, Wealth and Society*, p 12.

¹⁰ On the development of the idea of property as a form of exclusive ownership or title (alternatively referred to as the rise of ‘possessive individualism’) see, *inter alia*, Macpherson, C. B. (1962) *The Political Theory of Possessive Individualism: Hobbes to Locke*, Clarendon Press, Oxford; and McFarlane, A. (1978) *The Origins of English Individualism*, Blackwell, Oxford.

¹¹ Hann, C. M. (1998) ‘Introduction: the embeddedness of property’, in Hann, C. M. (ed.) *Property Relations. Renewing the Anthropological Tradition*, Cambridge University Press, Cambridge, pp. 4–5.

¹² Brewer, J. and Staves, S. (1995) ‘Introduction’, in idem (eds.) *Early Modern Conceptions of Property*, Routledge, London, p 3.

circumstances and in light of public expectations about such claims.’¹³ To use a concept that Chris Hann has recently resurrected from the work of Karl Polanyi, inheritance demonstrates the social ‘embeddedness’ of property.¹⁴ Thus, overall there are good reasons why the study of inheritance can be a rewarding way of exploring the social relations of property. Not only is inheritance central to the very notion of property as a theoretical entity, it also directs attention to the social aspects of ownership which this thesis is concerned with investigating.

Property, inheritance and the middling sort in nineteenth-century England

Given these observations, it is perhaps all the more remarkable that inheritance has not been widely studied by historians of nineteenth-century England.¹⁵ In spite of being characterised as an era of wealth accumulation when the ownership of private property became more widespread and of growing social and political importance, the nineteenth century has not received anything like the amount of attention from historians of inheritance that other periods have. As a general observation, it is fair to remark that studies of property and inheritance in England have tended to focus on the early modern period and have largely concentrated on rural contexts rather than urban ones. There have been two major strands to this work. The first has been concerned with the role of inheritance, particularly the ‘strict settlement’ of landed property, in the rise of aristocratic estates. It owes much to the pioneering work of Sir John Habakkuk, whose studies have opened up a number of important debates in socio-legal history.¹⁶ The second strand of investigation focuses less on the question of inheritance itself, than on a selective documentary by-product of the property transmission process: the probate inventory. Probate inventories have provided scholars with detailed information on individual property-holding, allowing them to

¹³ Finch, et. al. *Wills, Inheritance and Families*, p. 7.

¹⁴ Hann, ‘The embeddedness of property’, pp. 9–10.

¹⁵ An important exception, discussed further below, is Davidoff, L. and Hall, C. (1987) *Family Fortunes: Men and Women of the English Middle Class, 1780–1850*, Routledge, London.

¹⁶ Habakkuk, J. (1939–40) ‘English land ownership, 1680–1740’, *Economic History Review*, 10 (1), Second Series, pp. 2–17; Habakkuk, J. (1950) ‘Marriage Settlements in the eighteenth century’, *Transactions of the Royal Historical Society*, 4th series, 32, pp. 15–30; Habakkuk, J. (1979) ‘The rise and fall of English landed families, 1600–1800’, *Transactions of the Royal Historical Society*, 5th Series, 29, pp. 187–207; and Habakkuk, J. (1994) *Marriage, Debt and the Estates System. English Landownership*, Clarendon Press, Oxford. Other important works in this field include: Bonfield, L. (1983) *Marriage Settlements, 1601–1740: The Adoption of the Strict Settlement*, Cambridge, Cambridge University Press; Spring, E. (1990) *Law, Land and Family Aristocratic Inheritance in England 1300–1800*, The University of North Carolina Press, Chapel Hill; Staves, S. (1990) *Married Women’s Separate Property in England, 1660–1833*, Harvard University Press, Cambridge Mass.; Stone, L. and Stone, J. C. (1984) *An Open Elite?*, Clarendon Press, Oxford; Thompson, F. M. L. (1994, ed.) *Landowners, Capitalists and Entrepreneurs: Essays for Sir John Habakkuk*, Clarendon Press, Oxford.

study a number of issues relating to material culture, consumer behaviour and the temporal, spatial and social diffusion of goods, techniques and expertise.¹⁷

As probate inventories cease to exist from the late eighteenth-century, this is not a research theme that scholars have carried through into the Victorian era. However, historians' use of property transmission documents has arguably been just as restrictive. Studies have largely focused on reconstructing patterns of wealth-holding from probate estate valuations.¹⁸ This kind of research has rarely been extended to explore strategies of property transmission or to examine the wider social relations of inheritance.

The lack of attention paid to inheritance within the context of nineteenth-century England, and especially its towns and cities, is particularly surprising given the importance of property transmission to the middling sort. In an attempt to awaken interest in issues of inheritance and property disposal, R. J. Morris has recently claimed that the transmission of property by will was a process that was crucial to the 'making and remaking of the middle classes.'¹⁹ Bequesting and inheriting were activities that touched the lives of large numbers of middling folk at different stages throughout their life course. Moreover, succession could have profound economic and social implications for propertied families. As a result, Morris argues that the study of inheritance can provide a window onto the social relationships of property, family, friendship, gender and status that are 'central to accounts of the middle classes.' Inheritance is certainly a theme that figures prominently in literary representations of middle-class life during the period.²⁰ However, social and economic historians have

¹⁷ Examples of studies drawing upon the extensive use of probate inventories include: Overton, M. (1996) *The Agricultural Revolution*, Cambridge University Press, Cambridge; Shammas, C. (1990) *The Pre-industrial Consumer in England and America*, Clarendon Press, Oxford; Weatherill, L. (1987) *Consumer Behaviour and Material Culture, 1600-1760*, Methuen, London. For some indication of the breadth and scope of inventory studies see the contributions to Morris, R. J. and McCrum, A. (1995, eds.) 'Wills, inventories and the computer', *History and Computing*, 7 (3), Special Issue; and Overton, M. (1983) *A Bibliography of British Probate Inventories*, University of Newcastle upon Tyne, Department of Geography, Occasional Paper, Newcastle upon Tyne.

¹⁸ See for, example, Rubinstein, W. D. (1981) *Men of Property: The Very Wealthy in Britain Since the Industrial Revolution*, Croom Helm, Beckenham. This, and other literature on probates and wealth-holding, is discussed in Chapter One.

¹⁹ Morris, R. J. (1998) 'Reading the will: cash economy capitalists and urban peasants in the 1830s', in Kidd, A. and Nicholls, D. (eds.) *The Making of the Middle Class? Studies in Regional and Cultural Diversity Since the Eighteenth Century*, Alan Sutton, Stroud, p. 114. On the importance of inheritance to the middle class see also Davidoff and Hall, *Family Fortunes*, Part Two, pp. 193-317.

²⁰ This is also a curiously under-researched issue. An important exception is Sadrin, A. (1994) *Parentage and Inheritance in the Novels of Charles Dickens*, Cambridge University Press, Cambridge. However, this study focuses on a broader conception of inheritance than the legal form principally discussed in this chapter.

been much more interested in the production and consumption of wealth among the middling sort than they have been in its disposal and transmission.

Given the lack of research on inheritance in nineteenth-century England it is necessary to look further afield for studies which explore the social and economic implications of property transmission. For this reason the following sections, while predominantly considering studies of property transmission in an English context and, where possible, attending to debates relevant to property transmission in nineteenth-century England, necessarily discuss studies of inheritance in different time periods and in other geographical contexts. Anticipating later chapters of the thesis, attention focuses first on legal aspects of the inheritance process, examining the importance of legal considerations in understanding the nature and impact of inheritance practices. This is done in order to build a critique of legal perspectives on inheritance which do not adequately attend to the social and cultural context within which the law is produced and consumed. Attention then turns to the relationships between property transmission, family and kinship relations – a prominent theme among other studies of the social relations of inheritance. Following other scholars, it is argued that inheritance practices need to be interpreted as part of a broader strategy of family and community reproduction. Closely related to this, the next section considers inheritance and gender relations. It looks at debates concerning the role of women within the inheritance process and their broader status as property owners. The discussion culminates in a call for a re-assessment of the role of gender in understanding the social relations of property. The final section considers the relationship between inheritance and the economy. It argues that the study of property transmission can provide a valuable perspective on the way in which the economic goals of nineteenth-century businessmen and women were shaped by family priorities.

Inheritance and the law

Inheritance law, because of its fundamental role in regulating transmission, is an important starting point for understanding inheritance practices and, in turn, the social relations of property. The law institutionalises customs and norms so that certain practices become legitimate, whilst others do not. As Janet Finch and her colleagues have remarked, ‘the law creates the very concept of a will as the mechanism for the

transmission of property.²¹ As a legal entity property has been an issue of intense scholarly scrutiny. Within English legal history, however, the study of inheritance occupies a somewhat ambiguous position as it was a process which drew upon a variety of different aspects of the legal machinery of property. While the transmission of personal property was a matter for ecclesiastical law, the transfer of real estate was regulated by common law and the power of establishing equitable interests in property came under the jurisdiction of the courts of equity. The process of settling estates might also draw in other branches of the law such as that relating to bankruptcy and insolvency. As a result of these overlapping spheres of jurisdiction, consideration of legal aspects of inheritance have frequently been hidden within more general accounts of the history of property law.²² Moreover, surprisingly little attention has been paid to history of inheritance law in nineteenth-century England, in spite of the fact that it was a century during which there were profound changes to the legal machinery of succession and a growth in the number of people who transmitted property by will.²³

Nevertheless, the law remains important in understanding inheritance at a variety of levels. Interrogation of the production of the law and the institutions that supplied it at a national scale can provide a sense of the changing meanings and social significance of property transmission, while the consumption of legal knowledge at local level offers insights into the professional social relations that underpinned inheritance. Focusing on a variety of historical periods and geographical locations, scholars have investigated inheritance law at both these scales. However, their perspectives have often been rather limiting. As has been the case in other fields of ‘traditional’ legal history, studies of inheritance law have frequently adopted an ‘internalist’ and evolutionary approach.²⁴ Such perspectives tend to reify the law and set it apart from the economic, social and political context within which it was made and practised. The development of the law is located within a ‘whiggish’ narrative of progress whereby legal changes are seen as being driven by a self-propelling logic of improvement leading to perfection. These endogenous perspectives are commensurate

²¹ Finch, et. al., *Wills, Inheritance and Families*, p. 20.

²² For example, the question of inheritance is a subsidiary rather than a key focus of important texts like Offer, A. (1981) *Property and Politics, 1870–1914*, Cambridge University Press, Cambridge; and Simpson, A. B. (1986) *A History of Land Law*, 2nd Edition, Clarendon Press, Oxford.

²³ The only secondary source which provides anything close to a detailed description of these changes is Holdsworth, W. (1985) *A History of English Law*, Volumes XIII–XVI, Methuen and Co., London.

²⁴ See, for example, Holdsworth, *A History of English Law*. See also the critiques advanced in Chapter Four of this

with the broader project of representing legal authority as natural, impartial and just.

Such 'whiggish' approaches have not only influenced the way the law has been represented and understood, they have also affected the way in which legal documents have been used by historians. Susan Staves and Eileen Spring, for example, have criticised at the way in which historians of aristocratic inheritance practices in eighteenth-century England have both represented and interpreted the law.²⁵ They argue that scholars have interpreted legal documents too confidently by assuming that their character as legal instruments enhances their reliability. This, they argue, ignores the fact that legal documents have a range of meanings and that legal rules could take effect in a number of different ways. Staves and Spring also suggest that historians of inheritance have tended to interpret legal sources too rigidly. They argue that such documents can shed light on more than just the mechanics of property transmission. They can also help to uncover particular conceptions of property and the ideologies that sustain them. In short, the work of Staves and Spring calls for the legal aspects of inheritance to be seen more firmly within their social and economic context.

In a similar vein, Chris Hann has recently argued that the study of property law 'must not be restricted to the formal legal codes which play a major role in ... society, but must be broadened to include the institutional and cultural contexts within which such codes operate.'²⁶ By focusing on the consumption and use of legal knowledge at a local level it is possible to uncover some of the ways in which the law was socially and culturally embedded in society. In general, this is not an aspect of the legal side of inheritance that has provoked much interest from historians, other than from those concerned with understanding the 'background' to will making and property disposal.²⁷ Nevertheless, as a legal process, the transmission of property at the point of death relies upon the consumption of specific kinds of legal knowledge and expertise and draws upon the efforts of various people who perform certain duties that are required by the law. In short, the process of making wills and disposing of estates

study concerning historical perspectives on the reform of the machinery of succession.

²⁵ Spring, *Law, Land and Family*; Staves, *Married Women's Separate Property in England*.

²⁶ Hann, 'Introduction', p. 7.

²⁷ Indeed, some of the clearest outlines of the will making and property disposal process are provided by genealogists whose texts are designed for those trying to locate and understand the property transmission documents. The best account is Camp, A. J. (1974) *Wills and Their Whereabouts*, Published by the Author, London.

generates its own social relations. Moreover, the legal activities of inheritance can provide the historian with important insights into the life-worlds of property owners. Toby Ditz argues, for example, that ‘the court-related activities surrounding the deaths of property holders ... tell us a good deal about the public regulation of family relations, the boundaries between household and village, and networks among neighbours.’²⁸

A number of studies illustrate the potential for examining different legal aspects of the inheritance process in order to gain an understanding of the broader social world of property owners. In a wide-ranging paper, Spufford and Takahashi explore the identity of will witnesses in sixteenth and early seventeenth-century Cambridgeshire in order to trace village and community linkages. They argue that ‘the act of witnessing a will generally indicated the family, social, religious, business, or “neighbourly” significance of that witness to the testator.’²⁹ Indeed, their findings provide some interesting insights into early modern village life, illustrating, for example, the importance of social status in transcending the apparent economic divisions of rural communities. Moving into the eighteenth century, Jon Stobart has explored the social and geographical networks of property transmission in north-west towns by looking at the relationship between testators and executors, and intestates and their administrators.³⁰ Alongside the family, his findings illustrate the importance of extra-familial and inter-urban social contacts in the process of property disposal. Indeed, Stobart demonstrates how an investigation of the people involved in the property transmission process can help to uncover the geography of trade and business networks in an emerging regional economy as well as the community structures of towns.

These studies illustrate how an appreciation of the wider social and economic structures of property-owning communities is necessary to understand inheritance as a legal process. They help to uncover the networks of dependency and contact that were

²⁸ Ditz, *Property and Kinship*, p 138

²⁹ Spufford, M. and Takahashi, M. (1996) ‘Families, will witnesses and economic structure in the Fens on the chalk sixteenth- and seventeenth-century Willingham and Chippenham’, *Albion*, 28 (3), pp. 379–411.

³⁰ Stobart, J. (1995) ‘Regional structure and the urban system: north-west England, 1700–1760’, *Transactions of the Historic Society of Lancashire and Cheshire*, 145, pp. 45–73; Stobart, J. (forthcoming) ‘Social and geographical networks of property transmission’, in Stobart, J. and Owens, A. (eds.) *Urban Fortunes: Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot.

created and reinforced by will making and estate disposal activities. Indeed, there remains scope for investigating how such activities figured within the world of the nineteenth-century middling sort. Can the increasing use of solicitors to draw up wills and act in the disposal of estates, for example, be interpreted as ‘the lifting of the burden of trust from personal behaviour to more remote institutionalised forms while at the same time creating a corpus of experts’ that was supposedly characteristic of the middling sort?³¹ Similarly, how was the appointment of executors and trustees by testators shaped by existing middle-class social, economic and political networks? In short, there is a need to investigate how the legal aspects of estate administration drew the essentially private matter of inheritance into the social relations of the public sphere. This key issue is addressed in chapter five of this study.

Inheritance, family and kin

Aside from the social relations that are forged as a result of the legal processes of property transmission, inheritance practices are revealing of a more intimate set of social relationships that exist between testators and beneficiaries. As Janet Finch and Lynn Wallis have argued in their study of testamentary disposition in contemporary Britain, inheritance can have profound impact ‘on the people whose lives are significantly interwoven’ with that of a property owner.³² They suggest that testamentary beneficence can be seen as part of a process of ‘rounding off relationships formed throughout the life course.’³³ Alternatively, as R. J. Morris has convincingly demonstrated in his study of middle-class inheritance practices in 1830s Leeds, the mere act of making a will can be interpreted as an attempt upon the part of a property owner to maintain the relational aspects of property after his or her death.³⁴ Whatever inheritance practices demonstrate, wills remain important social documents expressing personal relationships between testators and beneficiaries. Furthermore, the nature and size of legacies made to beneficiaries can indicate something of the intensity of those relationships. As Finch and her colleagues maintain, ‘a will is a document which lays open to public inspection aspects of the pattern of relationships

³¹ Davidoff and Hall, *Family Fortunes*, p. 205.

³² Finch, J. and Wallis, L. (1993) ‘Death, inheritance and the life course’, in Clark, D. (ed.) *The Sociology of Death*, Blackwell Publishers/The Sociological Review, Oxford, p. 54

³³ Finch and Wallis, ‘Death, inheritance and the life course’, p. 64.

³⁴ Morris, ‘Reading the will’, p. 120.

which a testator had with members of his or her family and with other people.’³⁵ For these reasons inheritance has proved to be an enduring source of fascination for social historians, anthropologists and others interested in questions of family formation, community structure and broader strategies of social reproduction.

Much of the focus of this work has been on the family. This reflects the fact that through time and over space nuclear family members have, almost without exception, been the main recipients of testamentary bequests.³⁶ As Jean Baptiste Pisano has demonstrated, the study of wills provides a valuable insight into the ‘geography of family relations.’³⁷ They illustrate the relative importance of different lineal and collateral kinship groups and provide a sense of the internal economic and social dynamics of families. Inheritance has also been of interest to historians because of its key role in the formation and reproduction of families. In a tradition of scholarship stretching back to the work of Friedrich Engels, historians, anthropologists and others have recognised that ‘inheritance laws and customs are a fundamental part of family strategies.’³⁸ In this respect, many studies of inheritance move beyond the simple reconstruction of patterns of bequests to considering the tactical role of testamentary disposition in fulfilling broader social and economic goals.

A key theme running through the literature on inheritance and the family is the apparent tension within many societies between patrimony (the preservation of dynastic estates) and provision (the material support of all family dependants).³⁹ Where patrimony dominates, inheritance strategies are characterised by unigeniture (the transmission of property to a single family heir) which, in practice, usually equates to primogeniture (the transmission of property to the eldest male heir). Such inheritance strategies are highly inegalitarian but they preserve the ‘unity’ of the family estate. Where the support of dependants is the focus of inheritance strategies

³⁵ Finch, et. al., *Wills, Inheritance and Families*, p. 10.

³⁶ For exceptions see Goody, J. (1973) ‘Strategies of heirship’, *Comparative Studies in Society and History*, 15 (1), pp. 3–20.

³⁷ Pisano, J. B. (1995) ‘Wills as a geography of family relations’, in Jaritz, G., Kropac, I. H., and Teibenbacher P., (eds) *The Art of Communication*, Proceedings of the 8th International Conference of the Association for History and Computing, Graz, Austria, August 24–27, 1993, Akademische Druck-u Verlangsanstalt, Graz

³⁸ Goody, J. (1976) ‘Introduction’, in Goody, J., Thompson, E. P. and Thirsk, J. (eds) *Family and Inheritance: Rural Society in Western Europe, 1200–1800*, Cambridge University Press, Cambridge, p. 1. The seminal work by Engels on the family is: Engels, F. (1885 1972) *The Origins of the Family, Private Property and the State*, Lawrence and Wishart Ltd., London.

³⁹ For a concise discussion see Ditz, *Property and Kinship*, pp. 26–34.

then the transmission of property to multiple family heirs and often partibility (the equal treatment of heirs) dominates transmission practices. Such strategies can be more egalitarian but inevitably result in the division and fragmentation of family property rather than its preservation. According to Goody, it is these 'contradictory pulls towards the equal treatment of offspring ... and the preservation of the estate' that are at the heart of understanding family inheritance strategies.⁴⁰

Understanding why different groups of people in different times and in different geographical locations have pursued one or other of these two main strategies has been a major preoccupation for researchers.⁴¹ The exact conditions under which patrimony or provision became the dominant inheritance strategy have defied easy identification. As Longhofer has remarked:

similar inheritance practices have been found in association with a diverse array of social formations. Likewise, dissimilar practices have been found in association with similar social formations.⁴²

Indeed, it is clear that the pursuit of particular strategies is contingent upon complex constellations of social, economic, demographic, legal and cultural conditions which inform inheritance practices in any given time and place. As E. P. Thompson has perceptively noticed, a full understanding of the nature of family inheritance can only really be gained through an investigation of the wider social and economic 'grid' within which property transmission takes place.⁴³

That said, two key factors can be identified which strongly influence what kind of inheritance strategy is pursued. The first of these is the law. In many countries, particularly those whose legal systems were based on the Roman tradition (including much of continental Europe and its colonies), testamentary freedom was restricted so that property owners could not transmit their entire estate to a single heir at the

⁴⁰ Goody, 'Introduction', p. 3.

⁴¹ See, inter alia, Habakkuk, J. (1955) 'Family structure and economic change in nineteenth-century Europe', *Journal of Economic History*, 15 (1), pp. 1–12; Kennedy, L. (1991) 'Farm succession in modern Ireland: elements of a theory of inheritance', *Economic History Review*, Second Series, XLIV (3), pp. 477–499; Longhofer, 'Toward a political economy of inheritance'; Siddle, D. (1986) 'Inheritance and lineage development in peasant society', *Continuity and Change*, 1 (3), pp. 333–361; Thompson, E. P. (1976) 'The grid of inheritance: a comment', in Goody, J., Thompson, E. P. and Thirsk, J. (eds.) *Family and Inheritance: Rural Society in Western Europe, 1200–1800*, Cambridge University Press, Cambridge, pp. 328–360.

⁴² Longhofer 'Toward a political economy of inheritance', p. 338.

expense of other family members. France is perhaps the best documented case. There the civil codes of the post-revolutionary era placed further restraints on an already restricted testamentary regime and abolished primogeniture in favour of a more 'egalitarian' inheritance system founded upon the partible treatment of family heirs.⁴⁴ The second major influence upon inheritance strategies relates to the productiveness of family property. Following others, Toby Ditz has argued that where the survival of the next generation of a family depended on maintaining the viability of productive property, such as farming land, it became essential for that property to be preserved as a single entity.⁴⁵ In countries with permissive inheritance systems this encouraged patrimonial inheritance strategies and became the driving force behind primogeniture.⁴⁶ Passing the property to a single heir guaranteed the preservation of a viable estate while the maintenance and well-being of siblings and spouses could be ensured by attaching provision obligations to the heir's proprietary interest.

These kinds of property transmission practices were common among various European peasant smallholders in the early modern period, but have been most extensively researched within the context of landed society in eighteenth-century England.⁴⁷ Here the idea of patrimony was the guiding light of inheritance strategies. However, the preservation of family property was as much a matter of maintaining the dynastic status of the family as it was a case of ensuring the material survival of the next generation. As various researchers have demonstrated, such inheritance strategies created a complex assemblage of rights and restrictions that sought to preserve family property over future generations.⁴⁸ This was achieved by settling property on the

⁴³ Thompson, 'The grid of inheritance'.

⁴⁴ On the French system see Darrow, M. (1989) *Revolution in the House: Family, Class and Inheritance in Southern France, 1775–1825*, Princeton University Press, Princeton. For the similarly restrictive situation in pre-revolutionary France, see Diefendorf, B. B. (1995) 'Women and property in *ancien régime* France: theory and practice in Dauphine and Paris', in Brewer, J. and Staves, S. (eds.) *Early Modern Conceptions of Property*, Routledge, London, pp. 170–193. The scope for unequal treatment of heirs under French law is explored in La Ferrère, A. (1992) 'Inheritances and gifts inter vivos: the use of the disposable portion for the purpose of unequal division between siblings in France', *Continuity and Change*, 7 (3), pp. 377–404. Similar restrictions on testamentary freedom, preventing strongly patrimonial inheritance strategies existed elsewhere. See the example of Scotland outlined in McCrum, A. (forthcoming) 'Inheritance and the family: the Scottish urban experience in the 1820s', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes. Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot; and the case of Chile in Lamar, M. (1994) "'Choosing" partible inheritance strategies: Chilean merchant families, 1795–1825', *Journal of Social History*, 28 (1), pp. 125–146.

⁴⁵ Ditz, *Inheritance and Kinship*, p. 26.

⁴⁶ A permissive inheritance system is one that allows the free disposal of property. See Ditz, *Inheritance and Kinship*, p. 25.

⁴⁷ For a review see Ditz, *Property and Kinship*, pp. 30–32.

⁴⁸ Cooper, J. C. (1976) 'Patterns of inheritance and settlement by Great Landowners from the fifteenth to the eighteenth centuries', in Goody, J., Thompson, E. P., and Thirsk, J. (eds.) *Family and Inheritance in Western*

eldest male heir who would inherit the right to enjoy and use the family estate but who was prevented from disposing of it. According to the rules of 'entail', upon the heir's death, the property passed directly to his eldest son who held it for the term of his life under identical conditions. During the eighteenth century new legal devices evolved, such as mortgages and leases, that enabled the holder of the property – the 'tenant in tail' – to maintain maximum alienability over the estate during his period of legal title.⁴⁹

The impact of such inheritance practices on family members was highly uneven. While the eldest son would receive the lion's share of the interest in family property his younger siblings and his mother would be forced to make do with the remaining spoils of the estate.⁵⁰ However, according to Susan Staves, our understanding of the role of the family under this aristocratic inheritance system has been hampered by the restricted approach of many historians.⁵¹ She argues that many scholars ignore the gendered social dynamics of family relationships that are revealed by such inheritance practices, and, instead, treat the family as a simplistic economic unit. In particular, she criticises the masculinist approach of some historians who centre their attention on the experience and activities of male heirs while conceptualising the claims of younger siblings and female family members as a 'drain' on the economic viability of aristocratic property. As the work of Staves and others has demonstrated, while patrimonial inheritance strategies did succeed in preserving estates and maintaining families it did so within the context of a highly gendered and unequal conception of nuclear family relations.

In contrast to this aristocratic preference for inheritance practices based on the tradition of primogeniture, the middling sort of eighteenth- and nineteenth-century England tended to make a more partible disposal of their property.⁵² Among such groups inheritance practices seem to have been driven more by the notion of provision than patrimony. It has been argued that this reflects the fact that the middling sort had

Europe, 1200–1800, Cambridge University Press, Cambridge, pp. 192–327, Staves, *Married Women's Separate Property*, pp. 199–201.

⁴⁹ Habakkuk, *Marriage, Debt and the Estates System*

⁵⁰ Staves, S. (1995) 'Resentment or resignation? Dividing the spoils among daughters and younger sons', in Brewer, J. and Staves, S. (eds) *Early Modern Conceptions of Property*, Routledge, London, pp. 194–218.

⁵¹ Staves, *Married Women's Separate Property* p. 203–206.

⁵² Davidoff and Hall, *Family Fortunes*, pp. 205–207; Morris, 'Reading the will', pp. 120–121.

a lower proportion of their wealth tied up in productive property.⁵³ As a group their material fortunes hinged more upon the market than upon the productivity of a specific piece of land. Without the need to retain the unity and economic vitality of family estates, testators were free to divide up their property among children and spouses. Such inheritance practices suggest a more egalitarian family structure and a more utilitarian approach to provision. In short, as Ditz remarks 'will makers were more concerned with ensuring the survival of people over patrimony.'⁵⁴ Accordingly, research has highlighted the way in which the family inheritance strategies of the middling sort focused on two key goals: the maintenance of spouses and the equal (or near equal) treatment of children regardless of their age, gender and birth order.⁵⁵ The ultimate aim of such testamentary dispositions appears to have been the reproduction of nuclear families.⁵⁶ The support of spouses and dependants ensured the survival of the testator's immediate family, while partible inheritance provided offspring with personal capital for new family formation.⁵⁷

This family provision strategy appears to have been the basic model of property transmission in many societies, especially where the legal regime forced a testator to acknowledge the claims of all family members. Where there was some latitude for making preferential or discriminatory bequests, inheritance could be used to assert some degree of moral control over family relationships. As Ann McCrum has noted, wills could be used to anticipate and manage family conflicts.⁵⁸ Indeed, the conclusion that Hanlon and Carruthers drew from their study of inheritance practices in seventeenth-century France could apply with the same degree of force to provision-oriented inheritance practices in many other contexts including nineteenth-century England:

property transmission through the will ... follows several logical routes directed, in the first

⁵³ Ditz, *Property and Kinship*, p. 36.

⁵⁴ Ditz, *Property and Kinship*, p. 37.

⁵⁵ Morris, 'Reading the will', p. 121.

⁵⁶ McCrum, 'Inheritance and the family'. See also Houlbrooke, R. (1989) 'Death, church and family in England between the late-fifteenth and the early-eighteenth centuries', in Houlbrooke, R. (ed.) *Death, Ritual and Bereavement*, Routledge, London, p. 32, and Vann, R. T. (1979) 'Wills and the family in an English town: Banbury, 1550-1800', *Journal of Family History*, 4 (3), pp 346-367.

⁵⁷ Morris, R. J. (1979) 'The middle class and the property cycle during the industrial revolution', in Smout, T. C. (ed.) *The Search for Wealth and Stability Essays in Social and Economic History Presented to M W Flinn*, Macmillan, Basingstoke, pp. 91-93.

⁵⁸ McCrum, 'Inheritance and the family'.

instance towards the maintenance of the aged and the dependent, then with children with some concern for equality, and finally toward a measure of reward and punishment to keep a moral and social order intact.⁵⁹

However, while inheritance was undoubtedly a family-centred activity – a fact that is demonstrated in chapter six of this thesis – it was also a process that frequently embraced broader networks of friends and kin. This helped to enmesh the nuclear family into wider social structures. A number of studies have used the evidence of beneficiaries contained within wills in order to reconstruct historical communities.⁶⁰ However, the information provided by testamentary documents clearly has its limits. Firstly, the number of non-family members recognised by wills tends to be small. More importantly the wills reveal little about the nature and intensity of the relationships between the testator and his or her wider beneficiaries. Indeed, the recognition of certain people within a will may not offer a very reliable window onto exactly who was part of a testator's social world. Instead, it may indicate who a testator wished to be associated with and, perhaps more significantly, who, after his or her death, it would be useful for a testator's family to be associated with. In general, historians have not paid enough attention to the nature of the legacies made to such people.⁶¹ The material and symbolic purpose of such legacies was often quantitatively and qualitatively different to family provision and fulfilled a number of other social goals. Within middling-sort communities, there is a need to understand what these goals were and how they related to the wider social and economic priorities of property owners. This task becomes an important theme of later chapters of this study.

Inheritance and gender

Closely related to this interest in the family and community has been the investigation of what inheritance can reveal about the social and economic position of men and women in past societies. Historians have become particularly interested in the light which inheritance practices can shed on the extent to which women were independent

⁵⁹ Hanlon, G. and Carruthers, E. (1990) 'Wills, inheritance and the moral order in seventeenth-century Agenais', *Journal of Family History*, 15 (2), p. 158.

⁶⁰ See, for example, Cressy, D. (1986) 'Kinship and kin interaction in early modern England', *Past and Present*, 113, pp. 38–44; D'Cruze, 'The middling sort in eighteenth-century Colchester: independence, social relations and the community broker', in Barry, J. and Brooks, C. (eds) *The Middling Sort of People: Culture, Society and Politics in England, 1550–1800*, Macmillan, London, pp. 181–197.

⁶¹ Discussions of female inheritance practices excepted. See, for example, Berg, M. (1996) 'Women's consumption and the industrial classes of eighteenth-century England', *Journal of Social History*, 30 (2), pp. 415–434.

property owners. The terms of the debate have been set by Davidoff and Hall's seminal study of the middle class in late eighteenth and early nineteenth-century England.⁶² Not only were married women unable to freely dispose of property by will, Davidoff and Hall suggest that the inheritance practices generally confirm the impression gained from other sources that women were increasingly being forced to 'the margins of property ownership.'⁶³ Their study highlights the restricted access to property that women commanded and they claim that common inheritance strategies are indicative of this restriction. They argue that property transmission generally limited the rights of women to property and confined them to the domestic sphere. This picture, gleaned from the analysis of wills, is incorporated into Davidoff and Hall's broader argument that the world of the middle class was one that was fundamentally marked by separate gendered spheres of action. The public sphere of office holding, debate and formal economic activity was one dominated by men, while the private sphere of the home and family was increasingly viewed as a feminine realm. They argue that property, and more specifically inheritance, had an important role to play in reproducing these separate spheres by restricting women to managing property within the home and behind the scenes.

However, in recent years there has been a powerful reaction against this position from historians of property and inheritance who have put forward a radically different interpretation of the evidence. Important among these revisionist scholars has been Amy Louise Erickson who has concluded from her detailed work on women, property and inheritance in early modern England that females were far from inactive when it came to property ownership.⁶⁴ She highlights the need for historians to cut through the didactic legal literature which placed women on the ideological periphery of property ownership in order to understand the rather different material realities of their everyday lives. Revealing the significant gap between theory and practice, she argues that the day-to-day activities of middling women often placed them in a public position of proprietorial responsibility. Her analysis of wills reveals how they were frequently inheritors and bequestors of property and that they often took responsibility for the management of estate. The recent research of Maxine Berg into women's

⁶² Davidoff and Hall, *Family Fortunes*, especially pp. 195–315.

⁶³ Davidoff and Hall, *Family Fortunes*, p. 275.

⁶⁴ Erickson, A. L. (1993) *Women and Property in Early Modern England*, Routledge, London.

property in late eighteenth and early nineteenth-century Birmingham and Sheffield adds further credibility to this argument.⁶⁵ Drawing upon material from wills, she takes issue with Davidoff and Hall's interpretation of the use of trusts – a legal device which separated the ownership of property from the right to its benefit – to restrict female access to property. She claims that the use of trusts by men and women of these industrialising communities was a mechanism for ensuring rather than undermining women's rights to property.⁶⁶ More specifically, she argues that the trust enabled women's property rights to be protected from the common law entitlement of male spouses. Contrary to the idea that women played a subordinate role as wealth holders, she also suggests that females owned and enjoyed the benefits of a considerable amount of real and personal property. In conclusion, she argues that the evidence for 'gender-typing' of property holding and transmission is scant and that, contrary to Davidoff and Hall's view, women participated in property ownership on a similar basis to men.

A growing number of studies have been keen to reinforce this picture of the proprietorial independence of women. In another paper examining the experience of women as consumers in eighteenth-century England, Berg uses evidence of female inheritance practices to demonstrate the ways in which women tended to dispose of their property to a wider group of beneficiaries than men.⁶⁷ In common with other studies of consumption, she also notes how women had a greater propensity to name and describe personal possessions.⁶⁸ Berg tentatively interprets this as evidence for a more assertive form of control over property by women. Drawing upon wills and other sources, Penelope Lane has provided evidence from late eighteenth and early nineteenth-century Midlands towns which demonstrates the active public roles that women played as owners of property and money lenders.⁶⁹ A significant recent

⁶⁵ Berg, M. (1993) 'Women's property and the industrial revolution', *Journal of Interdisciplinary History*, XXIV (2), pp. 233–250.

⁶⁶ The role of trusts in facilitating or constraining female proprietorial autonomy is also considered by Morris, R. J. (1994) 'Men, women and property: the reform of the Married Women's Property Act 1870', in Thompson, F. M. L. (ed.) *Landowners, Capitalists and Entrepreneurs. Essays for Sir John Habakkuk*, Clarendon Press, Oxford, pp. 177–180.

⁶⁷ Berg, 'Women's consumption'.

⁶⁸ See, for example, Vickery, A. (1993) 'Women and the world of goods: a Lancashire consumer and her possessions, 1751–1851', in Brewer, J. and Porter, R. (eds.) *Consumption and the World of Goods*, Routledge, London, pp. 274–301.

⁶⁹ Lane, P. (forthcoming) 'Women, property and income generation in small English towns, 1780–1835', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes: Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot.

contribution to this debate has been that of David Green whose examination of the inheritance practices of women in nineteenth-century London has concluded that they too were independent owners of property whose socio-economic significance within the Victorian metropolis has been overlooked.⁷⁰ His contribution, along with Lane's, is important because it challenges the periodicity of the 'marginalisation' thesis.⁷¹ It has generally been argued that women's diminishing ownership and access to property was a process that reached a low point in the early 1830s when the Dower Act finally abolished a relict feature of common law which allowed married women to claim a right in their husband's estate at death.⁷² However, Green demonstrates that, in spite of these legal constraints, the second quarter of the nineteenth century was a period when metropolitan women acted with a remarkable degree of proprietorial autonomy. In examining the property transmitted by will, Green highlights the significance of metropolitan women as wealth holders and investors. By interrogating their inheritance strategies he also demonstrates how women's property transmission practices tended to favour other women, supplying them with the means to support their own economic independence. This growing body of literature therefore demonstrates the need to be cautious in assuming that the legal marginality of women to property necessarily reflected the social and economic realities of their lives.

In some respects, however, the terms of these debates about the autonomy of women are misguided. Like much historical controversy there is a tendency for arguments to become polarised. In truth, the idea that women enjoyed complete proprietorial autonomy is as untenable an interpretation as one which suggests that women were entirely on the margins of property ownership. Indeed, there is a need for complicating this debate in order to understand that women of different statuses, at different stages in the life course and in different parts of the country may have experienced different levels of proprietorial autonomy. As Judge has shown in a study of American property transmission strategies between 1890 and 1984, inheritance

⁷⁰ Green, D. R. (forthcoming) 'Independent women, wealth and wills in nineteenth-century London', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot.

⁷¹ A general critique of the marginalisation thesis can be found in Vickery, A. (1993) 'Golden age to separate spheres: a review of the categories and chronology of English women's history', *The Historical Journal*, 36 (2), pp. 383–414.

⁷² Holcombe, L., (1974) *Wives and Property: The Reform of Married Women's Property Law*, Martin Robinson, Oxford.

practices reflect the 'different life history courses' of men and women.⁷³ Likewise, as Judge also notes, there is a need to outline more carefully the demographic context of female wealth holding and transmission practices at death. The apparent proprietorial autonomy of female testators may simply reflect the 'variations in the male and female reproductive life span and life expectancies' whereby women tended to outlive men.⁷⁴ Widows were released from the common law constraints of marriage while children may well have been provided for by their late husband's will. It is therefore not surprising that a more radical testamentary freedom is evident in the inheritance practices of older female property owners.⁷⁵

There is also a need to pay more attention to men's roles as property owners. In the midst of some of these debates about women and property the position of men is viewed all too simplistically. Indeed, the implicit assumption that men enjoyed exclusive rights of ownership to property (which, depending upon the line of argument advanced, women were either denied or also enjoyed) ignores the powerful moral discourses that restrained and governed the accumulation, use and transmission of property by men (an issue dealt with rather more effectively by Davidoff and Hall than by their critics). In short, there is a need to consider how inheritance as a distinctive moment in the life course of property-owning families, positioned male and female relations, friends and kin in different ways within a vision of an established gendered social order. Understanding the role of gender in inheritance must involve a consideration of more than the property that men and women gave and received. It must pay attention to the ways in which ideas of gender were central to some of the wider social goals of inheritance in ensuring the social reproduction of family and kin. Alongside this, it is also necessary, as revisionist scholars have pointed out, to try and uncover the realities of property ownership which may have contradicted the ideological positioning of men and women suggested by legal sources. Indeed, inheritance must be recognised as a contested realm where different understandings of gender and property were both reinforced and resisted. These issues are given further consideration in chapter six which explores the relationships

⁷³ Judge, D. (1995) 'American legacies and the variable life histories of women and men', *Human Nature*, 6 (4), p. 292.

⁷⁴ *ibid.*

⁷⁵ This follows a similar point made by Janet Finch and her colleagues in relation to contemporary inheritance practices. See Finch et. al. *Wills, Inheritance and Families*, p. 181.

between gender and family provision among Stockport's middling sort.

Inheritance, enterprise and economic development

The interplay of legal rules, family priorities, community obligations and gender relationships that shaped inheritance practices also have important economic implications. A significant strand of research on inheritance has focused upon the economic impact of property transmission. A variety of different themes have been explored ranging from the effect of inheritance practices on the economic viability of productive property, such as farms and firms, to the role it played in supplying capital and creating an unequal distribution of wealth. Investigation of many of these issues has been shaped by the pioneering work of Josiah Wedgwood whose study of the economics of inheritance in early twentieth-century Britain attempted to assess the significance of property transmission in producing wealth inequalities and influencing patterns of economic activity.⁷⁶ Also significant has been the work of Sir John Habakkuk, whose seminal paper on inheritance in nineteenth-century Europe looked at the impact that certain kinds of property transmission practices had on the process of industrialisation.⁷⁷

Within the context of nineteenth-century England the economic dimensions of inheritance have received attention from historians at two levels. As was noted in chapter one, research on probate estate valuations by W. D. Rubinstein has provided a valuable insight into the unequal social and geographical distribution of wealth in nineteenth-century Britain.⁷⁸ A number of other researchers have explored patterns of probate wealth distribution at smaller geographical scales.⁷⁹ However, such studies tend to be more interested in the patterns of wealth inequality revealed by inheritance rather than in the role of inheritance in creating such inequalities.

⁷⁶ Wedgwood, J. (1929) *The Economics of Inheritance*, Penguin, Harmondsworth.

⁷⁷ Habakkuk, J. (1955) 'Family structure and economic change in nineteenth-century Europe', *Journal of Economic History*, 15 (1), pp. 1–12.

⁷⁸ Rubinstein, *Men of Property*.

⁷⁹ Other works incorporating studies of probate wealth include Green, D. R and Owens, A. (1997) 'Metropolitan estates of the middle class, 1800–50 probates and death duties revisited', *Historical Research*, 70 (173), pp. 294–311; Field, J. (1986) 'Wealth, styles of life and social tone amongst Portsmouth's middle class', in Morris, R. J. (ed.) *Class, Power and the Social Structure of British Nineteenth-Century Towns*, Leicester University Press, Leicester, pp. 67–106; Vincent, J. R. (1967) *Pollbooks How Victorians Voted*, Cambridge University Press, Cambridge, pp. 36–46; and Foster, J. (1973) *Class Struggle and the Industrial Revolution Early Industrial Capitalism in Three English Towns*, Methuen, London.

The second economic dimension of property transmission that has received limited attention from historians of nineteenth-century Britain relates to the impact of inheritance on business activity. A particular concern has been to examine the relationship between inheritance and the performance of family firms. As Mary Rose has remarked, 'succession ... forms the critical foundation upon which the future prosperity of a family firm rests.'⁸⁰ Yet, as Martin Daunton has noted in his study of inheritance and business succession in the City of London, 'little is known about how merchant families handled the universal problem of the succession of the generations.'⁸¹ In probing these matters the impact of inheritance practices on the future success and performance of family firms has generally been cast in a negative light. Consistent with a prominent narrative in economic and business history that views the family as a barrier to enterprise and a drain upon entrepreneurial energy, the priority attached to family provision within many businessmen's inheritance strategies is seen as constraint upon successful business activity.⁸² Both Daunton and Rose, for example, conceptualise inheritance and succession as a problem among business communities, which could ultimately lead to the termination or failure of a firm.

This particular viewpoint on the relationship between inheritance and business activity illustrates a broader problem with economic perspectives on inheritance. Economic historians frequently consider inheritance in terms of the impact that it had on economic activities. Far less attention is paid to the way in which economic priorities and the economic structures of nineteenth-century towns *affected* inheritance. In short, the perspectives of many business and economic historians are uni-directional. In the case of firm succession, the significance of inheritance is only judged in terms of the impact that it had on economic performance and development. There is, however, a need to turn the issue around and consider how business succession arrangements fulfilled the social goals of inheritance. In addition it is necessary to examine the way in which patterns and strategies of transmission were shaped by the economic conditions of property owning communities. With respect to middling-sort property transmission practices, there is a need to investigate how the

⁸⁰ Rose, M. B. (1993) 'Beyond Buddenbrooks: the family firm and the management of succession in nineteenth-century Britain', in Rose, M. B. and Brown, J. B. (eds.) *Entrepreneurship, Networks and Modern Business*, Manchester University Press, Manchester, p.133.

⁸¹ Daunton, M. J. (1988) 'Inheritance and succession in the City of London in the nineteenth century', *Business History*, XXX (3), p 270.

risks and opportunities of the local economic environment drove the key inheritance strategies of family provision and partibility. In summary, there is a need to re-evaluate inheritance and business succession more squarely within social goals of inheritance and rethink its likely impact of the performance and structure of the economy of nineteenth-century England. This is something that is attempted in chapter seven which examines the relationship between business survival and inheritance in Stockport. It makes the case for economic and social perspectives on property transmission to be merged so that historians can explore how inheritance was part and parcel of the process of making a living among property-owning communities.

Towards an approach to studying inheritance

The foregoing discussion has shown that inheritance offers a remarkably revealing window onto property ownership and the social relations that were bound up with it. However, an important general criticism of studies of inheritance is their tendency to take a somewhat narrow perspective on their subject matter, isolating a single theme for investigation. While some historians have focused on the role of inheritance in shaping economic development, others have looked more narrowly at its role in family formation, or in the development of property law. An enlarged conception of inheritance would need to be attentive to the broader social locations within which these practices occurred and, indeed, how property transmission connected these different aspects of a property owner's world. Jeffrey Longhofer has argued that inheritance needs to be seen in the round:

An adequate explanation of inheritance practices requires the establishment not only of the regular associations among forms of devolving property, forms of social organisation, and behaviour, but also of the structures which produce these regular relations – when they occur. A convincing explanation moreover, demands that we not only describe the process, but also it should entail a theory capable of explaining the events for the process. To do so requires a knowledge of the structures and mechanisms that produce these events. In order to make sense of inheritance practices, and the devolution of property more generally, one must examine more than what first meets the eye. It is necessary to understand the structure of the formations (household, community, and social) within which these practices are formed, codified and contested.⁸³

An enlarged study of inheritance, therefore, needs to consider more explicitly the

⁸² This 'narrative' is discussed further in Chapter Seven.

contexts within which the transmission of property took place. As Maxine Berg has noted, property transfer has to be seen within the broader picture of 'family, work, business, local economies and social structures.'⁸⁴ This thesis pays attention to each of these areas as well as exploring the legal context of inheritance. Special consideration is given to the locality and neighbourhood as the arena within which these different social and economic processes came together to shape property transmission strategies.⁸⁵ Inspecting inheritance from the key vantage points of law, locality, family, gender and economy provides a sounder basis upon which to try and understand the multiple and overlapping roles that property fulfilled among middling-sort communities.

Having critically surveyed other studies of inheritance and having sketched out a broad approach to studying it attention now turns to more specific methodological issues. The remainder of the chapter focuses on the use of wills as a source for understanding inheritance practices and the wider social relations of property transmission. First, it considers the relative significance of wills in attempting to understand patterns and processes of property transmission. Outlining the main features of the sample of wills analysed in this study, it then turns to a more detailed discussion of the analysis and interpretation of testamentary documents. These sections provide an important foundation for understanding some of the strategies and processes of property transmission discussed in chapters five, six and seven.

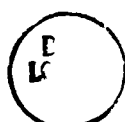
Wills as a means of transmitting property

The significance of wills for understanding inheritance and the transmission of property within a society is dependent upon two main factors. First, is the degree to which inheritance was achieved by other means. Property could be transmitted to others in a number of alternative ways: through some kind of legal action; according to the rules of intestate succession; as an *inter vivos* gift during the lifetime of a property owner; or informally, by bypassing the legal machinery of succession. While

⁸³ Longhofer, 'Toward a political economy of inheritance', p. 340.

⁸⁴ Berg, 'Women's property and the industrial revolution', p. 250.

⁸⁵ A number of scholars have called for social historians to pay more attention to the ways in which neighbourhood and locality played a constitutive role in the social relations of the urban arena. See, for example, Crossick, G. and Haupt, H-G (1995) *The Petite Bourgeoisie in Europe 1780-1914: Enterprise, Family and Independence*, Routledge, London, p. 115; and Savage, M. (1993) 'Urban history and social class: two paradigms', *Urban History*, 20 (1), pp. 61-77.



the legal regulation of testamentary disposition in England has ensured that a rich and systematic body of source material for studying property transmission at death has survived, this is not the case for records of wealth and property transmission at other stages in the life course. Among the urban middling sort of industrialising England records of other formal property transmission events, such as marriage settlements, are rare. The second factor affecting the significance of wills for understanding inheritance and the transmission of property within a society is the level of testamentary freedom enjoyed by a testator. This refers to the extent to which the disposal of property was regulated or constrained by law or custom. A society where there is a high degree of testamentary freedom is referred to as having a *permissive* inheritance system.⁸⁶ Before looking in detail at the analysis and interpretation of wills, this section will explore further the relative significance of testamentary disposition as a mode for transmitting property in nineteenth-century England.

One ‘problem’ with studying property transmission using wills is that it focuses attention on a specific point in the life course of property owners. An obvious effect of this concentration of attention upon death is that its significance in understanding the patterns and processes of property transmission is easily overstated. Indeed, although often assumed as such, death may not have been the most important ‘occasion’ of property transmission over the life course. Geoffrey Crossick, for example, has argued that among nineteenth-century European petit-bourgeois owners of small enterprises it ‘was at marriage rather than at death that the most significant property transfers ... took place.’⁸⁷ Moreover, death was quite obviously an extraordinary moment in the lives of property owners and their immediate kin and acquaintances. The sorts of proprietorial upheavals experienced at death, and the events and processes set in motion by its occurrence, may have contrasted sharply with the more mundane social relations of property that characterised the rest of the life course. Studies of inheritance often fail to appreciate this important point. While it is beyond the scope of this thesis to investigate the transfer and disposal of property at

⁸⁶ Ditz, *Inheritance and Kinship*, pp 24–26.

⁸⁷ Crossick, G. (forthcoming) ‘Meanings of property and the world of the petite bourgeoisie’, in Stobart, J. and Owens, A. (eds.) *Urban Fortunes Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot. See also Goody, J. (1998) ‘Dowry and the rights of women to property’, in Hann, C. M. (ed.) *Property Relations: Renewing the Anthropological Tradition*, Cambridge University Press, Cambridge, pp. 201–213, who notes that divorce or marriage dissolution has emerged as a third important point of property exchange within the life-cycle of modern families.

other stages in the life-course, a key concern is to set inheritance within the wider economic and social strategies of the middling sort.

Testamentary disposition was not the only way in which wealth could be transmitted to others at the point of death. Property could also pass by legal succession or intestate succession. An understanding of these different modes of transmission is necessary in order to appreciate further the significance of a will as an inheritance mechanism. Legal succession occurred where the 'destiny' of property was settled according to common law or other legal rulings. The succession of property might already have been established by a will or other legal instrument of an ancestor who attempted to ensure that a portion of his (and, less frequently, her) estate was kept intact over several generations. The most common form of legal succession was where land, freehold buildings, or other real estate passed according to the rules of entail.⁸⁸ The laws of legal succession were complex but, increasingly during the eighteenth and nineteenth centuries, traditions of entail were being broken and periods of perpetuity, the length of time an estate could remain intact, were being limited.⁸⁹ Furthermore, these kinds of property transmission appear to have been rare among the urban middling sorts of industrialising England.

Testamentary disposition was realised by the execution of a will. The term 'will' is nearly always used incorrectly to describe an individual's last *will and testament*. The former disposed of real estate, such as freehold land and buildings, whilst the latter dealt with personal property or 'moveables', which included personal possessions, cash, stocks, shares and the value of leasehold property and annuities. In England the customary right of testamentary disposition (the transmission of personal property) had existed since pre-Roman times. However, the right to will land was limited until the Statute of Wills in 1541.⁹⁰ By the early nineteenth century, most kinds of estate could be disposed of by will including that in possession or reversion, contingent

⁸⁸ See the discussion patrimonial family inheritance strategies above. For a broader consideration of land law and inheritance issues see Simpson, A. W. B. (1986) *A History of Land Law*, 2nd Edition, Clarendon Press, Oxford and English, B. and Saville, J (1983) *Strict Settlement A Guide for Historians*, University of Hull, Occasional Papers in Economic and Social History (10), Hull.

⁸⁹ See Offer, A., (1981) *Property and Politics* Cambridge University Press, Cambridge, Chapter One and Holcombe, *Wives and Property*.

⁹⁰ For a discussion of the legal evolution of testamentary disposition within England see Helmholtz, R. H. (1992) 'The English law of wills and the *ius commune*, 1450–1650', in Bonfield, L. (ed.) *Marriage, Property and Succession*, Comparative Studies in Continental and Anglo-American Legal History, Band 10, Duncker and

property, and rights of entry. For the period under consideration here, the distinction between different forms property is more important prior to 1838 when different rules existed as to the execution of wills of real and personal property.⁹¹ Most wills were constructed as a series of instructions relating to the disposal of various items of property. They could also detail funeral arrangements and make provisions for the guardianship of children. They varied enormously in length ranging from one or two lines to twenty or more pages. According to the law, the will became a legally binding document once it had been signed by the testator and witnessed in the required manner. However, a grant of probate, which prior to 1858 had to be sought from an ecclesiastical court, was required before any estate could be disposed of in order to register the will, ascertain its validity and pay probate and other duties.

Not everyone could make, or needed to make, a will. Furthermore, not everyone needed to seek probate. Only those with *bona notabilia* – personal ‘goods worth mentioning’ – valued at £5 or more (or, by custom, £10 in the diocese of London) were required to have their wills proved by a church court. Following the 1837 Wills Act, children under the age of 21 were prevented from making a will. Prior to this they could publish a testament to dispose of personal property, but could not transmit real estate by will. Lunatics, prisoners and those who had been excommunicated were similarly not able to make valid wills. A more significant rule preventing freedom of testamentary disposition applied to married women.⁹² By common law, married women faced severe restrictions in the control and disposal of their own property. Although rules varied according to the nature and type of property, the ownership of most property became vested in a woman’s husband upon marriage. The freedom to dispose of property by will was also surrendered to a woman’s spouse. However, by the beginning of the nineteenth century a number of legal devices had evolved that allowed married women to retain limited rights over some property. Thus, it was possible for them to inherit property for their sole and separate use, free from any control by their husband, and sometimes marriage settlements allowed women to

Humblot, Berlin, pp. 311–312.

⁹¹ See Chapter Four.

⁹² For a more detailed discussion of the legal position of women as owners and transmitters of property see Morris, R. J. (1994) ‘Men, women and property: the reform of the Married Women’s Property Act 1870’, in Thompson, F. M. L. (ed) *Landowners, Capitalists and Entrepreneurs*, Oxford University Press, Oxford; See also Holcombe, *Wives and Property*; Shanley, M. L. (1989) *Feminism, Marriage and the Law in Victorian England, 1850–1895*, I. B. Tauris, London; and Staves, *Married Women s Separate Property in England*.

devise a limited portion of their property by will. In spite of these significant exceptions, England was considered to have a permissive testamentary regime and there were few other restrictions on free disposal of property. Unlike under continental laws, a testator could theoretically disinherit his or her family in preference for a complete stranger. In practice, custom meant that this was rarely the case.

The transmission of wealth by intestate succession occurred when a property owner died without making a valid will. For both real and personal estate the division of an intestate's property privileged immediate family and kin. In the case of the former, freehold estate passed under common law by the tradition of primogeniture to the eldest male child of the deceased. Where an intestate had no male children the property was divided equally between his (and occasionally her) daughters. In the absence of any children, real property was conveyed to the eldest collateral male heir. The distribution of an intestate's personal property was regulated by ecclesiastical rather than common law. In such cases the power of distributing the estate and effects of a property owner was vested in an administrator. The administrator, appointed by an ecclesiastical court, was usually the deceased's next of kin. He or she was required to distribute property to the deceased's relations according to the statute of distributions or customary ecclesiastical laws.

It is often assumed that intestate succession took place where an individual forgot or, through some misfortune, was unable to make a will. However, this is to preclude the possibility that intestate succession was a deliberate strategy on the part of some property owners. It avoided the expense and trouble of executing a will, while the rules of intestate succession offered a kind of normative frame for the transmission of estate.⁹³ Indeed, the rationale behind intestate succession was to make sure that after the death of a property owner heirs were provided for in some kind of 'equitable' way.

This discussion of the different modes of *post mortem* property transmission suggests that testamentary disposition needs to be seen as a *strategic* exercise. It was not

⁹³ For a more detailed discussion of this issue in relation to property law see, Penner, J. E. (1997) *The Idea of Property in Law*, Clarendon Press, Oxford; Chapter Two

necessary for property to be transmitted by will as the mechanisms of intestate succession ensured that an individual's assets would be conveyed to their closest relations. If the laws of administration represent a 'standard' mode of property transmission, then it follows that testamentary succession was chosen by individuals because they want to make a non-standard transmission of property. A will is, after all, a re-distributive mechanism. To contemporary legal advisers this was an important reason for making a will. Typical was Richard Dickson who remarked, 'it is very seldom that the distribution of property [according to the laws of intestacy] is consistent of the relative merits of the parties among whom it is distributed, far less the intentions of the deceased.'⁹⁴ Making a will therefore reflected a positive desire on the part of a property owner to do something different. It enabled testators to take control of their wealth, diverge from the normative grids of intestate succession, or circumvent the rigidities of legal succession.⁹⁵

How many people, then, made a will? Various estimates have been made for the period under consideration. Anthony Camp suggests that at the end of the eighteenth century approximately six per cent of those who died in England and Wales made wills.⁹⁶ In 1841 roughly ten per cent of the total number of dying *adults* in England and Wales made a will, while Camp calculates that by 1873 eight per cent of all dying persons made wills.⁹⁷ Given the incompatibility of probate jurisdictions and civil registration districts it is only possible to estimate the number of people leaving wills in early nineteenth-century Stockport. Taking evidence for 1841, it appears that a relatively low proportion, roughly five per cent, of the town's dying adults left a probated will. The low number perhaps reflects the dominance of the town's poorer population. It was remarked by one Londoner who visited to Stockport in the early 1860s that there were 'but few wealthy residents in the place.'⁹⁸

Analysing wills: methodological issues

Recognising a will as a strategic mechanism for the transmission of property at death is a useful place to begin a discussion of methodological issues. It underlines the

⁹⁴ Dickson, R. (1830) *A Practical Exposition of the Law Wills*, Sherwood Gilbert and Piper, London, p. 4

⁹⁵ The different motives for making a will have been explored in Morris, R. J. (1999) 'Making a will in England in the 1830s: gift, contract or symbol?', Paper presented to the fourth Victorian Studies Conference, Leeds Centre for Victorian Studies, Trinity and All Saints College, Leeds, 12–14 July 1999. The question of why people made wills is also addressed in Chapter Five.

⁹⁶ Camp, *Wills and Their Whereabouts*, p. xxxviii.

⁹⁷ Camp, *Wills and Their Whereabouts*, p. xxxviii.

⁹⁸ Barlee, E., (1863) *A Visit to Lancashire in December 1862*, Sheeley, Jackson and Halliday, London, p. 8

significance of wills as social documents that ‘provide ... access to the practices, strategies and structures of many societies.’⁹⁹ Indeed, as Finch and her colleagues remark:

a will is a written document which represents a unique form of communication between the dead and the living ... A single will can be seen as a public statement of one person’s private relationships, which we may or may not be able to interpret with any degree of accuracy. A large collection of wills which show a common pattern is a sociologically significant statement about the kinds of relationships which people acknowledge as having a claim on their resources, whether or not we can be certain of individual motives and rationales ... Appropriately analysed [wills] can give us access to collective understanding of claims, the way they are formally expressed and handled, and how they can change over time ... Their particular value to researchers, lies in the fact that they are a publicly available statement of relationships which otherwise are treated as private.¹⁰⁰

However, while wills, upon the basis of this statement, would appear ripe for interrogation, the dearth of research on inheritance practices in nineteenth-century urban contexts has resulted in a somewhat limited discussion of methodological problems associated with their analysis and interpretation. The only issue related to the use of nineteenth-century testamentary documents that has generated a truly thorough critique is their application to the study of wealth-holding. Even here discussion has tended to revolve around the controversial work of W. D. Rubinstein, and the analysis and interpretation of strategies of property transmission has remained beyond the remit of this debate.¹⁰¹ R. J. Morris’s recent work on these issues stands as a pioneering attempt to grapple with methodological questions relating to the use of early nineteenth-century wills.¹⁰² Analytically he has explored the use of computers in examining inheritance practices, while at an interpretative level he has formulated a typology of different strategies to describe the transmission of estate. This, along with work carried out in other contexts discussed above, provides a platform for

⁹⁹ Morris, ‘Reading the will’, p. 113.

¹⁰⁰ Finch, et. al., *Wills, Inheritance and Families*, p. 1 and 11.

¹⁰¹ See Rubinstein, W. D. and Duman, D. (1974) ‘Probate records as a tool for the historian’, *Local Historian*, **XI**, pp. 68–71; Rubinstein, W. D. (1986) *Wealth and Inequality in Britain*, Faber and Faber, London, pp. 47–52. For critiques, both hostile and defensive, see Daunton, M. J. (1991) “Gentlemanly capitalism” and British industry, 1820–1914: a reply’, *Past and Present* 132, pp. 170–187; Green and Owens, ‘Metropolitan estates of the middle class’; Gunn, S. (1988) ‘The failure of the Victorian middle class: a critique’, in Wolff J. and Seed, J. eds., *The Culture of Capital Art, Power and the Nineteenth-Century Middle Class*, Manchester University Press, Manchester; and Seed, J. (1992) ‘From middling sort to middle class in late eighteenth-century and early nineteenth-century England’, in M L Bush, ed. *Social Orders and Social Classes in Europe Since 1500: Studies in Social Stratification*, Longman, London.

¹⁰² Morris, R. J. (1995) ‘Death, property and the computer – strategies for the analysis of English wills in the first half of the nineteenth century’, in Jaritz, G., Kropac, I. H., and Teibenbacher P., (eds) *The Art of Communication*, Proceedings of the 8th International Conference of the Association for History and Computing, Graz, Austria, August 24–27, 1993, Akademische Druck-u Verlanganstalt, Graz; Morris, and McCrum, ‘Introduction’; Morris,

developing a critical methodology for the study of wills.

As is inevitable with most historical research which utilises large numbers of a particular kind of documentary source, methodological discussion tends to centre upon the utility and reliability of that source. In order to demonstrate some kind of academic 'rigour' to the research, utility and reliability are measured against the ability of a source to answer the research questions posed. However critical this exercise might be, sources quickly become defined in relation to research priorities and severed from the complex social processes which brought them into existence. Yet, put simply, sources do not just show processes, they are part of a process. Thus, a good critical methodology should make a thoroughly contextualised use of sources by not only seeking to understand *how*, in the fullest sense, they were generated, but also addressing the question of *why* they were created. Nowhere could this be more true than within the study of inheritance. The wills analysed in various parts of this thesis capture part of a complex social process shaped by the intersection of power and knowledge at many different levels. Other chapters trace some of these intersections at institutional, collective and individual levels. Implicitly, these discussions form a 'contextual methodology' to the thesis within which more specific issues related to the analysis and interpretation of testamentary documents need to be located. Before exploring some of these issues, it is necessary to outline the main features of the sample of wills analysed in this study.

The sample

The central chapters of this thesis draw upon the analysis of 500 Stockport wills. This sample was derived systematically from an alphabetical list of all wills and administrations of persons resident in Stockport parish that were proved at the Consistory Court of Chester between 1800 and 1857.¹⁰³ Analysis ends in 1857 due to significant changes in the law which governed testamentary jurisdiction.¹⁰⁴ The sample accounts for fifty-two per cent of the 969 Stockport wills proved at Chester over this period. It comprises thirty-four per cent of the 1451 probates and

'Reading the will'.

¹⁰³ Stockport parish lay entirely within the County of Cheshire. The sample of wills does not include testators from places such as Heaton Norris which, although functionally part of Stockport and later part of Stockport Poor Law Union, lay north of the River Mersey in the County of Lancashire.

¹⁰⁴ These changes are discussed in detail in Chapter Four.

administrations granted on all testate and intestate estates.¹⁰⁵

The sample excludes wills proved at other testamentary courts which had jurisdiction over Stockport estates. The Prerogative Courts of York and Canterbury were the two main additional courts which claimed jurisdiction over Stockport wills. In theory the omission of testamentary documents from these tribunals could affect the sample's reliability. The Prerogative Courts exercised jurisdiction over the personal property of a deceased person that lay outside the Diocese of Chester. Material from these courts was excluded from analysis largely on the grounds that indexes to their testamentary documents either did not exist, or were not organised in a way that it makes it easy for a researcher to establish a testator's place of residence. However, an inspection of a selection of available calendars relating to the records of these courts was undertaken and this revealed that few Stockport people actually sought probate or administration at Canterbury or York. Between 1800 and 1803, only three Stockport estates appear in the calendars of the Prerogative Court of York while in the period 1830 to 1833 there were only two Stockport wills proved in the court.¹⁰⁶ These figures suggest that on average about one or two Stockport estates were proved at the Prerogative Court of York each year. An indication of the numbers of Stockport estates proved at the Prerogative Court of Canterbury was obtained from an inspection of the Bank of England Will Registers.¹⁰⁷ These registers provide details of all testators who owned government stock. The Bank of England insisted that all wills containing stock were proved at the Prerogative Court of Canterbury. The ownership of government stock thus became an important reason why many wills were proved at Canterbury. Moreover, the ownership of government stock was likely to be the most important reason why a northern testator would seek a grant of probate at Canterbury. Between 1807 and 1845 the names of only five Stockport testators appear amidst the 31,000 Bank of England investors who made wills. Even allowing for Stockport wills without government stock being proved at Canterbury, the figures suggest that very few Stockport folk were granted probate from anywhere but Chester. In practice,

¹⁰⁵ The sample size compares favourably with that of other studies. Davidoff and Hall's study of Birmingham and Essex drew upon the evidence contained within a sample of 622 wills proved between 1780 and 1855 (Davidoff and Hall, *Family Fortunes*, p. 462). Finch et al. worked with a sample of 800 wills in their investigation of inheritance practices in contemporary Britain (Finch et al., *Wills, Inheritance and Families*, p. 11).

¹⁰⁶ Prerogative Court of York Calendar of Wills 1800–1819 and 1831–33, Society of Genealogists (Microfilms: MF 857 and MF 859).

¹⁰⁷ Society of Genealogists (1991) *An Index to the Bank of England Will Extracts, 1807–1845*, Society of

therefore, it is unlikely that the exclusion from analysis of wills proved at these superior courts would drastically affect the findings of this study. It can be said with some confidence that the Consistory Court of Chester granted probate on roughly ninety-five per cent of Stockport wills. In summary, the sample of wills analysed in this thesis provides an extensive, detailed and significant picture of Stockport inheritance practices over the first half of the nineteenth century.

Analysing wills

Analysing inheritance practices is by no means a straightforward task. The most significant problem arises from trying to identify and conceptualise general patterns and processes from what are often highly complex individual assemblages of practices. Inheritance is best analysed by posing the questions: *who* gets *what*, *when*, *where* and *how*? In making generalisations, or devising typologies, consistency of answers to these questions becomes important. To understand their relative significance to the inheritance process, each of these key analytical questions requires further interrogation.

(i) Who?

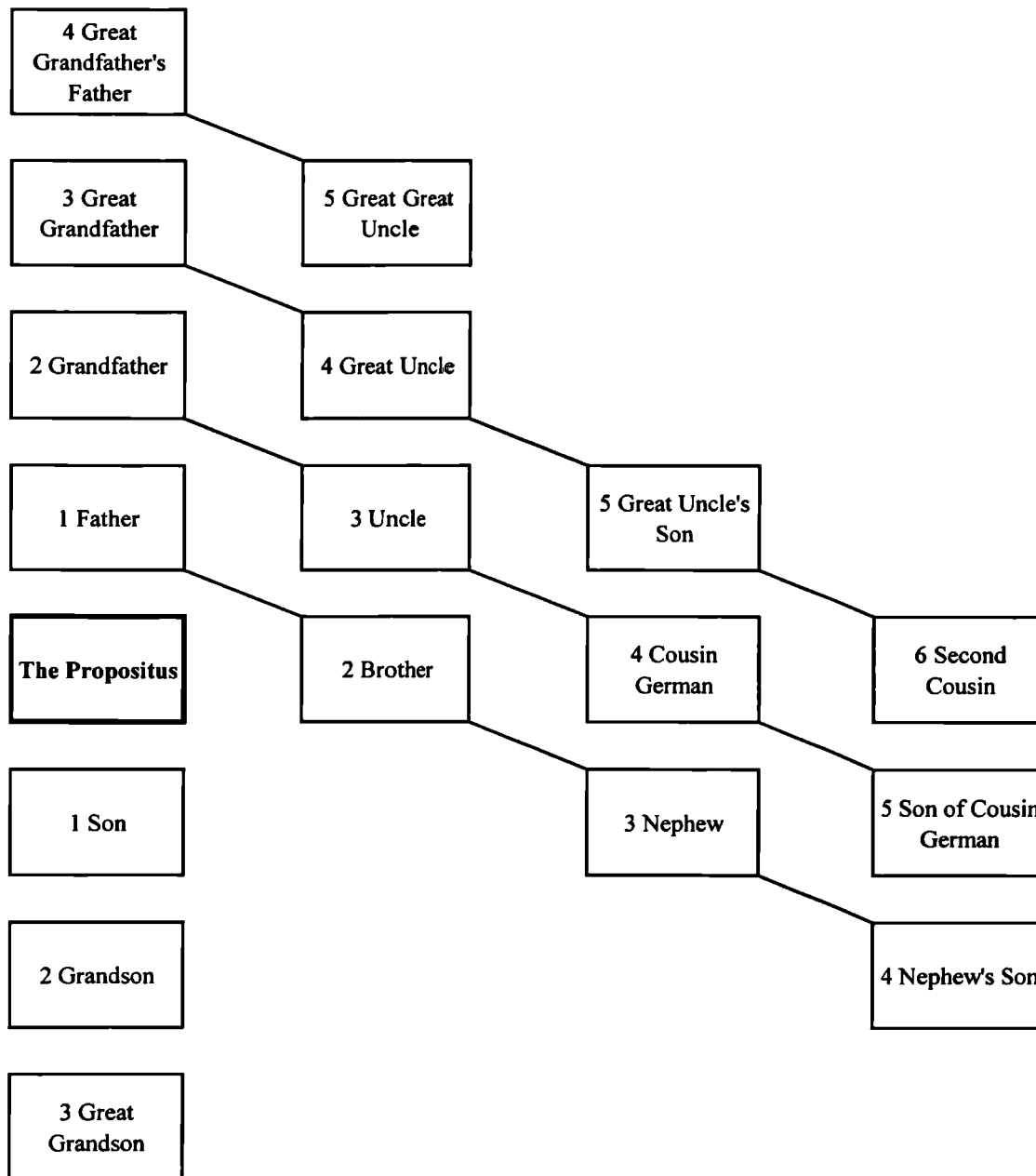
This category principally refers to those people who were directed to receive a bequest or legacy from a will. It also includes those who were named as substitute beneficiaries in case first beneficiaries died or became ineligible to take a legacy. Like the research of Finch and her colleagues, the analysis in this thesis extends to all beneficiaries mentioned in a will, however small, or insignificant their gift.¹⁰⁸ In doing so, the research departs from common analyses of inheritance which ignore smaller legacies and focus their attention solely on the main beneficiaries of a will.¹⁰⁹ In the particular context of this study, inclusion of all beneficiaries in the analysis is considered important. Firstly, it is difficult to establish a main beneficiary within the will where a testator tended towards a partible distribution of estate, which was frequently the case with wills among the sample. Secondly, identifying the main beneficiary poses conceptual problems, since the size of a legacy is not always an

Genealogists, London.

¹⁰⁸ Finch, et. al., *Wills, Inheritance and Families*.

¹⁰⁹ See, for example, Harbury, C. D. and Hitchens, M. W. N. (1979) *Inheritance and Wealth Inequality in Britain*,

Figure 2.1
Degrees of lineal consanguinity



Source: Dickson, R. (1830) *A Practical Exposition of the Law of Wills*, Sherwood, Gilbert and Piper, London, p. 121; and Blackstone, W. (1765 1979) *Commentaries on the Laws of England*, Volume II, ed. A. W. B. Simpson, University of Chicago Press, London, p. 200.

Note: The exclusion of female relatives from this diagram (copied directly from the original sources) reflects the marginalisation of women as property owners in legal texts. However, the analysis utilising the concept of lineal consanguinity which appears in chapter six includes equivalent female relatives.

accurate reflection of its value or importance. Finally, where the transmission of property is uneven, this research aims to investigate why, necessitating the inclusion of all beneficiaries. Indeed, where a will mentions a small pecuniary legacy of just a

shilling, refers to the exclusion of an individual from the inheritance, or makes a gift of residuary estate unlikely to ever be realised, this information is treated as part of the property transmission strategy.

Given the importance of the family to inheritance practices and the purported significance of inheritance in facilitating the reproduction of the nuclear family, particular attention is paid to the relationships between testators and beneficiaries. In order to make sense of the patterns of relationships revealed by inheritance strategies, the study draws upon a contemporary legal model used for tracing a property owner's closest relations in cases of intestacy (see Figure 2.1). Based upon the concept of 'lineal consanguinity' it describes the degree of 'biological' closeness between a testator and their kin. The model provides a means of assessing the extent to which close blood ties were privileged by property transmission strategies.

This study differs in one further way from others by extending the category of 'who' to include those persons mentioned in the will who were not beneficiaries. Examples of such are executors and trustees who, while taking part in the disposal of a testator's property, did not always receive an alienable legacy from it. The inclusion of this group is driven by a desire to try and better understand the wider social relations of estate transmission described in earlier sections of this chapter.

(ii) What?

After identifying the recipients of testamentary gifts analysis logically turns to the question of what was received. The kinds of property transmitted by a will are argued to be revealing not only of the experiences of beneficiaries, but also of attitudes of testators. Morris, for example, suggests that nineteenth-century inheritance strategies were founded upon distinct kinds of property.¹¹⁰ The particular form inheritance took reflected attitudes of testators as to the utility of different sorts of property. Morris distinguishes between inheritance strategies based upon the exploitation of real estates, those founded upon the liquidation and reinvestment of property, and those which were based on the thoughtful transmission of individual personal possessions. Other researchers have highlighted the significance of the latter type of property in

¹¹⁰ Morris, 'Reading the will', p. 125.

understanding the gendered nature of ownership, exchange and transmission. Berg, for example, argues that ‘women gave greater attention to their personal effects than did men.’¹¹¹ It is, therefore, clear that in analysing inheritance strategies drawing distinctions between the different types of property transmitted matters.

A closely related issue to the type of property bequeathed to a beneficiary is its value. Establishing the value of a particular legacy is not an easy task. This is especially the case when beneficiaries receive estate in different forms. Even where bequests or gifts were made using the same ‘currency’ it is not always possible to assume that gifts were comparable or of the same material value. Indeed, the notion of ‘value’ is virtually impossible to measure although it might broadly be defined in terms of the ‘utility potential’ of a particular legacy. In order to avoid a narrowly economic understanding of gifting and inheritance, utility needs to be conceived of broadly so that it include a variety of socially valuable uses. In establishing the utility potential of a particular gift much rests upon how the legacy is made. In the nineteenth century at least, the form of legacy was just important as its contents. The questions of *how* and *when* focus attention on these important issues.

(iii) How?

Few studies of inheritance actually focus on the question of *how* property was transmitted to beneficiaries yet, in the context of nineteenth-century England, this is an important issue. Some sixty-two per cent of the sample of 500 wills analysed in this thesis incorporated a personal trust. Estate given to a beneficiary ‘in trust’ was very different to the property bequeathed as an ‘absolute’ gift. While the latter represented a transferral of the absolute right of ownership, the former only provided an interest in an estate. Ownership of trust property was vested in trustees rather than beneficiaries. Instead of taking on the legal ownership of property, beneficiaries of an estate in trust were usually only granted a lifetime interest in the property. Therefore, while quantitatively absolute and trust legacies may look the same, qualitatively the difference could be significant. Indeed, a number of scholars have argued that the personal trust is central to understanding the differing experiences of men and women

¹¹¹ Berg, ‘Women’s consumption and the industrial classes’, p. 433.

as inheritors.¹¹²

(iv) *When?*

A closely related question to how property was transmitted is *when* was it transmitted? In early nineteenth-century contexts at least, it is wrong to assume that disposition of estate always occurred immediately after the death of a testator. Indeed, some forms of testamentary disposition continued for many years after a testator's death. Trust based provision, a common example, usually involved a number of stages. During the first stage, immediately after a testator's death, a rentier or annuity income might be paid to principal beneficiaries. Several years later, when a spouse had died or children reached the age of majority, a second stage could begin, marked by the payment of equal absolute gifts from the estate. The question of 'when' is also important in the context of substitute beneficiaries or residuary legatees who might receive their legacy upon the death of another beneficiary.

(v) *Where?*

Issues of geography implicitly frame the key inheritance decisions of who, what, when and how. Pisano has argued that wills reveal the spaces of testamentary beneficence.¹¹³ Choices of beneficiaries disclose the limits of personal regard mediated through public expectations as to who could claim rights to an inheritance. In this respect it is interesting to see whether this 'social geography' of regard extends beyond the immediate family to 'the greater horizon of the kinship group.' In the context of research presented here, the geography of the family is critical in the choice of beneficiaries and those appointed to dispose of estate. However, will beneficiaries, executors and trustees can also be mapped in physical space, in order to trace spheres of influences, and social and spatial linkages.¹¹⁴

While the format, style and content of wills varies, most of the testamentary documents consulted were constructed as a series of instructions detailing the disposal of specific portions of property. Because of this semi-structured format the wills were

¹¹² See, for example, Davidoff and Hall, *Family Fortunes*, pp. 211–212.

¹¹³ Pisano, 'Wills as a geography of family relations'.

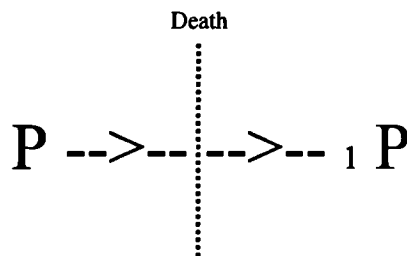
¹¹⁴ Stobart, 'Social and geographical networks of property transmission'.

analysed using a computing database package.¹⁵ Indeed, Morris and McCrum argue that a will can be treated 'something like the text of a free-format interview' allowing 'the database to be structured like a questionnaire to which the text of the will provides answers.'¹⁶ Accordingly, a complex database containing over 130 information fields was designed so that it could be queried to provide answers to the questions outlined above and so that key themes emerging from the literature discussed in earlier sections of this chapter could be investigated. A further stage of the analysis involved the identification of a typology of inheritance strategies into which each will could be classified.

A typology of strategies

Analysis of key features of the sample of wills suggested that there were several common strategies for transmitting estate. In all, four main strategies capturing the different modes of property transmission were identified which can be further subdivided into a number of common variants. This section of the chapter describes each strategy, its common features, and its variants.¹⁷

I SIMPLE UNIVERSAL ESTATE TRANSMISSION



Where 'P' is property and 'n' is number of beneficiaries. In this case n-1.

This strategy was the simplest kind of estate disposal. It involved the transmission of all of a testator's property to one or two beneficiaries who were usually immediate blood relations, such as spouses. The will was often home-made, perhaps written in the immediate face of death.

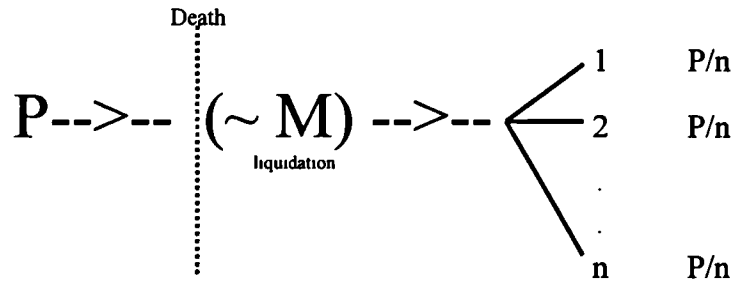
¹¹⁵ Claris *FileMaker*.

¹¹⁶ Morris, and McCrum, 'Introduction', p. ix.

¹¹⁷ No attempt is made here to consider the social or economic functions of the different strategies. Discussion of these issues can be found in Chapters Six and Seven

II IMMEDIATE OR DELAYED PARTIBLE ESTATE DIVISION

- A *Liquidated (entire property sold by executors sometime after decease)*
- B *Non-Liquidated (property divided in existing form)*

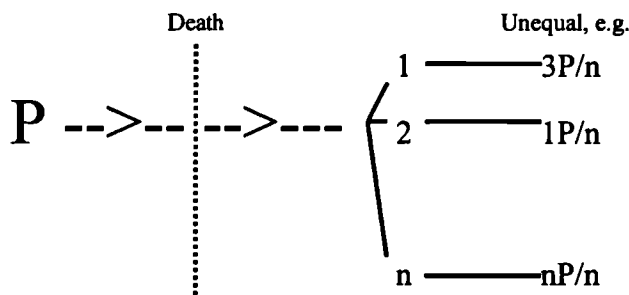


Where 'M' refers to liquidation of property into monetary form

Category II strategies were generally based on a more detailed testamentary statement and were often drawn up by a solicitor. Such wills were characterised by the existence of multiple beneficiaries usually from within the proximate family group. The bequests made to these people were generally equal in value. Such wills were commonly made by a widow or widower with grown up children. A distinction can be drawn between those testators who liquidated their property before dividing it up and those that did not.

III IMPARTIBLE ESTATE TRANSMISSION

- A *Immediate impartible gift/cash legacy transmission*
- B *Trust-based impartible estate transmission*



Category III transmissions were usually based upon a long and thorough testamentary statement. In many cases the will included a detailed description of significant personal possessions. The number of beneficiaries was generally large, incorporating those within the wider kinship and community group. Partly as a result of this wide social remit, legacies were unequal in size and the testamentary statement was openly preferential. The author of such a will was frequently someone without close family relations. Many female testators also showed a preference for this strategy.

wills as legal documents. It is important to exercise caution when interpreting testamentary strategies as expressions of individual behaviour. Indeed, there are grounds for calling into question the role of a testator in determining the content of his or her will. As Finch and her collaborators have observed, wills may reflect 'professional norms rather than individual preferences.'¹¹⁸ Yet this complicates rather than precludes discussions of agency, posing questions about how individuality, professional knowledge and power intersect. It directs attention to the ways in which the law acted as powerful discourse in framing inheritance strategies. A second difficulty in interpreting wills relates to the eventual realisation of testamentary instructions. As Mari Lamar has observed, 'wills were merely statements, albeit legal ones, of intent ... [which] might not be fulfilled.'¹¹⁹ It is difficult to establish whether or not the instructions so carefully detailed in the wills of Stockport's middling sort were followed by those entrusted with the settlement of estates. Likewise, some methods of property transmission included a level of flexibility that makes it hard to work out exactly who got what, when and how. Some forms of trusteeship, for example, enabled trustees to change the form of the property, make gifts at their own discretion and alter the timetables of transmission. Yet, although it is possible that some of testamentary instructions contained within the wills that have been analysed in this thesis might not have been carried into effect, this does not undermine the significance of testamentary statements as powerful normative visions of what should happen, and more broadly how the social relations of property were conceived of by testators. While these issues have been borne in mind in the chapters that follow, it is against these qualifying perspectives that the remainder of the study should be read.

Conclusion

The aim of this chapter has been to demonstrate the ways in which the study of inheritance can provide an insight into the social relations of property. Drawing upon an extensive literature on inheritance it has outlined some of the key issues and debates that will be attended to in later chapters of this thesis. In drawing attention to the great potential that inheritance offers as an instructive window on the social relations of property, the chapter has also highlighted some of the limits of the perspective provided by the study of testamentary disposition. Finally the chapter has critically outlined a number of methodological issues relating to the study of wills.

¹¹⁸ Finch et. al *Wills, Inheritance and Families*, Chapter Two.

In formulating an approach to the study of inheritance, the chapter has consistently stressed the need for property transmission to be viewed in context and to recognise the interrelatedness of various aspects of the process. In isolating particular aspects of the property transmission process, whether it be the legal side of inheritance or its economic impact, previous studies have often failed to understand the full significance of property disposal practices. Accordingly, the chapter has argued that inheritance needs to be viewed in its local, legal, social and economic contexts. This perspective is important as it provides a way into considering an issue at the heart of the historiography of the middling sort. Consideration of inheritance forces an interrogation of the supposedly separate public and private spheres of middling-sort life. More significantly, it offers a way of evaluating the usefulness of the 'separate spheres' thesis in understanding the middling sort.¹²⁰ The next chapter begins this task by exploring the so called 'public sphere' of economy and society within Stockport. A central contention of the chapter is that, in order to understand the social relations of inheritance within the 'private sphere' of middling sort families, it is necessary to explore the wider strategies of wealth accumulation within the town.

¹¹⁹ Lamar, "'Choosing" partible inheritance strategies', p. 128.

¹²⁰ Criticism of the concept can be found in Vickery, 'Golden age to separate spheres'.

CHAPTER THREE

Risk, opportunity and failure: Property accumulation and the middling sort in early nineteenth-century Stockport

Introduction

On the 20th May 1842, William Radcliffe, ‘projector of the new system of power loom weaving, and the inventor of the beam-warping cotton dressing and other machines, used in the fabrication of cloth’, died aged eighty-two.¹ Several days later the *London Courier* reported Radcliffe’s burial at Mellor church close to Stockport.² A short obituary paid homage to ‘a great benefactor to his country’, describing Radcliffe as ‘the author of tens of thousands of his contemporaries in manufacture’ and ‘a mechanical genius ... to which the cotton trade, now so glorious, widespread and flourishing, owes its rise, progress and importance.’ Yet the obituary also lamented that Radcliffe died in poverty, noting that he ‘sank from comparative wealth to indignance, without help from his country, and with little help from friends and contemporaries.’ In many ways the highs and lows of Radcliffe’s life, dramatically chronicled in his own semi-autobiographical narrative on the origins of power loom weaving and the ‘ruinous evils’ of free trade, suggest him to be the archetypal self-made bourgeois entrepreneur that supposedly populated the manufacturing districts of industrialising Britain.³

Born in 1760 to a family of farmers and handloom weavers, Radcliffe set up in business in 1785 as a spinner and weaver, putting work out to domestic hands in and

¹ *Stockport Advertiser*, 27 May 1842 and 27 October 1843.

² Extracted in *Stockport Advertiser*, 3 June 1842.

³ Radcliffe, W. (1828) *Origin of a New System of Manufacture Commonly Called ‘Power Loom Weaving’, and the Purposes for which this System was Invented and Brought into Use, Fully Explained in a Narrative, Containing William Radcliffe’s Struggles Through Life to Remove the Cause Which has Brought this Country into its Present*

around the villages of Marple and Mellor.⁴ After modest successes, he was keen to expand his business and so in 1799 entered a partnership with Thomas Ross of Montrose. Two years later the firm was relocated to the premises formerly belonging to another local celebrity cotton manufacturer, Samuel Oldknow, in Hillgate in Stockport, and it was from here that Radcliffe rose to commercial fame. Sinking ‘an independent fortune’ into the business, and driven by a patriotic quest to limit the export of British yarns to the continent, Radcliffe set about perfecting a system of weaving which would keep pace with the production of spun yarn.⁵ His determination and zeal won him local recognition through his appointment to various public offices including the positions of commissioner of the property tax, and town mayor in 1804. His name also soon gained national repute when, following a visit to Radcliffe’s mill, Sir Robert Peel commented that if he succeeded in his inventive efforts the Government ought to give him ‘a million of money’.⁶ With the help of his ‘ingenious operative’, Thomas Johnson of Bredbury, Radcliffe achieved his goal and in 1804 took several patents for machinery, including the ‘dandy loom’, that succeeded in dramatically speeding up the process by which yarns were made into cloth.⁷ As his own biographical narrative noisily asserts, these inventions paved the way for power loom weaving and ultimately the factory manufacture of cotton goods.⁸

But Radcliffe was not to enjoy the fortunes to be made from factory manufacture of cotton. Nor was he to receive a ‘million of money’ from the government. Having poured considerable capital into his inventive endeavours and into furthering his vehement political opposition to free trade, Radcliffe fell into financial difficulties and, amidst the trade slump of 1807, went bankrupt.⁹ After recommencing manufacture, his inventive fame brought unpopularity amongst cotton operatives and

Crisis, James Lomax and Sons, Stockport.

⁴ The following brief biographical account is taken from Anon, ‘William Radcliffe (1760–1842)’, in Lee, S. (1909, ed.) *Dictionary of National Biography*, Volume XVI, Pocock-Robins, Smith, Elder and co., London; Giles, P. M. (1950) ‘The economic and social development of Stockport, 1815–36’, Unpublished University of Manchester M. A. Thesis, especially introduction; Radcliffe, *Origins of a New System of Manufacture*; and Unwin, G., Hulme, A. and Taylor G. (1924) *Samuel Oldknow and the Arkwrights: The Industrial Revolution at Stockport and Marple*, Manchester University Press, Manchester, pp. 248–251.

⁵ Radcliffe, *Origins of a New System of Manufacture*, p. 5.

⁶ Radcliffe, *Origins of a New System of Manufacture* p. 24.

⁷ Timmins, G. (1998) *Made in Lancashire: A History of Regional Industrialization*, Manchester University Press, Manchester, p. 130.

⁸ Radcliffe was not completely at ease with this application of his inventions. He preferred a more rustic vision of the future of the British cotton industry, claiming that his inventions were intended to restore the ‘golden age’ of the handloom weaver by quickening the domestic systems of manufacture.

⁹ Glen, R. (1984) *Urban Workers in the Early Industrial Revolution*, Croom Helm, Beckenham, p. 36.

his house and mill were badly damaged by Luddite attacks in 1812. His wife reputedly died from the shock and injuries sustained in the revolts. Further bad luck came in 1815 when he was bankrupted again. Indeed, his life afterwards has been described as ‘a continued struggle against adversity.’¹⁰ Memorials to the government for some remuneration for Radcliffe’s contribution to the development of the cotton industry were largely ignored, as were pleas for financial help from fellow manufacturers. Ironically, it was not until three days before Radcliffe’s death that a comparatively small grant of £150 was made to him by the government in recognition of his services to the cotton industry. By then it was too late and Radcliffe died in poverty.

What makes William Radcliffe’s story different from the oft-heard tales of other ‘great’ manufacturers of the early-nineteenth century is that it ends in personal failure. His experiences run against the enduring historiographical image of the successful, self-made, male entrepreneur, so often associated with the emerging industrial towns of north west England. Although no doubt magnified by his hyperbolic prose, Radcliffe’s quest to accumulate wealth, fame and fortune is presented as a constant struggle against adversity. Indeed, his experiences reveal that the processes of accumulating, using and consuming property in industrialising towns were often uncertain and difficult and could end in personal failure as well as success. To view the nineteenth-century middling sort simply as creatures of accumulation is to ignore the complexity of the relationship between property, strategies of wealth creation and social identity.

This chapter takes the broad themes of Radcliffe’s story as its main parameters. It aims to explore property accumulation in Stockport in order to identify the different sources of wealth that enabled the middling sort to generate the fortunes that they transmitted to others upon their death. It also attempts to put matters of property transmission into context by considering the broader social and political economies of property accumulation in the town. This entails looking at instances of both economic success *and* failure, and investigating how these affected attitudes to, and practices of, property ownership. While it is obviously difficult to establish with certainty the ways

¹⁰ Anon ‘William Radcliffe’, *DNB* p. 589.

in which the meanings and material experiences of property accumulation affected its transmission at the point of death, exploration of these matters provides a useful basis for interpreting inheritance strategies. Indeed, a consideration of such issues goes at least some way to addressing criticisms of inheritance studies which attempt to interpret property transmission strategies without attending to the significance of property at other stages in the lifecourse. A temporal, life-course contextualisation of inheritance is beyond the scope of this thesis. However, this chapter provides a detailed consideration of the social and economic geography of the locality, which was an equally formative and significant 'context' within which property transmission took place.

In exploring economic success and failure in early-nineteenth-century Stockport, this chapter uses the themes of risk and uncertainty as organising concepts. In behavioural terms, risk refers to the process of taking some kind of action where it is not known for sure what the outcome will be, but where the probability of a particular outcome can be assessed in some way. Uncertainty refers to a situation where the probability of an outcome cannot be assessed.¹¹ Many risks and uncertainties impinged upon the process of accumulating property in early nineteenth-century Stockport. The emerging trade cycle was probably the most important factor in creating a context of risk and uncertainty. However, other events such as the weather, fire or the death of a key individual could have a dramatic effect on property accumulation, particularly in the earlier decades of the nineteenth century. The theoretical advantage of the themes of risk and uncertainty is that they focus attention on processes rather than outcomes, capturing a sense of the ways in which the ownership and accumulation of property were active and thoughtful social practices. Taking risks or acting in the face of uncertainty could result in a number of outcomes, some bringing success and others bringing failure. The approach therefore avoids seeing the middling sort simplistically, as a body of unthinking, rampant accumulators. It aims to portray wealth generation in a more fluid sense examining how property ownership was experienced and represented and how this affected strategies of accumulation and transmission. In short, the chapter aims to look at the way in which risk taking and risk avoidance were features of bourgeois life in nineteenth-century towns

¹¹ Adams, J (1995) *Risk*, UCL Press, London, p. 25.

The themes of risk and uncertainty structure the remainder of this chapter. The first section explores risk and opportunity in nineteenth-century Stockport, examining the sources of wealth, the possibilities for its accumulation and the success it could bring. The second section looks at risk, uncertainty and failure, exploring some of the local dimensions of economic depression and bankruptcy and assessing some the implications of the loss of property. The final section draws the themes of the chapter together by sketching out the ways in which risk, success and failure affected strategies of property ownership and transmission. This not only re-poses questions about the relationship between property ownership and the social identity of the middling sort, it also signposts consideration of inheritance, the subject matter of subsequent chapters.

Risk, opportunity and gain

Wealth, industry and the making of Stockport

On 20 June 1823 the *Stockport Advertiser* recorded with some excitement that the Stockport cotton-printing firm of Thomas Marsland and Sons had, during a statutory period of six weeks, paid the government the sum of £10, 500 14sh. and 6d in duty. The editor believed this to be a sure sign of commercial prosperity, remarking that the amount was ‘unexampled and unequalled by any other establishment in the kingdom.’¹² The firm’s Daw Bank Printworks were turning out 200,000 pieces of cloth per week and the factory was thought to be the largest of its kind in Europe.¹³ By the end of the year, the enterprise had paid a staggering £100,000 in duty to the government.¹⁴ Within Stockport, Major Thomas Marsland was what one correspondent of the *Stockport Advertiser* mockingly called a ‘commercial aristocrat’.¹⁵ By the early 1830s his firm employed nearly a thousand people in the town, engaged in the spinning, weaving and printing of cotton.¹⁶ A prominent local figurehead, in 1832 Thomas Marsland was returned to Westminster to sit on the Conservative benches as one of Stockport’s new Members of Parliament.¹⁷

¹² *Stockport Advertiser*, 20 June 1823.

¹³ Glen, *Urban Workers*, p. 41

¹⁴ Pigot and Co. (1834) *General and Classified Directory of Cheshire*, Pigot and Co., London, p. 58.

¹⁵ *Stockport Advertiser*, 1 February 1834.

¹⁶ PP 1831–32 XV *Committee on Employment of Children in Factories. Minutes of Evidence.*

The success of Marsland and others like him gave Stockport a reputation as a place of opportunity. The town was at the heart of what contemporaries referred to as the 'manufacturing districts', and it, along with the rest of northern industrial society, was a constant source of interest and amazement to social commentators who marvelled at the 'sight of enormous wealth and unbounded luxury, placed in direct juxtaposition with the lowest extremes of indigence and privation.'¹⁸ Curiosity, coupled with a Victorian enthusiasm for investigation and statistical nourishment provoked many to write and comment upon this emerging new society. Such accounts often dwelt on the spectacular, portraying the manufacturing districts as centres of calamitous change. The geographical transformations that accompanied industrialisation were used to highlight the drama of change as writers focused upon the extending global spheres of influence of the manufacturing towns. The following, extracted from the *Stockport Advertiser* in the late 1830s, is typical of the style in which many such accounts were written:

The cotton manufacture has been created within the last fifty years, and all those towns in which it is carried on have assumed altogether a new character and appearance within this period. Manchester, the great centre of the cotton trade, in which the value of cotton goods is equal to two-thirds of the total value of all cotton goods manufactured in Great Britain is surrounded by Ashton, Bolton, Bury, Blackburn, Stockport, Wigan, Preston and many manufacturing villages. The annual value of cotton manufacture exceeds £30,000,000; it employs capital of upwards of £34,000,000, above a quarter of which is invested in mills, it gives employment to a million and a half people and it supplies many European countries, and the vast continents of north and south America, and parts of Asia, with manufactured productions.¹⁹

The growth of Stockport was chronicled by a number of commentators, who traced its rise to commercial fame back to the eighteenth century.²⁰ On one of his inquisitive ambles around Britain in the 1720s, Daniel Defoe visited the town and was impressed by its commercial vitality and 'modern' system of manufacturing. He described Stockport as:

a large and handsome town occupying three hills and three valleys ... with several large silk

¹⁷ *Stockport Advertiser*, 14 December 1832.

¹⁸ Reach, A. B. (1849 1972) *Manchester and the Textile Districts in 1849*, Helmshore Local History Society, Helmshore, p. vi, quoted in introduction by Chris Aspin

¹⁹ *Stockport Advertiser*, 1 March 1839.

²⁰ Indeed, Jon Stobart has noted that 'much of the industrial geography of Victorian Lancashire and Cheshire was apparent by the early eighteenth century . . . [and] ... the broad spatial structure of the economy of the north west was in place long before the industrial revolution.' See his 'Geography and industrialisation: the space economy of north-west England, 1701–1760', *Transactions of the Institute of British Geographers*, NS 21 (4), p. 691. See also Timmins, *Made in Lancashire*.

mills belonging to the chief tradesmen of the place. It is inhabited by a great number of gentry and well filled with warehousemen who carry on the check, mohair, button and hat manufacturers. Here raw silk is chiefly thrown and prepared for the Spitalfields weavers by six engines the buildings of which are of prodigious bulk, one of them containing above 45,000 movements which fill the spacious room up to the fifth storey and all are put in motion by one wheel that goes by water ... At this place poverty is not much felt.²¹

John Aikin judged that by the 1790s Stockport was probably 'the second town in Cheshire for consequence and probably superior to Chester itself in population.' He painted a picture of a thriving community populated by an industrious workforce engaged chiefly in the cotton industry (the switch from silk had occurred in the 1780s), noting that there were a large number of cotton spinning shops and twenty-three large cotton factories within the town.²² By 1827 James Butterworth was able to make the rather more ambitious claim that since the time when Aikin wrote, 'Stockport has risen both in extent, population and opulence, to rank as one of the chief towns in the British empire'. Attributing Stockport's growth to the 'great increase' in the cotton trade, he observed that there were forty-seven cotton factories in the town worked by sixty-two steam engines and water wheels.²³ Friedrich Engels' judgement on Stockport in 1844 was less flattering, describing the town as 'excessively repellent'!²⁴ But while many commentators like Engels were appalled at the social inequalities generated by industrialisation, Stockport was still regarded like the rest of the manufacturing districts as a land of opportunity where dazzling fortunes could be made.

Over the first half of the nineteenth century the demographic growth of Stockport was rapid (see Table 3.1). After a steady increase over the first quarter of the century, the 'sweltering prosperity' of the 1830s led to a doubling of the population between 1831–1841.²⁵ Thereafter the growth rate dramatically slowed as influxes of migrants were offset by out-migration during the economic downturns of the 1840s.²⁶ Like

²¹ Defoe, D. (1769) *A Tour Through the Whole Island of Great Britain*, Volume II, 7th Edition, London, p. 397.

²² Aikin, J. (1795) *A Description of the County from Thirty to Forty Miles Round Manchester*, John Stockdale, London (reprinted by David and Charles, Newton Abbot, 1968), pp. 445–446. While Aikin's speculation is not confirmed by the 1801 census, his presumption reveals the increasing significance of Stockport within Cheshire.

²³ Butterworth, J. (1827) *A History and Description of the Towns and Parishes of Stockport, Ashton-under-Lyne, Mottram in Longendale and Glossop*, W. D. Varey, Manchester, pp. 246 and 280.

²⁴ Engels, F. (1845 1892/1969) *The Condition of the Working Class in England*, Granada Publishing, St. Albans, p. 77.

²⁵ *Stockport Advertiser* 10 September 1841

²⁶ At the heart of the depression on 27 May 1842 the *Stockport Advertiser* reported that 3,000 dwellings were unoccupied in the town, largely as a result of people fleeing poverty. See also Kirk, N. (1985) *The Growth of Working Class Reformism in Mid-Victorian England*, Croom Helm, Beckenham, pp. 42–44.

most industrialising towns the overall pattern of growth can be attributed to a mixture of migration and natural increase.²⁷ According to research by Burr-Litchfield on the demographic structure of Stockport from the 1840s, the town's inhabitants tended to marry at an early age, fertility levels were 'moderately high' and family sizes were generally large.²⁸ Much of the migration was local, as the town soaked up people from surrounding villages. Other migrants came from more distant counties, particularly from those with textile manufacturing districts such as West Yorkshire.²⁹ Stockport was also famous for its large Irish population which swelled considerably during the 1820s, 30s and 40s. They, along with other migrants who came in search of employment, provided a cheap source of labour for aspirant manufacturers. To echo Engels' famous postscript to his study of the English working class, the middling sort of Stockport had ample scope for 'enriching themselves' by the labour of the working people.³⁰

Table 3.1
Population change, Stockport, 1801–61

<i>Year</i>	<i>Population Total</i>	<i>% change over decade</i>
1801	14,830	n/a
1811	17,545	18
1821	21,726	24
1831	25,469	17
1841	50,154	91
1851	53,835	7
1861	54,681	1

Source: Census 1801–61

Stockport's identity as a place for wealth accumulation owed much to its relationship with nearby Manchester and the broader manufacturing region of southern Lancashire. Although most of Stockport was strictly part of Cheshire (see Figures 3.1 and 3.2), the town looked more to Manchester and the surrounding textile districts than it did to the predominantly rural county of Cheshire and its chief administrative

²⁷ Giles, 'The economic and social development of Stockport', p. 63 and Glen, *Urban Workers*, p. 19.

²⁸ Burr-Litchfield, R. (1978) 'The family and the mill: cotton mill work, family work patterns and fertility in mid-Victorian Stockport', in Wohl, A. S. (ed.) *The Victorian Family*, St. Martin's Press, New York, p. 181.

²⁹ Glen, *Urban Workers*, pp. 20–21.

³⁰ Engels, *Condition of the Working Class*, p. 324.

Figure 3.1
Stockport district

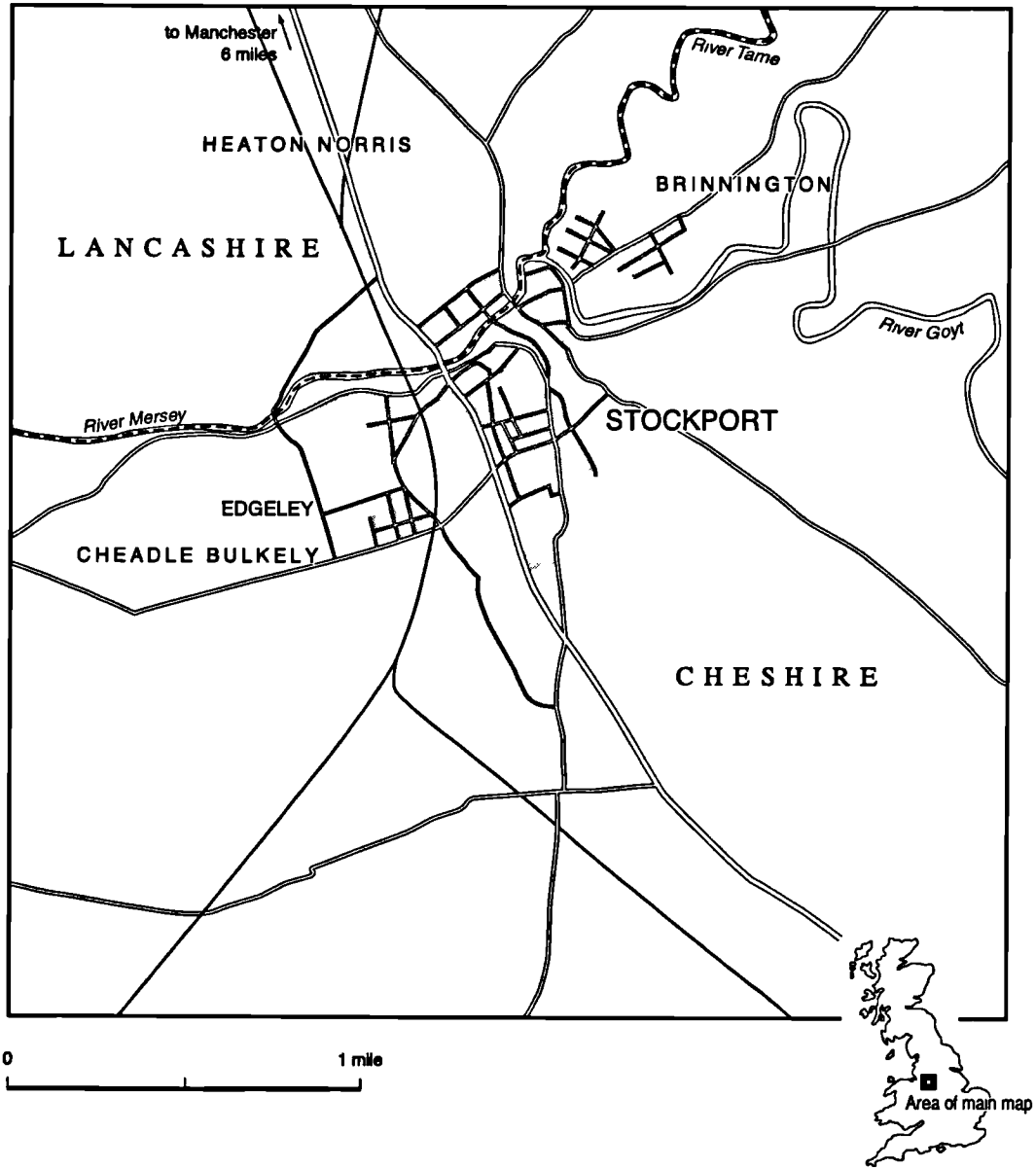
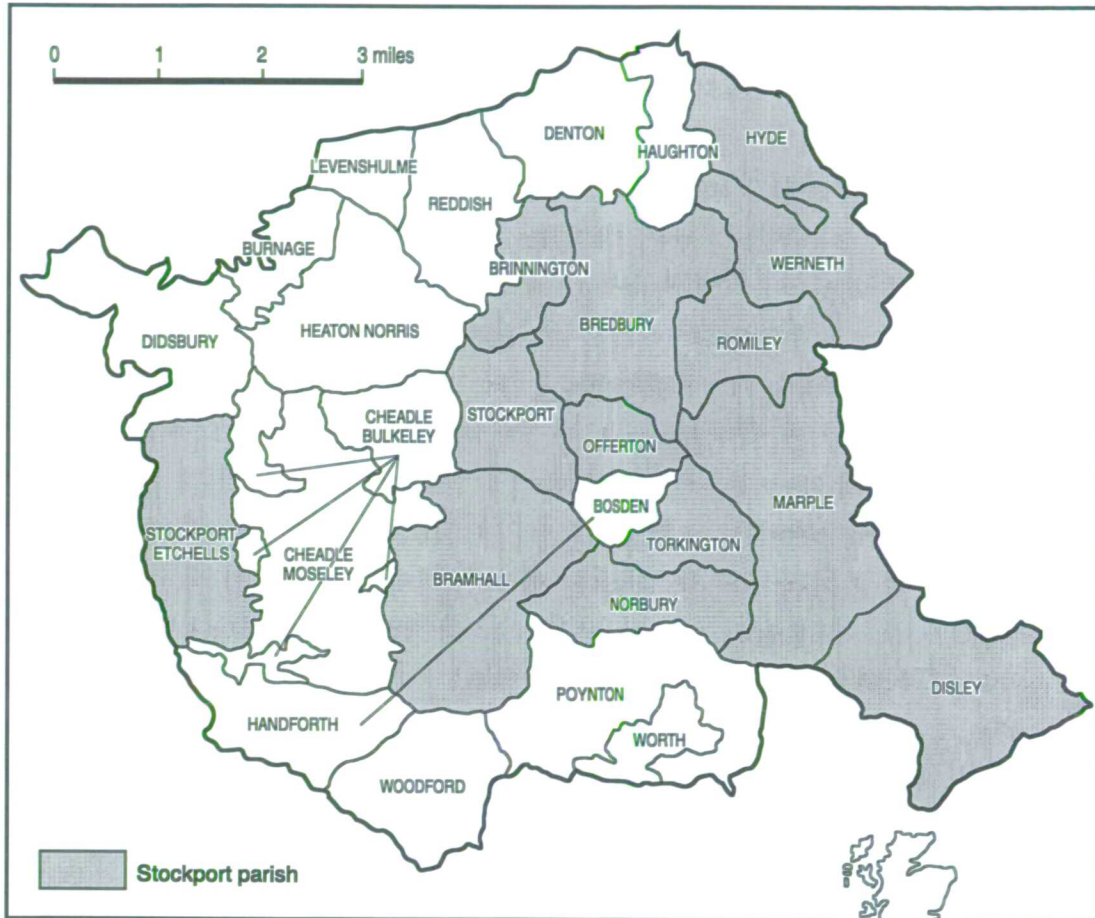


Figure 3.2
Townships in the Stockport District c.1800



Source: Glen, R (1984) *Urban Workers in the Early Industrial Revolution*, Croom Helm, Beckenham, p.16

and episcopal town of Chester. The origins of this association lay back in the eighteenth century, but it became more pronounced after the cotton industry transformed the economic profile of the town.³¹ By the early-nineteenth century, Stockport had eclipsed Chester as the largest and most economically important town within Cheshire. This, coupled with Stockport's functional convergence with the Mancunian economy, caused friction between it and other urban centres within the county. In 1824 a Chester judge scornfully recommended that 'the course of the river Mersey be diverted so as to cut off Stockport from the county of Chester', which, he believed, 'would be most fortunate for the county.'³² In response, James Lomax, editor of the *Stockport Advertiser*, confidently rebuked the judge, asking 'what constitutes the pride of our county – what is its main support – whence are its riches derived – which is the main spring of its prosperity – the source of its wealth and importance – our own manufacturing district'.³³ Such a display of self-assurance arose from Stockport's increasing identification with a regional geography of Britain that drew it closer to the county of Lancashire than to Cheshire.

Aikin noted that 'from its vicinity to Manchester, the distance only being seven miles, Stockport has participated in a degree in the flourishing state of commerce in that town.'³⁴ The basis of Stockport's association with Manchester, and more broadly the manufacturing districts of southern Lancashire, was founded upon its complex and intimate economic relationship with the larger town.³⁵ It is impossible to trace the multitude of ways in which the two places were interlinked, but the comments of contemporaries and references to the towns in a variety of different sources point to some of the ways in which connections were forged and maintained. As Engels noticed, the urban centres around the mighty 'commercial metropolis', of which Stockport was one of the largest, 'conduct all their business through Manchester upon which they are in every respect dependent.'³⁶ In 1833, at a dinner held to celebrate the inauguration of Mr. Thomas Walmsley as Stockport's new mayor, Mr J. K. Winterbottom, the outgoing mayor, offered a toast 'to the town and trade of

³¹ See Stobart, 'Geography and industrialisation'.

³² *Stockport Advertiser*, 30 January 1824.

³³ *ibid.*

³⁴ Aikin, *A Description of the County*, p. 442

³⁵ The influence Manchester exerted over the surrounding textile districts of northern Cheshire and eastern Lancashire is discussed in Wadsworth, A. P. and Mann, J. de L. (1965) *The Cotton Trade and Industrial Lancashire*, Manchester University Press, Manchester, Chapters XIII and XIV.

Manchester' observing, 'that if Manchester should happen to be under a cloud, Stockport would have occasion to weep.'³⁷ Manchester was Stockport's economic lifeline. The town, with its growing communication linkages and warehousing facilities, acted as a marketing centre for the purchase of raw cotton, imported via Liverpool or London.³⁸ It also served as a conduit for the sale and export of manufactured cloths. Many Stockport firms, such as Sykes bleachers, employed agents in Manchester and the state of the town's markets, reported weekly in the *Stockport Advertiser*, was carefully followed as the definitive barometer of commercial well being.³⁹

Manchester also provided professional expertise that was not always available in Stockport. Up until the mid-1820s Stockport possessed limited banking facilities. Its own 'homegrown' bank, which had been influential in financing some of the town's successful early industrialists, was a short-lived affair. Opened in June 1791, it went bankrupt during the national financial crisis of 1793. Although Stockport was able to boast its own branches of the Bank of Manchester and the Manchester and Liverpool District Banking Company, no new bank opened in the town until 1824.⁴⁰ Manchester, however, offered a range of more extensive banking and credit facilities, including its own branch of the Bank of England from 1826. These provided Stockport's commercial population with sources of finance that were pivotal in the development of local industry. The branch of the Bank of England, for example, helped to ensure a steady supply of bank notes and gold sovereigns, thereby reducing the traditional reliance upon bills of exchange. As well as banking facilities, commercial and legal notices published in the *Stockport Advertiser* reveal that Manchester provided Stockport's inhabitants with other sources of professional expertise, such as lawyers and accountants.

³⁶ Engels, *The Condition of the Working Class*, p. 76.

³⁷ *Stockport Advertiser*, 1 November 1833.

³⁸ Timmins, *Made in Lancashire*, pp. 140–143.

³⁹ On the activities of Sykes' bleaching firm see: Giles, P. M. (1986) *William Sykes, (1755–1837) and the Edgeley Bleachworks*, Unpublished manuscript (Copy available at Stockport Heritage Library); Gilmour, A. J. (1983) 'Cotton in the Industrial Revolution: Stockport as a case study: 1780–1880', University of Cambridge, Unpublished Dissertation for Part II of the Historical Tripos (Copy available in Stockport Heritage Library) pp. 31–33; Mason, J. J. (1981) 'A Manufacturing and Bleaching Enterprise during the Industrial Revolution: The Sykeses of Edgeley', *Business History*, 23 (1), pp. 59–83.

⁴⁰ Giles, P. M. (1992) 'The perplexed and ill-managed affairs of the Stockport Bank, 1791–1827', *Transactions of the Antiquarian Society of Lancashire and Cheshire*, 88 (off-print in Stockport Heritage Library, no pagination).

Links with the Mancunian industrial region were evident in other ways. A sure sign of Stockport's association with Manchester and the surrounding textile districts was its inclusion – in spite of its cross-county location – in Lancashire trade directories. The compilers of an 1825 directory argued that Stockport was 'so closely connected both by trade and situation, with the county of Lancaster' that it warranted inclusion in the volume.⁴¹ In 1823 there were even attempts to make sure that the Stockport church clocks were regulated by Manchester time because of 'the great advantages' it afforded to commercial activity.⁴² Regular stage coaches and carriers maintained links between the two towns and in 1840 an hourly railway service commenced.⁴³ Soon after the opening of the railway, there is evidence that Stockport's inhabitants also began to use Manchester as a place to shop, as the town's shopkeepers complained that they were losing trade to Mancunian retailers. A disgruntled draper thought this to be proof that Stockport could no longer be 'considered a town on its own foundation ... [but] a suburb of Manchester merely.'⁴⁴

There were clearly many ways in which the fortunes of Stockport and Manchester were entwined, suggesting that it is impossible to consider Stockport as a venue for the accumulation of wealth in isolation from Manchester. Of course, Stockport also had close links with other urban centres, such as Liverpool and London, which tied the town into a national economy and polity.⁴⁵ In addition, the cotton trade enmeshed Stockport within a global capitalist system so that its fortunes stretched across the Atlantic to the cotton growing communities of north and south America and to the distant markets of Asia. In sum, a myriad of different economic geographies constituted Stockport as an urban place. The connections and dependencies created by these geographies provided the town's middling sort with a range of opportunities for the accumulation of property. But, as will become apparent, these economic geographies also created risks and uncertainties. As such, they are crucial in understanding strategies of wealth generation within Stockport.

⁴¹ Anon (1825) *Lancashire Directory*, Manchester.

⁴² *Stockport Advertiser*, 12 December 1823.

⁴³ *Stockport Advertiser*, 12 June 1840; Pigot and Co. (1838) *General, Classified and Street Directory of Manchester and Salford*, Pigot and Co., London.

⁴⁴ *Stockport Advertiser*, 15 April 1842.

⁴⁵ The theme of urban and regional interlinkage in north-west England is explored in detail in Stobart, J. (forthcoming) *Towns, Regions and Development an Economic Geography of North West England, 1700–1760*,

Spinning a fortune

Cotton looms large in the social and economic development of early nineteenth-century Stockport. The success of many of Stockport's middling sort was founded directly upon cotton and much of the rest of the economy rested on the fortunes of the cotton trade. A cocktail of favourable conditions made Stockport suitable as a centre of the cotton industry. There was a plentiful supply of labour and many of the population already possessed relevant textile skills acquired from handloom weaving or previous employment in the silk industry. The rivers Mersey, Tame and Goyt provided an ample quantity of water power, while local canals and, later, the railways, supplied coal for steam power. Although Stockport was not itself on a major coalfield, by 1842 the township of Hyde (in the east of the parish) possessed seven small collieries.⁴⁶ Nearby Manchester offered credit and other raw materials as well as access to the growing demands of domestic and overseas markets.⁴⁷ It has been argued that during the late-eighteenth and early-nineteenth centuries the fixed capital requirements for entering the cotton industry were relatively low.⁴⁸ Although spinning was, thanks to people like William Radcliffe, becoming increasingly mechanised, the technological demands of weaving were minimal and the majority of the capital outlay went on labour. For many aspiring industrialists it was therefore relatively easy to set up in business. Increasingly, centralised factory production came to dominate over domestic manufacture, as it eliminated some of the risks of fraud and embezzlement associated with the putting-out system.

Seizing these opportunities, a number of Stockport manufacturers became extremely successful early industrialists who ranked among the wealthiest and largest cotton magnates in the country. Thus, from small beginnings in 1787 Abraham Illingworth rose within five years to become one of the biggest capital investors in the cotton spinning industry and one of the leading industrialists of north-west England.⁴⁹ Thomas Marsland's namesake Henry Marsland (and later his son Peter and grandson Henry), also presided over a firm renowned for its technological innovation, ingenuity in harnessing water and steam power, and pre-eminence among cotton firms in the

Book manuscript under consideration for publication.

⁴⁶ Timmins, *Made in Lancashire*, p. 99.

⁴⁷ On credit see Giles 'The perplexed and ill managed affairs of the Stockport Bank'. and Timmins, *Made in Lancashire*, Chapter Five.

⁴⁸ For summary see Timmins, *Made in Lancashire*, pp. 35–45

country.⁵⁰ Henry Marsland had started out in the mid-eighteenth century as a shopkeeper in the nearby village of Bullocksmithy but in 1783, after switching his efforts to cotton manufacture, he moved into the Park Silk Mills in Stockport and converted them for cotton spinning.⁵¹ By 1789 the firm was reputedly ‘one of the largest spinning establishments in the kingdom.’⁵² While Henry set about consolidating water rights in order to power the mills, his son Peter took control of the management of the enterprise and developed power loom weaving techniques for which he received three patents during the first decade of the nineteenth century.⁵³ The firm later expanded into other premises and pioneered the use of steam power.⁵⁴ The Howard family of Portwood – rivals of the Marslands – presided over another enterprise that enjoyed celebrity status in the north west and ranked among the most important cotton businesses in the country. Under the ingenious leadership of Jesse Howard the firm rose to local pre-eminence after bitter fights with other local industrialists over water rights.⁵⁵ Illingworth, the Marslands and the Howards were three examples of a number of Stockport cotton manufacturers who at sometime during their career enjoyed spectacular successes and presided over impressively large enterprises. Indeed, Stockport possessed more than its fair share of celebrity cotton manufacturers. The ranks of the town’s ‘cottonocracy’ also included well known figures in the textile world such as William Sykes, Samuel Stocks, Joseph Lane, Robert Gee, Thomas Steel, James Kershaw and the legendary Samuel Oldknow.

The amazing successes of a handful of enterprising individuals meant that throughout the late-eighteenth and early-nineteenth century large firms dominated Stockport’s cotton industry. The fortunes of these manufacturers came from the sheer scale of their operations. Stanley Chapman conservatively estimates that in 1795 ‘the leading group of cotton spinners in Stockport was responsible for sixty per cent of the fixed capital of the industry at the time.’ He attributes this concentration of capital in part to the relative ease and low cost with which Stockport’s early industrialists could convert existing buildings and machinery employed in the throwing of silks to the

⁴⁹ Giles, ‘The perplexed and ill managed affairs of Stockport Bank’.

⁵⁰ Giles, ‘Economic and social development of Stockport’ p. 34.

⁵¹ Glen, *Urban Workers*, pp. 31–32; Unwin et. al., *Samuel Oldknow and the Arkwrights*, pp. 27–28.

⁵² Obituary of Peter Marsland Esquire, *Stockport Advertiser*, 25 September 1829.

⁵³ Glen, *Urban Workers*, p. 36.

⁵⁴ Giles, ‘Economic and social development of Stockport’, pp. 34–37; Gilmour, ‘Cotton in the industrial revolution’, p. 20.

manufacture of cotton. This minimised the risks and financial strain of the transition to the factory system and freed up capital, as in the case of Henry and Peter Marsland, for the development of machinery and the harnessing of new sources of power.⁵⁶ This pre-existing infrastructure was undoubtedly a key advantage that Stockport had over other Lancashire towns.

In spite of the increasing fixed capital requirements of the cotton industry in the years after the Napoleonic Wars, evidence suggests that this pattern of large firm domination continued into the nineteenth century. A considerable number of big firms dominated a business landscape otherwise peppered with medium sized and smaller firms (see Figure 3.3). David Gadian's survey of the size of cotton mills in 1838 suggests that Stockport contained the largest units of production in the district, with an average of 276.4 workers per mill compared to Manchester with 216.6, Bolton with 143.7, or Oldham with 76.5.⁵⁷ Material published in the *Stockport Advertiser* in 1854 reveals that seventeen Stockport firms employed more than 300 people, and in four firms the workforce exceeded 1,000. This resulted in an average business size of 304 persons, preserving Stockport's position close to the top of the firm size hierarchy in north west England.

However, as both Kirk and Gilmour suggest, it would be wrong to ignore the considerable number of small and middle-sized cotton firms within the town.⁵⁸ According to Chapman's figures on the insurance value of cotton enterprises in 1795, thirty-four businesses – roughly half of all firms – accounted for just 7.2 per cent of the total fixed capital value of the town's industry.⁵⁹ Moving to the other end of the period in question here, fifty-one per cent of Stockport's firms had a workforce of less than 200 operatives in 1854.⁶⁰ Thus, Stockport also presented more modest opportunities for the accumulation of wealth, as the number of smaller cotton firms remained buoyant over the first half of the nineteenth century.

⁵⁵ Gilmour, 'Cotton in the industrial revolution', pp. 17–20.

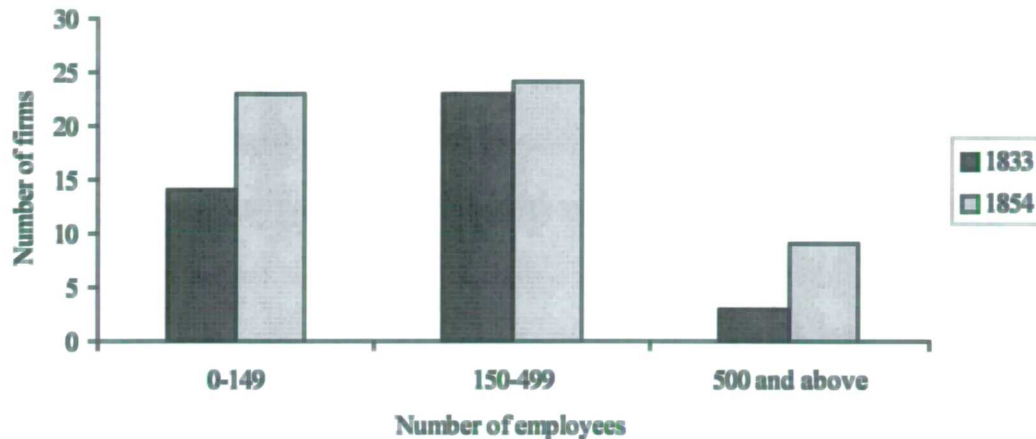
⁵⁶ Chapman, S. D. (1970) 'Fixed capital formation in the British cotton industry', *Economic History Review*, Second Series, XXIII (2), p. 252

⁵⁷ Gadian, D. S. (1978) 'Class consciousness in Oldham and other north-west Industrial Towns', *Historical Journal* 21 (1), p. 168.

⁵⁸ Kirk, *The Growth of Working Class Reformism*, p. 50; Gilmour, 'Cotton in the Industrial revolution', p. 44.

⁵⁹ Chapman, 'Fixed capital formation', pp. 260–261 (Appendix D).

Figure 3.3
Size of Stockport cotton firms, 1833 and 1854



Sources: Gilmour, A. J. (1983) 'Cotton in the industrial revolution: Stockport as a case study: 1780–1880', Unpublished University of Cambridge Dissertation for Part II of the Historical Tripos, p. 49 (Copy in Stockport Heritage Library); *Stockport Advertiser*, 1 April 1854, and abstracted in Kirk, N. (1985) *The Growth of Working Class Reformism in Mid-Victorian England*, Croom Helm, Beckenham, pp. 52–53.

The cotton industry itself was a large and varied enterprise. The success of Stockport's manufacturers stemmed from their specialisation in certain types of production. In the late-eighteenth century the town's mills concentrated on the spinning of fine yarns and the production of checks, fustians and muslins.⁶¹ Samuel Oldknow, who settled in Stockport in 1784, was, by 1789, selling muslins to 'all parts of Great Britain, and to France, Holland and Germany.'⁶² By 1791 he was reputed to be the largest muslin manufacturer in England.⁶³ The advent of power loom weaving – largely thanks to local innovators like Radcliffe and Marsland – led to a decline in the production of yarns and greater concentration on the manufacture of woven goods. By the early-nineteenth century Stockport came second only to Manchester as the largest centre of power loom weaving in the country. In 1834 it was estimated that there were 6,300 power looms within the town.⁶⁴ A wide range of goods was manufactured in Stockport including striped cottons, checks, shawls, jaconets and cambrics. The

⁶⁰ Kirk, *The Growth of Working Class Reformism*, p. 50.

⁶¹ Wadsworth and Mann, *The Cotton Trade*, p. 275.

⁶² Unwin et. al, *Samuel Oldknow and the Arkwrights*, p. 104.

⁶³ Crouzet, F. (1985) *The First Industrialists: The Problem of Origins*, Cambridge University Press, Cambridge, p. 108.

⁶⁴ Pigot and Co. (1834) *General and Classified Directory of Cheshire*, Pigot and Co., London, p. 58.

spinning of cotton continued with many firms combining this with manufacture.⁶⁵ By the 1820s the town had also begun to specialise, through firms like that of William and Thomas Deaville of 'The Carrs', in cotton waste spinning.⁶⁶ Stockport also, through its proximity to Manchester and other textile producing towns, concentrated on finishing processes. Thus, Thomas Marsland & Son of Daw Bank ran the largest calico printing factory in Europe, while William Sykes of nearby Edgeley (and later his sons Edmund and Richard) operated a successful bleaching company.⁶⁷

Cotton was thus the single most important source of wealth in nineteenth-century Stockport. By 1851 over a third of adult males and females were employed in the industry and the town was, after Manchester, the largest centre of cotton production in the world.⁶⁸ Cotton was the economic cornerstone of a significant proportion of the town's varied middling sort. Large firms were headed by wealthy men who could claim a place in the upper echelons of the town's bourgeoisie, while a plethora of smaller firms supported a group of people of a more modest social standing.

Other industries and trades

Further analysis of the occupational structure of Stockport from the 1851 census confirms that cotton was not the only wealth-generating economic activity in the town. Indeed, the breadth and diversity of the town's middling sort was partly founded upon the broad range of occupational backgrounds. Although textiles dominated the manufacturing sector, other industries contributed to the vitality of the local economy. Hat making was one important trade which had a long association with the region.⁶⁹ Originally a domestic industry, the move to factory industrialisation occurred from the late-eighteenth century. In 1789 there were said to be forty-six hatters in Stockport and by 1815 the town was able to boast eighteen 'large' hat manufactories.⁷⁰ The 1851 census reveals that considerable numbers of people were

⁶⁵ Taylor, A. J. (1949) 'Concentration and specialisation in the Lancashire cotton industry, 1825-50', *Economic History Review*, Second Series, I (1), p 118.

⁶⁶ Pigot and Co. (1828) *General and Classified Directory of Cheshire*, Pigot and Co, London, p. 57.

⁶⁷ Mason, 'A manufacturing and bleaching enterprise'.

⁶⁸ Kirk, *The Growth of Working Class Reformism*, pp. 47-51.

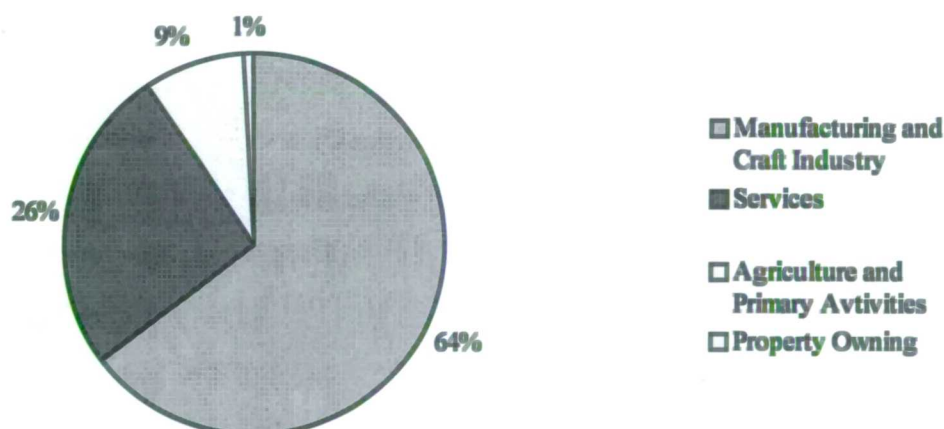
⁶⁹ Christie-Miller, J. A. (1957) *Feltmakers: A Record of two Feltmaking Families and their Connection with the Worshipful Company of Feltmakers in London in Four Centuries*, Swan and Company, Stockport; Giles, P. M. (1960) 'The Felt Hatting Industry, c. 1500-1850, with particular reference to Lancashire and Cheshire', *Transactions of the Lancashire and Cheshire Antiquarian Society*, LXIX; Smith, D. M. (1966) 'The hatting industry in Denton, Lancashire', *Journal of Industrial Archaeology*, 3 (1), pp. 1-7.

⁷⁰ Giles, 'Economic and social development of Stockport', p. 42. The definition of 'large' is not given.

employed in the industry, with 756 male and 123 female hatters in the town. Often hats were made in Stockport for finishing elsewhere. Thomas Worsley, for example, presided over a firm supplying hat bodies to Christy & Son of London Wall in the City of London. Eventually, in 1826, the Christy family bought Worsley's factory and moved most of their hat production operations to the town. By the end of the century Christy's factory was the largest in the industry.⁷¹ As well as hatting, the town's middling sort derived their wealth from a number of other manufacturing sources. For example, Stockport was also home to several breweries and iron foundries.⁷²

More broadly, the 1851 census reveals the importance of Stockport's 'service sector' alongside manufacturing activities as a significant source of wealth within the town (Figure 3.4).

Figure 3.4
Stockport district employment, 1851
(% of total workforce)



Source: 1851 Census Returns Cheshire and Lancashire

Stockport had long been a regional market centre. An account of the mid-seventeenth century referred to it as 'an ancient Market Towne, to which there doth weekly resort a great concourse of people in respect of the Market as upon other occasions.'⁷³

⁷¹ Timmins, *Made in Lancashire*, p. 200. In general see Giles, 'The felt hatting industry'.

⁷² Pigot and Co., *General and Classified Directory of Cheshire*, p. 58.

⁷³ Quoted in Glen, *Urban Workers*, p. 17.

However, the vast increase in the population in the early-nineteenth century dramatically raised demand for retail products and services and, along with rising household incomes and new patterns of consumption, created a multitude of opportunities for a petite bourgeoisie of small shopkeepers and dealers within the town.⁷⁴ Ollive Sims, a druggist from London who visited Stockport in the 1760s, was one person who took up such an opportunity. He was supposed to have been so impressed with Stockport and its enterprising population that he left London and set up an apothecary business in the town in 1768. During the nineteenth century the Simses were to become one of Stockport's most successful and important trading families.⁷⁵ According to Mitchell, the growth of Stockport's retail sector occurred alongside the development of the cotton industry in the period 1780–1815.⁷⁶ Expansion was concentrated in the food sector with a conspicuous mushrooming of provision dealers, grocers, bakers, and butchers. Evidence from later in the century – notably the trade directories – points to continued growth within the retail sector with a marked proliferation of inns and public houses. It was also alongside the rise of the cotton industry that Stockport's professional classes grew in number. The increasingly complex needs of the town's business population demanded greater local professional expertise. The number of solicitors listed in trade directories, for example, grew from thirteen in 1814 to thirty seven in 1865.

Other sources of wealth

Business and employment were not the only sources of wealth in nineteenth-century Stockport. For those with considerable economic assets, an important way of spreading risk was to invest surplus property. Within Stockport a number of different kinds of investment provided additional income to that garnered from business activity. Many successful Stockport businessmen invested in land and real estate. The demand for housing in a rapidly growing town like Stockport created an obvious opportunity for making money. While the supply of tenants remained plentiful, the ownership of real estate provided a source of rentier income. In a questionnaire conducted in the early 1830s, twenty-one out of a total of forty-six Stockport district

⁷⁴ On consumption in towns in general see Glennie, P. (1998) 'Consumption, consumerism and urban form: historical perspectives', *Urban Studies*, 35 (5–6), pp. 927–951.

⁷⁵ Heginbotham, H. (1892) *Stockport Ancient and Modern*, Volume II, London, pp. 364–365.

⁷⁶ Mitchell, S. I. (1974) 'Urban markets and retail distribution, 1730–1815, with particular reference to Macclesfield, Stockport and Chester', Unpublished DPhil Thesis, University of Oxford, pp. 241–250.

mill owners indicated that they owned cottage property – mostly rented out to their workers.⁷⁷ Typical was William Sykes, who in 1825 owned cottages estimated to be worth £2,850, roughly a tenth of his total assets which were said to be in the region of £30,220.⁷⁸ The Howards also owned considerable cottage property in areas adjacent to their mills in Portwood, while the firm of Middleton and Rooth erected ‘scores’ of workers’ dwellings next to their premises at Hope Hill in the Heaton Norris district of the town.⁷⁹ But investment in real estate was not solely confined to mill owners. The sample of wills analysed in later chapters of this thesis reveals that seventy per cent of testators – who came from a diverse range of occupational backgrounds – owned some kind of real estate.⁸⁰ Of these, at least twenty per cent owned more than one house. Most of this real estate was owned locally. Only eight per cent of testators who possessed realty mentioned property in places beyond Stockport and in well over half of the wills freehold estate could be traced directly to the town. Sources suggest that investment in housing went in waves, corresponding with the expansion of population and periods of commercial prosperity. Thus, in August 1822, the editor of the *Stockport Advertiser* took great delight in announcing that 150 cottage houses were being erected in the town, while in 1834 it was remarked that ‘within the last twelve months no fewer than 300 houses have been built in this borough.’⁸¹ In January 1836 it was recorded with even greater rapture that 510 dwellings had been built since the previous May.⁸² Figure 3.5, showing the amount of duty paid on bricks in the Stockport district, clearly depicts this period of speculation in house building.

⁷⁷ PP 1834 XX *Factories Inquiry Commission, Supplementary Report, Part II*; Ashmore, O. (1975) *The Industrial Archaeology of Stockport*, Manchester, pp 27–28, Glen, *Urban Workers*, p 29. For certain industrialists the ownership of cottage property may have possessed other advantages in enabling them to maintain greater control over their workforce.

⁷⁸ Mason, ‘A manufacturing and bleaching enterprise’, p 83.

⁷⁹ Giles, ‘Economic and social development of Stockport’, p. 47; Glen, *Urban Workers*, p. 29.

⁸⁰ For further discussion of the sample of wills, including the occupational identity of testators, see Chapters Two and Five.

⁸¹ *Stockport Advertiser*, 16 August 1822 and 7 February 1834.

Figure 3.5
Excise duty paid on bricks in Stockport district, 1832-41



Source: PP XXXV Report of the Assistant Poor Law Commissioners Sent to Inquire into the State of the Population of Stockport, p. 130.

Opportunities for investment came not only in the form of cottage property, or other kinds of real estate. Also important were those types of investment that one Stockport real-estate-owning ratepayer called ‘secret property’ – money invested in government funds, savings banks, stocks, shares, mortgages, loans and other interest-generating securities.⁸³ Locally, the Stockport Savings Bank – established in 1824 – provided a secure place of investment for those of more modest means.⁸⁴ While there was hostility to the establishment of the bank among some quarters of the working population,⁸⁵ the *Stockport Advertiser* felt the measure most beneficial to the town, recognising it as a safe form of investment:

Free from the risk of deposits made with private individuals and of the uncertainties which often attaches to friendly societies, Savings Banks offer to the industrious a certain advantage, and in no neighbourhood with more effect than our own could such a plan be adopted.⁸⁶

A survey of depositors in 1828 found that there was a broad occupational cross-section of investors, comprising of skilled workers, farmers and members of the

⁸² *Stockport Advertiser*, 1 January 1836.

⁸³ *Stockport Advertiser*, 17 May 1822.

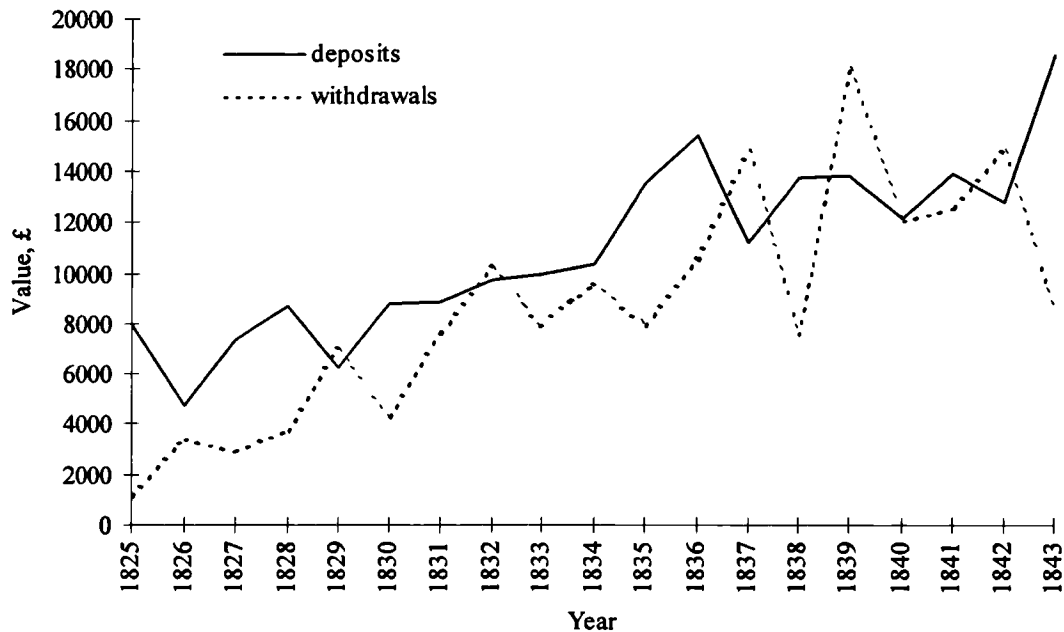
⁸⁴ See *Stockport Advertiser*, 2 April 1824.

⁸⁵ A discussion of hostility to the bank can be found in Giles, ‘Economic and social development of Stockport’, pp. 336–340.

⁸⁶ *Stockport Advertiser*, 2 April 1824 and *Stockport Bank for Savings: Minute Books*, D1620, DD/Tsb 1 1 (Stockport Heritage Library).

town's 'petite bourgeoisie' – shopkeepers, bookkeepers, excise officers and the like.⁸⁷ The bank offered favourable interest rates (£4 4s. 6d. per £100 per annum) and quickly attracted investors. Taking the period 1824 to 1843 (for which data could be easily obtained) the number of depositors grew from forty-seven, who opened accounts on the first day of trading, to over 2,000 by November 1843. As Figure 3.6 reveals, the annual amount of money deposited in the bank also grew steadily over the period.

Figure 3.6
Deposits and withdrawals, Stockport Savings Bank, 1825-43



Sources. *Stockport Advertiser* (various dates) and *Stockport Bank for Savings: Minute Books*, D1620, DD/Tsb 1 1 (Stockport Heritage Library).

Tracing other investments is inevitably more difficult, but evidence from the *Stockport Advertiser* suggests that a variety of different money-making opportunities existed for those who had the means to invest. Thus, in November 1835 a notice published on the front page of the newspaper offered shares, at a cost of £50 each, in the Manchester to Stockport Railway.⁸⁸ Similarly, an advertisement of May 1838 suggested that 'the large fortunes made by persons who have been engaged in the

⁸⁷ *Stockport Advertiser*, 3 April 1829.

⁸⁸ *Stockport Advertiser*, 6 November 1835.

distilling and rectifying business must satisfy every individual who wishes to increase his [sic] income', and gave details of a share offer in the Manchester Distillery Company.⁸⁹ Other, more frequent, advertisements offered annuity schemes – like that of the 'National Loan Fund Life Assurance Society' – for 'a more ample provision for old age and protection against sickness and misfortune.'⁹⁰ Nevertheless, evidence from the sample of wills suggests that the ownership of these kinds of property among Stockport's inhabitants was not very common. While the figures, because of the nature of the data, may underestimate the level of such investments, only ten per cent of wills explicitly mentioned mortgages, stocks, shares, building or burial club memberships, savings accounts, or other similar kinds of assets.⁹¹ Furthermore, out of the 31,000 testators who died with monies in the Bank of England's public funds between 1807 and 1845, only five were from Stockport.⁹² It would therefore appear upon the basis of evidence from the wills that while there were plenty of opportunities for investment in 'secret property' in Stockport, only a minority of inhabitants made use of them.⁹³

Middling women and economic opportunities in Stockport

Much of the discussion so far has implicitly dealt with the possibilities for wealth accumulation among the male members of Stockport's middling sort. The opportunities available to women are more difficult to assess. Indeed, the entire question of the role of women in wealth creation in industrialising Britain remains a focus of intense debate among social and economic historians. On the one hand, women – particularly married women – faced severe restrictions in their capacity to be economically independent. In theory, common law gave a woman's husband almost complete control over his wife's ability to work or to invest property. Some historians have claimed that an emerging ideology of domesticity among the Victorian middling sort accented this notion of female dependence enshrined in the

⁸⁹ *Stockport Advertiser*, 18 May 1838.

⁹⁰ *Stockport Advertiser*, 11 May 1838.

⁹¹ A discussion of data problems can be found in Chapter Two.

⁹² Society of Genealogists (1991) *An Index to the Bank of England Will Extracts, 1807 1845*, Society of Genealogists, London. The Stockport investors were: Lydia Barrow (d. 1835), James Heald (d. 1815), John Holmes (d. 1830), Ollive Sims (d. 1836) and Thomas Wood (d. 1840).

⁹³ Geoffrey Crossick has argued that the petite bourgeoisie were much more likely to invest surplus wealth in real property, especially housing, than in stocks, shares or loans. The evidence from Stockport appears to broadly support this view. See Crossick, G. (forthcoming) 'Meanings of property and the world of the petite bourgeoisie', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes. Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot.

law. Increasingly, it is argued, women were cut off from the public world of money-making, and were cocooned in the private sphere of the home and family. Davidoff and Hall, for example, have suggested that women often served as a 'hidden investment' in a male dominated business world.⁹⁴ They contributed, in fundamental ways, to the accumulation of property among the middling sort, but usually from a position of concealed dependence rather than visible autonomy. Against this view, revisionist historians have argued that the material realities of the lives of the middling sort often meant that such ideological boundaries were transgressed and that women were far from inactive, or solely dependent upon men, in the processes of property accumulation.⁹⁵

Within Stockport it is difficult, from the sources available, to decide which of these views is correct. However, various evidence does suggest that women were engaged in a variety of money-making activities. Although women appear in trade directories far less frequently than men, such sources cast some light on the business activities they pursued. In the Pigot directory for Stockport published in 1828, for example, females account for less than nine per cent of the total entries.⁹⁶ However, those listed appear to have been active in an impressive range of trades. Women were most frequently to be found in those activities considered to be established female trades such as millinery, dress-making and school teaching. However, a few women were also active in trades more traditionally associated with males. Amelia Potter, for example, is listed as a cotton spinner, while Hannah Carrington appears as a timber merchant and Mary Thornley as a brick maker. There were also several female publicans and inn keepers and a handful of female grocers and confectioners. Evidence from the wills suggests that women were also significant investors in real estate. Fifty-five per cent of the female testators among the sample owned real property compared to seventy-five per cent of male testators.⁹⁷ Finally, the wills also reveal that women held other kinds of assets, with eleven per cent of female testators

⁹⁴ Davidoff, L. and Hall, C. (1987) *Family Fortunes: Men and Women of the English Middle Class, 1780–1850*, Routledge, London, pp. 272–315.

⁹⁵ See Green, D. R. (forthcoming) 'Independent women, wealth and wills in nineteenth-century London', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes: Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot and Lane, P (forthcoming) 'Women, property and inheritance: wealth creation and income generation in small English towns, 1750–1835', in Stobart and Owens op. cit.

⁹⁶ Pigot and Co. (1828) *General and Classified Directory of Cheshire*, Pigot and Co., London.

⁹⁷ This figure is similar to the forty-eight per cent of female testators who owned real property in Birmingham and Sheffield at the end of the eighteenth century, reported in Berg, M (1993) 'Women's property and the industrial

mentioning non-landed investments.

The 'respect, smiles and blandishments' of wealth

Within the towns and cities of the industrial revolution, the accumulation of property was crucial to the middling sort as a source of power and status.⁹⁸ On the one hand it was the material outcomes of property accumulation that allowed the middling sort to claim this power and status. For men at least, the ability to consume and to participate in civil society ultimately rested on having the resources available to do so. At another level, however, wealth brought its rewards through its acquired meanings and through its symbolic use within urban society. Two key ways in which the middling sort derived power from property ownership were through consumption and office holding. This section of the chapter will briefly explore these issues.

Spending wealth on conspicuous items of consumption was one way in which status could be derived from accumulated fortunes. It was also, it must be remembered, another way of investing property. Evidence of a variety of different forms of conspicuous consumption can be gleaned from Stockport sources. For the very wealthy - particularly successful cotton magnates - the purchase of a large house or villa was clearly an indication of their social standing. At least in the early part of the century many of Stockport's cotton magnates lived in properties close to the town. Peter Marsland (at Woodbank House), Thomas Marsland (at Holly Vale House) and Thomas Fernley (at Avenue House) all resided in villas that were within sight of their mills and, more importantly, their workforce.⁹⁹ Such properties were often built on a lavish scale. After his bankruptcy in June 1837, the residence of cotton manufacturer Joseph Heaward was described in an auctioneer's advertisement.¹⁰⁰ The 'newly erected mansion' was said to be 'most beautifully situated near Bank Hall ... commanding a picturesque view of surrounding country.'¹⁰¹ In addition to the main house, it possessed its own coach house, out house, stables and pleasure gardens.

For the majority of the middling sort, however, large villas were beyond their means

revolution', *Journal of Interdisciplinary History*, XXIV (2), p. 241.

⁹⁸ Morris, R. J. (1983) 'The middle class and British towns and cities of the industrial revolution', in Fraser, D. and Sutcliffe, A. (eds.) *The Pursuit of Urban History*, Edward Arnold, London, p. 287.

⁹⁹ Glen, *Urban Workers*, pp. 29-30.

¹⁰⁰ *Stockport Advertiser*, 9 June 1837.

and displays of wealth were more modest. Various evidence points to a thriving consumer culture in nineteenth-century Stockport. Trade directories from the 1830s reveal a wide range of retail activities indicating demand for specialist consumer and luxury goods as well as items of mass consumption. In 1838 the town was able to boast two jewellers, nine clock and watch makers, a musical instrument maker, a portrait painter, two bird preservers and even an ornamental bird stuffer! There were over 150 tailors, drapers and dressmakers, eighteen cabinet makers and twenty-seven furniture brokers. More direct evidence of the ownership of such goods can be found in a small number of wills. Table 3.2 reveals the personal possessions most frequently mentioned in Stockport wills. While the evidence needs to be treated with caution and only provides a very partial description of property that was owned, it does offer an insight into some of the valued possessions of the town's middling sort. The ability to own and transmit these goods is testimony to the success of the Stockport's middling sort in accumulating wealth.

Table 3.2
Most frequently mentioned possessions in Stockport wills 1800–57

<i>Description of item</i>	<i>Male wills where item mentioned</i>	<i>Female wills where item mentioned</i>	<i>Total wills where item mentioned</i>
Watches	11	10	21
Beds and bedding	10	9	19
Silver cutlery	6	8	14
Clocks/barometers	9	4	13
Tables	5	7	12
Chest of drawers	7	4	11
Pictures/portraits	6	4	10
Silver plate/tankards	4	3	7
Books	6	1	7
Chairs	5	1	6
Mirrors	3	3	6
Fire grate/utensils/screens	5	1	6
Other valuables	3	3	6
Jewellery and trinkets	0	5	5

Source: Sample of 500 Stockport wills proved at the Consistory Court of Chester, 1800–57

The accumulation of wealth also brought other rewards. For men (and occasionally women) the ownership of property enabled participation in public office holding.

¹⁰¹ *Stockport Advertiser*, 1 September 1837.

Local politics was one arena where many of the town's male middling sort were able to exercise their power and authority through office holding. Following the incorporation of the town in 1834 it became possible, with sufficient resources, to get elected as a councillor or serve as one of the town's aldermen. Individuals could sit as councillors if they could swear that they 'were seized or possessed of real property or personal estate to the amount of £1000 over and above what will satisfy any debts.'¹⁰² Throughout the 1830s and 1840s the town council, which was predominantly Whig controlled, consisted of a broad range of the town's middling sort.¹⁰³ This included an alliance of large manufacturers and professionals, such as lawyers, along with a number of smaller manufacturers, shopkeepers and publicans.

Outside politics, wealth also provided the necessary standing and security to hold office in other institutions. Within Stockport, successful industrialists and tradesmen dominated the Unitarian church, serving as members of the vestry and as lay officers. It was also by virtue of wealth that it became possible to get involved with philanthropic and educational endeavours. Thus many of Stockport's middling sort were involved with the town's famous Sunday school.¹⁰⁴ In fact, there were many situations within the public sphere of the town that men of property could hold office and exercise their power and influence over Stockport affairs. Fundamentally, it was the accumulation of property that provided the key to this participation by the middling sort in urban civil society.

Risk, failure and loss

Alongside the opportunities that existed for accumulating wealth in the manufacturing districts, the volatile early-Victorian economy also presented numerous circumstances under which fortunes could be lost. It is, therefore, unsurprising that amidst the tales of success and achievement in Stockport there were also many spectacular instances of failure. The importance of the cotton sector to Stockport's economic well-being left the town in a particularly vulnerable position. While bringing rich rewards in periods of prosperity, investment in labour and technology could quickly become a burden and a drain on resources when there was an economic downturn. Likewise, easy

¹⁰² *Stockport Advertiser*, 1 January 1836.

¹⁰³ See, for example, the council elected in 1838 reported in the *Stockport Advertiser*, 2 November 1838.

¹⁰⁴ On Stockport Sunday School see Laqueuer, T (1976) *Religion and Respectability: Sunday Schools and*

access to credit could accelerate economic growth and provide new opportunities for industrialists, but it could also lead to over expansion and the downfall of firms. In short, the constantly changing supply and demand conditions of the early nineteenth-century economy could dramatically reverse the fortunes of manufacturers. In a town dominated by a single industry like cotton, the knock-on effects of these changes could be damaging to a large number of the property-owning middling sort. This section of the chapter explores some of the key dimensions of economic failure in Stockport in order to set in context the achievements that were outlined in previous sections and to provide a more rounded picture of the conditions under which decisions about the accumulation and transmission of property were made.

Bankruptcy and the social meanings of failure

Perhaps the most dramatic and potent image of Victorian bourgeois failure comes in the form of bankruptcy. Contemporaries certainly viewed it as a yardstick of ruin and fallenness. In a turbulent economy like that of nineteenth-century Stockport bankruptcies were regular occurrences. While analysis of numbers of bankruptcies helps to establish the general patterns of the trade cycle and the temporal contours of failure, consideration of the social consequences of bankruptcy sheds light on some of the broader meanings of property accumulation and loss in a nineteenth-century industrial town like Stockport.

On the 14 August 1840 the *Stockport Advertiser* reported the bankruptcy of John Kenyon Winterbottom, 'banker, attorney and money scrivener of Stockport in the County of Chester.'¹⁰⁵ Winterbottom was well known in Stockport. He had served as town mayor in 1831 and 1832, and acted at various times as steward of the manor, church warden, town clerk, law clerk to the police commission, and chair of the local board of health.¹⁰⁶ He was also well known for his political views. As a prominent Conservative and 'an ardent admirer of the constitution of his country' he had many enemies among the Whig dominated borough council.¹⁰⁷ Winterbottom's bankruptcy was therefore big news and was widely reported. Indeed, the *Stockport Advertiser*

Working Class Culture, 1780–1850, Yale University Press, New Haven.

¹⁰⁵ *Stockport Advertiser*, 14 August 1840. A commission of bankruptcy was officially opened in the *London Gazette* on 4 August 1840.

¹⁰⁶ Giles, 'Economic and social development of Stockport', p. vii; *Stockport Advertiser*, 18 November 1831 and 3 June 1836.

claimed that ‘no event has ever occurred in the town of Stockport which has caused so great a sensation as the insolvency of this unfortunate gentleman.’¹⁰⁸ The irony of the bankruptcy of a man who had spent most of his professional life dealing with the commercial failure of others and advising ‘many affluent men of the county’ on legal matters relating to their property was well recognised.¹⁰⁹ But the shock of Mr. Winterbottom’s bankruptcy was given an extra twist by allegations of fraud and his sudden disappearance from the town as he fled his creditors.¹¹⁰ His debts were said to total £30,000 including nearly £8,000 which he owed to the Manchester and Liverpool District Bank. In September 1844, Winterbottom was arrested in Liverpool upon his return to England after spending several years ‘on the run’ in France.¹¹¹ He was later tried at the Chester assizes for forging the signatures of the executors of the late Thomas Isherwood Esquire of Marple Hall and pocketing the sum of £5,000 insured upon his life at the Pelican Life Office.¹¹²

The *Stockport Advertiser* was a fan of Mr. J. K. Winterbottom. They had similar political outlooks and the paper supported Winterbottom in his candidacy for town clerk in the 1830s.¹¹³ He was heralded as something of a champion of Conservatism in Stockport and portrayed as a defender of traditional ‘English’ constitutional values amidst the ‘vulgarity of radical-liberalism’ that, much to the annoyance of the paper, dominated the town’s local government. When Winterbottom went bankrupt amidst criminal allegations, the newspaper was placed in an awkward situation. In retaining a modest loyalty to Winterbottom the *Stockport Advertiser* chose to report his insolvency by representing it as a tragedy, rather than concentrating on the illegality of his flight from the country. The account itself provides a useful insight into some of the ways in which accumulation and loss of property were represented in contemporary middle-class culture.

¹⁰⁷ *Stockport Advertiser*, 14 August 1840.

¹⁰⁸ *Stockport Advertiser*, 14 August 1840.

¹⁰⁹ *Stockport Advertiser*, 6 December 1844. During the 1820s and 1830s the firm of Newton and Winterbottom acted as the attorneys for a large proportion of Stockport bankrupts, administering legal proceedings and handling creditors claims on the bankrupt’s estate (see *Stockport Advertiser*, 1823–40).

¹¹⁰ *ibid.* and *Stockport Advertiser*, 13 September 1844. Giles in ‘The economic and social development of Stockport’ (p. vii) notes that Winterbottom’s disappearance had rather unfortunate consequences for Stockport’s historians. Winterbottom had been entrusted with many of the town’s most important administrative papers – after he left the country many of these papers were lost.

¹¹¹ *Stockport Advertiser*, 13 September 1844.

¹¹² *Stockport Advertiser*, 20 September 1844, 6 December 1844 and 13 December 1844.

A particularly revealing passage published immediately after the declaration of Winterbottom's bankruptcy in 1840 sought to understand why he kept his financial difficulties hidden for such a long time and why he subsequently fled the country:

Mr. Winterbottom's case is one amongst 10,000 proofs of the same kind, that "moral courage is one of the rarest qualities which any human being can be endowed". Ten thousand men may be found who will confront death and physical suffering in their most appalling forms, for one who has the "moral courage" to avow himself to the embarrassed state of his circumstances – to resign the luxuries and conveniences which custom has rendered necessary to him – and what is infinitely more difficult, to descend voluntarily from that station of society in which he has been accustomed to move, and exchange, whilst it was in his power to enjoy them a little longer, the respect and smiles and blandishments which are lavished upon the rich and prosperous, for the cold courtesies which await the acknowledged bankrupt. Considerations like these must have great weight in every country under heaven; but in this great, rich and commercial community, where wealth is literally everything, they become almost irresistible.¹¹⁴

Following his apprehension in England in 1844 the paper continued to praise Winterbottom for accepting the consequences of his 'embarrassments'.

To his honour at least be it remembered that he had no pecuniary provision for his inevitable emergency, but exposed himself voluntarily to poverty and destitution in a foreign land, and went forth a penniless fugitive, rather than taking with him ... a sum sufficient to keep him in affluence and luxury.¹¹⁵

That a 'moral economy' of property ownership existed among Stockport's industrial community is clear from these extracts. 'Wealth is literally everything': property is represented as a source of pride and status while its loss is depicted as leading to social ruin and disgrace. To acknowledge failure was thus portrayed as one of the greatest acts of bravery. The account of 1840 continues in almost obituarial style, representing Winterbottom's life as a courageous rise from humble origins:

Entering life with no advantages of birth or fortune, by the force of his own talents, industry and perseverance alone, he had attained the situation of principal in the highly respected office in which he served his clerkship, whilst to his friends and fellow townsmen, he was endeared by his professional talents, his generosity, and social and convivial qualities. As a son, a brother, a parent and a husband, his conduct has been most exemplary and the poor and destitute have lost a friend to whose generosity they never appealed in vain.¹¹⁶

By juxtaposing Winterbottom's heroic rise with his sudden fall, the fragility of

¹¹³ *Stockport Advertiser*, 8 January 1836.

¹¹⁴ *Stockport Advertiser*, 14 August 1840.

¹¹⁵ *Stockport Advertiser*, 13 September 1844.

¹¹⁶ *Stockport Advertiser*, 14 August 1840.

bourgeois existence is underlined. So too is the unquestionable link between property ownership and social status. Not only were ‘respect and smiles and blandishments’ lost with bankruptcy, so too went the essential qualification for political participation and public office holding. Thus, when one of Winterbottom’s clients – Apelles Howard, a large cotton spinner of Portwood – went bankrupt in December 1839, he was, in accordance with Section 52 of the Municipal Corporation Act, disqualified from the office of town alderman.¹¹⁷ Similarly, cotton manufacturer Mr. G. T. Knowles was forced to resign from the committee of the Stockport Savings Bank after he ‘went to the Gazette’ in December 1842.¹¹⁸ As Simon Gunn notes, bankruptcy was widely feared among the industrial communities of north west England because of the loss of social status that it involved.¹¹⁹

Indeed, bankruptcy was a very public form of failure and entailed a very visible loss of property, status and power. While it affected comparatively few individuals (declarations of insolvency founded upon different legal distinctions were far more common), bankruptcy retained a symbolic importance within nineteenth-century industrial society.¹²⁰ The ‘embarrassment’ of bankruptcy was emphasised by self-consciously commercial local newspapers, like the *Stockport Advertiser*, unintentionally charting the stages of ‘ruin’ through their weekly pages. Most local newspapers extracted the bi-weekly listings of bankrupts declared in the *London Gazette*. They were also the organs through which solicitors published notices calling creditors, inviting demands on the estate, and notifying the payment of dividends. Thus, Stephen Heelis and John Vaughan, the solicitors who handled Winterbottom’s bankruptcy, published no less than ten notices in the *Stockport Advertiser* in the five years following the declaration.¹²¹ But perhaps the greatest indignation came from brokers and auctioneers who, under the instruction of the bankrupt’s assignees, advertised the public auction of the unfortunate individual’s property. Free from estate duty, these were lucrative sales and most advertisements provided a detailed

¹¹⁷ *Stockport Advertiser*, 27 December 1839 and 17 January 1840.

¹¹⁸ *Stockport Advertiser*, 6 January 1843

¹¹⁹ Gunn, S. (1992) ‘The Manchester middle class, 1850–1880’, Unpublished, University of Manchester PhD Thesis, p. 168.

¹²⁰ See Duffy, I. (1985) *Bankruptcy and Insolvency in London During the Industrial Revolution*, Garland Publishing, London; Marriner, S. (1980) ‘English bankruptcy records and statistics before 1850’, *Economic History Review*, Second Series, XXXIII 3), pp. 351–66.

¹²¹ See for example, *Stockport Advertiser*, 21 August 1840 (calling creditors), 5 March 1841 (meeting to audit accounts), and 14 October 1842 (advertising dividends available).

description of the bankrupt's property. Indeed, for those in more fortunate circumstances such sales were real opportunities, providing cheap sources of business capital. When cotton manufacturers went bankrupt, for example, buildings and machinery would frequently come up for auction. A sale of Apelles Howard's cotton machinery at his premises in Portwood took place in late February 1840, while his mills and warehouses were auctioned off in early March.¹²² Ironically, potential bidders were instructed to apply to Mr. J. K. Winterbottom for a catalogue of the property being sold. Stockport broker Mr. J. E. Turner handled the disposal of Winterbottom's own estate and notices in the *Stockport Advertiser* suggest that there were at least six individual sales of property between 1840 and 1844.¹²³ These included an auction of his household furniture, 'stock of fine wines', 'fashionable plate and glass', horses, carriages and many other items, that took place in Winterbottom's private villa just two weeks after the bankruptcy had been declared.¹²⁴ In October 1840 his law offices were sold, while an auction of January 1844 was one of three that disposed of various real estate.¹²⁵

Bankruptcy was just one form of proprietorial failure and one way in which property and the social opportunities that came with it were lost. While 'dispossession' was undoubtedly experienced in other ways, such as through insolvency or by being forced to downsize or decline business, bankruptcy figures can be used to assess the temporal dimensions of economic vitality.¹²⁶ They are useful here to map out the context of risk in nineteenth-century Stockport. Figure 3.7 picks out the cyclical turbulence of the local economy between the years 1823 and 1849.¹²⁷ As might be expected, those engaged in the cotton industry formed the largest proportion of bankrupts. Roughly thirty-five per cent of all bankruptcies in Stockport between 1823 and 1849 were in that sector.

¹²² *Stockport Advertiser*, 28 February 1840 and 6 March 1840.

¹²³ *Stockport Advertiser*, 28 August 1840, 18 September 1840, 9 October 1840, 16 October 1840, 20 November 1840 and 12 January 1844.

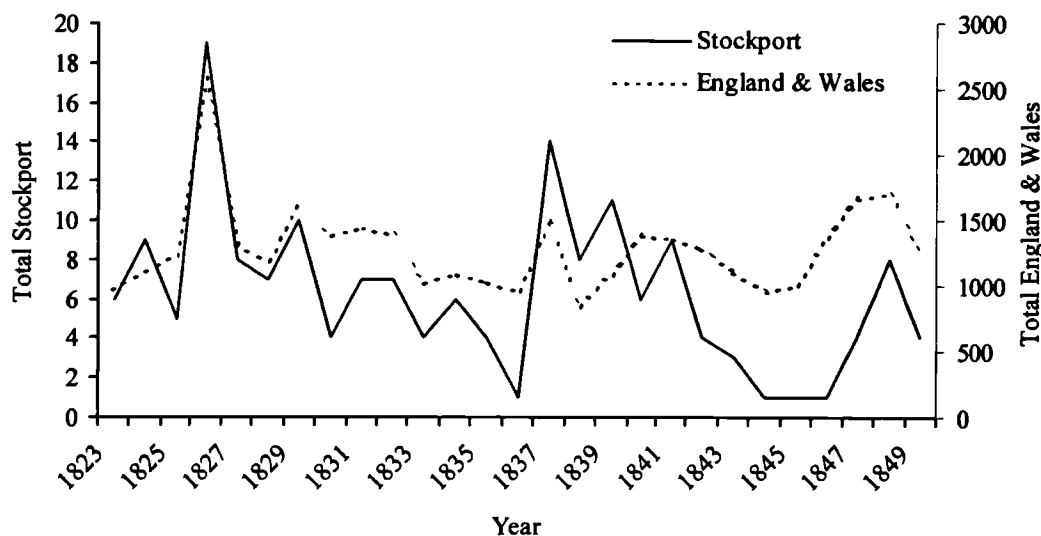
¹²⁴ *Stockport Advertiser*, 28 August 1840.

¹²⁵ *Stockport Advertiser*, 16 October 1840 and 12 January 1844

¹²⁶ Green, D. R. (1995) *From Artisans to Paupers Economic Change and Poverty in London, 1790–1860*, Scolar Press, Aldershot, pp. 45–46 and 53–57; Hoppit, J. (1987) *Risk and Failure in English Business, 1700–1800*, Cambridge University Press, Cambridge, Chapters Seven and Eight.

¹²⁷ Time has precluded the collection of bankruptcy data for other years.

Figure 3.7
Commissions of bankruptcy in Stockport and England and Wales, 1823–1849



Sources: *Stockport Advertiser* 1823–1849; *London Gazette* 1823–49; Green, D. R. (1995) *From Artisans to Paupers: Economic Change and Poverty in London, 1790–1860*, Scolar Press, Aldershot; Appendix 2.1, pp. 255–56; Marriner, S. (1980) ‘English bankruptcy records and statistics before 1850’, *Economic History Review*, Second Series, XXXIII (3), pp. 353–54. I am also grateful to Dr. David R. Green for providing me with some of his unpublished regional bankruptcy data.

Particularly noticeable are the comparatively large numbers of bankruptcies in 1826, caused by a national financial crisis arising from the failure of the private banking system. Although there were few private banks in Stockport, a downturn in the Manchester cotton markets (itself related to the financial crisis) brought a measure of distress to the town.¹²⁸ As contemporaries observed, Stockport’s economic relationship with Manchester could be a source of difficulty as well as benefit: ‘in the principal manufacture of the place, we are so evidently dependent upon the Manchester Market, that every variation in that emporium of manufacturers has its effect upon us.’¹²⁹ In April 1826, ‘hundreds’ of individuals were said to be ‘wandering the streets in idleness’ and retail traders were ‘completely at a stand’ or ‘receiving shillings where they used to receive pounds.’¹³⁰ The owners of cottage property were also said to be suffering as their investments became ‘quite unproductive.’¹³¹ The

¹²⁸ Giles, ‘Economic and social development of Stockport’, p. 354.

¹²⁹ *Stockport Advertiser*, 21 April 1826.

¹³⁰ *ibid.*

¹³¹ *ibid.*

slump of 1829 is also evident, which was exacerbated in Stockport by a nine-month turnout of 10,000 cotton operatives.¹³² During this time, some seventeen mills were forced to suspend production.¹³³ As well as picking out other depressions, such as that of the late 1830s and early 1840s (discussed below), the graph also highlights more prosperous times. Thus the ‘sweltering prosperity’ of the mid-1830s is evident, when the cotton trade reached a zenith and ‘the manufacturers of Manchester and Stockport had raised their immense new factories, had built their streets and their cottages and called in their hundreds of new labourers from country villages.’¹³⁴

The booms and slumps of the period 1823–49 are characteristic of the cyclical trends that rippled through the local economy throughout the first half of the nineteenth century. Other secondary sources permit the main temporal dimensions of this trend to be charted in the periods not covered by the bankruptcy data.¹³⁵ The turn of the century was a relatively prosperous time when the cotton trade was ‘rapidly increasing’, but by 1806 severe depression had hit the town and many of its most prominent industrialists faced bankruptcy.¹³⁶ The depression continued until 1808 and after a modest recovery returned again in 1811. A downturn also followed the end of the Napoleonic Wars in 1816 to 1817, quickly succeeded by a further slump in 1819. The years between 1820 and 1825 have been described as a ‘veritable boom period’ but they too were followed by the financial crisis of 1826–27.¹³⁷ Towards the end of the 1840s (when the bankruptcy data finishes), Stockport, along with much of the rest of the country, was wracked by another ‘dreadful and severe’ depression. Within the town, bankruptcies and failures were said to be ‘everyday occurrences’ while, locally, ‘banks and credit were shaken almost to annihilation.’¹³⁸ On the whole the 1850s were more prosperous, with free trade leading to increased exports of cotton goods. However, there was a slump in the middle of the decade and the period under consideration in this study ended with a commercial panic in 1857. Throughout the first half of the nineteenth century, then, the frequency of economic downturns in

¹³² *Stockport Advertiser*, 27 March 1829.

¹³³ *Stockport Advertiser*, 3 July 1829.

¹³⁴ *The Times*, September 1841, quoted in the *Stockport Advertiser*, 10 September 1841.

¹³⁵ Primarily, Giles, ‘Economic and social development of Stockport’, pp. 353–381 and pp. 674–675; Glen, *Urban Workers*, pp. 33–43; and Smith, C. (1938) ‘Stockport in the Age of Reform, 1822–1870; a history from a newspaper file’, Unpublished, copy in Stockport Heritage Library, pp. 280–391. On bankruptcy trends in general see Hoppitt, *Risk and Failure in English Business*.

¹³⁶ Glen, *Urban Workers*, pp. 35–37.

¹³⁷ Glen, *Urban Workers*, p. 39.

Stockport suggests that the processes of property accumulation were rarely without uncertainty. In periods of severe economic depression fortunes could be lost with alarming rapidity.

'Stockport to Let': the early-1840s depression and the depreciation of property

Winterbottom's bankruptcy of 1840 came during a period of deepening economic recession in Stockport which reached its low point in 1842. The depression was part of a national downturn in economic fortunes but it hit the industrial towns of northern England particularly hard.¹³⁹ Such was the severity of the depression that Stockport was subjected to its own parliamentary inquiry which set out to ascertain the 'extent, nature and causes of distress.'¹⁴⁰ Although similarly severe depressions were to follow in 1848 and in the cotton famine of 1861–65, the downturn of the early 1840s was remembered with notoriety for some time. Speaking in the House of Commons on 2 April 1849, the great exponent of free trade John Bright remarked that, 'from 1838 to 1841 there had been a great deterioration in property in Stockport. For instance one man who was supposed to have died worth £80,000 was found to have left property that was not worth £20,000. Another, a person supposed to be the son of a man of good property, was known to be so reduced as to receive relief from the poor rates.'¹⁴¹ Property could clearly be a hazard as well as a boon and could be lost as quickly as it could be acquired. A more detailed investigation of the early 1840s depression in Stockport will serve to highlight the sorts of conditions under which property could be lost and the town's middling sorts faced hardship and ruin.

The depression can be traced to mid-1836 when the cotton districts of Britain began to feel the consequences of the stoppage of payments by the American banks. The *Stockport Advertiser* reported that 2,000 people were unemployed.¹⁴² By May 1839 the town's principal spinners were having to work short time, reducing their hours to

¹³⁸ Smith, 'Stockport in the Age of Reform', p. 373.

¹³⁹ See, for example, the situation in Bolton outlined in Southall, H. R. and Gilbert, D. (1996) 'A good time to wed? Marriage and economic distress in England and Wales, 1839–1914', *Economic History Review*, Second Series, XLIX (1), pp. 47–50. The authors also note that the depressions of the 1840s were the first which had a national impact (p. 47).

¹⁴⁰ PP 1842 XXV *Report of the Assistant Poor Law Commissioners Sent to Inquire into the State of the Population of Stockport*, p. 158.

¹⁴¹ Quoted in Smith, 'Stockport in the Age of Reform', p. 338.

¹⁴² *Stockport Advertiser*, 16 June 1836.

forty-six a week rather than sixty-nine.¹⁴³ Such tactics saved on costs, but reduced the profitability of business so that by the December of the same year the editors of the newspaper were predicting that ‘it will be difficult for a large and respectable class of tradesmen including a portion of the cotton trade to weather the storm until next spring.’¹⁴⁴ Their predictions came true, and, by June of 1840, 1,130 horse power were said to be standing idle in the town. Over 2,000 cottages were empty and 120 shops and nine public houses were untenanted.¹⁴⁵ In December of 1841 it was said that ‘every principal street in the town is not more than a quarter occupied.’¹⁴⁶ The depth of the distress was captured by an unknown local graffiti artist who wrote on the walls in different parts of the town, ‘Stockport to let: enquire of the town clerk’!¹⁴⁷ But things were to get worse. By 1842, seventeen mills were standing, 3,000 dwelling houses were unoccupied and 150 shops were untenanted.¹⁴⁸ Property, it was remarked, had ‘depreciated to a ruinous state.’¹⁴⁹

While the bulk of the press coverage and relief efforts focused upon the unemployed operatives, it was acknowledged that ‘depression ... falls on the middle class of the town with equal severity.’¹⁵⁰ Between 1836 and 1842 some twenty-one cotton manufacturers failed and many more were declared insolvent.¹⁵¹ The effects of the depression in the textile industry quickly spread to other economic sectors within the town. With no money to spend and credit stretched to its limit, many of the shopkeepers were forced to terminate their businesses. Giving evidence to the Poor Law Commissioners in 1842, Mr. Samuel Walker, a wholesale flour, corn and provision dealer of the town, observed how ‘the small shopkeepers are now very irregular in their payments.’ He reported having ‘suffered great loss by some of them; it was only a fortnight ago that one of them failed owing me £128 ... I could name half-a-dozen who have either failed or whom I can trust no longer, and owe me from £60 to £100 each; they all of them have many bad debts.’¹⁵² Many such traders were

¹⁴³ *Stockport Advertiser*, 10 May 1839.

¹⁴⁴ *Stockport Advertiser*, 13 December 1839.

¹⁴⁵ *Stockport Advertiser*, 5 June 1840.

¹⁴⁶ *Stockport Advertiser*, 3 December 1841.

¹⁴⁷ *ibid.*

¹⁴⁸ *Stockport Advertiser*, 27 May 1842 and 5 August 1842

¹⁴⁹ *Stockport Advertiser*, 27 May 1842.

¹⁵⁰ *Stockport Advertiser*, 5 August 1842.

¹⁵¹ PP 1842 XXXV *Report of the Assistant Poor Law Commissioners*, p. 46.

¹⁵² *Op cit*, p 26.

so destitute as to be unable to pay their poor rates. In January 1842 the overseers of the poor claimed that there were 3,000 outstanding summonses for non-payment.¹⁵³ The owners of cottage property also suffered as their investments soon became a financial burden rather than a source of income. It was estimated that the value of property had depreciated by somewhere between twenty-five per cent and forty-five per cent.¹⁵⁴ In spite of the fact that so many of these properties lay empty, the payment of ground rents had to be continued while the burden of taxation dramatically increased (see Table 3.3).¹⁵⁵ Indeed, many investments became utterly unproductive with the consequence that ‘the independent gentleman, retired from the toils and anxieties of business, is as poor, according to his diminished resources, as the unemployed operative.’¹⁵⁶

Table 3.3
Stockport poor rates 1836–41

<i>Year</i>	<i>Rate in the £ (sh./d.)</i>
1836	2/6
1837	3/6
1838	4/-
1839	6/-
1840	6/-
1841	10/-

Source: Stockport Advertiser, 8 July 1842

The early 1840s depression in Stockport, like other economic downturns in the first half of the nineteenth century, stripped many of the town’s property owners of their wealth. While accumulated property was a source of pride and power, the loss of property caused profound embarrassment and could lead to social ruin. The processes of capital accumulation and middle-class consumption in Stockport were thus caught within a discursive terrain that celebrated wealth ‘as literally everything’ but associated its loss with failure and pity. The space between these positions was textured by risk and uncertainty and it is to this theme that the chapter finally turns in order to try and understand some of the ways in which social understandings of risk influenced strategies of property ownership and, ultimately, property transmission.

¹⁵³ *Op. cit.* p. 22; See also *Poor Law Union Papers Stockport Union* (Correspondence with Central Poor Law Commissioners) 1841–42; Public record Office (PRO) MH12/1139 see various correspondence pp. 694–776.

¹⁵⁴ PP 1842 XXXV *Report of the Assistant Poor Law Commissioners*, p. 29.

¹⁵⁵ *Stockport Advertiser*, 18 March 1842.

¹⁵⁶ *Stockport Advertiser*, 11 March 1842

Coping with risk and uncertainty

The Geography of risk and uncertainty

The risks and uncertainties that Stockport's middling sort faced in their quest to accumulate property were, at least in part, a product of the widening geographies of economic activity that were a feature of industrialisation in the early-nineteenth century. While the supply of raw materials from distant lands and the growing demands of overseas markets provided Stockport manufacturers with new opportunities for making money, the internationalisation of capitalist production also brought increased risks and added a degree of uncertainty to business activity.¹⁵⁷ Manufacturers were well aware that their own fortunes rested upon what happened in places far away from Stockport as well as upon events closer to home. Thus, when cotton manufacturer Robert Gee was asked by visiting Poor Law Commissioners to identify the reasons for Stockport's economic depression in 1840s, he outlined a 'complication of causes' from the local to the global. In his view, the failure of various local cotton manufacturers had, in part, been caused by the paying of higher wages in Stockport than in other localities. 'In prosperous times,' he remarked, 'this did not very materially injure us; if we made a moderate profit we were content ... but, when trade became depressed the difference became ... vital.'¹⁵⁸ However, he also recognised that the depressed state of the industry had wider origins, remarking that 'the war in China, the disturbances in Canada, and the monetary derangements in the United States, have all tended to injure our trade, at the very time that, owing to an influx of capital into the business, and the consequent erection of new mills and machinery, the production was greatly increased.' He continued, 'a succession of bad harvests ... have materially affected ... home consumption, thereby forcing our manufacturers into foreign trade.'¹⁵⁹

The geographies of accumulation for cotton manufacturers in Stockport were thus shaped by local, national and global processes. More significantly, as Gee's

¹⁵⁷ This point finds broad theoretical support in the recent work of Ulrich Beck and Anthony Giddens on the theme of risk. However, both Beck and Giddens have generally applied such arguments to the analysis of the impact of globalisation on contemporary societies. Indeed, Beck's work seems strangely ahistorical in its attempt to portray risk as essentially a feature of advanced capitalist societies. See Beck, U. (1992) *Risk Society: Towards a New Modernity*, Sage, London and Giddens, A. (1991) *Modernity and Self-Identity: Self and Society in the Late Modern Age*, Polity Press, Cambridge.

¹⁵⁸ PP 1842 XXXV *Report of the Assistant Poor Law Commissioners*, p. 130.

comments reveal, the fortunes of the cotton sector relied upon a ‘complication’ of causes, so that processes occurring at a variety of different geographical scales impacted upon each other in an increasingly complex fashion. Thus, Gee points out that the expansion of production in the manufacturing districts coincided with falling domestic demand and political and financial instability in China and North America. This contingent collusion of events at a variety of geographical scales led, in Gee’s view, to the depression. While not all economic activities in the town were so geographically far-reaching in outlook, the pivotal role of the cotton industry in Stockport ensured that most sectors of the local economy were tied into this widening geographical web of production and consumption. To a large degree, then, it was this geographical context to economic activity that made the accumulation of property a risky and uncertain business.

Thinking globally, acting locally?

In spite of the fact that some economic historians doubt the existence of a business cycle prior to the second quarter of the nineteenth century, contemporaries were well aware that the economy fluctuated in a cyclical fashion and that this could have a profound effect on business and profitability.¹⁶⁰ Writing in the 1840s, Thomas Carlyle noted how English commerce suffered ‘convulsive fluctuations’ that made business life ‘a bewilderment’.¹⁶¹ Closer to Stockport, the local newspaper was keenly alive to the fact that the fortunes of the town depended upon the oscillations of the economy. In times of distress the paper searched in vain hope for the inevitable upturn in fortunes that it believed would eventually occur.¹⁶² However, in spite of some knowledge of the temporal instability of the trade cycle, acting upon the geographies of risk and uncertainty was difficult. There was little Stockport manufacturers or shopkeepers could do to prevent war in China or to maintain stability in the American banking system. Likewise, more random occurrences like bad harvests, fires or riots, could not be predicted. Knowledge of commodity chains could help in reckoning some of the risks of production and, in this respect, the *Stockport Advertiser* along with other local commercial newspapers, or national journals like the *London Gazette*,

¹⁵⁹ *ibid.*

¹⁶⁰ Hoppit, *Risk and Failure in English Business*, p.116.

¹⁶¹ Carlyle, T. (1843) *Past and Present*, Chapman and Hall, London, p. 18, quoted in Hoppit, *Risk and Failure in English Business*, p. 116.

¹⁶² See, for example, the editorial of the *Stockport Advertiser*, 19 June 1843.

were important sources of information about creditors, debtors and markets. However, this knowledge could never eliminate risks and, to a certain degree, the uncertainty attendant on the processes of property accumulation was just accepted.

While risk-taking was an important economic strategy of the nineteenth-century urban middling sort, risk avoidance was of equal concern. Indeed, the search for security was a pressing counterbalance to the desire to accumulate.¹⁶³ The tasks of recognising, coping with and minimising the risks and uncertainties of a fluctuating economy were thus a crucial part of the process of accumulating property. Such ‘coping strategies’ took on a variety of different forms but often, at least within some sectors of the middling sort, they tended to be local in outlook and effect. For while there was little that could be done about ‘distant risks’, it was possible, at least to some extent, to control, manage and bring order to more local environments. The ordering of ‘the local’ and the exporting of risks elsewhere were arguably defining features of nineteenth-century, middle-class attitudes to property ownership.¹⁶⁴ Geoffrey Crossick, for example, has argued that the desire to increase economic security prompted a very ‘localist’ outlook on property among the petite bourgeoisie of industrialising Europe.¹⁶⁵ More specifically, he suggests that a key feature of petit-bourgeois economic activity was the switching of profits from business into investments like local real estate which were seen as less risky and a more visible symbol of proprietorial success. It was clearly easier to acquire knowledge about the conditions that might affect the value of locally invested fortunes. There was also greater scope within the locality to exercise control over wealth creation and even to resist, through co-operation with other property owners, potential threats to the security of property. A range of evidence from Stockport demonstrates the ways in which local strategies attempted to limit the risks and uncertainties that impinged upon the ownership of property. Two examples illustrate the point. The first looks at how state attempts to interfere in the process of property registration were resisted in Stockport, focusing on the conflation of the locality with security in the discourses of resistance. The second example examines how, through collective local association,

¹⁶³ Hoppit, *Risk and Failure in English Business*, p. 16. See also Simon Gunn’s discussion of Victorian discourses of middle-class property ownership which frowned upon the rampant and speculative accumulation of wealth. Gunn, ‘The Manchester middle class’, pp. 165–169.

¹⁶⁴ This theme of ‘ordering’ draws upon Sennett, R. (1971) *The Uses of Disorder*, Faber and Faber, London, Chapter Seven.

property owners sought to protect wealth and diminish risk and uncertainty.

In February 1831 the *Stockport Advertiser*, proud in its role as a defender of the 'commercial interest', reported on a bill about to be laid before Parliament that it felt was 'monstrous' in its implications for the 'freeholder or the monied man ... engaged in agriculture or commercial pursuits.'¹⁶⁶ The bill in question proposed the establishment of a General Registry Office in London for 'all deeds and instruments affecting real property in England and Wales.'¹⁶⁷ In predictably Benthamite terms, those who supported the bill argued in favour of the utility of the measure claiming that the registration of deeds would add greatly to the security of property.¹⁶⁸ It was thus primarily a proposal aimed at diminishing the risks involved in the conveyance of real estate. However, within Stockport there was strong opposition to the bill from Whigs and Tories alike, and in February 1832 a meeting of 'numerous' of the town's freeholders under the chairmanship of Mr. J. K. Winterbottom (the incumbent mayor) petitioned the government against the measure.¹⁶⁹

There were a number of objections to the bill including a fear that it would increase the time and costs involved in the conveyance of property. An important source of this kind of opposition was local solicitors, like Aaron Eccles of Marple, who feared that he might lose business to London attorneys.¹⁷⁰ Some went as far as to claim that it was a scheme intended to provide for the 'briefless barristers and clientless attorneys' of the cities of London and Westminster 'at the public expense'.¹⁷¹ However, a more significant source of hostility came from those who refuted the bill's central claim that the registration of deeds in a single building in London would add to the security of property. The petitioners argued that 'the defects of the present system of conveyancing do not result from the want of, and cannot be remedied by the establishment of a General Metropolitan Registry', and believed that 'by experience, they are fully warranted in stating that the local knowledge of parties and their solicitors with ordinary skill and care, is sufficient even under the present conditions,

¹⁶⁵ Crossick, 'Meanings of property'.

¹⁶⁶ *Stockport Advertiser*, 18 February 1831.

¹⁶⁷ *ibid.*

¹⁶⁸ *Stockport Advertiser*, 16 May 1834. On the measure see PP 1830 XVI *Real Property Commission: Second Report: General Register of Deeds*.

¹⁶⁹ *Stockport Advertiser*, 17 February 1832.

¹⁷⁰ *ibid.*

to insure safety in transactions relating to real property.¹⁷² As well as being dismissed as an attempt at ‘metropolitan aggrandisement’, one commentator mockingly argued that a Metropolitan Registry would be a ‘large and defenceless building ... where the said title deeds may at any time be either seized, burnt or destroyed at the pleasure and caprice of a London mob.’ Another correspondent feared that if there was ever a revolution in England the depository in London ‘would invite the first blow.’¹⁷³ Some felt that the very act of dealing with Londoners would inevitably increase the risks involved in the conveyance of property. One self-styled ‘Cheshire Freeholder’ wrote to the *Stockport Advertiser* warning that, ‘from its great and vast extent and population, London affords greater facilities for fraud and concealment than any other place in this kingdom, as a man must frequently do business there with people whose previous character and circumstances are in a great measure unknown to him.’¹⁷⁴ Moreover, opponents to a later version of the bill which came before Parliament in the spring of 1834, felt it ‘unjust’ and ‘un-English’ that ‘family settlements and the encumbrances which the landowner may have occasion to charge on his property, should be thus published to the world, probably to his ruin.’¹⁷⁵ In a pamphlet outlining his objections to the measure, Sir Edward Sugden captured the sentiments of many of Stockport’s ‘commercial freeholders’, remarking that ‘an Englishman likes to have his “sheepskins” in his own box in his own castle.’¹⁷⁶

The local storage of deeds kept the possession of property a private affair and thus prevented others from knowing exactly how much, or how little, an individual owned. This level of secrecy provided a basis for the democratisation of property ownership, whereby the smallest freeholder ranked alongside the greatest landowner as a ‘man [sic] of property’. This was crucial to families of small wealth in urban communities like Stockport who were desperate to prove their worth within the constantly shifting moral economies of property ownership. The ‘publication’ of deeds through the General Registry might therefore undermine social status and, as was more generally

¹⁷¹ *Stockport Advertiser*, 16 March 1832.

¹⁷² *Stockport Advertiser*, 17 February 1832.

¹⁷³ *Stockport Advertiser*, 2 May 1834.

¹⁷⁴ *Stockport Advertiser*, 19 August 1831.

¹⁷⁵ *Stockport Advertiser*, 18 February 1832.

¹⁷⁶ Sugden, E. B. (1834) *Cursory Notes on a General Register*, London; extracted in *Stockport Advertiser*, 2 May 1834.

feared, damage the creditworthiness of commercial families.¹⁷⁷ Indeed, as the correspondence regarding the General Registry Bill also reveals, the local storage of deeds enabled individuals to act more flexibly in meeting the exigencies of property accumulation in urban communities like Stockport. An editorial in the *Stockport Advertiser* noted how, in times of distress, freeholders could be afforded some relief ‘by their bankers or monied friends with a mere deposit of their deeds.’¹⁷⁸ To many of the town’s commercial freeholders deeds were, therefore, not simply registrations of property. They had a more significant practical and symbolic importance which made them part and parcel of the struggle to make a living in the town. In short, the local ownership of deeds helped Stockport’s commercial freeholders to survive some of the risks and uncertainties of the early-Victorian economy.

The second example involves the way in which urban property owners used the social fabric of the locality to protect their property through the establishment of bodies like manufacturers trade societies and cottage property associations. Such organisations were common within industrialising towns. In 1838, a few years after the General Registry Bill saga, Stockport’s ‘commercial freeholders’ formed their own cottage property association. According to its founder, timber merchant Mr. Joseph Wildgoose, the organisation aimed to encourage ‘the owners of property to co-operate in such an object as to promote good understanding amongst each other in mutual protection against unprincipled tenants and even dishonourable landlords.’¹⁷⁹ He believed that ‘small freeholders’ were the ‘backbone of the nation’ and thought it imperative that they co-operated to ensure that their interests were not damaged. The organisation attempted to act upon a variety of events that it considered threatened the well-being of their property. One key role was to co-operate against tenants whose attempts not to pay rents, or propensity to damage property, were turning the ownership of real estate into a burden rather than a boon. In a period of deepening economic depression, the organisation offered a way of trying to resist downward pressures upon profitability and ensure the consistency of payment of rentier incomes. But, as Wildgoose’s comments illustrate, the threats to the productiveness of a commercial freeholder’s real estate were perceived to extend beyond ‘unprincipled’

¹⁷⁷ Buck, A. R. (1995) ‘Property, aristocracy and the reform of the land law in early nineteenth-century England’, *Journal of Legal History*, 16 (1), p. 82.

¹⁷⁸ *Stockport Advertiser*, 4 April 1834.

tenants who might avoid paying their rents or damage property. ‘Dishonourable’ landlords were also recognised as a potential threat to the security of investments, blackening the reputation of fellow freeholders. The association was also active in resisting what it saw as broader threats to the security of real estate in Stockport. Thus, in 1838 it vigorously petitioned parliament against Sir Harry Verner’s rating of tenements bill, which it saw as a fundamental and unfair intrusion upon the rights and livelihoods of small freeholders.¹⁸⁰ Interestingly, much of the opposition focused on the inequities of taxing small-scale freeholders and not those with other investments such as public funds. Thus, Stockport’s cottage property association performed an important role in trying to maintain the security of investments at a local level. To its members, it offered a viable way of trying to control economic fortune.

Clearly, the two examples provided here of the way in which local strategies were used in an attempt to avoid some of the risks and uncertainties of property accumulation, relate to a specific kind of property and particular segments of Stockport’s middling sort. Other examples could have examined the ways in which businesses attempted to manage risk through predominantly local strategies. Space precludes further consideration of these matters which remain, in general, under-researched. However, it is clear from the examples provided that the accumulation of property among Stockport’s middling sort was a thoughtful and active social process that involved creatively avoiding risks as much as taking them.

Risk, opportunity and property transmission

This desire to control, protect and order property was not just something that mattered at the community level. Even more narrowly, among family and kin, there was extensive scope – particularly, though not exclusively, among male members of the middling sort – for the careful stewardship, maintenance and transmission of property. The domestic sphere was a key site of authority for the Victorian middling sort. An important piece of property in its own right, the home was a space that could be heavily imbued with its own moral economies and could – in spite of the material realities that linked it to other spheres of middling-sort life – be kept ideologically

¹⁷⁹ *Stockport Advertiser*, 2 February 1838

¹⁸⁰ *Stockport Advertiser*, 2 February 1838. This bill proposed the imposition of a tax upon the owners of cottage houses of £20 and under.

separate from the more risky world of business. As Searle has recently argued, ‘the dominant ideology of mid-Victorian Britain ... presented the family and the home as the social agencies that would civilise the ruthless, competitive, cut-throat world of business, or at least provide a much needed refuge from the commercial pressures.’¹⁸¹ For the middling sort, the domestic sphere was, therefore, a space where a measure of security could be achieved.

One important way in which property could be controlled within these more local confines was through will making and inheritance. While the transmission of property through inheritance was not restricted to the domestic sphere, evidence presented later in this thesis suggests that close family were the main recipients of testamentary gifts. Making a will was essentially a strategy for setting this domestic world in order. A will served as a public statement of existing property relationships and acted as a vehicle by which the future uses of property could be dictated.¹⁸² It also had wider ramifications which made it more fully a part of the struggle to make a living amongst Stockport’s middling sort. As is argued in chapter five, the disposal of property by will had an important symbolic role within a town where wealth was ‘literally everything’. Above all else, making a will indicated some form of proprietorial achievement. It announced publicly that an individual had property to transmit and that they could exercise power over its transmission. In short, will making indicated authority. But will making also had some more pragmatic uses. It helped to diminish some of the risks and uncertainties of property accumulation within the family. As a device for settling property it aimed to prevent disagreements about claims upon estate and provided some degree of protection for family property from hungry creditors. According to Abbott, the division of family estate by will – a feature of the inheritance practices of the middling sort – ‘may have been an insurance against the high casualty rates among professional and business men.’¹⁸³ Such inheritance regimes provided a measure of proprietorial security for all beneficiaries and ensured that family fortunes could not be wiped out by any single legatee. Thus inheritance can, in part, be viewed as a local form of risk avoidance within the context of a

¹⁸¹ Searle, G. R. (1998) *Morality and the Market in Victorian Britain*, Clarendon Press, Oxford, p. 153. See also Davidoff and Hall, *Family Fortunes*, pp. 321–454.

¹⁸² Finch, J. and Wallis, L. (1993) ‘Death, inheritance and the lifecourse’, in Clark, D. (ed.) *The Sociology of Death*, Blackwell Publishers in association with The Sociological Review, Oxford, p. 64.

¹⁸³ Abbott, M. (1993) *Family Ties: English Families, 1540–1920*, Routledge, London, p. 100. These issues are

turbulent local economy. However, as will be revealed in later chapters, inheritance also conferred opportunities upon beneficiaries, allowing them to take risks and secure some of possibilities for wealth accumulation within Stockport's economy.

Conclusion

This chapter has sought to map out the broad economic context within which property transmission in Stockport took place. It has shown how the lives of Stockport's middling sort were wrought with tensions which surrounded the process of accumulating property. On the one hand the town offered a multitude of opportunities for generating wealth which could, in turn, bring success, fame and fortune. Its accumulation and display engendered a sense of pride and became a source of power, influence and status. But beyond this, property also constituted a problem and a tension. If it was lost it could become a big source of embarrassment and lead to slippage down the social hierarchy. Within Stockport the geographical and temporal instability of the economy meant that there were numerous occasions when wealth could quickly disappear. Because of this, property had to be looked after carefully and the process of accumulating wealth among Stockport's varied middling sort became a judicious mix of taking and avoiding risks. To contemporaries, as Simon Gunn has recently observed, the key indicator of masculine proprietorial success was not the ability to amass a large fortune.¹⁸⁴ Rather, it was the good stewardship of property that mattered. An ordered accumulation of wealth and a careful maintenance of assets was seen as the most worthy way of becoming a 'man of property'. Making a will was part of this process of good stewardship. More broadly, inheritance needs to be recognised as part and parcel, rather than separate from, the economic and social processes described in this chapter. Indeed, it is against these understandings of property ownership amidst the material realities of making a living in Stockport that the inheritance strategies of the town's men and women need to be viewed. First, however, attention turns to legal matters. The next chapter moves from the local to the national scale in order to explore the shifting legal infrastructures within which property transmission took place.

considered in more detail in Chapters Six and Seven.

¹⁸⁴ Gunn, 'The Manchester middle class', pp. 165–168.

CHAPTER FOUR

Inheritance, property and the geographies of law reform in England and Wales, 1830–1857

Introduction

Inheritance was a legal process and its meaning, importance and significance owed much to its identification as such. Therefore, an obvious way to begin to understand the social relations of property transmission is through an examination of the laws and legal structures which provided a context for it. This chapter attends to this task by focusing on the reform of the wide-ranging, complex and overlapping legal jurisdictions which governed the processes of property transmission at death. In the early-nineteenth century the transmission of property was frequently fraught with delay, expense and inefficiency. In the second quarter of the nineteenth century, contemporary unease mixed with growing agitation for change led to a major programme of reform which touched many aspects of the legal machinery relating to the transmission of property at death.¹ This chapter focuses upon two elements of that reform which had a crucial bearing on testamentary disposition: the Wills Act of 1837 and the 1857 Court of Probate Act.² The former streamlined and simplified the rules for making wills and generally extended the testamentary freedom of adult male property owners. The Court of Probate Act removed a complex judicial system of some 380 different ecclesiastical and peculiar courts which claimed the right to grant probate, the official authentication or ‘proving’ of a will of personal property, and replaced it by a single new civil testamentary court.

Little has been written about either measure, though historiographically both tend to be located within the ‘reform mania’ of the 1830s and celebrated as part of

¹ In general see Holdsworth, W. (1965) *A History of English Law*, Volumes XIII–XVI, Methuen and Co., London.

MacDonagh's 'revolution in government' which, through a series of state interventions into civil society, removed the 'intolerable nuisances' of the *ancien regime* and replaced them with modern, centralised administrative institutions.³ Thus, legal historian A. H. Manchester describes the reform of the ecclesiastical courts as 'part of that remarkable nineteenth-century achievement which transformed England's age old institutions of both church and law into modern bodies.'⁴ Much of what has been written more generally on nineteenth-century law reform traces its genealogy to Jeremy Bentham and his energetic political disciples like Henry Brougham and James Humphreys.⁵ Manchester claims, for example, that the reform of the ecclesiastical courts was the 'work of several interests and many men ... Jeremy Bentham was its intellectual eminence whose practical method provided a suitable framework for the highly respectable middle-class aims of reformers. And in Brougham reform had one of its most powerful and lucid political champions.' Although he highlights other factors that influenced the course of reform, such as pressures from those who wanted a 'wedge driven in to sever the church from the state', his account, like those of others, tends to focus more on the personalities of reform than its broader social and economic context.⁶ Not only is this 'internalist' legal history discernibly Whiggish in outlook, it also exaggerates the role of key individuals.⁷ A. R. Buck, for example, has argued that it is erroneous to assert Bentham's influence on land law reform, claiming that the impetus for legal changes came initially from conservative sources and were

² 1 Victoria c. 26 and 20 & 21 Victoria c. 77, respectively.

³ Although the Court of Probate Act did not reach the statute book until 1857 the momentum for reform had begun much earlier. Oliver MacDonagh's classic essay is: MacDonagh, O. (1958) 'The nineteenth-century revolution in government: a reappraisal', *The Historical Journal*, 1 (1), pp. 52–67. A discussion of the reform of property law in general during this period can be found in Dicey, A. V. (1962) *Law and Public Opinion in England During the Nineteenth Century*, 2nd Edition, Butterworths, London; Offer, A. (1980) *Property and Politics, 1870–1914*, Cambridge University Press, Cambridge, Chapter Two; and Simpson, A. B. (1986) *A History of the Land Law*, 2nd Edition, Clarendon Press, Oxford. On reform of ecclesiastical courts and the Wills Act see: Buck, A. R. (1995) 'Property, aristocracy and the reform of land law in early nineteenth-century England', *Journal of Legal History*, 16 (1), pp. 69–70; Holdsworth, *A History of English Law*, Volume XV; Manchester, A. H. (1966) 'The reform of the ecclesiastical courts', *American Journal of Legal History*, 10 (1), pp. 51–75; idem. (1968) 'The principles and rules of ecclesiastical law and matrimonial relief', *Sydney Law Review*, 6 (1), pp. 25–38; idem. (1980) *A Modern Legal History of England and Wales, 1750–1950*, Butterworths, London, pp. 143–144; Squib, G. D. (1977) *Doctors' Commons: A History of the College of Advocates and Doctors of Law*, Clarendon Press, Oxford, Chapter Eight; and Waddams, S. M. (1992) *Law, Politics and the Church of England: The Career of Stephen Lushington 1782–1873*, Cambridge University Press, Cambridge, pp. 1–62.

⁴ Manchester 'The reform of the ecclesiastical courts', p. 51.

⁵ The classic example is Dicey, *Law and Public Opinion*.

⁶ Manchester 'The reform of the ecclesiastical courts', pp. 51–52. The quote is taken from a speech made in the House of Commons by Sir R. H. Inglis in 1843 who opposed reform; *Hansard*, 3rd Series LXVIII (1843) col. 800.

⁷ A re-assessment of the role of key individuals in the growth of nineteenth-century government and a critical examination of historiographical explanations for reform more generally can be found in Hartwell, R. M. (1994) 'Entrepreneurship and public inquiry: the growth of government in nineteenth-century Britain', in Thompson, F. M. L. (ed.) *Landowners, Capitalists and Entrepreneurs Essays for Sir John Habakkuk*, Clarendon Press, Oxford,

instigated by the Tory administration of the late 1820s under Sir Robert Peel.⁸ Support for this claim can be found in the debates that surrounded plans to radically reform the ecclesiastical courts. One pamphleteer, writing in 1832, noted that ‘such proposals have come not only from those who might be considered “innovators” but also from distinguished persons well known to entertain deep respect for “established institutions and ancient usages.”’⁹

However, the aim of this chapter is not to challenge existing historiography by tracing the reform of the ecclesiastical courts and the modifications made to the law of wills to a set of individuals of a different political persuasion. Rather, the objective is to explore and emphasise a different set of explanations which see the changes as being driven by a desire to meet the exigencies of property transmission in an increasingly commercial age.¹⁰ More specifically, it will be argued that the reforms stemmed from an urge to protect and enhance the rights of certain property owners. Significant among these property owners was the growing middling sort of industrialising towns like Stockport. The chapter recognises the increasing proprietorial significance of this group as an important stimulus for reform. Such a view finds broad parallels in the recent work of Eddie Higgs on the origins of civil registration in England and Wales.¹¹ Arguing against the orthodox historiographical view that the establishment of civil registration and the General Register Office under the 1836 Registration Act was driven by forces of secularisation or the needs of a growing public health movement, Higgs contends that these measures were primarily designed to bolster the security of titles to property. Thus, he claims, quoting the pre-amble to an earlier bill of 1824, that civil registration was born to overcome the ‘great expense and inconvenience in tracing pedigrees and in investigating and completing titles to real and personal

pp. 193–211.

⁸ Buck, ‘Property, aristocracy and the reform of the land law’, p. 63.

⁹ Gale, S (1833) *Inquiry into the Origin, the Progress, the Actual State, and the Attempted Reforms of our Testamentary Jurisdictions, Ecclesiastical and Lay*, reprinted in the appendix of PP 1833 XXII *Law of Real Property, Fourth Report: Wills*, p. 168.

¹⁰ On the relationship between the changing nature of property ownership and legal development see Lieberman, D. (1995) ‘Property, commerce and the common law: attitudes to legal change in the eighteenth century’, in Brewer, J. and Staves, S. (eds.) *Early Modern Conceptions of Property*, Routledge, London, pp. 144–158.

¹¹ Higgs, E. (1996) ‘A cuckoo in the nest? The origins of civil registration and the state of medical statistics in England and Wales’, *Continuity and Change*, 11 (1), pp. 115–134. A similar property-centred interpretation of legal reform is provided by R. J. Morris in his account of the reform of married women’s property law. See Morris, R. J. (1994) ‘Men, women and property: the reform of the Married Women’s Property Act 1870’, in Thompson, F. M. L. (ed) *Landowners, Capitalists and Entrepreneurs Essays for Sir John Habakkuk*, Clarendon Press, Oxford, pp. 171–191.

property' that was intrinsic to the parochial registration system.¹² Echoing the earlier work of MacDonagh and others, Higgs argues that these reforms were part of a process of institutional state formation whereby 'the middle classes took advantage of the economies of scale inherent in the state to achieve the security of property which the aristocracy of the *ancien regime* obtained via their muniment rooms and antiquaries.'¹³ Thus he firmly relocates debates about nineteenth-century legal reform around the themes of modernity and state formation.

This chapter seeks to explore these ideas further by looking in detail at the process of the making of the 'modern' state and, more specifically, a 'modern' system of property transmission, through the legal transformations inherent in the reform of the ecclesiastical courts and the law of wills. Implicit in this is a recognition that 'the law' was a vital part of the state apparatus, through which the boundaries between the state, civil society and the individual were negotiated and defined.¹⁴ Faced with new forms of property, new modes of ownership, new systems of transfer and, embodied in the middling sort, a new group of property owners, this chapter looks upon reform as process of negotiation through which a 'modern' system of property transmission, consciously taking account of these new conditions, was forged. The criticism of existing laws and the debates and stages of reform illuminate something of the contested nature of this process of negotiation, exposing the key issues around which the process of modernisation revolved. The chapter will therefore examine three key reforming themes: the search for a secure and universally acceptable method for executing wills; the contentious debates surrounding legal jurisdiction over testamentary disposition; and concerns about systems of document registration, storage and access.

In carrying out this task two further subsidiary issues are emphasised. The first concerns the representation of legal reform as a process of state formation and modernisation which has been hinted at above. The conflation of early-Victorian legal reform with state modernisation is a feature of much of the 'traditional' legal historiography of the period and enjoys tacit acceptance by Higgs in his re-

¹² Higgs, 'A cuckoo in the nest?', p 119.

¹³ *ibid.*, p 122.

¹⁴ On these themes see Ogborn, M. J. (1993) 'Law and discipline in nineteenth-century English state formation:

interpretation of the establishment of the civil registration system.¹⁵ Yet, to critically tie such historical claims to heavily contested concepts like ‘modernity’ without invoking Whiggish notions of ‘evolutionary functionalism’ that often characterise the writing of legal history is a difficult task.¹⁶ The implied understanding of modernity in this context is that it is a totalising concept – a progressive force with unstoppable momentum that swept through the legal institutions of nineteenth-century society modernising everything in its path. This is a problematic perspective since it neglects or obscures the geographical and historical context of such transformations, does not recognise the contested negotiation of reform, and ignores the spatial and temporal unevenness of change. As later sections of this chapter reveal, the creation of an appropriate legal framework for the transmission of property was an uncertain process and not simply the outcome of some irrepressible modernising impetus. However, the vocabulary and themes of centralisation, secularisation and rationalisation, powerfully associated with particular theoretical understandings of the concept of modernity, feature prominently in the debates that surrounded the reforms. Furthermore, just as ‘the modern’ is often associated with that which is chronologically new, so the reforms were frequently depicted as modern because of their novelty and because, in the case of the abolition of the ecclesiastical courts, they led to the replacement of a system of legal jurisdiction ‘instituted in the dark ages’.¹⁷ More broadly, the reforms point towards Weberian notions of modernisation which stress the theme of state formation through bureaucratisation. So in spite of the dangers of reifying modernity as a totalising process which imposes a constraining linearity upon the history of legal reform, it seems inappropriate to abandon the concept altogether. Therefore this chapter will retain an interest in the theoretical utility of ‘modernity’ but will seek to understand it as an historically and geographically grounded phenomenon emerging from an active and reflexive process of social negotiation. As Miles Ogborn succinctly puts it, the aim is to explore the ‘contingent and uncertain making of modernity.’¹⁸ The central concern is thus to examine the modernisation of the machinery of succession as a process through which the relationships between people,

The Contagious Diseases Acts of 1864, 1866 and 1869’, *Journal of Historical Sociology*, 6 (1), pp. 28–55.

¹⁵ Higgs, ‘A cuckoo in the nest’.

¹⁶ On writing historical geographies of modernity, see Ogborn, M. J. (1998) *Spaces of Modernity: London's Geographies, 1680–1780*, Guilford Press, New York, Chapter One. This paragraph draws on the critique of the concept of modernity discussed in that chapter.

¹⁷ The quote comes from Bruce, W. D. (1854) *An Account of the Present Deplorable State of the Ecclesiastical Courts of Record; With Proposals for their Complete Reformation*, Henry Adams, London, p. 47.

property and the state were renegotiated in an era of profound economic and social change.

Leading on from this, a second subsidiary theme that the chapter will emphasise is that of the geographies of reform. Geography was central to the process of reform in a number of ways. Firstly, it is possible to argue that the reforms were driven by the increasing geographical mobility of property and its transmission. Secondly, the transformations wrought by the reforms produced new geographies through the reorganisation (or modernisation) of the legal spaces of nineteenth-century England and Wales. These geographical transformations which centred on the arrangement of jurisdictions and the control, organisation, access and circulation of information relating to property transmission were the cornerstone of the debates that surrounded reform and were pivotal to its claim to be modernising. Thus, ultimately, the chapter concerns the production of space, in this case a 'modern' space of the state designed to regulate and facilitate the transmission of property.¹⁹

Within the overall context of this thesis the chapter serves a number of purposes. Firstly, a discussion of the legal background to testamentary disposition will help to clarify and elucidate the local studies of will making and inheritance practices in Stockport that appear in later chapters. Secondly, it will provide a modest contextualisation of the predominantly local focus of the thesis by examining some of its key themes and questions at national level. Thus, like chapter three, it asks the question: how did individuals react and deal with the risks and opportunities brought by the new forms of property that accompanied industrialisation? While that chapter looked at predominantly local, small scale, or individual strategies for coping with property ownership (a theme that will be returned to in later chapters) this one explores the 'collective' state response to these risks and opportunities as enacted through a crucial part of the state's apparatus – the law. The chapter also addresses another key theme explored elsewhere in the study – the role of property and inheritance in understanding the distinction between the public and the private within the world of the middling sort. In particular, it investigates the way in which the private transmission of property became a matter of public concern. Finally, the

¹⁸ Ogborn, *Spaces of Modernity*, p. 162.

chapter considers what the reform of the machinery of succession reveals about the increasing social and political visibility of the middling sort within nineteenth-century society. So while the focus is, in geographical terms, considerably broader than other chapters, the study of the changing legal context to property transmission is pursued in order to cast further light on the project's central themes of property, inheritance and the middling sort. While the process of reform can only fully be understood through an analysis of the concerns that drove it, the complexity of the legislative programme makes it necessary to begin by providing a straightforward narrative of the various changes that were proposed and instigated. Thus, before embarking upon a discussion of the reforming themes outlined above, the next section briefly examines the legislative course of reform.

'Cleansing the Augean stables': the course of reform

The Ecclesiastical Courts

On 25 August 1857 royal assent was given to the Court of Probate Bill.²⁰ By this measure ecclesiastical and peculiar jurisdiction over matters relating to testamentary disposition were abolished.²¹ An intricate judicial system of some 380 different courts was replaced by a single new civil Court of Probate which came into operation on 12 January 1858. However, numerous attempts to alter, improve or abolish the testamentary jurisdiction of the ecclesiastical and peculiar courts had been instigated in the years preceding the 1857 Act. The existing legal infrastructure was widely considered to be chaotic, outdated, corrupt and inefficient. Specific concerns related to the lack of uniformity of legal practice, the way in which the courts' personnel were appointed to and held offices, the poor storage of testamentary documents, and the incompatibility of the ecclesiastical courts system with the rest of the legal institutions of nineteenth-century England.²² Yet few nineteenth-century reforming programmes took as long to come to fruition as the reform of the ecclesiastical

¹⁹ See again Ogborn, *Spaces of Modernity*, especially pp. 17–22.

²⁰ 20 and 21 Victoria c. 77; See *Journal of the House of Lords* LXXXIX (1857) pp. 52, 65, 355, 375–382, 389, and 433, for final amendments to the bill and royal assent. See also Camp, A. J. (1974) *Wills and their Whereabouts*, published by the author, London, p. xxxii.

²¹ A peculiar jurisdiction was one where the ordinary authority of the church courts was challenged or superseded by another court, ecclesiastical or lay, with jurisdiction to grant probate. Usually exercising a jurisdiction over a geographically limited area, peculiar courts might claim authority over a particular parish, manor, borough, college university or jurisdiction granted by a royal prerogative. In 1828 there were said to be 285 peculiar courts of various types. See PP 1828 XX, *Returns of Courts and other Authorities in England Empowered to Grant Probates of Wills and Letters of Administration, Number of Causes in Courts which Exercise Ecclesiastical Jurisdiction in Canterbury and York, 1824* 26, pp. 134–135.

courts.²³ Speaking in the Commons in 1856, the year before the passing of the Act, a reform weary William Gladstone stood up before the House and remarked:

the proceedings in one year after another have taken a form nearly identical that one can almost stereotype the speeches delivered there. Some Hon. Gentleman, gets up in the early part of the session and declares that the Ecclesiastical Courts are no better than an Augean stable, and, in answer to him, either the Leader of the House or one of the Law Officers of the Crown rises and, amidst the most enthusiastic cheers, says that it is time that the Augean stable was swept ... But when the Bills come to be discussed, the Gentlemen who are so fond of introducing them immediately fall foul of one another ... Chancery jurisdiction ... Common Law jurisdiction ... County Court jurisdiction ... a separate Court of Probate.²⁴

So while there was considerable support for a reforming programme, Sir Robert Peel said the ecclesiastical courts were recognised as ‘a great and an admitted evil’, there was widespread, partisan and legislatively destructive disagreement over what form of legal jurisdiction should replace the courts.²⁵ The result was that at least fourteen different bills attempting to reform the testamentary jurisdiction of the ecclesiastical courts came before Parliament in the years between 1835 and the Court of Probate Act of 1857.²⁶

There had been a number of failed efforts at reform since the late-sixteenth century, but the first attempt of the nineteenth century came in the form of a bill brought to Parliament in 1812 by Sir Walter Scott.²⁷ His measure for ‘the better regulation of the Ecclesiastical Courts in England’ proposed the abolition of the inferior ecclesiastical jurisdictions and the transference of their business to a limited number of diocesan courts.²⁸ However, opposition from ecclesiastics in the House of Lords ensured that the bill that was finally passed did nothing to alter the testamentary jurisdiction of the ecclesiastical courts.²⁹ The real impetus for reform came in the early 1830s when two Royal Commissions and a Select Committee all made reports that included

²² Full consideration of the reasons for reform can be found in later sections of the chapter.

²³ In general see Manchester, ‘The reform of the ecclesiastical courts’.

²⁴ *Hansard*, 3rd Series CXXXXII (1856) col. 455. Quoted in Manchester, ‘The reform of the ecclesiastical courts’, p. 72.

²⁵ *Hansard*, 3rd Series, LXVIII (1843) col. 1082. Some of these ‘great and admitted evils’ are discussed in the analysis of reforming themes below.

²⁶ See Cockton, P. (1988) *Subject Catalogue of the House of Commons Parliamentary Papers, 1801 1900*, Chadwyck-Healey, Volume III, Cambridge, pp. 666–667.

²⁷ Gale, *Inquiry into the Origin*, pp. 169–170

²⁸ See debates in *Hansard*, 2nd Series, XXI (1812) cols. 99 and 295; XXIII (1812) cols. 396 and 806; XXVI (1812) cols. 311, 705 and 1003. For the bill itself see PP 1812 I *A Bill for the Better Regulation of the Ecclesiastical Courts in England, And for the More Easy Recovery of Church Rates*, p. 1287.

²⁹ 53 Geo. III c. 127.

consideration of the practice and jurisdiction of the ecclesiastical courts.³⁰ While all agreed that reform was necessary, they differed in their recommendations.³¹ The Ecclesiastical Courts Commission, reporting in 1832, argued that the inefficiencies and evils of the existing system could be removed by the transference of the whole testamentary jurisdiction to the two largest ecclesiastical courts: the Prerogative Court of York and the Prerogative Court of Canterbury.³² However, the commissioners appointed to inquire into the law of real property, whose report was published in 1833, proposed a more radical change.³³ They recommended that probate in ‘common form’, granted where the validity of a will was unchallenged, should be abolished and replaced by a system of central registration. At the same time, contentious wills, which under the existing system might be proved by a grant of probate in ‘solemn form’, should come under the sole jurisdiction of the Court of Chancery, the main court of equity.³⁴ Reporting later in the same year, the Select Committee on the Admiralty Courts adjudicated a third suggestion which they believed would ‘afford great advantages to the public in the additional security of grants, and the better custody and preservation of the original documents.’³⁵ Favoursing the centralisation that was a feature of the Real Property Commissioners’ recommendations and the retention of ecclesiastical jurisdiction advocated by the 1832 Commission, they proposed the removal of testamentary jurisdiction from all courts in England and Wales except the Prerogative Court of Canterbury and the Court of the Arches, whose jurisdictions would be combined into one court sitting in London.³⁶

The various recommendations of these reports became the authority for a number of reforming measures brought before Parliament over the following two decades of the nineteenth century. In general, initial efforts at reform proposed various degrees of

³⁰ PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts in England and Wales*; PP 1833 VII *Report of a Select Committee Appointed to Inquire into the Office and Duties, the Appointment, Salary and Emoluments of the Judges of the Prerogative Court and the High Court of Admiralty, of the Dean of the Arches, and of the Judges of the Consistory Court of London* (short title: *Report from Select Committee on Admiralty Courts*); PP 1833 XXII *Law of Real Property, Fourth Report*.

³¹ Helpfully summarised in a later House of Lords’ select committee: PP 1843 XI *Report from the Select Committee on the Petitions Touching the Ecclesiastical Courts Consolidation Bill*, pp. 29–30.

³² PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts in England and Wales*

³³ PP 1833 XXII *Law of Real Property, Fourth Report* pp. 80–86.

³⁴ The differences between probate in ‘common form’ and probate in ‘solemn form’ are discussed in Camp, *Wills and their Whereabouts*, pp. xix–xxi and PP 1833 XXII *Law of Real Property, Fourth Report*, pp. 39–40.

³⁵ PP 1833 VII *Report from Select Committee on Admiralty Courts*, p. 385.

³⁶ *Report from Select Committee on Admiralty Courts*, pp. 381–385.

modification to the existing system but did not seek to totally usurp the power of ecclesiastical lawyers over testamentary affairs. The energetic legal reformer Henry Brougham was the first to attempt to introduce a bill to Parliament to carry out the recommendations of the Ecclesiastical Commissioners' report of 1832, but he made no progress.³⁷ Inspired by the Report of the Select Committee on the Admiralty Courts, other legislation was prepared in 1834 and 1835. The 1835 bill proposed the consolidation of the testamentary jurisdiction of the ecclesiastical courts of England and Wales into one judicial body to be called 'His Majesty's Court of Probate'.³⁸ Many of the skilled 'civilian' personnel practising at Doctors' Commons (the London seat of the Prerogative Court of Canterbury, the Court of Arches, the Consistory Court of London and other metropolitan ecclesiastical courts) were to be entitled to act in the new court, presided over by a single judge to be appointed by the crown. Although the court's jurisdiction over testamentary affairs was to be widened to prove wills of real estate, the course of proceedings in the court was to remain exactly the same as that already practised in the ecclesiastical courts at Doctors' Commons. This bill also failed and was followed by another in 1836.³⁹ It suggested a different course of statutory reform proposing that the Prerogative Court of Canterbury should exercise exclusive jurisdiction in testamentary affairs over the cities of London and Westminster and the counties of Middlesex, Essex, Hertford and Surrey, while thirty-eight other ecclesiastical courts would be retained to deal with business elsewhere in England and Wales.⁴⁰ However, this bill also fell foul of Parliament and never reached the statute book.

After a brief lull in the reforming effort a renewed appetite for change emerged in the early 1840s. Partly inspired by a reprinting of the report by the Ecclesiastical Commissioners appointed to inquire into the jurisdiction of ecclesiastical courts of England and Wales, a government measure, championed by Dr. Nicholl, a judge who sat at Doctors' Commons, was introduced into the House of Commons on 9 February

³⁷ Bruce, *An Account of the Present Deplorable State of the Ecclesiastical Courts*, p. 9. The bill appears never to have been printed by parliament.

³⁸ PP 1835 II *A Bill to Consolidate the Jurisdiction of the Several Ecclesiastical Courts of England and Wales into One Court, and to Enlarge the Powers and Authorities of Such Court; and to Alter and Amend the Law in Certain Matters Ecclesiastical*, pp. 335–372.

³⁹ PP 1836 III *A Bill for Amending the Law in Ecclesiastical Matters, and to Consolidate and Amend the Courts for the Probate of Wills and Granting of Letters of Administration Throughout England and Wales*, pp. 349–373.

⁴⁰ *ibid.*, pp. 351 and 373.

1843.⁴¹ According to Manchester this attempt at reform ‘came closest to success’.⁴² Framed as a bill to carry out the recommendations of the 1832 Ecclesiastical Commission, it was proposed that all the testamentary and other temporal jurisdictions of the ecclesiastical courts should be transferred to the authority of a single court sitting at Doctors’ Commons with a judge to be appointed by the Queen.⁴³ Some of the lawyers practising in the existing church courts were to be allowed to transfer to the new court, while others were to be retired and compensated. Although Conservatives like Sir Robert Inglis launched spirited attacks on the bill, it passed through the House with a large majority at its first reading.⁴⁴ However, when reintroduced into Parliament in the following year, numerous petitions of provincial solicitors had seen to it that the bill’s proposals had been substantially modified. No longer was there to be a single court for the proving of wills and granting of administrations. Instead a system of some thirty-five courts were to be retained including most of the old diocesan courts and a number of the even smaller archdeaconary courts.⁴⁵ While this appeased some of the Conservative MPs like Inglis and many of the provincial petitioners who had opposed the measure, the more radical reforming component of Parliament was disappointed by Nicholl’s ‘u-turn’ and the bill was thrown out.

Manchester has remarked that 1844 was the ‘high watermark’ for those seeking to reform ecclesiastical courts rather than have their jurisdiction abolished.⁴⁶ From then on most legislative efforts sought to replace ecclesiastical jurisdiction over testamentary affairs with some secular legal authority. Thus a bill of 1853 sought to ‘transfer the jurisdiction of the ecclesiastical courts in England and Wales ... to the superior courts of common law and the county courts.’⁴⁷ Under this proposal the

⁴¹ PP 1843 XIX *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts in England and Wales (reprint from 1832)*; *Hansard*, 3rd Series, LXVI (1843) cols. 312–325.

⁴² Manchester, ‘The reform of the ecclesiastical courts’, p. 72.

⁴³ PP 1843 II *Bill for Carrying into Effect Certain Recommendations of the General Report of the Commissioners on the Practice and Jurisdiction of the Ecclesiastical Courts*, p. 315 (as amended by committee, p. 383).

⁴⁴ Inglis, R. H. (1843) *Ecclesiastical Courts Bill Substance of a Speech, Delivered in the House of Commons, on Monday, the 10th April 1843*, *Hansard*, London or *Hansard*, 3rd Series, LXVIII (1843) cols. 785–805. See generally Manchester, ‘The reform of the ecclesiastical courts’, pp. 72–74.

⁴⁵ PP 1844 II *Bill Intituled, Act to Consolidate the Jurisdiction of Ecclesiastical Courts of England and Wales, and for Altering and Amending Laws in Matters Ecclesiastical*, pp. 3–46; (as amended by committee pp. 47–114); Manchester, ‘The reform of the ecclesiastical courts’, pp. 72–74.

⁴⁶ Manchester, ‘The reform of the ecclesiastical courts’, p. 74.

⁴⁷ PP 1852 53 V *A Bill to Transfer the Testamentary Jurisdiction of the Ecclesiastical Courts to the Superior*

power of granting probate was to be given to registrars appointed by the judges of the county courts (or, in the case of London, a specially appointed metropolitan registrar). The judge of a county court was also to be allowed to try the validity of wills of small estates, and, with respect to the *post mortem* disposal and distribution of property, exercise the same powers as the courts of equity. Appeals from the county courts and probate on larger estates were to be decided by the superior courts of common law. The system was to be hung together around a central (metropolitan) registry which was to contain all deeds and instruments relating to testamentary disposition. However, this more pragmatic solution to the ‘disgrace’ of testamentary ecclesiastical jurisdiction was also doomed to failure.⁴⁸ The appropriation of one form of legal jurisdiction to serve another was deemed inappropriate and potentially too great a burden on the existing infrastructure.⁴⁹ Thus, a bill that came before Parliament a year later, to transfer testamentary jurisdiction from the ecclesiastical courts to the Court of Chancery, also failed.⁵⁰ Instead attention turned to the creation of a new testamentary legal infrastructure and the establishment of a distinct court of probate. The realisation of this ambition came as a result of dissatisfaction with the ecclesiastical courts’ matrimonial rather than testamentary jurisdiction as, in the 1850s, the reform of the courts was merged with the growing demand for divorce.⁵¹ A series of very similar bills came before Parliament over the middle years of the decade before the Court of Probate Act of 1857 finally established a single metropolitan testamentary court.⁵² While this court claimed sole jurisdiction over testamentary affairs, probate could be obtained locally from one of forty district registries throughout England and Wales who took their authority from the central court. This measure brought to an end an uncertain period of existence for the ecclesiastical courts and fundamentally

Courts of Common Law and the County Courts; see Squibb, *Doctors' Commons*, pp. 102–103.

⁴⁸ *Hansard*, 3rd Series, CXXVIII (1853) col. 1232.

⁴⁹ *Hansard*, 3rd Series, CXXVIII (1853) cols. 1231–1251.

⁵⁰ PP 1854 VI Bill Intituled, *Act to Transfer to the Court of Chancery the Testamentary Jurisdiction of Ecclesiastical Courts, and to Alter and Amend the Law in Relation to Testacy and Intestacy*. This, it will be recalled, follows the recommendations of the Real Property Commissioners.

⁵¹ Manchester, ‘The reform of the ecclesiastical courts’, p. 75.

⁵² PP 1854–55 VI Bill to *Abolish the Jurisdiction of the Ecclesiastical and Peculiar Courts in England and Wales Respecting Wills and Administrations, to Establish a Distinct Court of Probate and Administration and to Amend Law in Relation to Matters Testamentary*, p. 225; PP 1856 VI Bill to *Abolish Jurisdiction of Ecclesiastical and Peculiar Courts in England and Wales Relating to Wills and Administrations to Establish a Distinct Court of Probate and amend the Law in Relation to the Administration of Estates of Deceased Persons*, p. 557; PP 1856 VI Bill to *Transfer to a Distinct Court Testamentary and Matrimonial Jurisdiction of Ecclesiastical and Other Courts, and to Amend the Law in Relation to Matters Testamentary and Matrimonial*, p. 419, PP 1856 III Bill for *Abolishing the Testamentary Jurisdiction of the Ecclesiastical Courts, and for Continuing Temporary Provisions Concerning Ecclesiastical Jurisdiction in England*, p. 295.

redesigned the institutional architecture of testamentary disposition.

The law of wills

The reform of the law of wills was a less protracted affair. The 1837 Wills Act largely accepted the recommendations of the Royal Commissioners' report of 1833.⁵³ Following their suggestions, the legislation simplified the mode of executing, revoking and revising wills of different kinds of property and generally extended the testamentary freedom of adult male property owners.⁵⁴ The speedy implementation of reform owed much to the efforts of John Tyrell, one of the Commission's key members.⁵⁵ He brought a bill before Parliament in 1834 who referred it to a select committee. In 1835 the bill returned to the Commons who approved it and passed it on to the House of Lords. They referred it to another select committee and some alterations were made. Eventually, in February 1837, the bill passed through the House of Lords and was given royal assent. Hailed as a measure of fundamental 'importance to the welfare of the families and to the general interest of the community', the act became law on January 1st 1838.

Reforming themes: property, geography, and the modern state

In discussing the course of reform it is all too easy to assume a linearity to the process and a coherence to its implementation. It is also difficult not to invoke a sense of inevitability when describing its outcomes. Yet the length of time it took for the ecclesiastical courts to be abolished and the range of proposals put forward for their reformation indicates that the process of modernisation was an uncertain one. This section of the chapter aims to explore this uncertainty further by animating the course of reform through the exploration of three key reforming themes that related to different stages of the transmission of property at death. The first considers the process of *making* a transmission of property. It emphasises the way in which the changing historical geographies of the ownership and use of property posed new challenges to the legal apparatus of will making. These challenges came in the form of maximising the alienability of different sorts property while retaining an adequate

⁵³ 1 Victoria c. 26; PP 1833 *Law of Real Property, Fourth Report*

⁵⁴ Summarised briefly in Buck, 'Property, aristocracy and land law reform', pp. 82–86; a more detailed summary of the changes can be found in Hudson, J. C. (1838) *Plain Directions for Making Wills in Conformity with the Law and Particularly with Reference to the Act 1 Victoria c 26*, Longman, Orme, Brown, Green and Longmans, London.

level of security. The second theme considered is that of *effecting* a transmission of property. It involves an examination of the nature of testamentary jurisdiction. Here attention focuses on debates concerning the appropriateness of ecclesiastical forms of law and the geographical jurisdiction of courts to the security of property. More broadly, the section highlights how the modernising process hinged on the production of a new geography of jurisdiction. The final theme addressed is that of the registration and storage of documentation relating to testamentary disposition as a system for recording the transmission of estate and proving the titles to property. Attention is given to this aspect of reform because it primarily concerns the *receiving* of transmitted estate. Once again, the security of property is a central consideration, but the debates surrounding the reforms also expose geographical issues relating to the ‘limits’ to state formation and the role of metropolitan centralisation in that process.

Making wills: a secure execution

In 1833 the commissioners appointed to inquire into the law of real property lamented that ‘it appears that there are ten different laws for regulating the execution of wills under different circumstances.’⁵⁶ They contended that ‘this great variety of rules ... with their complicated distinctions and exceptions, has occasioned serious inconveniences.’⁵⁷ The most important distinctions were between those rules that governed the execution of a will containing real estate and those that applied to wills of personal estate.⁵⁸ The former were established under the Statute of Frauds and required that: ‘[a will] should be signed by a testator [who had to be aged 21 or over] and by other persons in his presence at his express intention; it should be attested by three or more credible witnesses; and it should be subscribed by witnesses in the presence of the testator.’⁵⁹ However, the rules for making wills of personal property were markedly less formal. If the will could be proved to have been written in the

⁵⁵ *Hansard*, 3rd Series XXXVI (1837) col. 963. Here the course of reform is briefly summarised.

⁵⁶ PP 1833 *Law of Real Property, Fourth Report*, p. 13.

⁵⁷ *ibid.*, p. 14.

⁵⁸ Real estate refers to land and freehold buildings while personal estate refers to chattels, personal effects, cash, stocks, shares and the value of leasehold property and annuities. A full contemporary legal definition can be found in the bills relating to the reform, e.g. PP 1834 IV *A Bill as Amended in Committee for the Amendment of the Laws with Respect to Wills, Executors and Administrators*, pp. 623–624. While the term will was used generically to describe an instrument that disposed of all kinds of property when an individual died, strictly a ‘will’ could only dispose of real estate. A ‘testament’ was the device that transmitted personal property.

⁵⁹ Statute of Frauds 29 Car. II c3 s. 5, PP 1833 *Law of Real Property, Fourth Report*, p. 5.

testator's own hand no witnesses were required, otherwise only two were needed.⁶⁰ Such wills could be made by minors and in some instances even 'nuncupative' (or spoken) wills were allowed to transmit the property.⁶¹ With a hint of incredulity the commissioners remarked that:

Wills of personal estate in writing may be in any form and without any solemnity. It is not necessary that even the name of the testator should appear. Any scrap of paper, or memorandum in ink or pencil, mentioning an intended disposition of his property is admitted as a will, and will be valid although written by another person, and not read over to the testator, or overseen by him, if proved to have been made in his lifetime, according to his instructions.⁶²

In highlighting the different degrees of formality required for the execution of wills of real and personal estate the commissioners had hit upon what was the crux of reform: the devising of a system of will making that was simultaneously simple enough to be done without requiring professional assistance, while being secure and legally robust enough to 'remove as much as possible the dangers of error and litigation.'⁶³ The existing multiplicity of rules for the making of wills was recognised to be productive of confusion and a threat to the effective transmission of property. Matters were further complicated by the existence of different methods for the revocation and revision of wills of real and personal property. A particularly significant anomaly arose from the various times at which a will of different sorts of property was construed to speak. Whereas wills disposing of real estate only applied to that estate specifically therein mentioned and not to any acquired subsequently, wills of personal estate passed the property possessed at the time of the testator's death, regardless of whether this had been acquired since the time at which the will was executed.⁶⁴

Where an individual did not have access to legal knowledge and expertise, as was often the case in death-bed will making situations, the existence of contrary devisory rules for different sorts of property was thought to increase the possibility of mistakes being made.⁶⁵ This could lead to the failure of a particular legacy and threatened to

⁶⁰ Certain kinds of personal property, such as government stock, could not be passed by a holograph will. Here the will would only be considered valid if it was attested by *two* witnesses.

⁶¹ PP 1833 XXII *Law of Real Property, Fourth Report*, pp 21–22.

⁶² *ibid.*, p. 7.

⁶³ *ibid.*, p. 4.

⁶⁴ *ibid.*, p. 24.

⁶⁵ Although the main distinctions fell between real and personal estate, rules also varied for the execution of wills and disposition of other species of property, such as copyhold and customary estates, money in the funds and

undermine the notion of ‘absolute testamentary power’ and practised systems of family inheritance.⁶⁶ As the commissioners remarked:

perhaps the most serious evil produced by such mistakes [e.g. not having the correct number of witnesses attesting will] is the rendering of a will void as to some property intended to be comprised in it, while it is valid as to other property. A will is commonly an arrangement of the whole property of the testator for the benefit of his family; and his intentions may be defeated to a greater extent by giving a partial effect to the will than by totally setting it aside.⁶⁷

The reason why the distinctions between different kinds of property came to matter lay in the changing geographies of property ownership which were driven by the economic transformations of late-eighteenth- and early-nineteenth-century Britain. The extra security afforded to transmissions of real estate was argued to be reflective of an outdated view of the relative importance of the different sorts of property. In particular, the ascendancy of personal property so that it came to rival the importance of real property and, through the increased social and political power of the middling sort, to challenge its supremacy as the fundamental basis of citizenship upset the reasoning behind the existing laws. No longer did it seem appropriate to make a distinction between different sorts of property. Speaking in a debate on the Wills Bill in May 1835 Ralph Bernal remarked that:

it should be recollected that in modern times, the great mass of the property of the country was personal; the national debt leases for 999 years were all chattels. In former times personal property existed only in name; consisting only in a few hoarded ingots of gold and silver, or anything of that kind; but now personal property was often more valuable than real.⁶⁸

The Real Property Commissioners concurred with this observation, noting that:

it cannot be argued that real property requires greater protection on account of its superior value. The personal property in this country is now of greater value than real property; and money secured upon land and the chattel interests created in it, are perhaps of as much value as the freehold estates.⁶⁹

But not only was the value and importance of personal property rivalling that of real

estates *pur autre vie*. Different rules also existed with respect to the appointment of guardians by a will or appointments in exercise of powers.

⁶⁶ Buck, ‘Property, aristocracy and the reform of the land law’, p. 85.

⁶⁷ PP 1833 XXII *Law of Real Property, Fourth Report*, p. 13.

⁶⁸ *Hansard*, 3rd Series, XXVII (1835) col 1285.

⁶⁹ PP 1833 XXII *Law of Real Property, Fourth Report*, p. 14.

estate and making a mockery of the existing legal rules, it was also becoming increasingly difficult to tell the two apart. Samuel Gale observed that ‘modern law has drawn the two nearer together, and obliterated many features of distinction in each.’⁷⁰ The Real Property Commissioners noted that ‘questions of difficulty often arise whether money is to be considered land (where it is directed that it should be used to purchase such) or land as money (where directed to be sold) and therefore whether such property will pass by a will not executed according to the Statute of Frauds.’⁷¹ The Ecclesiastical Courts Commissioners observed the same, noticing that ‘many very nice and subtle distinctions arise with respect to the legal character of property where ... real estate is directed to be converted into personalty or personal estate to be laid out in land.’⁷²

These transformations in the nature and ownership of property were fundamentally geographical. In part, the rapid growth in personal property embodied a ‘disappearance’ of geography. Real estate, by its very nature, could be geographically located, measured and mapped. Personal property, sometimes tellingly referred to as movable property, did not have such a tangible geography, it was more unsettled and mobile. As Lord Loughborough remarked, ‘personal property has no locality’.⁷³ This ascendancy of more restless and elusive forms of personal property was in part the product of what David Harvey has described as the ‘remarkable’ historical geography of capitalism.⁷⁴ The increasing geographical and temporal mobility of capital that was tied to the processes of industrialisation, commercial expansion and the associated emergence of credit created new forms of personal property particularly associated with ‘middling groups’ of society.⁷⁵ As the last chapter revealed, the middling sort of urban centres like Stockport were important producers, consumers and transmitters of this wealth. Thus, William Ward, Deputy Registrar of the Consistory Court of Chester which had jurisdiction over the counties of Lancashire and Cheshire, told the

⁷⁰ Gale, *Inquiry into the Origin*, p. 167.

⁷¹ PP 1833 XXII *Law of Real Property, Fourth Report*, p. 14.

⁷² PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, p. 29.

⁷³ Quoted in Story, J. (1834) *Commentaries on the Conflict of Laws, Foreign and Domestic, in Regard to Contracts, Rights and Remedies, and Especially in Regard to Marriages, Divorces, Wills, Successions and Judgements*, Hilliard, Gray and Company, Boston, p. 312.

⁷⁴ Harvey, D. (1982) *The Limits to Capital*, Basil Blackwell, Oxford, p. 373. On the speeding up of capital see *idem*. (1989) *The Condition of Postmodernity An Enquiry into the Origins of Cultural Change*, Basil Blackwell, Oxford.

Ecclesiastical Courts Commissioners that ‘from it being a manufacturing district ... a great part of the property’ within the jurisdiction of the court ‘was personal property’.⁷⁶ But while these new geographies of personal property were emerging, and requiring secure modes of transmission, it was also clear to contemporaries that older geographies of real property were being changed. If it is possible to ascribe such changes to particular social groups, then it was not just the needs of the growing manufacturing and commercial classes that drove reform – it was also those of a more commercially conscious aristocracy.⁷⁷ That said, real estate was no longer a form of property solely possessed by those further up the social hierarchy. As the previous chapter demonstrated, freehold property was a popular form of investment among the urban middling sort of industrialising towns like Stockport. Thus, the general confusion that reformers detected in ascertaining the legal character of different types of property owed as much to the broadening ownership and new ways of using real estate as it did to the emergence of new forms of personal property. The commercial utilisation of land through buying, selling, leasing and mortgaging transformed its status and its geographies, making it more mobile and flexible too.

The increasing ‘invisibility’ of property posed a challenge to the security of its transmission. In contemplating what kind of reform was necessary, the elusive geographies of personal property gave the Real Property Commissioners some cause for concern:

if there should be any difference [in the modes for executing wills of different sorts of property], wills of personal property perhaps ought to have greatest protection, for they offer stronger temptation to forgery and fraud, because money can be made away with more easily than land.⁷⁸

But, on reflection, the commissioners felt that ‘there appears to be no good reason for making any distinction between the forms required for the execution of wills, with respect to different descriptions of property.’⁷⁹ Their recommendation that all wills

⁷⁵ The widening geographies of wealth creation within Stockport are discussed in Chapter Three.

⁷⁶ PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, p. 175.

⁷⁷ This point is stressed by Buck who argues that the reform of the law of wills was driven more by landed interests than by the needs of a growing commercial middle class. See Buck, ‘Property, aristocracy and the reform of land law’.

⁷⁸ PP 1833 XXII *Law of Real Property, Fourth Report*, pp 13–14.

⁷⁹ *ibid.*, p. 14.

should be in writing and signed by the testator in the presence of two attesting witnesses became a central feature of the legislation passed in 1837. It was an arrangement designed to bolster the security of property for all. Those who opposed the measure argued that it contradicted the role of land in contemporary society undermining the clear and ‘natural’ hierarchical distinctions between real and personal property.⁸⁰ However, that was entirely the point. The reforms represented a democratisation of property and provided the basis for the recognition of new groups of property owners within a new social order. As the solicitor Joseph Hudson remarked, ‘the law is now uniform ... whether to pass the real estate of the wealthiest nobleman, or the stock in trade of the humblest shopkeeper. This is the great and essential point to be kept in view.’⁸¹

Transmitting property: a convenient jurisdiction

The jurisdictional structure of the ecclesiastical courts worked according to the rules of *bona notabilia*.⁸² Deceased persons with *bona notabilia* – personal ‘goods worth mentioning’ valued at £5 or more (or, by custom, £10 in the diocese of London) – were required to have their wills proved by a church court. Where a person died without leaving a valid will, but with personal property worth £5 or more, an application had to be made to an ecclesiastical court for ‘letters of administration’. In such cases the court appointed administrators, usually the next of kin, to execute the disposal of the estate according to the laws of intestacy. The court in which probate or letters of administration were sought was dictated by the size and geographical distribution of the estate. There were four different grades of court, broadly reflecting the administrative structure of the church. First, at the bottom of the hierarchy, were the peculiar and local courts held by special privilege. These courts had limited geographical jurisdictions usually extending over a particular parish or institution.⁸³ Next up in the pecking order were archdeaconary courts covering an archdeaconary sub-district of a diocese. Then there were the bishops’ courts including consistory courts which extended over a whole diocese, and commissary courts that covered part

⁸⁰ Buck, ‘Property, aristocracy and the reform of land law’, p. 86.

⁸¹ Hudson, *Plain Directions for Making Wills*, p. 17.

⁸² Described in Camp, *Wills and their Whereabouts*, p. xxx. See also PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, p. 11.

⁸³ Peculiar courts could be lay as well as ecclesiastical. The many different types are surveyed in PP 1833 XXII *Law of Real Property: Fourth Report*, pp. 48–51. The origins of the ecclesiastical courts are discussed in Blackstone, W. (1979) *Commentaries on the Laws of England*, Volume III, ed. J. H. Langbein, University of

of the diocese. Finally, the most senior courts were those of the archbishops, comprising of the Prerogative Court of Canterbury with jurisdiction over the province of Canterbury and the Prerogative Court of York which covered the province of York. In addition to these there were also two courts of appeal: the Court of the Arches which sat in London, and was the supreme court of appeal for the province of Canterbury, and the Chancery Court of York, the ultimate court of appeal for the province of York.

The court in which probate or administration was sought depended upon where the deceased person owned *bona notabilia*. With some 380 courts empowered to grant probate on wills or letters of administration on intestates' estates it was a complex and confusing legal geography. If an individual had *bona notabilia* solely in one archdeaconary then the will would be proved in that archdeaconary court. If, however, an individual had *bona notabilia* in more than one archdeaconary, then the will would have to be proved in a commissary or consistory court. If there was *bona notabilia* in more than one diocese then a grant of probate was required from a prerogative court. And where a testator had *bona notabilia* in both the provinces of York and Canterbury, then a separate grant was required for each. In the case of peculiar courts, probate could only be granted if an individual had property solely within the court's jurisdiction. If property existed outside the jurisdiction the power to grant probate fell, depending upon in which archiepiscopal province the property lay, to one of the prerogative courts. The same jurisdictional structure applied to the granting of letters of administration on an intestate's estate.

Not surprisingly this system was criticised for being confusing, unworkable, outdated and a threat to the secure transmission of property. The problem was simple: an executor seeking a grant of probate on a will, or a deceased person's next of kin trying to obtain letters of administration, did not know which court to go to. The reason for this confusion again lay in the changing geographies of property ownership and the increasing mobility of personal estate. As William Downing Bruce remarked:

In former times when the property of the country consisted chiefly of land, the importance and jurisdiction of these courts was not so great as it is at the present time, when so large a

proportion of that property consists of money and other personalty. Now therefore it becomes a most momentous consideration how far the existing law is consistent, not only with the due administration of justice, but also with the security of property.⁸⁴

Those whose job it was to apply for probate or letters of administration – executors, trustees, next of kin and solicitors – often found it very difficult to locate a deceased person’s personal property. Even the Real Property Commissioners admitted the virtual ‘impossibility of ascertaining, in many cases whether the deceased person left *bona notabilia* in a particular jurisdiction.’ The problem was that personal property was no longer ‘personal’ in the sense that it no longer consisted of those things, ‘like a few hoarded ingots of gold and silver, or anything of that kind’, that were kept about the person.⁸⁵ The widening geographies of personal property resulted in different species of personal property falling into different ecclesiastical jurisdictions. Leasehold estate, like freehold real estate, could be owned practically anywhere. A bond was considered to fall in the jurisdiction of the court that held power over the place where the written deed or other security proving its existence was found at the time of death. Credits arising from loans were said to exist in the same place as the debtor; and money in the funds, or stocks and shares came under the jurisdiction of the court where the dividends were made payable.⁸⁶ The result was that even a testator of relatively small means could, almost unknowingly, own personal property in several ecclesiastical jurisdictions. Furthermore, the rule of *bona notabilia* was also complicated by regional variations in its value and disagreement over whether the mere *legal* ownership of property, such as that vested in an individual in trust, should be counted as *bona notabilia*.⁸⁷ The resulting situation was chaotic.

In spite of the difficulties posed by the law of *bona notabilia*, having a will proved in the correct court was pivotal to the secure transmission of property. Failure to obtain probate or letters of administration in a court with jurisdiction over *all* of a deceased individual’s personal property resulted in any other grant being utterly void. This invalidated the legal authority that empowered executors or administrators to dispose of estate and threatened to render any dispositions already made to beneficiaries void and repayable. Even those practising in the ecclesiastical courts recognised the

⁸⁴ Bruce, *An Account of the Present Deplorable State of the Ecclesiastical Courts*, p. 9.

⁸⁵ *Hansard*, 3rd Series, XXVII (1835) col. 1285.

⁸⁶ PP 1833 XXII *Law of Real Property, Fourth Report*, p. 42.

problems of the rule. Contemplating reform in 1834, Ralph Barnes, a deputy registrar of the diocese of Essex, was ready to accept that if the rule of *bona notabilia* 'proves inconvenient, it must yield to a better rule.'⁸⁸

The fundamental problem with the ecclesiastical courts was thus a geographical one. However, it was not only the geographical jurisdictions of the ecclesiastical courts that were a source of concern to contemporaries. Some reformers believed that the security of property transmission was at risk from the forms of law practised in such courts. There were three main areas of concern. First, was the unevenness and inconsistency of the practice and application of ecclesiastical law in the many testamentary courts. Second, came the more general questioning of the antiquity of ecclesiastical law and whether its customs and practices were fit to be part of a modern legal system. Third, was a concern over the inconveniences caused by the partial nature of ecclesiastical jurisdiction in the overall process of *post mortem* property transmission. The church courts had no power over the disposition of real estate by will, nor any jurisdiction over matters of equitable interest in transmitted property.

The ecclesiastical courts that sat at Doctors' Commons in London were widely considered to be superior in their knowledge and application of ecclesiastical law and in the quality and training of their personnel of judges, advocates and proctors.⁸⁹ Those who practised in these courts were mostly recruited from the College of Advocates that had resided at Doctors' Commons for several centuries. Many were trained in the unique 'civilian' branch of the law with its historical connections to international law through the High Court of Admiralty and they enjoyed a distinguished reputation. Samuel Gale remarked that the 'modern' judges of the metropolitan courts 'have been men of eminence and high judicial character.'⁹⁰ Though not all agreed with Gale, tacit approval of the procedure and practices of granting probate in common form and trying the validity of wills as followed by the

⁸⁷ *ibid.*, p. 46.

⁸⁸ Barnes, R (1834) *An Appeal to the People of England on the Proposed Transfer of all Testamentary Business to London*, Samuel Sweet, London, p. 43.

⁸⁹ *Judges*, like those in common law courts, heard and decided upon cases. *Advocates*, who were the equivalent of common law barristers, conducted cases in court, and *proctors* played a role similar to common law attorneys. See Squib, *Doctors' Commons*, p. 2.

⁹⁰ Gale, *Inquiry into the Origin*, p. 163.

Prerogative Court of Canterbury, the main court that sat at Doctors' Commons, was given by their use as a 'model' for a large number of reforming measures. However, practices in other ecclesiastical courts were said to vary greatly from the Doctors' Commons 'model'. Once again the 'problem' was fundamentally geographical. The Real Property Commissioners found that there was 'no uniformity in the practice or rules by which the various courts are governed [and] many of them are without competent judges and officers for the due administration of justice.'⁹¹ Samuel Gale described one peculiar court as a 'lawless place' and claimed that several other of the testamentary courts were in a 'state of anarchy'. Reporting in 1831, the commissioners appointed to inquire into the state of the ecclesiastical courts discovered that few of the personnel who practised in the peculiar courts had an accurate knowledge of the rules for granting probate in common form, never mind those for trying the validity of a contentious will.⁹² They also noted the impracticability and inefficiency of having qualified lawyers to deal with complex testamentary law in the large number of diocesan and other local courts.⁹³ Even one of the most senior and learned ecclesiastical judges, Sir John Nicholl, believed the forms of law practised in the country courts were inferior and a threat to the security of property. Indeed, many people, like Samuel Gale, were convinced of the 'constitutional and general unfitness of the [non-metropolitan] tribunals as courts of justice.'⁹⁴ Geographical diversity of legal practice threatened to undermine the social impartiality of law. As Gale noted:

as regards the wealthy part of the public their practice of resorting to the prerogative court being rendered more safe and convenient, they are benefited; while, as regards the poor, their resort to their local courts is rendered more hazardous and they therefore suffer.⁹⁵

Diversity of practice was thus seen as being inconsistent with contemporary notions of social justice embodied in 'modern' visions of the law that sought social and geographical uniformity. It was unacceptable to reformers that provincial testators with smaller fortunes were being exposed to greater risks than their wealthy

⁹¹ PP 1833 XXII *Law of Real Property: Fourth Report*, p. 54.

⁹² PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, p. 22.

⁹³ PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, p. 23.

⁹⁴ Gale, *Inquiry into the Origin*, p. 168.

⁹⁵ *ibid.*, p. 152.

metropolitan counterparts.

Indeed, the whole concept of ecclesiastical jurisdiction and the ‘peculiarity’ of ecclesiastical law was questioned by contemporaries. The law was claimed to be ancient, corrupt, mysterious and, above all, out of step with modern civil legal practice. Gale criticised the modes by which the law was practised highlighting its ‘unscientific’ principles and its adherence to custom and tradition.⁹⁶ He observed that:

the established practice of the ecclesiastical courts appears to be guided, not so much by published rules and decisions as by tradition and custom, collected by the individual officers and practitioners, and which must necessarily,⁹⁷ to the inconvenience of the court and the public, reside solely in them and die with them.

Gale also doubted the sources used by ecclesiastical lawyers as a guide to practice, being rather surprised to find that the main authority used by most of the practitioners was Oughton’s ancient *Ordo Judicioum* published in Latin, even the latest edition of which was over a century old by the 1830s. William Downing Bruce claimed that the ecclesiastical courts reminded him ‘of the secret proceedings of the Italian Courts’.⁹⁸

However, a more popular source of antagonism towards the church courts came in the form of hostility towards the modes by which persons held and were appointed to offices. Accusations of nepotism and sinecureism resulted in popular derision of the system as a corrupt ecclesiastical monopoly. Bruce wryly observed that ‘none can practise’ in the ecclesiastical courts ‘but the relations of a little family party at Doctors’ Commons and the sons of a few deceased bishops.’⁹⁹ This, he contended, was ‘a far more grievous and intolerable monopoly than that which Old Sarum exercised in returning two members to Parliament.’¹⁰⁰ In 1848 *The Times* highlighted the dominance of the Jenner family at Doctors’ Commons, joking how ‘a defendant may have one Jenner on the bench, another advocate against you, and a third acting as a hostile proctor.’¹⁰¹ William Downing Bruce discovered that, in the same year, Robert Moore, a registrar of the Prerogative Court of Canterbury appointed to his position by

⁹⁶ *ibid.*, p. 162.

⁹⁷ *ibid.*, p. 165.

⁹⁸ Bruce *An Account of the Present Deplorable State of the Ecclesiastical Courts*, p. 9.

⁹⁹ *ibid.*, p. 9.

¹⁰⁰ *ibid.*, p. 45.

¹⁰¹ *The Times*, 1848 quoted in Manchester, ‘The reform of the ecclesiastical courts’, pp. 61–62.

his father Archbishop Moore, received a gross revenue in fees of £30,832 for duties of an office which he deputised entirely to others. This was just one example of widespread sinecureism among the senior personnel of many ecclesiastical courts uncovered by a parliamentary enquiry of 1834.¹⁰² Caught in the general ferment of early-Victorian anticlericalism, ecclesiastical jurisdiction over testamentary affairs was thus viewed by some as an anachronism. Lord Grosvenor called it ‘a remnant of Papal encroachment,’ while the reforming MP John Collier considered the courts to be ‘a reproach to the times in which we live and a disgrace to the civilisation of the age.’¹⁰³ Although those who practised in the courts were keen to distance themselves from religious matters and sought to represent ecclesiastical jurisdiction as a distinct, professional and important branch of English law, the association of the ecclesiastical courts with the Church of England by reforming critics like Samuel Gale was used as a device to highlight their ‘anti-modern’ and corrupt practices.¹⁰⁴

A final source of dissatisfaction over the system of the ecclesiastical courts stemmed from the partial nature of their jurisdiction in functional terms. The power of the courts to establish the validity of wills, or to grant an administration on an intestate’s estate, only extended to the disposition of personal property. Realty came under common law jurisdiction.¹⁰⁵ So if the validity of a will with respect to a disposition of real estate was to be challenged, it had to be done in a common law court.¹⁰⁶ Thus, as the ecclesiastical courts commissioners observed, ‘when a will purports to devise real and bequest personal property there may be a double trial and conflicting determinations.’¹⁰⁷ To many this seemed nonsensical and clearly inconsistent with

¹⁰² PP 1834 VI *Report From a Select Committee on Papers and Returns Respecting the Nature, Tenure and Emoluments of all Sinicure Offices within the United Kingdom*

¹⁰³ *Hansard*, 3rd Series LXVIII (1843) col. 1048 and *Hansard*, 3rd Series CXXVIII (1853) col. 1232, respectively.

¹⁰⁴ Indeed, the Ecclesiastical Commissioners felt it necessary to point out that ‘in administering testamentary law [the ecclesiastical courts] exercise a jurisdiction purely civil, and in name only ecclesiastical’ (PP 1831–32 XXIV, *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, p. 25). In his defence of the ecclesiastical courts Ralph Barnes, deputy registrar of the Diocese of Essex, stressed that ecclesiastical law was essentially a secular jurisdiction. See *idem*. *An Appeal to the People of England*, pp. 28–29.

¹⁰⁵ The origins of this distinction lay in feudal law which tied the ownership of real estate to the crown. This meant that the transmission of freehold property came under the jurisdiction of the secular courts. Originally, personal property was argued to come from God and thus fell under the jurisdiction of the ecclesiastical courts. See McLaughlin, E. (1992) *Wills Before 1858*, Varneys Press, Aylesbury, p. 2.

¹⁰⁶ Wills of real estate, like deeds, did not have to be proved unless they were disputed. Where such a will was tried it was done so before a judge and jury and its validity would be established by the *vrva voce* testimony of one or more of the attesting witnesses.

¹⁰⁷ PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, p. 23.

other recent law reforms which had removed the legal distinctions between the two sorts of property. When discussing proposed reform in the House of Commons in 1843, James Elphinstone MP felt that ‘the same number of witnesses and the same ceremonies are now required for wills both of personalty and realty, and I therefore think that the same court which grants probate of a will of personalty ought to grant probate of a will of realty.’¹⁰⁸ This, argued Sir George Graham MP, would increase the security of property transmission and reduce the expense of proving a will.¹⁰⁹ While the distinctions between jurisdiction over real and personal property were alone sufficient for contemporaries to claim that the law with respect to the transmission of property by will was ‘defective’, further inconvenience arose from the ecclesiastical courts’ lack of jurisdiction over equitable interests in an estate.¹¹⁰ Such matters were the preserve of the courts of equity which also had the power to establish the validity of a will by decree if a case was brought in such a court. Thus, it was quite possible that litigation on a particular will could be carried on in three different courts at the same time. While all three branches of the law sought to defend their jurisdiction, there was a growing feeling that such a system of property transmission was productive of too much expense and inconvenience.

These, then, were the issues at stake. According to William Downing Bruce the operation of this ‘defective’ ecclesiastical jurisdiction was having ruinous consequences:

legatees are deprived of their bequests, next of kin have their shares of estate needlessly diminished or consumed by expense and creditors are subject to numerous annoyances, delays and costs.¹¹¹

He went on:

why retain now the sacerdotal interference and control instituted in the dark ages? Why not give to our wills and records, and to the interests involved in them, the advantages available at the present time, and suitable to an advanced civilisation?¹¹²

¹⁰⁸ *Hansard*, 3rd Series, LXVIII (1843) col. 1063.

¹⁰⁹ *Hansard*, 3rd Series, LXVIII (1843) col. 1033.

¹¹⁰ The system was described as ‘defective’ by John Collier when bringing his own proposals for reform before the House in 1853: *Hansard*, 3rd Series, CXXXVIII (1853) col. 1232.

¹¹¹ Bruce, *An Account of the Present Deplorable State of the Ecclesiastical Courts*, p. 45.

¹¹² *ibid.*, p. 48.

Although not all would have put it in quite the same way as Bruce, this was the project of reformers – the production of a legal system commensurate with the needs of the modern age. In more abstract terms, the legal reform sought to regulate and bring order to the property transmission process by attempting to eliminate the inherent risks of the existing jurisdictions through legislative institutional (re)formation. Central to this process of risk elimination was recognition of the need for greater surveillance by the state over the property transmission process.¹¹³ Fundamentally, this was a geographical project because it involved the production of a new infrastructure of testamentary jurisdiction. It also repositioned the role of the state in relation to the individual and private property. The reforming programme sought to establish the state as a guarantor of a universal (male) right to transmit private property.

To contemporaries, however, it was by no means apparent what form a modern legal system for the transmission of property should take. Two seemingly opposing forces textured the political terrain of reform and its uncertain path. The first was the desire to consolidate and centralise testamentary jurisdiction. Centralisation was seen as the key to making the law less arbitrary, less discretionary and more uniform. If a single body administered reform in one single place then the possibilities of divergent practice or the emergence of inferior practice away from ‘the centre’ were diminished if not entirely abolished. Centralisation, it was argued, enabled better surveillance of the property transmission process. The second force that dominated the negotiation of reform was the belief that testamentary law was best administered locally.¹¹⁴ It was claimed that local tribunals were just as capable of maintaining consistency of legal practice as a single central court while affording additional advantages both to the security of property and the convenience of those involved in its transmission. The

¹¹³ The process thus shares similarities with Anthony Giddens portrayal of state modernisation, whereby the nation state seeks to universalise its territorial power through the reformation of its administrative functions. A key feature of this process of modernisation was the co-ordination of administrative power through ordering, the codification of rules and practices and surveillance. See Giddens, A. (1990) *The Consequences of Modernity*, Polity Press, Cambridge.

¹¹⁴ Miles Ogborn points to the dangers of conceptualising nineteenth-century state formation as a conflict between ‘the central’ and ‘the local’. He argues for a more nuanced understanding of the spatial relations of the reformed nineteenth-century state apparatus recognising the interdependency and inseparability of administrative ‘regimes of power/knowledge’ at central and local levels. The characterisation of the reform of the ecclesiastical courts deployed here takes as its co-ordinates the centralisation versus localism theme as that was the dominant contemporary narrative of reform. This is not to deny the more complex administrative relationships between the centre and the locality that were the outcome of reform (see below). See Ogborn, M. J. (1992) ‘Local power and state regulation in nineteenth-century Britain’, *Transactions of the Institute of British Geographers*, New Series, 17

final part of this section of the chapter will explore these two themes further to highlight the contingent and uncertain process of reform that resulted from this geographical dilemma.

In some ways centralisation was the most obvious path for reformers to take. Not only was it ‘the fashion of the day’ but the increasing geographical extent, diversity and mobility of personal property ownership had already invoked centralising tendencies within the existing system of ecclesiastical courts.¹¹⁵ The most senior probate court, the Prerogative Court of Canterbury, had witnessed a huge growth in the granting of probates and letters of administration over the first half of the nineteenth century. ‘From the very great increase of personal property, arising from the public funds and the extension of commercial capital in the country’, remarked the Ecclesiastical Courts Commissioners, ‘the business of this jurisdiction, both as deciding upon all the contested rights and as registering all instruments and proofs in respect of the succession to such property, is become of very high public importance.’¹¹⁶ In the years of 1827, 1828 and 1829 business in the court was said to be double that which was transacted in the years of 1787, 1788 and 1789, and by 1830 Thomas Gwynne, comptroller of the legacy duty, estimated that two-fifths of all probates granted in England and Wales were taken out there.¹¹⁷ Given the jurisdictional supremacy of the Prerogative Court of Canterbury and its reputation for superior legal skill, the court increasingly came to be seen as offering a more secure grant of probate. But it was not only the ‘great increase in personal property’ that led to its ascendancy. The business of the court was also swelled by rulings like that the Bank of England made in 1829 which decreed that they would only recognise a Canterbury probate.¹¹⁸ Similarly, the behaviour of solicitors like Samuel Sweet who ‘generally advised the proof of all wills to be made in the prerogative court’ led to an increase in the court’s activities.¹¹⁹ It is therefore perhaps not surprising that early attempts at reform sought merely to

(2), pp. 215–226.

¹¹⁵ The quote is from MP Collett Dobson Collett speaking on the reform of the ecclesiastical courts in the House of Commons in 1843, *Hansard*, 3rd Series, LXVIII (1843) col. 1055.

¹¹⁶ PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, p. 81.

¹¹⁷ PP 1833 VII *Report from Select Committee on Admiralty Courts*, p. 383.

¹¹⁸ In 1833 Sir John Nicholl estimated that there were 300,000 people who owned Bank of England stock. See PP 1833 VII *Report from the Select Committee on Admiralty Courts*, p. 388.

¹¹⁹ PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, p. 23. Although, as Chapter Six reveals, very few Stockport testators appear to have been granted Canterbury probates.

consolidate ecclesiastical jurisdiction into one or both of the archiepiscopal courts. Thus, in making their recommendations for reform the Ecclesiastical Commissioners remarked that:

we are unable ... to devise any measure so effectual, and likely to be productive of so much convenience and advantage to the public as that of transferring the whole testamentary jurisdiction and exclusive rights of granting probates and administration to the Archiepiscopal Courts in the respective provinces.¹²⁰

A similar recommendation was offered by the select committee on the Admiralty Courts who proposed that all testamentary tribunals should be abolished except for the Prerogative Court of Canterbury and its court of appeal, the Court of the Arches. This act of centralisation, they contended, 'would afford great advantages to the public in the additional security of grants.'¹²¹ Those who favoured centralisation, both in the consolidation of ecclesiastical jurisdiction and in the creation of a new civil jurisdiction, did so on the grounds of the increased efficiency and competence that they believed it would bring. By centralising the existing ecclesiastical testamentary jurisdiction William Pritchard argued that a court would be produced 'with judges of learning and distinction, not inferior to those who preside in the chief courts of law and equity, with a competent bar, and an experienced body of practitioners.'¹²² Centralisation was thus seen as an appropriate course for modernisation because it enhanced the practical efficiency of the law while the elimination of the multitude of different jurisdictions bolstered theoretical claims that the law was both universal and uniform. There was also an element of expediency in centralising testamentary jurisdiction in London. It was widely recognised that London was a centre of legal expertise and that most litigation with respect to the process of property transmission was carried out there.

In part, those who were against the centralisation of testamentary jurisdiction held such opinions because they were suspicious of the expedient motives of reformers. As a key feature of the Liberal reform movement, centralisation was a politically charged issue. Barnes believed that the centralisation movement was part of a 'powerful

¹²⁰ *ibid.*, p. 24.

¹²¹ PP 1833 VII *Report from Select Committee on Admiralty Courts*, p. 385.

¹²² Pritchard, W. (1853) *Reform of the Ecclesiastical Courts Analysis of the Present State of the Question and Evidence before Parliament, with an Examination of the Several Propositions of Reform Resulting Therefrom*, W.

combination for metropolitan aggrandisement', as the London legal profession sought to boost their business.¹²³ 'Why', asked Sir Richard Inglis sarcastically, 'will friends of centralisation ... not erect the new court at Northampton, as the actual centre of England?'¹²⁴ Indeed, a large part of the opposition to the centralisation of the ecclesiastical courts came from the 'formidable' country legal practitioners who feared the loss of lucrative probate business to metropolitan attorneys.¹²⁵ However, the arguments used to counter centralisation of jurisdiction were far from those of simple professional self interest. Like the arguments put forward in favour of centralisation, those which called for the retention of local courts also claimed to be modernising.¹²⁶ Whig MP John Collier believed that 'one of the most important principles in legislation ... was that of bringing cheap and speedy justice, as far as possible to everyman's door.'¹²⁷ To Sir Richard Inglis this was 'the great axiom of duty' embodied in the reform of the legal apparatus of the state.¹²⁸ To him and others it was the obvious course of modern legal reform. Indeed, supporters of a decentralised system of courts claimed that the principle of local justice had been firmly established by the reform of the county court system.¹²⁹ Ralph Barnes could think of no other branch of the law 'which more calls for local administration than that relating to the dealing with effects on succession under a will or intestacy.'¹³⁰

In bolstering their claims that a local system of courts was better than absolute centralisation of ecclesiastical jurisdiction, reformers focused on key modernising issues. Their first claim was that a system of local courts was more integrative and homogenising than a single central court. Barnes argued that local tribunals were necessary for the 'more distant parts of the kingdom ... [to] preserve their due weight and enjoy their fair share in the British constitution.'¹³¹ A second important claim was that local tribunals were more convenient than a single central court. Samuel Gale felt

G. Benning and Co., London, p. 14.

¹²³ Barnes, *An Appeal to the People of England*, p. 3.

¹²⁴ *Hansard*, 3rd Series, LXVIII (1843) col. 798.

¹²⁵ *Hansard*, 3rd Series, LXVIII (1843) col. 1048.

¹²⁶ See Ogborn, 'Local power and state regulation'.

¹²⁷ *Hansard*, 3rd Series, CXXVIII (1853) col. 1235.

¹²⁸ *Hansard*, 3rd Series, LXVIII (1843) col. 797.

¹²⁹ This was the main guiding principle of Collier's attempt at reform in 1853. He proposed that testamentary matters come under the jurisdiction of the common law courts. See PP 1852–53 V *A Bill to Transfer the Testamentary Jurisdiction of the Ecclesiastical Courts to the Superior Courts of Common Law and the County Courts*; and *Hansard*, 3rd Series CXXVIII (1853) cols. 1231–1251.

¹³⁰ Barnes, *An Appeal to the People of England*, p. 33.

that 'it does not appear to me to be reasonable that the kindred of [deceased] persons should be required to come or send from all places between Berwick-upon-Tweed and the Land's End, and between Holyhead and Yarmouth in Norfolk, the length and breadth of the land ... for the purpose of registering wills or gaining a grant of administration.'¹³² But perhaps the strongest argument of those in favour of retaining some kind of provincial jurisdiction related to the key issue of the security of property transmission. According to Barnes:

it is as plain as the noon day, that a well-arranged system of local tribunals, with known and permanent officers, answerable to the judge, placed at principal towns throughout the country, must be a more efficient check on fraud, than any of the most vigilant superintendence of a metropolitan court.¹³³

Local knowledge was thus argued to be the key to the secure and successful implementation of national laws. It was necessary for the effective surveillance of property transmission that was being sought. Barnes could hardly believe that those proposing reform could contend 'that there was more security against imposition by entrusting a grant to one central establishment, than to a known and responsible officer in the immediate locality.'¹³⁴ 'All men are known to their neighbours' remarked Sir Richard Inglis. This, he believed, was the essential principle that modern legal reformers keen to enhance the security of property transmission should recognise.¹³⁵

There were, however, differing opinions over the form of local testamentary jurisdiction. Some legislation favoured the simple consolidation of the ecclesiastical courts, such as that of 1844 which proposed a system of some thirty-five diocesan and archiepiscopal courts.¹³⁶ Other reformers, like Sir George Gray, speaking in a debate in the House of Commons in 1843, argued that regional courts be retained but that diocesan jurisdictions should be abolished and replaced by a 'new and more convenient' regional system.¹³⁷ Further legislation favoured the replacement of local

¹³¹ *ibid.*, p. 3.

¹³² Gale, *Inquiry into the Origin*, p. 172.

¹³³ Barnes, *An Appeal to the People of England*, p. 15.

¹³⁴ *ibid.*, p. 23.

¹³⁵ *Hansard*, 3rd Series, LXVIII (1843) col. 798.

¹³⁶ PP 1844 II *Bill Intituled, Act to Consolidate the Jurisdiction of Ecclesiastical Courts of England and Wales, and for Altering and Amending Laws in Matters Ecclesiastical.*

¹³⁷ *Hansard*, 3rd Series, LXVIII (1843) col. 1035.

ecclesiastical courts by some other form of regional jurisdiction. Such was the plan of the bill brought to Parliament by John Collier in 1853 which proposed the transference of testamentary business to the common law courts.¹³⁸ Under this scheme testamentary business on small estates would be done in the county courts. Thus, while many reformers were convinced of the merits of a local system of testamentary courts, there was still a considerable degree of uncertainty over the most appropriate legal apparatus.

The course of reform and the eventual legislation that abolished the ecclesiastical courts was therefore moulded by the opposing forces of centralisation and localism, as well as being intersected by debates surrounding the legal jurisdiction of a reformed system of testamentary courts. Under the various different plans put forward, attempts were made to incorporate the uniformity of practice offered by centralisation with the convenience and security of local jurisdiction. The Court of Probate Act established a geography of testamentary jurisdiction that was the outcome of this process: a single metropolitan court supported by a number of district probate registries. It constituted a 'reconfiguration' of the relationships between central and local administrative structures, creating new interdependencies between the two. The uncertain and contested negotiation of reform reflected the tensions between the universal nature of the law and the practicalities of implementing it. In modernising the law, reformers sought to create a system that was universal over space, universal in its jurisdictional character and impartial with respect to the forms of property and types of people who came under its jurisdiction. To the middling sort living in industrialising towns like Stockport, the reforms were important because they provided the means by which the state could recognise their existence as generators, owners and transmitters of wealth.

A safe system of registration and storage

Similar issues of localism versus centralisation structured debates surrounding the best mode for registering, storing and making accessible testamentary documents. As with other aspects of the testamentary legal apparatus, existing facilities were considered to be inadequate. Furthermore, the safe storage of wills and other testamentary documents was seen as being crucial to the protection of property and to

¹³⁸ PP 1852–53 V *A Bill to Transfer the Testamentary Jurisdiction of the Ecclesiastical Courts to the Superior*

the rights of those who were entitled to claim its ownership. Reformers had no doubts that the existing system was failing many people.

“Here goes the testator and a pedigree” cried a functionary of the Consistory Court of Durham as he lit his pipe with a will snatched from the court’s depository.¹³⁹ This incident was witnessed by William Downing Bruce, an energetic campaigner for the reform of the ecclesiastical courts, during a tour around the ecclesiastical record offices of England and Wales. In the late 1840s Bruce visited offices in London, York, Chester, Lincoln, Lichfield, Coventry, Bath and Wells, St. Asaph, Durham, Ely, Exeter and Gloucester in an attempt to expose the ‘deplorable state’ of the courts’ registries.¹⁴⁰ Indeed, the poor preservation of wills, and the difficulties and expense of gaining access to them within the ecclesiastical registries, had become one of the most important aspects of the popular movement for the reform of the church courts. It was certainly frequently written about in newspapers and other media.¹⁴¹ As early as 1813 Parliament had ordered a report to be made on ‘the state of repositories of parochial registers and wills proved in the dioceses of England and Wales.’ The reporters found many instances of bad practice in the keeping of documents.¹⁴² Several years later, in 1826, the historian Sir Nicholas Harris Nicolas drew attention to the inadequate storage of wills and the difficulty of gaining access to documents at Doctors’ Commons.¹⁴³ The poor storage and lack of access to testamentary documents was also highlighted by the reports of the ecclesiastical courts, real property and admiralty courts commissioners.¹⁴⁴ Even Charles Dickens (who had worked for a time as a law writer at Doctors’ Commons) and his appropriately named colleague W. H. Wills had written a sensationalist essay on the subject. They described ‘the dilapidative neglect, the hideous disorder and the wilful destruction of documents’ that took place in some

Courts of Common Law and the County Courts.

¹³⁹ Bruce, *An Account of the Present Deplorable State of the Ecclesiastical Courts*, p. 43.

¹⁴⁰ *ibid.*, p. 43.

¹⁴¹ *ibid.*, p. 13.

¹⁴² For example, they remarked that the register office at Durham was ‘neither adequate in point of size nor sufficiently dry and airy, for keeping the important records for which it is intended.’ PP 1813–14 XII *Reports Made to His Majesty’s most Honourable Privy Council Respecting the State of Repositories of Parochial Registers and Wills Proved in the Dioceses of England and Wales*, p 131. See generally pp. 131–144.

¹⁴³ Nicolas, N. H. (1826) *Testamenta Vetusta: Being Illustrations From Wills, of Manners, Customs &c. As Well as the Descents and Possessions of many Distinguished Families from the Reign of Henry the Second to the Accession of Elizabeth*, Volume I, Nichols and Son, London, p. 13.

¹⁴⁴ PP 1831–32 *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts in England and Wales*; PP 1833 XXII *Law of Real Property, Fourth Report*; PP 1833 VII *Report from Select Committee on Admiralty Courts.*

ecclesiastical registries.¹⁴⁵

Dissatisfaction with the ecclesiastical record offices took three main forms. First, it was considered that there were too many of them. Second, they were thought to be insecure and badly managed. Third, it was complained that access to the documents was difficult and expensive. Bruce, for example, bemoaned that with some 380 testamentary courts (each with their own facilities for the registration and storage of documents) 'it is impossible to know where a will should be looked for.'¹⁴⁶ After examining the facilities for the storage of wills among the many courts within the diocese of Lichfield and Coventry, the parliamentary reporters appointed to inquire into the state of the ecclesiastical registries thought that the inconveniences caused by the dispersion of documents around the private houses of the registrars or in the churches of peculiar jurisdictions warranted the establishment of a single diocesan registry.¹⁴⁷

Not only were there a large number of registries in which to search for a will, it was also claimed that many were badly maintained. Stories circulated of wills being kept in a hat box in some small registry somewhere in middle England, while Bruce's tour around the ecclesiastical courts of England and Wales pointed to several instances where wills were wilfully destroyed by registry personnel or kept in insecure premises at risk from damp or fire.¹⁴⁸ According to Samuel Gale the papers of the ecclesiastical court at Gloucester were 'reposed in dry wooden cases in an old building surrounded by the perpetual fires of workshops and in such a state of insecurity that the deputy registrar is under apprehensions for their safety.'¹⁴⁹ Even the facilities for the storage of wills proved in the senior ecclesiastical courts that sat at Doctors' Commons were argued to be inadequate. The registry itself was not a public building, but the private property of the principal registrar of the Prerogative Court of Canterbury, the tenure

¹⁴⁵ Dickens, C. and Wills, W. H. (1850) 'The doom of English wills', *Household Words*, republished in Stone, S. (1968, ed.) *The Uncollected Writings of Charles Dickens: Household Words, 1850-59*, Volume I, Penguin, London. See also Longley, K. M. (1993) 'Charles Dickens and the 'doom' of English wills', *Journal of the Society of Archivists*, 14 (1), pp. 25-38. Longley notes that much of Dickens and Wills' account was based on Bruce's essay.

¹⁴⁶ Bruce, *An Account of the Present Deplorable State of the Ecclesiastical Courts*, p. 12.

¹⁴⁷ PP 1813-14 XII Reports Made to His Majesty's Most Honourable Privy Council Respecting the State of Repositories of Parochial Registers and Wills Proved in the Dioceses of England and Wales, p. 135.

¹⁴⁸ The hat box story came from a speech made by Inglis in the House of Commons in 1843, see *Hansard*, 3rd Series, LXVIII (1843) col. 791; Bruce, *An Account of the Present Deplorable State of the Ecclesiastical Courts*.

¹⁴⁹ Gale, *Inquiry into the Origin*, p. 165.

of which was precarious.¹⁵⁰ Bruce felt it was scandalous that ‘the wills of the province of Canterbury would, if the principal registrar were to die, come into the possession of his executors and assignees.’¹⁵¹ Furthermore, the building itself, upon the admission of Sir John Nicholl, a judge of the Prerogative Court of Canterbury, was considered ‘very insufficient for its purpose, both in point of space and security.’¹⁵²

The final source of dissatisfaction expressed at the ecclesiastical registries arose from the difficulties and expense of requesting and viewing documents. Bruce claimed that documents in some registries were poorly organised and lacked indexes, making it extremely difficult to locate particular wills.¹⁵³ Nicholas Nicolas grumbled about the ‘uncivil’ reception and great expense of consulting wills at Doctors’ Commons, while Mr. Wallace (the fictitious investigative journalist character of the Dickens and Wills’ essay) spoke of ‘documentary chaos’ at one large provincial registry.¹⁵⁴

Taken together, Bruce felt that this evidence proved that the ecclesiastical registries were a ‘disgrace to the age’.¹⁵⁵ The proper custody of wills was of concern to reformers who believed that an efficient system of storing, registering, indexing and making accessible testamentary documents was crucial to the security of property in ‘an advanced civilisation’.¹⁵⁶ The great increase in personal property had elevated the importance of ecclesiastical will registries. Speaking of the wills stored in the registry of the Prerogative Court of Canterbury, Sir John Nicholl remarked that:

they form a material part of the instruments necessary to support and authenticate the titles to a large portion of the real and personal property of the kingdom ... with the exception only of the Bank of England ... this registry has become perhaps the repository of documents of the greatest importance of any in the country.¹⁵⁷

¹⁵⁰ See evidence of registrars Nathaniel Gosling and Charles Dyneley given to the ecclesiastical courts commission: PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, Minutes of Evidence, p. 1.

¹⁵¹ Bruce, *An Account of the Present Deplorable State of the Ecclesiastical Courts*, p. 18.

¹⁵² Letter from Sir John Nicholl to Sir Robert Peel, 18 March 1829, reprinted in PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts in England and Wales*, p. 532. See PP 1813–14 XII *Reports Made to His Majesty’s Most Honourable Privy Council Respecting the State of Repositories of Parochial Registers and Wills Proved in the Dioceses of England and Wales*, for further examples.

¹⁵³ Bruce, *An Account of the Present Deplorable State of the Ecclesiastical Courts*, e.g. pp. 21–23.

¹⁵⁴ Nicolas, *Testamenta Vetusta*, p. 12; Dickens and Wills, ‘The doom of English wills’, p. 170.

¹⁵⁵ Bruce, *An Account of the Present Deplorable State of the Ecclesiastical Courts*, p. 47.

¹⁵⁶ *ibid.*

¹⁵⁷ Letter from Sir John Nicholl to Sir Robert Peel, 18 March 1829, reprinted in PP 1831–32 *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts in England and*

‘To the great mass of the middle and lower class’, continued William Downing Bruce, the wills stored in the ecclesiastical registries, ‘form the only records, the only title deeds, to which they can appeal, and on the accuracy of which they can rely.’¹⁵⁸

As institutions of such fundamental importance to the welfare of the country and the general security of property, reformers felt that the government had a responsibility to do something about the registration and storage of wills. Like ecclesiastical jurisdiction over testamentary law, systems of registration and storage were recognised to be out of synch with the commercial exigencies of the age and threw into doubt the proprietorial integrity of growing numbers of the country’s population. The ascendancy of personal property that coincided with the growth of industrial capitalism had also transformed the social and economic importance of the ageing and dilapidated ecclesiastical registries.

Many argued that the security of property would be greatly enhanced by centralisation of the registries into a single new metropolitan registry. Solicitor Samuel Sweet claimed that ‘it would be a great public advantage’ if all wills were stored and registered in one place, reducing the complication and expense of searches.¹⁵⁹ It was also argued that the deposition of all the wills proved in England and Wales in a single repository would provide greater security for the documents. However, centralisation of registration, effectively introduced under the Court of Probate Act cannot be seen as an inevitable outcome of the reform process. Modernisation of the system of registration was as contested and as fraught with as many worries and uncertainties as other aspects of reform.

While some believed that the centralisation of registration would add to the security of wills and thus titles to property, others feared the consequences of wills being removed from their locality. To some, like Captain Fitzroy, wills were essentially private family documents and they ‘ought to be kept in the locality where they are

Wales, p. 532.

¹⁵⁸ Bruce, *An Account of the Present Deplorable State of the Ecclesiastical Courts*, p. 12.

¹⁵⁹ PP 1831–32 XXIV *Reports of the Royal Commissioners Appointed to Inquire into the Practice and Jurisdiction of Ecclesiastical Courts*, p. 23.

most frequently needed.’¹⁶⁰ Speaking in the same House of Commons debate, Sir Richard Inglis considered it a danger to keep all testamentary documents in one place in London. He believed that they were at a greater risk of being destroyed by fire or invasion. Furthermore, he also argued that wills were needed most in the locality where a testator’s family lived. The whole point of registration was to allow rights of inheritance to be established. By necessity, it was argued, wills had to be kept in a place accessible to a testator’s next of kin.

Indeed the question of the registration and storage of testamentary documents forced reformers to consider carefully the relationship between the state, the individual and their property. On the one hand, centralisation enabled the better control and surveillance of registration commensurate with the modernist project of certain reformers.¹⁶¹ On the other hand, the greater public transparency of property ownership that a central register office would bring about, was seen by some, like Captain Fitzroy, as a step too far. It was regarded as an intrusion by the state into the private sphere of the family.¹⁶² The issue of registration is thus very revealing of limits to state intervention into the ownership of private property within a family context.

Conclusion: Property, the middling sort and the state

This chapter has examined the way in which the reform of the law of wills and the overhaul of machinery of succession were driven by the changing ownership, forms and uses of property in early Victorian Britain. Surveying the entire canvas of reform, three major concerns can be identified as being at the driving edge of change. First, the desire to protect the right to own and transmit property and to enhance the testamentary freedom of adult male property owners, regardless of their social background. Second, the urge to establish an appropriate legal infrastructure to enable a secure, accessible and efficient transmission of estate regardless of the legal distinctions that existed between different sorts of property. Finally, reformers were keen to control, order and protect the documentation necessary to authenticate rights to the ownership of private property. Through these reforms, the state became a nationally and socially inclusive facilitator and guardian of the right to own and

¹⁶⁰ *Hansard*, 3rd Series, LXVIII (1843) col. 1053.

¹⁶¹ See Giddens, *The Consequences of Modernity*.

¹⁶² See the discussion of opposition to the general registry of deeds in Stockport presented in Chapter Three.

transmit property. Yet, in contrast to some historical narratives of state formation, such changes were not driven by a confident, inevitable and progressive modernising force. The process of reform was an uncertain one stretching over a period of thirty years. A range of different opinions existed as to what constituted a modern course of reform and these were refracted through a complex array of interests and allegiances.

However, the chapter has positioned these three main concerns at the centre of the reform process. As a result, other explanations of reform have inevitably been sidelined or marginalised. The politics of reform have not, for example, been considered in detail. Clearly the political hues of reformers – Whig, Tory or other – are important in understanding the direction and dynamics of reform and the terms upon which debates were conducted. Likewise, the chapter has also only touched upon the uneasy and uncertain relationships between church and state which provided a formative arena of conflict around which modernisation of the legal machinery of succession took place. However, in emphasising the role of property in shaping reform, the aim is not to exclude or deny the significance of these or other influences. Nevertheless, the explanations of reform that have been stressed provide a number of important insights into property and its changing social relations within early nineteenth-century England and Wales.

The diagnoses of the problems with the machinery of succession identified by reformers reveal a fundamental shift in the character and use of property. Personal forms of property were clearly overtaking the importance of real estate in terms of the transmission of wealth. Moreover, all property was becoming more geographically mobile and was being used more flexibly and creatively. On the one hand then, it is obvious that the growth of a property-owning middling sort, primarily associated with these new forms and uses of wealth, was driving the need for reform. However, the debates that surrounded the reform made few explicit references to languages of class. In understanding the social and political importance of the middling sort, the reform process is perhaps more significant in its tacit acceptance that new kinds of wealth and new owners and transmitters of that wealth were of growing importance in early Victorian society. Indeed, the significance of the reforming programme is perhaps that it created a legal infrastructure which made the middling sort visible as a social group. Regulation and registration of the property transmission process made it much easier

to identify both property and its owners. In turn, this provided the means for identifying property owners as political subjects, who, by virtue of the ownership of this wealth, could exercise political rights. Thus, the process of reform highlights the growing significance of the middling sort. It also provides a clear reminder of the way in which property transmission was regulated by the state and its reform was implicated in a process of state formation. While property is often seen as a private concern and inheritance was, as later chapters reveal, undoubtedly a family matter, it was also something that was publicly governed through the legal machineries of succession. This signals a recurrent theme which appears in later chapters whereby property and inheritance are revealed to connect rather than separate the private and public worlds of the middling sort.

Exploration of the reform of the legal machinery of succession has, therefore, provided a fruitful and illuminating diversion from the banks of the River Mersey. However, wills were not made simply at the national scale and the next chapter switches attention back to Stockport in order to consider similar themes in that locality. It explores the consumption of some of the legal knowledges that have been probed in this chapter and examines the social networks that facilitated will making at local level.

CHAPTER FIVE

‘The duty and paramount obligation of every considerate and rational man’: Property, will making and estate disposal in Stockport, 1800–1857

Introduction

As was shown in chapter two, historians’ interest in wills has been largely confined to reconstructing patterns of property ownership and analysing inheritance practices. In general, there has been an emphasis on studying the outcomes of property transmission rather than the processes by which such activities were effected. Remarkably little attention has been paid to will-making practices or the various activities associated with the disposal of estates.¹ The aim of this chapter is to examine these matters. In part, this is done in order to provide a background to other chapters of the thesis which explore in detail inheritance strategies and the social uses of property. Focusing on Stockport in the early-nineteenth century, the chapter examines who made wills, how, and why, as well as tracing various activities connected with the disposal of estates. However, rather than merely providing a context for other chapters of the thesis, a second and more important objective is to explore the social significance of will making and estate disposal within urban communities. By focusing on the wider social context of property transmission in towns, the chapter investigates a side of inheritance usually ignored by historians concerned with the domestic context of estate disposal. It investigates the everyday social relations of property transmission, exploring the networks of people, sources of expertise and

¹ This is especially the case for nineteenth-century urban contexts. A broad introduction to will making is provided by Camp, A. J. (1974) *Wills and Their Whereabouts*, Published by the author, London, pp. ix–xl. Philip Riden’s (1985) edited collection of essays *Probate Records and the Local Community* Alan Sutton, Gloucester, addresses will making in an early modern context, as does Houlbrooke, R. (1998) *Death, Religion and the Family in England, 1480–1750*, Clarendon, Oxford, Chapter Four, pp 81–109. Finch, J., Mason, J., Masson, J., Wallis, J. and Hayes, L., (1996) *Wills, Inheritance and Families*, Clarendon, Oxford, pp. 39–65, provide an interesting contemporary comparison.

forms of knowledge that enabled the making of wills and disposal of estates. Ultimately, therefore, the chapter aims to look at the way in which will making and estate disposal were embedded within the social fabric of the urban public sphere. This is done in recognition of Jeffrey Longhofer's claim that 'in order to make sense of inheritance practices ... it is necessary to understand the structure of the formations (household, community and social) within which these practices are formed, codified and contested.'² While it is impossible, in the space available here, to explore all of the structures and formations through which inheritance took place, an investigation of the key activities relating to will making and estate disposal makes it possible to access some of the motives for, and meanings of, property transmission in urban nineteenth-century contexts.

In considering will making and estate disposal the chapter inevitably pays considerable attention to legal matters. As Janet Finch and her colleagues have recently observed, 'the law creates the very concept of a will as a mechanism for the transmission of property.'³ The law was an important social referent and without some understanding of the legal background to will making, both in terms of the rules it established for the transmission of property and the way in which legal knowledge was used in the construction of wills, it is not possible to appreciate fully strategies of inheritance. Rather than examining the national legal framework for property transmission this chapter looks at some of the ways in which this legal knowledge was accessed and 'consumed' locally. It identifies the main sources of legal expertise used in the making of wills and disposal of property in Stockport. Finally, it also highlights some of the ways in which the consumption of legal knowledge was embedded within the social structures of the town.

The chapter draws upon a variety of sources. Central to the discussion is the analysis of a random sample of some 500 Stockport wills proved at the Consistory Court of Chester between 1800–1857.⁴ While testamentary documents have mostly been used to study inheritance practices, they also furnish considerable insights into the processes of will making and estate disposal. The actual text of the will provides,

² Longhofer, J. (1993) 'Toward a political economy of inheritance: community and household among the Mennonites', *Theory and Society*, 22, p. 340.

³ Finch, et al., *Wills, Inheritance and Families*, p. 20.

amongst other things, information on authorship, the use of professional expertise, the style of construction, the timing of will making, and the names of people appointed to oversee the disposal of estate. Further information can be gleaned from the written act of probate endorsed on the back of the will. In most cases this gives details of the date of a testator's death, the date of probate, the name of the official who granted probate, a sworn estimate of the gross value of personal estate, the names of the persons who took executorship and the nature of the oath that they swore. This and other information was abstracted from each of the 500 wills to form the basis of the analysis in this chapter. Where appropriate other local sources, such as newspapers and trade directories, were used to supplement the material and animate the will-making process. Further contextualization of the activities surrounding testamentary disposition was provided by an analysis of a number of contemporary legal texts and official documents relating to the matter.

Who made wills?

Evidence from the sample of Stockport wills suggests that will making was predominantly a male activity. Given the restrictions women faced in making wills, it is not surprising that only twenty-one per cent of the sample of Stockport wills were made by females.⁵ This proportion is very similar to that found by Maxine Berg in her study of eighteenth-century Birmingham and Sheffield wills, where women left 22.8 per cent and 18.1 per cent of the total number of wills respectively.⁶ Berg argues that these proportions are much higher than that which is indicated in studies of other parts of the country for the late eighteenth century, where typically women left ten per cent of wills. However, the proportion of female testators in Sheffield and Birmingham in the eighteenth century and Stockport in the early-nineteenth century, is considerably lower than the proportion of women leaving wills in nineteenth-century London. Figures provided by Green and Owens suggest that in 1800 thirty-two per cent of testators were women, and that in 1850 women made thirty-four per cent of all metropolitan wills.⁷ One further observation on the Stockport sample is that widows

⁴ See Chapter Two for a discussion and description of the sample.

⁵ See Chapter Two for a discussion of the restrictions faced by women when making wills.

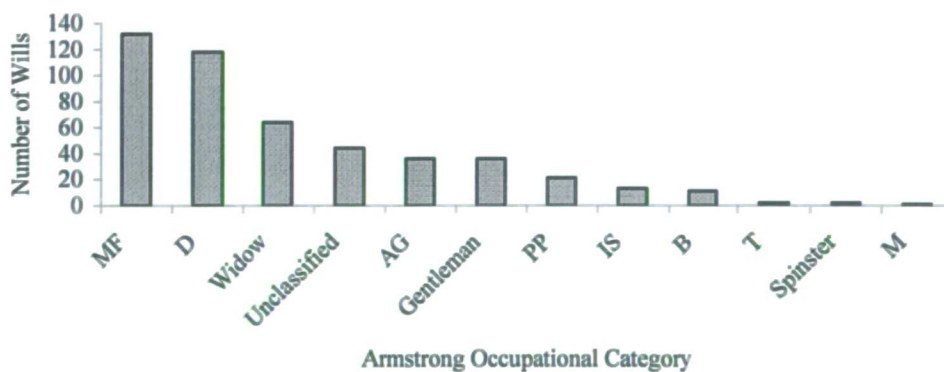
⁶ Berg, M. (1993) 'Women's property and the industrial revolution', *Journal of Interdisciplinary History*, XXIV, p. 237.

⁷ Green, D. R. and Owens, A. (1997) 'Metropolitan estates of the middle class, 1800-50: probates and death duties revisited', *Historical Research*, 70 (173), p. 310.

account for by far the largest proportion of female testators (over sixty per cent) and there are only three examples of married women's wills.

The preamble to most wills contains what is properly referred to in law as an 'addition'.⁸ The addition contained the testator's surname, Christian name, place of abode, trade and occupation. In the case of women a description of their condition – spinster, widow or wife – was usually considered sufficient instead of a trade and occupation. The occupations given by Stockport testators were classified using the Armstrong index (see Figure 5.1). Those persons engaged in manufacturing industries formed the largest occupational category of will makers, accounting for roughly a quarter of all testators. In a town dominated by the textile industry, this is not surprising. The second largest group of will makers were those involved in dealing or retail trades – shopkeepers, publicans and the like.

Figure 5.1
Occupational identity of will makers, Stockport, 1800–57



Key to Armstrong occupational categories:

AG	Agriculture and Breeding	B	Building	D	Dealing
DS	Domestic Service	IS	Industrial Service	M	Mining
MF	Manufacturing	N A	No occupation	T	Transport
PP	Pub. Service/Professional	PO	Property Owning	Independent	

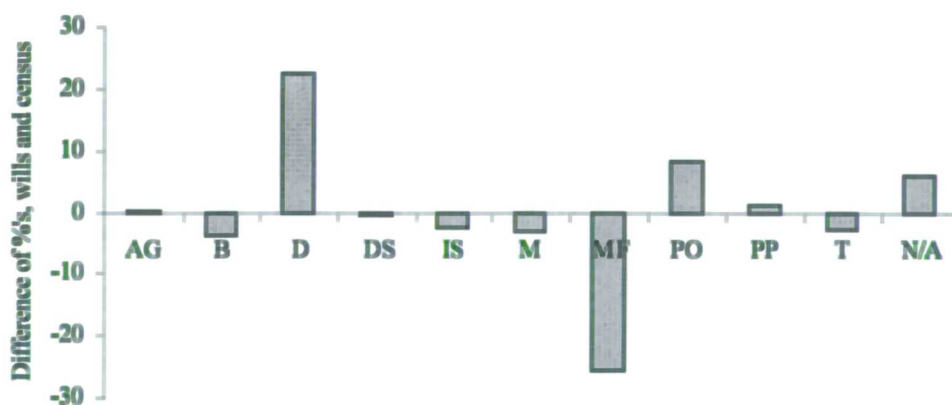
Source Sample of 500 Stockport wills proved at the Consistory Court of Chester, 1800–57.

By comparing the occupational data derived from the wills with that available from the 1851 census it is possible to gain a clearer picture of the relative propensity of

⁸ Dickson, R. (1830) *A Practical Exposition of the Law of Wills*, Sherwood, Gilbert and P'per, London, pp 8–9.

different occupational groups to make probated wills (see Figure 5.2). While the results must be treated with caution, not least because of the temporal incompatibilities of the two data sets, the material suggests that certain occupational groups were more inclined to make wills than others. Retailers and other dealers, professionals and property owning males were proportionally more numerous among will makers than the population as a whole. While the latter two of these groups, because of their wealth and status, might have been expected to make more wills, the high proportion of retailers who disposed of their property by will requires further explanation. Those who were engaged in the retail activities clearly owned and generated personal property, such as leasehold premises and stock-in-trade, that could be passed on by will. At a more pragmatic level, wills could have been used by retailers as a mechanism for settling business transactions and ensuring that property associated with the firm was transmitted to the right people. Among this petit-bourgeois segment of the town's population, the ability to transmit the accumulated fruits of one's labours by will might also have been regarded as a modest measure of proprietorial achievement.⁹

Figure 5.2
Comparison of occupational structure of male will makers 1800–57 with occupational structure of male population according to 1851 census



For key to Armstrong occupational categories see Figure 5.1

Source: Sample of 500 Stockport wills proved at the Consistory Court of Chester, 1800–57 and 1851 Census (Cheshire).

⁹ On attitudes to property ownership among the petite bourgeoisie (comprised mostly of shopkeepers and small retailers) see Crossick, G. (forthcoming) 'Meanings of property and the world of the petite bourgeoisie', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes. Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot

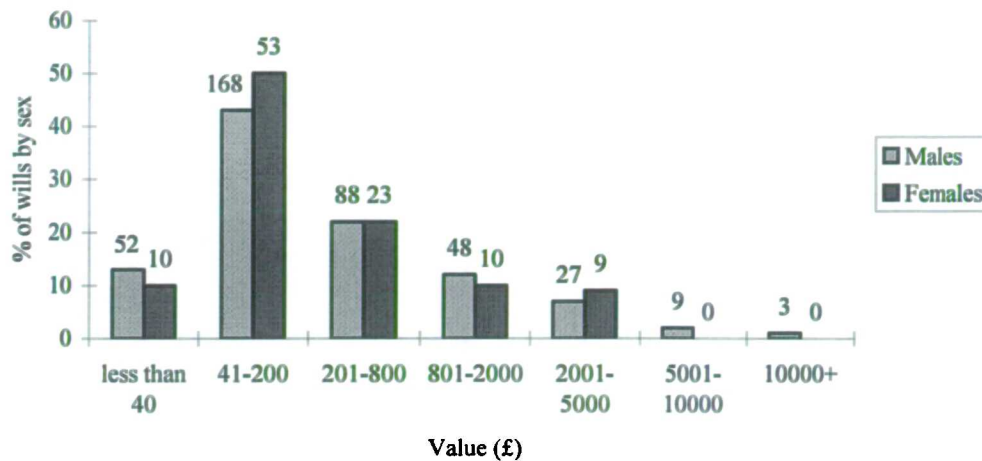
In contrast to Figure 5.1, Figure 5.2 suggests those engaged in manufacturing were proportionally less significant among will makers than in the population as a whole. This can be explained simply by the large numbers of cotton operatives who were categorised under manufacturing occupations in the census but who did not own enough property to make it worth their while making a will.

The question of who made wills can also be extended to an analysis of the range of wealth holders who disposed property in such a way. Wealth holding can be measured by examining probate values. Probate values are an estimate of the gross value of an individual's personal estate made after their death for taxation purposes. As the valuation excludes debt and does not extend to real estate, the figures need to be treated with extreme caution.¹⁰ A further caveat must be entered on the reliability of the sample of Stockport probates, which only includes wills proved at the Consistory Court of Chester. Wills proved at other courts with testamentary jurisdiction over Stockport – notably the Prerogative Courts of York and Canterbury – may well, because of the rules that determined jurisdiction, have been of greater value. However, given the small number of Stockport wills that were proved in these courts, the exclusion of such valuations is unlikely to affect the figures drastically.¹¹ With these qualifications in mind, Figure 5.3 reveals the average size of estate to have been relatively small. The modal property valuation category was £100, while the mean value of the entire sample (excluding one very large estate) was £791. Significantly, forty per cent of estates were valued at under £100 and there were only three estates valued at over £10,000.¹² However, while the average size of personal estates in Stockport appears to have been relatively low, the ownership of real estate among will makers was widespread. Some seventy per cent of testators among the sample possessed freehold property. In most cases the wills suggest this to have been cottage property.

¹⁰ A thorough discussion of the problems of using probate documents can be found in Green and Owens, 'Metropolitan estates of the middle class', pp. 294–304; Gunn, S. (1988) 'The failure of the Victorian middle class: a critique', in Seed, J. and Wolff, J. (eds.) *The Culture of Capital Art, Power and the Nineteenth-Century Middle Class*, Manchester University Press, Manchester, pp. 17–43 and Rubinstein, W. D. and Duman, D. (1974) 'Probate valuations: a tool for the historian', *Local Historian*, XI, pp. 68–71.

¹¹ See Chapter Two.

Figure 5.3
Value of estates in Stockport, 1800–57



Source: Sample of 500 Stockport wills proved at the Consistory Court of Chester, 1800–57.

In summary, will making in early nineteenth-century towns like Stockport was an activity dominated by men, but not solely restricted to the wealthy. Those with more modest fortunes also made wills in large numbers and retail traders and owners of real estate appear to have been particularly keen to dispose of their property in such a way. However, thinking about the identity of will makers in such functional terms ignores the material and symbolic importance of making a will. In examining the different stages of the will-making and estate-disposal process, the remainder of this chapter builds up a clearer picture of the social context within which testamentary disposition took place. In doing so it also begins to uncover some of the meanings and significance of inheritance within urban-industrialising society.

When were wills made?

Richard Dickson provided the following advice on when wills should be made:

let no man ... postpone this sacred duty until he is not able to perform it; for, as death is appointed to all men, and “of the day and hour knoweth no man”, we should not, through neglect, want of fortitude, or cowardice, betray so shameful neglect of our temporal concerns, till we are sick and the hand of death is upon us ... [and] if we delay the duty until we are sick,

¹² Compare with Green and Owens, ‘Metropolitan estates of the middle class’, pp. 297 and 310, for the London situation.

we may be under the necessity of calling in the assistance of those who may deceive us ... [If we delay the duty] until we are old, we may not be able to recollect our various obligations.¹³

Tinged with an element of professional self-interest, Dickson's remarks establish a sense of urgency in making a will by playing upon fears of what might happen if such a 'duty' is left until too late in life. Joseph Hudson, in a notably gendered description of will making, also advised that a will should be made early on in an individual's life, depicting it as one of the key responsibilities of married family life. He recommended that:

a man ought to make his will as soon as he has married. Perhaps so grave a subject may be allowed to be put off until the honeymoon has entirely waned; for ... a will is required to be made when a testator is in a sound and disposing mind, memory and understanding; but it ought, certainly, to be among the most prominent subjects of a married man's thoughts, upon returning to sober and serious reflection.¹⁴

The exigencies of will making in relation to changing life course circumstances are a feature of the comments of both Dickson and Hudson and offer a springboard for further discussion of the issue of the timing of will making.

Hudson's identification of marriage with will making is significant. Marriage was an important stage in the life course of both men and women when property rights were defined and settled. For most women it was a time when the right to will property was ended; any will that had been published previously was automatically revoked.¹⁵ For a minority of women – just four out of the sample of 105 female testators in early nineteenth-century Stockport – entry into wedlock was the time when limited rights to alienate property and dispose of it by will were confirmed by a marriage settlement. Up until the 1837 Wills Act a man's will was also automatically revoked upon marriage and a new one had to be published.¹⁶ More generally, marriage was a time when expectations about the future uses and deployment of property changed and ideas of family provision began to emerge. Unfortunately, the impact of marriage on will-making activities is extremely difficult to assess. Although, as Hudson suggests,

¹³ Dickson, *A Practical Exposition of the Law of Wills*, pp. 3–4.

¹⁴ Hudson, J. C. (1838) *Plain Directions for Making Wills in Conformity with the Law*, Longman, London, p. 70.

¹⁵ Traditional dower or 'thirds' rights of married women to their husband's estate were abolished by the 1833 Dower Act. See Holcombe, L. (1974) *Wives and Property: The Reform of Married Women's Property Law*, Martin Robinson Oxford.

¹⁶ A will was also revoked by the birth of a first child.

getting married was a powerful incentive for publishing a will, few wills dating from this stage in an individual's life end up as the testamentary document proved by an ecclesiastical court. For some people making a will at marriage was to tempt fate and so it was left until much later in life.

As the wording of most wills indicate, the document which settled property upon death was an individual's 'last will and testament'. The 1837 Wills Act reaffirmed the rule that had existed under previous legislation that the publication of a new will, executed according to the proper legal formalities, was sufficient to revoke a former will. Dickson recommended that a married man should review his testamentary affairs on a regular basis, altering his will according to changed circumstances.¹⁷ Certain key life course events, such as the birth of children or the death of family members, would probably require a new will to be drawn up. Of course, most married women who made wills did so after their husband's death. A will made before marriage could not be revived and an entirely new document had to be published. It is therefore not surprising that widows made up the majority, some sixty-three per cent, of the sample of Stopfordian female testators who had their wills proved at the Consistory Court of Chester between 1800 and 1857. A new will might also be required upon the acquisition, sale or gift of property. With respect to the latter, a particular incentive for testamentary revision was where a gift of property to a family member, originally intended to be effected by will, was made *inter vivos*.¹⁸

The sample of Stockport wills does provide insights into two issues that relate to the timing of will making. First, they contain accurate information on when *last* wills and testaments were made. Figure 5.4 shows the length of time between when a will was made and when a testator died. The most striking feature of the data is that most wills were made close to death, with nearly half of the testators performing this act within three months of dying and nearly a fifth within one week. The results therefore reveal that however many wills were made over the life-course, final decisions about the transmission of property were often made in the face of death.¹⁹ In this respect the

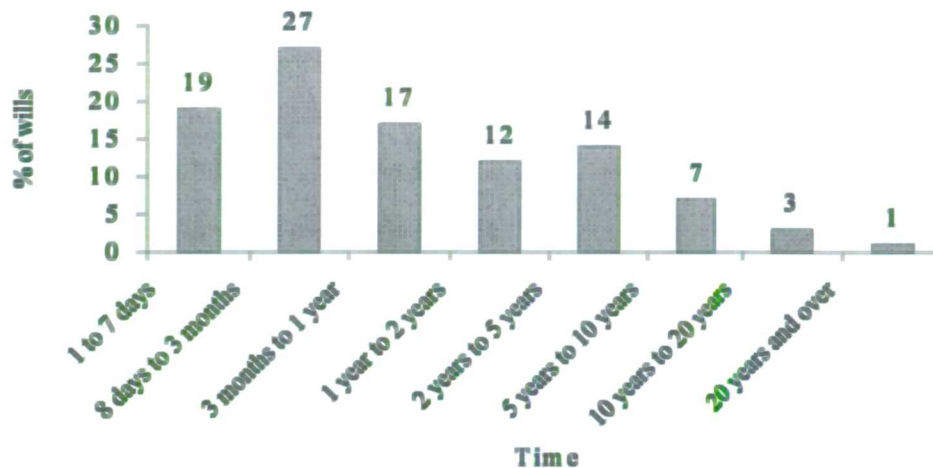
¹⁷ Dickson, *A Practical Exposition of the Law of Wills*, p. 12.

¹⁸ *inter vivos* – during the lifetime of the testator.

¹⁹ Some commentators have argued that the dating of a will may not be a true indication of when the document was drawn up. Caroline Litzenberger, for example, argues that many wills were dated sometime *after* they were initially drafted when read in front of witnesses. Some testators might have prudently postponed this until such

findings are also suggestive of the conditions under which wills were made. The propinquity of will making to death suggests that most testators published their wills mindful of their impending fate and therefore probably in a state of ill health.²⁰

Figure 5.4
Length of time between date will made and date of death,
Stockport testators 1800–57



Source: Sample of 500 Stockport wills proved at the Consistory Court of Chester, 1800–57.

Secondly, the sample of Stockport wills offers some measure of the extent of the use of the *codicil*. Provided it was executed in the same manner as a will, a codicil was a device that allowed the contents of a will to be altered without complete republication. Most codicils simply altered one or two instructions contained within the main text of a will, such as a revocation of a legacy or the appointment of a new executor. Just six per cent of wills in the sample contained a codicil, suggesting that its use was fairly uncommon. Given that so many people made wills close to death it is not surprising that the figure is so low. Either people left will making so late that they did not have time to make alterations, or they made changes so substantial that complete republication was preferred.

time that death seemed close. Evidence here suggests this not to be the case. Most wills seem to have been witnessed by solicitors or their clerks, suggesting that the date of publication coincides with the date of drafting. Even if the attestation of a drafted will was postponed, this does not undermine the argument that final decisions about the disposal of property were left until late in a testator's life. See Litzemberger, C. (1995) 'Computer-based analysis of early-modern English wills' *History and Computing*, 7, p. 150, note 5.

²⁰ Traditional religious preambles to wills often include a phrase providing some indication of the testator's health such as them describing themselves as being 'sick and weak in body but sound and perfect mind' or 'in good health and of sound mind memory and understanding'. Unfortunately, the inclusion of such preambles was rare among the wills of Stockport's nineteenth-century inhabitants.

How were wills made?

An essential feature of English testamentary freedom was the power of an individual to draw up his or her own will. Indeed, in 1833 this fundamental principle was reaffirmed by the commissioners appointed to investigate the law of real property with respect to wills who, in the introductory remarks to their report, felt it necessary to note that:

cases frequently occur when it is desirable that wills should be made, when there is not time to procure any professional assistance, as on the deathbed, in the event of accident or sudden illness; and there is a disposition in many persons both to delay until the latest moment the making of a will, and to do it in secrecy, to which the law must, we think have regard.²¹

So although the legislation which followed the report abolished nuncupative wills, it resisted calls for greater legal professionalism in the will-making process.²² The commissioners dismissed calls for the application to wills of ‘the strict rules by which the language of deeds is interpreted’ because they believed ‘it would impose too great a restraint upon the power of testamentary disposition.’²³ In theory, then, the liberty to transmit the benefit of property by will was vested in the individual through freedom of authorship. Such was the aim of reformers who wanted to make the process of transmitting property as simple as possible and accessible to all. In practice, however, evidence from Stockport suggests that will making was largely a professional legal activity.

The use of solicitors

Of the 500 Stockport wills under analysis some 427 (eighty-five per cent) could be identified as having been drawn up by a solicitor. This evidence suggests that Stockport testators overwhelmingly viewed will making as something requiring professional expertise, a finding at odds with the view of Joseph Hudson who claimed that ‘a very large proportion, perhaps as many as one third of the wills proved throughout England and Wales, are made, either by testators themselves, or by persons not belonging to the legal profession.’²⁴

²¹ PP 1833 XXII *Law of Real Property, Fourth Report Wills*, p. 3

²² 1837 Wills Act (1 Victoria c. 26). A nuncupative will is one which is not written down.

²³ PP 1833 XXII *Law of Real Property Fourth Report Wills*, p. 3.

²⁴ Hudson, *Plain Directions for Making Wills*, p. 12.

Why did so many people go to the trouble and expense of getting a solicitor to make their will? It is obvious from further analysis of the wills that the kind of strategies of property transmission commonly being used by Stockport testators were complex and required legal expertise. Typical forms of post-mortem family provision involved the management of property in trust. Significantly, sixty-two per cent of the wills in the sample involved a trust being set up and trustees being appointed (see Chapter Six). The law of trusts was based in equity, a branch of the law largely beyond lay expertise. Indeed, if done properly, the setting up of a trust by a will was a complex business requiring the use of specialist legal terminology to give power and protection to trustees and thereby maximise the vitality of trust estate.²⁵ Quite simply, in order for testators to enable forms of property transmission consistent with pervasive ideologies of family provision, legal expertise had to be resorted to. Joseph Hudson's characterisation of will making as 'the duty and paramount obligation of every considerate and rational man' captures the sense of urgency associated with testamentary disposition.²⁶ Not done properly – without recourse to the legal knowledge being made available in his pamphlet, or which could be bought from a local attorney – the whole process could fail with disastrous consequences, from expensive litigation to a ruined and pauperised family. With a similar whiff of financial self-interest, Richard Dickson also warned that 'everyman who is his own lawyer has a fool for his client.'²⁷ He believed that an accurate knowledge of the law was beyond lay capabilities. He continued, arguing that:

the law is a difficult and a profound science and requires the period of a whole life to be expended in its service ... before its votaries can pretend a competent knowledge of its mysteries. It must therefore be evident to every professional man, that he is incurring a great risk, and putting in peril his whole property for the salvation of a few pounds, by ... performing for himself the office of a scribe.²⁸

Elsewhere in Hudson's text the adoption of legalistic forms of wording in the construction of a will is presented as underpinning the successful transmission of

²⁵ Indeed, the protection of those appointed to dispose of the estate, such as executors and trustees, could have been a powerful inducement for seeking professional legal advice. Some of the perils of executorship are outlined in A' Beckett, T. T. (1842) *Law Reforming Difficulties Exemplified in a Letter to Lord Brougham and Vaux Accompanied by an Analysis of a Bill for the Improvement of the Law Relating to the Administration of Deceased Persons' Estates*, Henry Butterworth, London.

²⁶ Hudson, *Plain Directions for Making Wills*, p. 78. Even Hudson remarked that 'persons of great wealth' should engage a lawyer to make their will rather than rely on his own text (p. 47).

²⁷ Dickson, *A Practical Exposition of the Law of Wills*, p. 7.

²⁸ *ibid.*

property. For example, he advises that when making a legacy in a will, 'accuracy of description will frequently prevent litigation.'²⁹ Later he warns that if the will is not written clearly and accurately according to what the law demands 'the legatee fails and the legatee takes nothing.'³⁰ Using a solicitor therefore offered greater security and supposedly made it more likely that property would be passed in accordance with the testator's wishes and without further trouble and expense.

The use of a lawyer to draw up a will also helped to dramatise an activity strongly associated with the Victorian middling sort. Making wills, disposing of estates and receiving an inheritance were very visible, ever present, features of 'middle-class' life. Indeed, the consumption of legal knowledge and expertise in the nineteenth century was driven by the needs of an increasingly propertied, middling sort such as that resident in Stockport. According to Davidoff and Hall the growing legalisation of middle class life reflected 'the lifting of the burden of trust from personal behaviour to more remote institutionalised forms.'³¹ Paying for solicitors to make wills was characteristic of the professionalism that marked the masculine, 'middle-class' public sphere. Among family and kin, the use of professional expertise provided testators with an additional degree of authority over the property transmission process. A solicitor offered confidentiality, a space separate from the emotionally complex terrain of home and hearth where decisions could be made more impartially. In the confines of a solicitor's office testators could usefully distance themselves from the personal implications of the provisions made in the will. By not writing the document in the testator's own hand the text of the will became depersonalised and superseded by a series of formal legal instructions. This disembodiment from the process allowed the will to take on an authority of its own, instantly recognisable by its construction and use of a legalistic language. The use of a professional legal knowledge could therefore be interpreted as a strategy for claiming power and overcoming difficult and sensitive decisions about the transmission of estate.

Part of the explanation for such a large proportion of the wills being drawn up by solicitors probably relates to the supply of legal expertise in a rapidly expanding town

²⁹ Hudson, *Plain Directions for Making Wills*, p. 48.

³⁰ *ibid.* p. 54.

like Stockport. Towns offered easy access to a range of professional services, not always available in rural areas. According to trade directory evidence, the number of solicitor's firms in Stockport rose from thirteen in 1814 to twenty-seven in 1865, perhaps reflecting the growing demand for legal expertise that accompanied industrialisation. Furthermore, Stockport was also close enough to Manchester to draw upon the legal services available there. A more detailed analysis of the solicitors used by Stockport testators points to specialisation by some attorneys in wills and probate business (Table 5.1). Jonathan L. Chetham, for example, a prominent town lawyer who practised from premises in Great Underbank, was responsible for the execution of some seventy-two wills – remarkably, fourteen per cent of all wills in the sample.

Probing the question of why certain lawyers were used in preference to others is difficult. Of crucial importance must have been the cost of having a will made. Charges were generally dependent upon the length of the document.³² However, it is unlikely that cost alone determined the choice of a lawyer. Personal allegiance could also be an incentive for choosing one solicitor over another, particularly where a professional had provided legal expertise in the past and therefore might already have been familiar with family or business property arrangements. In other instances the choice might be made on the basis of the reputation of individual solicitors. Lawyers were often very visible members of the social and political communities of nineteenth-century towns. When political allegiances became more marked in the post-Reform era, some Stockport traders, notably publicans, complained of exclusive partisan dealing.³³ It is plausible that similar kinds of issues affected the use of lawyers. Will drafter extraordinaire Jonathan L. Chetham was a prominent Whig councillor and one-time alderman who may have attracted hostility from his political opponents. Similarly, Stockport's remarkably energetic, yet always controversial Liberal-Unitarian town clerk, Henry Coppock, practised as a lawyer with his partner William Woollam (and latterly with Samuel Oldham) and drew up a number of wills among the sample. Coppock was described by the editor of the *Stockport Advertiser*

³¹ Davidoff L. and Hall C. (1987) *Family Fortunes: Men and Women of the English Middle Class, 1780-1850*, Routledge, London, p 205.

³² Unfortunately, no sources survive to enable a comparison of the fees of different Stockport solicitors.

as a ‘violent party man’ and the newspaper reveals him to have made many enemies during the course of his political life. Indeed, one of Coppock’s key opponents was fellow lawyer, will drafter and would-be town clerk John Kenyon Winterbottom, who was a prominent Anglican Conservative.³⁴ In choosing a solicitor to make a will, it is therefore likely that existing economic, social and political allegiances influenced a testator’s decision. Here, as at other times, will-making activities were embedded within the social relations of the locality.

Table 5.1
Solicitors’ Activity

Solicitor	Number of wills	% of all wills
Chetham	72	14
Lingard/Vaughan	36	7
Baddeley	27	5
Harrop	16	3
Coppock/Woollam/Oldham	15	3
Boothroyd	11	2
Herbert	10	2
Oakes	10	2
Lloyd/Paulden	9	2
Hall	7	1
Turner	7	1
Mann	7	1
Reddish	6	1
Hudson	6	1
Ferns	5	1
Walters	5	1
Winterbottom	5	1
Walker	5	1
Braddock	5	1
Unknown	32	6

Source: Sample of 500 Stockport wills proved at the Consistory Court of Chester, 1800–57

Other sources of expertise

While most testators sought the services of a solicitor when drawing up a will, other forms of advice were also available. A number of legal manuals, such as that by James Bird, aimed to ‘recapitulate in familiar detail, such practical formalities and requisites as are material to be remembered and attended to by those whose particular

³³ Various examples of complaints of exclusive dealing can be found in *The Stockport Advertiser* during the 1830s and 1840s (see, for example, 15 September 1837). In 1837 licensed victuallers of the town formed their own protection society to try and militate against such activities.

³⁴ See the discussion of Winterbottom in Chapter Three.

inclinations, or peculiar situation ... may induce or oblige them to frame their own wills or other testamentary instrument.³⁵ While it is impossible to tell whether the home-made wills in the sample were drawn up using some kind of professional guide, there is one example of a will that used a simple pre-printed form that was customised by the testator.³⁶

At a more general level the church provided an incentive for will making. Testamentary disposition was ecclesiastical in origin and, up until 1858, was partly regulated by ecclesiastical law. The church encouraged will making and some prayer books contained forms of wording appropriate for religious preambles to wills. Although not ensuring legal robustness, by making a will 'In the Name of God' an individual was invoking the highest 'natural' authority possible to sanction the disposal of property. Nevertheless, there is clear evidence from the sample of Stockport wills that the use of religious preambles was in decline over the period. Some forty per cent of wills proved between 1800 and 1809 began with a religious preamble, falling to eleven per cent of wills proved between 1850 and 1857. In part, this shift reflects the decreasing use of religious preambles by solicitors. Attorney John Baddeley who was responsible for twenty-seven wills among the sample, began nearly all with a religious preamble. However, Baddeley died in 1834 and other popular solicitors such as Jonathan Chetham began wills with a simple, secular form of wording. More generally, such a trend may reflect the growing secularisation of nineteenth-century society, a nonconformist rejection of 'anglicanised' wording and the increasingly 'legalistic' nature of testamentary disposition.³⁷

In spite of the growing secularisation of will making, the disposal of estates remained closely associated with the established church. As a result, another possible source of advice and expertise in testamentary matters was local clergymen. As is discussed further below, many Anglican clergy acted as surrogates for the ecclesiastical courts where wills were proved and were thus required to have some knowledge of the laws which governed their execution. Evidence suggests that clergymen were sometimes

³⁵ Bird, J. B. (1817) *The Laws Respecting Wills, Testaments and Codicils*, Sixth Edition, W. Clarke and Sons, London, p. 48.

³⁶ Will of John Deaville of Stockport, Candlewick Manufacturer, WS 1850, Consistory Court of Chester, CRO.

consulted for advice in matters relating to testamentary disposition. For example, a forgery trial reported in the *Stockport Advertiser* in the mid-1840s mentions that an executor who wanted to prove her deceased husband's will, consulted the town's rector, Rev. Charles K. Prescott, on what course of action she should take.³⁸

Disposing of estates

Executors and Trustees

The disposal of testamentary estate was a matter for executors and trustees. These were the people that a testator appointed to oversee the distribution of their estate and act as their living representatives. The distinction between the two roles of executor and trustee is a legal one; whereas trustees assumed the legal ownership of estate as part of the disposition strategy, executors did not. Executors were simply appointed to ensure that the disposition of property was carried out in accordance with the instructions laid down in the will. They were also responsible for getting the will proved by obtaining a grant of probate from a church court, calling in the deceased person's debts, and paying his or her creditors. Trusteeship was arguably a more responsible activity because it involved taking on legal ownership of some or all of the deceased person's property. It also frequently entailed maintaining, selling and investing that property in order to meet the requirements of legacies paid to beneficiaries in the form of a regular provision income. Both roles could be time consuming, expensive and fraught with difficulty.³⁹ Nevertheless, Shani D'Cruze has suggested that acting as a trustee or executor for a deceased relation, friend or colleague was an important part of male, 'middle-class' life in towns.⁴⁰ Taking on the responsibility of being an executor or trustee suggested status and, above all, that the

³⁷ On the use of religious preambles in will making see Houlbrooke, R. (1989) 'Death, church and the family in England between the late fifteenth and early eighteenth centuries', in Houlbrooke, R. (ed.) *Death, Ritual and Bereavement*, Routledge, London.

³⁸ *Stockport Advertiser*, 20 September 1844. The trial concerned was that of Mr. J. K. Winterbottom for forgery. Winterbottom stood accused of forging signatures to obtain the sum of £5000 insured upon the life of Thomas Isherwood of Marple who died in 1839 (see Chapter Three). Winterbottom was Isherwood's attorney and the claim was made using his probated will. Isherwood's widow and executor Elizabeth was cross-examined to determine her role in the matter. During her cross-examination she mentioned seeking advice on how to prove the will from the rector of Stockport.

³⁹ Many wills contained clauses allowing executors to take expenses in order to pay for the disposition of estate and sometimes specific legacies were made to executors 'for their trouble'. Many wills also contained clauses offering legal protection to executors and trustees who made sales of estate and entered contracts with other parties. Clauses also limited their liability for their own actions and not those of fellow executors.

⁴⁰ D'Cruze, S. (1994) 'The middling sort in eighteenth-century Colchester: independence, social relations and the community broker', in Barry, J. and Brooks, C. (eds.) *A Middling Sort of People*, Macmillan, Basingstoke, pp. 181–182.

individual concerned could be trusted. A trustee or executor had to be chosen carefully. Joseph Hudson advised that, ‘having resolved on making his will [a testator] should look round, among his kindred or friends, for a man of intelligence, activity and honour, to become his executor.’⁴¹ Such a person would gain an intimate knowledge of a testator’s financial affairs, and would often be allowed considerable power and control over the use and investment of family property. They would also often be exposed to the private volatility of family relationships and might be expected to adjudicate in disputed testamentary claims. In an unstable economic environment trust was an important part of business life. Appointing someone as an executor or trustee was thus a real test of trust and sent out a public signal of confidence in an individual’s capabilities to perform the necessary duties.⁴² For those appointed to such a role, the duties of trusteeship and executorship offered a way of demonstrating competence and some degree of proprietorial acumen. Both were useful bourgeois masculine virtues in a business-oriented community. The activities of estate disposal in industrialising towns were thus enmeshed in broader social and economic contexts, drawing upon and reproducing existing social relations.

Evidence suggests that there were a number of individuals – men of ‘intelligence, activity and honour’, or people who D’Cruze might term ‘community brokers’ – who possessed the necessary skills and virtues to be a ‘good’ executor.⁴³ One example was the Stockport chemist Samuel Sims. Sims was a well-known townsman who came from an established family of Quaker chemists who settled in the town in the 1760s.⁴⁴ Upon his death in November 1839 an obituary in the *Stockport Advertiser* noted that ‘such was the general opinion of his sagacity and unsullied integrity, that no man was called upon more frequently to arbitrate the difference of parties, or to perform the difficult and delicate duties of executor and trustee in the affairs of others.’⁴⁵ The Sims family was renowned for good ‘business habits and uprightness’ which had gained them a favourable reputation among the townspeople.⁴⁶ According to the obituary, Sims had ‘filled nearly every public office in the town, with the decided approbation

⁴¹ Hudson, *Plain Directions for Making Wills*, p. 70.

⁴² On the importance of trust and reputation in early modern urban communities see Muldrew, C. (1998) *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England*, Macmillan, Basingstoke, especially Chapter Six.

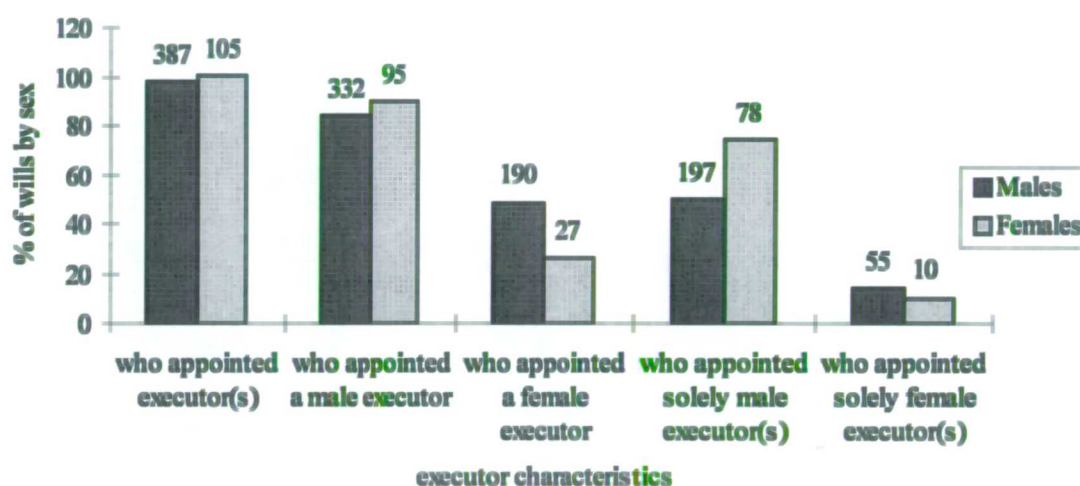
⁴³ D’Cruze, ‘The middling sort’, p. 181.

⁴⁴ See the discussion of the Sims family in Chapter Three.

⁴⁵ *Stockport Advertiser*, 15 November 1839.

of his fellow townsmen.⁴⁷ He had proved his financial capabilities in acting as treasurer to the ‘borough fund’ and the savings bank.⁴⁸ Sims was one of a number of prominent shopkeepers, businessmen, and public office holders who were regularly appointed as executors. As well as being professionally competent, such people were clearly worthy folk with whom it was good for a testator, dead or alive, to be associated.

Figure 5.5
Executor characteristics, Stockport, 1800–57



Source: Sample of 500 Stockport wills proved at the Consistory Court of Chester, 1800–57.

Given the need for executors and trustees to be trustworthy individuals who would gain an intimate knowledge of a testator’s financial and familial affairs, it is perhaps not surprising that the majority of such persons appointed by Stockport will makers were close family relations. Some 371 (seventy-five per cent) of the 492 testators who named an executor appointed at least one blood relation to this role. Analysis of gender differences in the appointment of executors (see Figure 5.5) reveals that men were more often appointed executors than women. Interestingly, however, female testators tended to appoint more male executors than male testators.⁴⁹ For example, whereas seventy-four per cent of the sample of women’s wills appointed solely male

⁴⁶ Heginbotham, H. (1892) *Stockport Ancient and Modern*, Volume II, London, pp 364–5

⁴⁷ *Stockport Advertiser* 15 November 1839.

⁴⁸ *Stockport Bank for Savings: Minute Books*, D1620: DD/Tsb 1 1 Stockport Heritage Library. In the role of treasurer to the savings bank, Samuel Sims was preceded by his father Ollive Sims and succeeded by his nephew, also called Ollive Sims.

executors, just fifty per cent of men's wills appointed solely male executors. Whilst this might partly be explained by the tendency of married men to appoint their wives as executors (some eighty-four per cent did so), it may also reflect pervasive gendered notions of dependency for widows and spinsters.

As well as family, other groups of people acted, sometimes in conjunction with kin, as executors or trustees. Supplementing family executors with non-family executors served a number of purposes. As suggested above, it signalled something of a testator's social standing. It also ensured some form of external adjudication to the property transmission process. In addition, a non-family executor could provide a source of expertise for the more complex or specialist aspects of estate disposal. For example, sixteen per cent of testators appointed an executor of the same or a similar trade to their own. Where business estate was to be disposed of, or where the family firm was to be continued to support dependants, this expertise was undoubtedly useful. Finally, it is worth observing that most executors were also local people. Some eighty per cent of male testators and sixty-two per cent of female testators appointed executors from Stockport parish. The appointment of local folk was clearly done for practical reasons. However, this trend once again reflects the way in which the processes of property transmission were firmly embedded in the wider social relations of the community.

Seeking probate

Upon the death of a property owner the first task of an executor or family member was to ascertain whether the deceased had made a will. If a valid will had been made, then under normal circumstances its contents would be made known to the deceased person's family, kin and friends. Wills were technically public documents 'published' for general inspection. Sometimes the disclosing of the contents of the will would become part of the post-mortem mourning rituals, alongside the funeral events and other public displays of mourning. Under these circumstances the will might be read before family and friends, usually by one of the named executors. This dramatised the activity, especially where the contents of the will had been kept under wraps and

⁴⁹ Compare with Berg, 'Women's property and the industrial revolution', p. 239.

potential legatees learned for the first time of their gift or provision.⁵⁰ This was clearly a time when a will might also be contested, a process that could become a protracted, divisive and complex legal affair.⁵¹ It is not possible to tell whether such sequences of events were followed by Stockport testators, although the nature of property transmission disclosed by their wills, indicates that few testators adopted strategies of preferential gifting, suggesting that most will-reading events would not be dramatic revelations of an uneven distribution of property among family members.

Strictly, an executor took the authority to dispose of a deceased person's property from the will itself.⁵² However, proof of the validity of a will could only be obtained in a court of law. A number of different courts had the power to prove the validity of a will with respect to different sorts of property, but it was the ecclesiastical courts that tried the validity of wills with respect to personal estate.⁵³ Probate was required on all wills containing personal property and it was the duty of the executor named in a will to obtain a grant of probate. Furthermore, a grant of probate acted as proof of payment of probate duty (a legal requirement for all estates containing personal property) and as a prerequisite for the payment of estate and death duties, for which most estates were liable.

Stockport parish came under the jurisdiction of three main ecclesiastical courts: the Consistory Court of Chester, The Prerogative Court of York and the Prerogative Court of Canterbury.⁵⁴ Probate was sought from one or more of these courts depending on where the deceased person owned property but in reality most Stockport wills were proved at the Consistory Court of Chester (approximately ninety per cent over the period in question).⁵⁵ It was also rare for executors to travel directly to the court in order to apply for a grant of probate. In Stockport, most wills were sworn before a local Anglican clergyman acting as a surrogate for the court. One or more of the executors named in the will took a religious or solemn oath before the clergyman,

⁵⁰ For a discussion see Jalland, P. (1996) *Death in the Victorian Family*, Oxford University Press, Oxford.

⁵¹ This issue is not dealt with here. See Addy, J. (1992) *Death, Money and the Vultures: Inheritance and Avarice, 1660–1750*, Routledge, London.

⁵² See PP 1833 XXII *Law of Real Property: Fourth Report: Wills*, p. 35–40.

⁵³ See Chapter Four.

⁵⁴ Wills from Stockport parish might also be proved in one of the courts of appeal of these three tribunals. However, such cases were extremely rare.

⁵⁵ For a general discussion of probate jurisdictions see Camp, *Wills and Their Whereabouts*, pp. xxv–xxxii and Chapter Four.

swearing that they would faithfully carry out the instructions laid down in the will. The executor, for the purpose of calculating probate and other duties, swore an estimation of the gross value of the personal estate of the deceased.⁵⁶ This was made upon the basis of an inventory of the testator's effects provided by the executor. The figure recorded in the will and in other probate documents indicated the tax banding which the estate came under. It was therefore only an approximation of the total value of the deceased's personal property. A copy of this sworn oath was transmitted by the local clergyman to the relevant ecclesiastical court. Probate was then formally granted and the will deposited in an ecclesiastical registry. This process usually occurred soon after the testator's death. Eighty-nine per cent of Stockport wills were proved within one year of the date of death.

Recognised local clergymen were responsible for granting probate on eighty-seven per cent of wills in the sample (Table 5.2). The effect of this practice was to divorce testamentary disposition from the legal institutions that regulated it. It was also a practice that sustained the close links between testamentary disposition and the established Church of England. Only where a will was disputed would it be necessary for the parties concerned to travel to Chester, York or London to appear in an ecclesiastical or other court. Even then, they would often be represented by a solicitor. Legal expertise was thus produced and consumed locally while the authority upon which it rested remained distant. As Table 5.2 reveals, one local ecclesiastical family, The Prescott's, dominated the proving of wills in Stockport. Charles Prescott was succeeded by his son Charles Kendrick Prescott into the freehold incumbency of the parish of St. Mary Stockport, and both were active will-provers. Charles Prescott's second son, Kelsall Prescott, who held a perpetual curacy at Marple until his death in 1823, was also engaged in probate duties, as was Prescott's third son, William, who succeeded Kelsall to the Marple curacy until 1826 and who later officiated at nearby Handforth Chapel.⁵⁷ It is hard to imagine that this domination did not create unease among some of Stockport's inhabitants. Evidence from the local newspaper suggests elements of anticlericalism among the town's population. Furthermore, the Prescotts were a controversial family. Charles Kendrick Prescott became embroiled in local

⁵⁶ For a more detailed discussion of the process of estimating the value of an estate see Green and Owens, 'Metropolitan estates of the middle class', pp. 300–301.

politics on a number of occasions in the 1830s and 1840s and was clearly unpopular among the radical-Whig town government (many of whom were nonconformist Quakers or Unitarians) for his staunch conservative and constitutional views. In this respect the local proof of wills embedded universal legal cultures in local political ones.

Table 5.2
Proving of will by Stockport Surrogates

<i>Name</i>	<i>Office</i>	<i>Active as surrogate</i>	<i>Wills proved</i>	<i>%</i>
Charles Kenrick Prescot	Rector	1824–1857	189	38
William Bowness	Curate	1800–1807	59	12
Thomas Middleton	Master of Grammar School	1832–1849	54	11
Joseph Taylor	Curate	1846–1857	49	10
Charles Prescot	Rector	1808–1820	44	9
Kelsall Prescot	Perpetual Curate, Marple	1815–1823	36	7

Source: Sample of 500 Stockport wills proved at the Consistory Court of Chester, 1800–57

Disposing of property

Without a detailed exploration of executors' accounts and papers, few of which survive, it is difficult to discover exactly how estates were disposed of. However, it is possible to reconstruct at least part of the process by examining notices and advertisements relating to the disposal of estates published in local newspapers. Notices issued by executors and solicitors reveal something of the timings and stages of property transmission, while advertisements of sales of a deceased person's estates published by auctioneers provide a rich source of information on the property that was disposed of. The publication of these newspaper notices and advertisements rested on a number of factors. Evidence suggests that substantial estates, where disposition arrangements involved the sale of large amounts of property, were most likely to be disposed of through newspapers. A good example is the estate of Thomas Steel who died in February 1837 and whose will was proved at the Consistory Court of Chester in June 1837.⁵⁸ Steel was a wealthy cotton manufacturer, former mayor and justice of the peace for Stockport. Between 17 February 1837 and 26 January 1838, John

⁵⁷ On the Prescot family, see Heginbotham, *Stockport Ancient and Modern*, Volume I, p. 322 and Volume II pp. 194 and 235.

Turner, who had been given the task of disposing of Steel's estate by public auction, published eleven different advertisements of sales of Steel's property, ranging from the auction of his private book collection, to the disposal of his house and other real estate at Springfield in nearby Edgeley, and the sale of his cotton-spinning factories and machinery in and around Stockport.⁵⁹

The appearance of newspaper notices detailing the disposal of estates also depended on the role of solicitors. Where a solicitor handled aspects of estate disposal on behalf of an executor, part of the professional service might have involved the publication of legal notices relating to the disposal. Thus, the solicitors dealing with the disposal of Steel's estate – J. K. Winterbottom and Wright, and Lingard, Vaughan and Lingard – published a notice in the *Stockport Advertiser* on 17 February 1837 calling for debtors to pay what they owed to the estate and inviting creditors to submit their demands.⁶⁰

Finally, executors and solicitors sometimes used newspaper advertisements when the identity or address of potential estate beneficiaries was not known. Following the death of Stockport widow Nancy Pollitt in 1836, for example, a newspaper notice was published calling forward all legatees listed in her late husband's will. George Pollitt (Nancy's husband) had died in 1807 but his legatees did not become entitled to their share of his estate until the death of his wife. Nearly thirty years later it was clearly difficult to identify these people. The advertisement made a plea for all claimant legatees to come forward within the following six months, after which time George Pollitt's trustees would make a division of the property.⁶¹

Newspaper notices and advertisements therefore provide a glimpse into the way in which estates were disposed of and property was transmitted to legatees. They form another part of the public side to property transmission. To contemporaries such notices were the ultimate revelation of a testator's wealth. They also reminded individuals of their own mortality and highlighted the need for setting proprietorial

⁵⁸ Will of Thomas Steel of Stockport, Cotton Manufacturer, WS 1838, Consistory Court of Chester, CRO.

⁵⁹ *Stockport Advertiser*, 17 February 1837, 24 February 1837, 17 March 1837, 7 April 1837, 28 April 1837, 26 May 1837, 28 July 1837, 13 October 1837, 17 November 1837, 29 December 1837 and 26 January 1838. This excludes re-advertisements of sales at intermittent dates

⁶⁰ *Stockport Advertiser*, 17 February 1837.

⁶¹ *Stockport Advertiser*, 28 October 1836. George Pollitt's will was proved at the Consistory Court of Chester on the 4 July 1807.

affairs in order. As a tangible outcome of the mechanics of inheritance, they provided propertied individuals with an indication of how they might fashion and manage their own property transmission strategies. In short, newspaper advertisements and the activities of solicitors, auctioneers and executors were another part of the community structures of towns through which inheritance was defined and codified.

One striking feature of the newspaper evidence is the length of time that it often took to settle and dispose of property. In some cases the process took several years. William Shuttleworth, a celebrated Stockport artist, died on Saturday 28 March 1829 aged forty-four.⁶² His will was proved by the rector of Stockport, Charles Kendrick Prescott, on 21 November 1829 and probate was granted by the Consistory Court of Chester in January 1830. Shortly after his death, local auctioneer John Turner announced a public auction of Shuttleworth's 'household furniture, plate, glass, china, linen, brewing utensils, books, prints, paintings and items of vertu' including art work by 'eminent masters' to take place at Shuttleworth's residence in Churchgate between 13 and 16 April.⁶³ Further sales were organised at the end of April and in the middle of May.⁶⁴ Clearly, William Shuttleworth had died leaving unpaid debts for, in August and September 1831, newspaper notices were published inviting creditors to meet his executor, local bookseller Thomas Claye, and his solicitors, Vaughan and Walker, at the Warren Bulkeley Arms in Stockport 'for final arrangement of estate and dividends'.⁶⁵ However, it was not until October 1835 that an advertisement appeared in the paper announcing that his creditors could receive final dividends from the estate by applying to Thomas Claye.⁶⁶ The example of Shuttleworth serves to illustrate just how visible the disposal of estates could be in early nineteenth-century towns. In the months or years following a testator's death, newspapers, auctioneers, solicitors and executors made an individual's private property into a public matter.

Conclusion

The purpose of this chapter has been twofold. Its first aim has been to describe processes of will making and property disposal in an attempt to provide a background

⁶² *Stockport Advertiser*, 3 April 1829 – death notice and brief obituary.

⁶³ *Stockport Advertiser*, 10 April 1829. As well as the front-page advertisement placed by Turner, the paper carried a small report drawing attention to the sale.

⁶⁴ *Stockport Advertiser*, 24 April 1829 and 15 May 1829.

⁶⁵ *Stockport Advertiser*, 26 August 1831 and 2 September 1831.

for other chapters within the thesis. This has involved an investigation of some relatively basic issues of how many and what sorts of people made wills. It has also entailed a consideration of the ways in which the activities of will making and property disposal were managed by individuals and a discussion of the forms of knowledge and expertise that were required to effect a successful transmission of property. The second purpose of the chapter has been to demonstrate the multiplicity of ways in which property transmission was a *social* activity. Discussion of the various stages of testamentary disposition has shown how property transmission spun networks of contact and dependency among the middling sort. The activities surrounding the making of wills and disposal of estates reveal that property ownership both routinely generated and reproduced social relations within towns.

In identifying these social relations the chapter has also demonstrated that inheritance, the study of which is so often centred around the family, had a 'public' side as well as a 'private' one. Studies of inheritance need to be aware of this wider context of property transmission both in terms of the material social practices that underpinned estate disposal and the meanings of property transmission that were created through these practices. It is clear from the evidence presented above, for example, that notions of professionalism and status that were central to the so called masculine 'public sphere' in towns, also impinged upon the activities surrounding will making and estate disposal. Ultimately, therefore, a discussion of how people disposed of their property at death leads to a consideration of *why* people made wills. While this is clearly a question that requires further research, some of the broader social meanings of will making are captured in the writings of Richard Dickson and Joseph Hudson. In concluding his work on how to make wills, Dickson proclaimed that:

It is the duty and paramount obligation of every considerate and rational man ... as early as possible to make his will, in order to preserve the further peace and harmony of his family and prevent those irremediable disputes among them which are the consequences of intestacy ... No person ... who is desirous of leaving behind him the character of a just, kind, and wise member of society should delay or defer to perform the simplest and most easy act of human obligation ... This is an obligation binding on all men who are possessed of property, but more especially those who have families, and those who are engaged in the connections of business. Could any man of sense who died without a will, return to this world to see his family almost beggared, his children scattered on the wide world, his business embarrassed so as to be worth

⁶⁶ *Stockport Advertiser*, 2 October 1835.

nothing; how would he grieve to think that all this confusion arose from his culpable neglect of performing so simple a duty as that of making his will.⁶⁷

In a similar vein Joseph Hudson remarked that:

Few minds are so dull as to be utterly insensible of the pleasure which is afforded by the prospect of posthumous regard; and to be accounted hereafter as an affectionate husband and father, a considerate relation, and a sincere friend, is within the power of every man, by making a proper disposal of his estate and effects in his last will and testament.⁶⁸

The dramatic comments of Dickson and Hudson suggest that making a will in early Victorian England was viewed as more than a simple, functional exercise in transmitting property. They associate will making with a particular form of bourgeois masculinity characterised by rational thinking, good citizenship, familial cohesion and harmony, and personal esteem. In exploring will making and estate disposal practices in early nineteenth-century Stockport, this chapter has revealed many of these traits to be at the heart of the wider social relations of property transmission. The use of lawyers, the exploitation of social connections, the involvement of family members and significance of proprietorial status which have been outlined as central to the process of property transmission, all fit with this vision of will making. It is with these powerful social meanings of property transmission in mind that the activities of will-making and estate disposal described in this chapter, and the strategies of inheritance discussed in the next, need to be viewed.

⁶⁷ Dickson, *A Practical Exposition of the Law of Wills*, pp. 2–3.

⁶⁸ Hudson, *Plain Directions for Making Wills*, p. 78.

CHAPTER SIX

Inheritance, property and family provision in Stockport, 1800–57

Introduction

The social and legal contexts of will making discussed in previous chapters were ultimately geared towards the successful transmission of property. This chapter describes and analyses the patterns and strategies of inheritance revealed in the wills of Stockport's middling sort. It seeks to identify whom property was transmitted to, how different people benefited from wills, and what form the transmission of property took. A broader aim, which builds on insights gained from other studies of inheritance discussed in chapter two, is to investigate what inheritance practices can reveal about the social context of property ownership and its role in the reproduction of particular social forms within Stockport's middling sort. The first part of the chapter examines who benefited from wills, and explores, in particular, the material significance of consanguinity. Identifying the twin themes of provision and supervision, the second part focuses on the nuclear family as the ultimate destination of most testamentary bequests. After surveying the main strategies of property transmission, the differing experiences of family beneficiaries, and the role of gender in understanding the property transmission process, the section concludes by evaluating the social role of inheritance among middling-sort families. The next part of the chapter considers the experience of more distant kin and non-family beneficiaries, examining how regard, reciprocity and reward structured gifting processes. The last part of the chapter shifts attention away from people to property in order to investigate how inheritance reveals property to have been used and understood by Stockport's middling sort. Once again, particular attention is paid to the role of gender in understanding different conceptions and experiences of property ownership. Finally, the conclusion seeks to evaluate the

significance of inheritance in understanding the relationships between property, the family and the social world of the middling sort.

The social geographies of testamentary disposition: duty and regard

The permissive nature of testamentary law in nineteenth-century England and Wales meant that men and unmarried women could dispose of property by will to just about anyone they wanted. It was true that for certain legatees, such as married women, property had to be transmitted using special legal devices if they were to be ensured of its benefit, but, in theory at least, as much or as little property could be given to as many, or as few, people as a testator wished.¹ Testamentary gifting patterns are therefore very revealing of who a will maker considered, either through custom, duty, or a sense of regard, to be worthy of receiving a portion of his or her estate. A number of researchers have, for example, used wills to explore the ‘geography of family relations’, examining the ways in which inheritance practices were important in defining and maintaining kinship boundaries.² Wills thus hint at the significance of personal relationships and provide an indication of the social distance between testators and legatees. More broadly, it could be argued that the study of inheritance practices discloses what David M. Smith has termed the ‘spatial scope of beneficence’.³ Wills expose the material limits of regard and moral responsibility. It will be seen that the property transmission practices of Stockport’s nineteenth-century middling sort are an example of the operation of what Smith calls ‘conventional partiality’, whereby people in close relational proximity to the testator tend to be favoured over those who are more distant. This section of the chapter interrogates further the spatial scope of beneficence within the social world of Stockport testators.

¹ The common law restrictions on property ownership faced by women are discussed in Chapter Two.

² Pisano, J. B. (1995) ‘Will clauses as a geography of family relations’, in Jaritz, G., Kropac, I. H., and Teibenbacher P. (eds.) *The Art of Communication*, Proceedings of the 8th International Conference of the Association for History and Computing, Graz, Austria, August 24–27, 1993, Akademische Druck- u. Verlagsanstalt, Graz. The paper suffers from a poor translation into English. See also Darrow, M. (1989) *Revolution in the House: Family, Class and Inheritance in Southern France, 1775–1825*, Princeton University Press, Princeton, New Jersey; Finch, J. and Wallis, L. (1993) ‘Death, inheritance and the life course’, in Clark, D. (ed.) *The Sociology of Death*, Blackwell Publishers in association with The Sociological Review, Oxford, p. 64; Finch, J., Mason, J., Masson, J., Wallis, L. and Hayes, L. (1996) *Wills, Inheritance and Families*, Clarendon Press, Oxford; Gross, S. J. (1996) ‘Handing down the farm values, strategies and outcomes of inheritance practices among Rural Germans’, *Journal of Family History*, 21 (2), pp 197–217; Hanlon, G. and Carruthers, E. (1990) ‘Wills, inheritance and the moral order in seventeenth-century Agenais’, *Journal of Family History*, 15 (2), pp. 149–161; La Ferrère, A. (1992) ‘Inheritances and gifts inter vivos: the use of the “disposable portion” for the purpose of unequal division between siblings in France’, *Continuity and Change*, 7 (3), pp. 377–404; Sabeau, D. (1990) *Property, Production and the Family in Neckarhausen, 1700–1870*, Cambridge University Press, Cambridge.

³ See Smith, D. M. (1998) ‘How far should we care? On the spatial scope of beneficence’, *Progress in Human*

Indeed, the overwhelming picture gained from the analysis of the sample of 500 Stockport wills is that most testamentary gifts were destined for the nuclear family. In over half of the wills (fifty-four per cent) testators disposed of property solely to relations within one degree of lineal consanguinity.⁴ Where a close family existed, their provision could almost be guaranteed. Thus of the 320 wills where children could be identified, only two (or one per cent) of them made no provision at all for the children. Furthermore, only ninety-five (or thirty per cent) of these wills made gifts to persons beyond one degree of lineal consanguinity and only forty-three (or thirteen per cent) to persons beyond two degrees of consanguinity. Even without further analysis of the nature and content of legacies, such evidence bears testimony to the centrality and durability of the nuclear family among nineteenth-century middling social groups.

In the absence of children the patterns of bequeathing were inevitably different. While estate tended to be disposed of to a wider range of beneficiaries, certain groups of kin were inclined to benefit over others. Broadly following the lines of consanguinity, brothers and sisters (second degree relations) and nephews and nieces (third degree relations) were the largest and second largest collateral groups of kin respectively to benefit from a will of a childless testator. Forty-eight per cent of such wills contained legacies to brothers and sisters and thirty-eight per cent to nephews and nieces. Furthermore, testators without children were responsible for eighty-four per cent of all wills which included a bequest to a brother or sister and ninety-three per cent of all wills making gifts to nephews or nieces. As the offspring of nuclear families themselves, testators who died without issue therefore tended to favour collateral relations when distributing their property. Thus, even where a testator had no immediate descendants, inheritance still reinforced the reproduction of nuclear family forms.

Geography, 22 (1), pp. 15–38

⁴ This proportion – the substantially different legal context notwithstanding – is remarkably similar to the fifty-three per cent of wills Pisano found to be drawn up solely in favour of the nuclear family in nineteenth-century Corsica. The concept of degrees of lineal consanguinity is a common way of defining family relationships. The version used here is taken from a contemporary legal text – see Chapter Two.

Given the importance of the nuclear family to testamentary gifting strategies (and second and third degree consanguinal relatives in their absence), it is not surprising to find that bequests of property to affinal and non-relatives were relatively uncommon. Just fourteen per cent of wills contained legacies to people beyond the kinship group. In many cases such beneficiaries were simply described as 'friends', often with an affective adage such as 'my esteemed friend'.⁵ Servants were also a significant component of this group, appearing as legatees in six per cent of the wills analysed here. Interestingly, women testators were more inclined to make a gift to non-kin than men. Some thirty-four per cent of women's wills make such a bequest, whereas only eight per cent of men do. The explanation for this may be quite simple: most female testators were either spinsters or widows and therefore perhaps had fewer close consanguinal ties to leave property to. Furthermore, in the case of widows, immediate family members may have already been provided for by their deceased husbands.

The picture of a localised and socially limited disposal of estate is further confirmed by a more detailed look at the will beneficiaries. Table 6.1 shows the number of wills where a gift was made to each of the different categories of beneficiary. Once again, children and spouses prove to be the most numerous recipients of testamentary gifts and other beneficiaries appear relatively rarely when they are present. In the absence of children, the table also confirms the importance of the wider family circle of brothers, sisters, nephews and nieces.

Among the sample of 500 wills, there was considerable variation in the number of legatees per will, ranging from seventy-three wills where there was just one 'universal' legatee to one where there were some forty-two beneficiaries (Table 6.2). Drawing upon the 356 wills where the exact number of legatees could be determined, the average number of beneficiaries per will was 4.5. Not surprisingly, this figure is close to the average family size of 3.8 persons and also corresponds roughly with the average household size of 5.1 persons calculated for Stockport township in 1831.⁶ A

⁵ A note of caution must be sounded here as the label 'friend' was sometimes used to describe relatives, especially affinal ties.

⁶ The mean family size was calculated from all wills where the number of children could be determined exactly (254 in total). The figure includes spouses as well as sons and daughters. It has a standard deviation of 2.24. Intriguingly this figure is considerably smaller than the average of 7.4 of children per family identified by Davidoff and Hall in *idem*. (1987) *Family Fortunes, Men and Women of the English Middle Class, 1680-1850*, Routledge, London, p. 223. The figure for household size is taken from Glen, R. (1984) *Urban Workers in the Early Industrial*

Table 6.1
Will beneficiaries by type

	<i>All wills</i>	<i>Wills where children</i>	<i>Wills where no children</i>
Spouse	262 (52.4%)	195 (60.9%)	67 (37.2%)
Son	239 (47.8%)	239 (76.9%)	0 (0%)
Daughter	216 (43.2%)	216 (73.4%)	0 (0%)
Children (sex unknown)	27 (5.4%)	27 (5.4%)	0 (0%)
Brother	77 (15.4%)	10 (3.1%)	67 (37.2%)
Sister	71 (14.2%)	9 (2.8%)	62 (34.4%)
Friend/Other	68 (13.6%)	19 (5.9%)	49 (27.2%)
Nephew	63 (12.6%)	5 (1.6%)	58 (32.2%)
Niece	61 (12.2%)	3 (0.9%)	58 (32.2%)
Other Blood	42 (8.4%)	10 (3.1%)	32 (17.7%)
Grandchildren	40 (8%)	38 (11.9%)	2 (1.1%)
Other Close	31 (6.2%)	18 (5.6%)	13 (7.2%)
Grandson	26 (5.2%)	24 (7.5%)	2 (1.1%)
Granddaughter	24 (4.8%)	19 (5.9%)	5 (2.8%)
Mother	14 (2.8%)	3 (0.9%)	11 (6.1%)
Cousin	14 (2.8%)	2 (0.6%)	12 (6.7%)
Father	9 (1.8%)	1 (0.3%)	8 (4.4%)
Uncle	4 (0.8%)	1 (0.3%)	3 (1.2%)
Aunt	3 (0.6%)	1 (0.3%)	2 (1.1%)
Grandmother	2 (0.4%)	0 (0%)	2 (1.1%)
Grandfather	0 (0%)	0 (0%)	0 (0%)
Total Wills	500	320	180

Note: The category 'other blood' includes all consanguinal relations not listed elsewhere in the table and those beneficiaries where the exact relationship to the testator could not be determined. The category 'other close' refers to affinal and step relations.

Source: Sample of wills proved at the Consistory Court of Chester, 1800–57

Table 6.2
Number of beneficiaries per will†

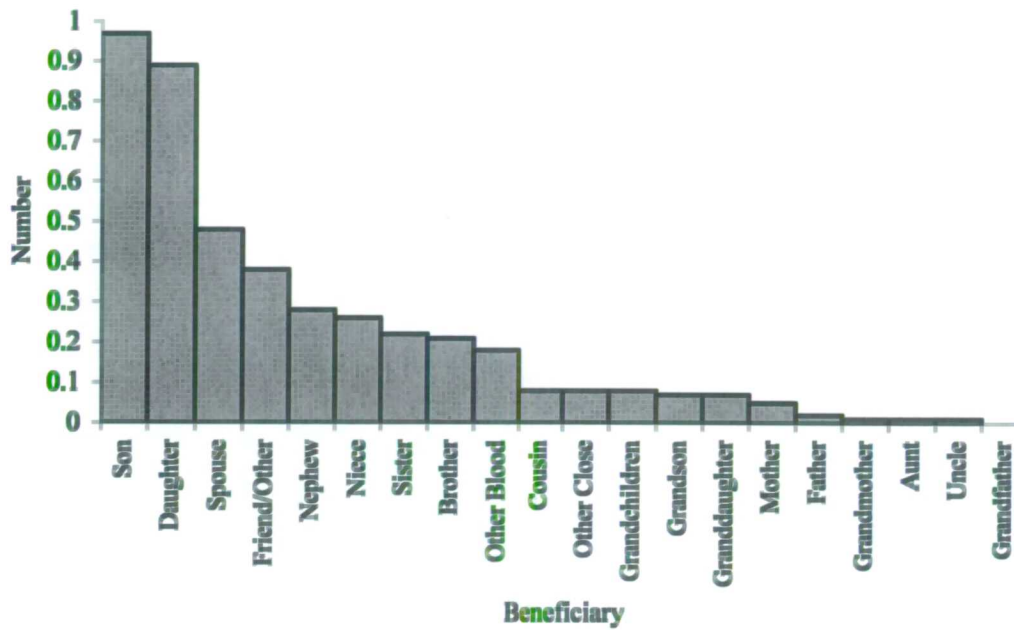
Number	All	Men	Women
1	73 (21%)	57 (20%)	16 (21%)
2 to 5	175 (49%)	140 (50%)	35 (47%)
6 to 10	90 (25%)	72 (25%)	18 (24%)
11 to 15	12 (3%)	8 (2%)	4 (5%)
16 to 20	5 (1%)	4 (1%)	1 (1%)
21 and over	3 (1%)	1 (0.5%)	2 (3%)
Total	356	281	75
Average	4.5	4.3	5

† includes only the 356 wills where exact number of beneficiaries could be determined

Source: Sample of wills proved at the Consistory Court of Chester, 1800–57

small variation exists between male and female testators, with women preferring to dispose of property to a greater number of beneficiaries than men.⁷

Figure 6.1
Average number of beneficiaries per will



Note: The category 'other blood' includes all consanguinal relations not listed elsewhere on the figure and those beneficiaries where the exact relationship to the testator could not be determined; the category 'other close' refers to affinal and step relations. This graph was drawn using the data from all wills where the exact number of beneficiaries was known: 356 (seventy-one per cent of total sample).

Figure 6.1 shows a breakdown of the average number of the different types of beneficiaries found in each will. Close family again form the most numerous portion of the legatees. However, one interesting feature of this graph is the relatively high average number of beneficiaries in the 'friend/other' category. It will be recalled that relatively few testators (fourteen per cent) made gifts to friends or other non-relatives. However, where such legacies were made, they tended to be in the form of numerous small gifts, which perhaps explains why this category is inflated. An example of such

⁷ Davidoff and Hall, in their study of wills in middle-class Birmingham and Essex, found that 1/3 of women distributed their property to more than five legatees compared to just 1/5 of men; Davidoff and Hall, *Family Fortunes*, p. 276. Cross cultural comparisons suggest similar behaviour by women elsewhere. See for example the study of American testamentary gifting practices (1890–1984) in Judge, D. (1995) 'American legacies and the variable life histories of women and men', *Human Nature*, 6 (4), pp. 291–323. Gender differences in property disposal are discussed further below.

a testator is Jane Goodwin who died in April 1818. In her will she made small gifts of cash, furniture and valuables to over twelve of her friends and acquaintances.⁸

One effect of the distribution of property being socially localised was that its disposal was also geographically localised. The evidence here needs to be treated with caution as many wills do not give an address or place of abode for all beneficiaries and especially close family members. Yet, Table 6.3 shows that only nine per cent of testators made gifts to persons who lived beyond Stockport.⁹ Even then most property was transferred locally to the counties surrounding the town. Indeed, the evidence suggests that inheritance itself was not a social mechanism that made property ownership more geographically mobile.¹⁰ Rather, it concentrated wealth with kinship groups in particular localities.

Table 6.3
Beneficiaries not from Stockport

County/Location	Number of wills
Lancashire	22
Cheshire	19
Derbyshire	11
Yorkshire	22
Middlesex	1
County Durham	1
Denbigh	1
Cumbria	1
Essex	1
America	4
Ireland	1
Abroad/Military	1
Absolute total wills	45

Source: Sample of wills proved at Consistory Court of Chester, 1800–57

⁸ Will of Jane Goodwin of Stockport, Spinster, WS 1818, Consistory Court of Chester, Cheshire Record Office, hereafter CRO.

⁹ Stockport is defined here as the area covered by the Stockport Poor Law Union. This includes the townships of Bramhall, Bredbury, Brinnington, Cheadle Bulkeley, Cheadle Moseley, Heaton Norris, Hyde, Marple, Norbury, Offerton, Reddish, Romiley, Stockport, Stockport Etchells, Torkington, and Werneth. See Figure 2.1, Chapter Two.

¹⁰ Jon Stobart has explored some of the ways in which inheritance practices created inter-place linkages. He too suggests that as a consequence of the familial nature of the property transmission process, inheritance was a local phenomenon. Where the process did involve people from elsewhere, then, like here, they tended to come from broadly the same region. See Stobart, J. (1995) 'Regional structure and the urban system: north west England, 1700–1760', *Transactions of the Historical Society of Lancashire and Cheshire*, 145, pp. 45–73; and *idem.* (forthcoming) 'Social and geographical networks of property transmission', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes. Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot. This point should not be confused with arguments made in Chapter Four where it was claimed that property itself was losing some of its geographical fixity.

Taken together the evidence suggests that testamentary gifting practices were founded upon a hierarchical 'social geography' of family relationships, underpinned by a moral discourse that made partiality to certain groups of relations a duty.¹¹ At the top of this hierarchy was the nuclear family of spouses, sons and daughters. Next in line were brothers, sisters and their issue. At the bottom of the hierarchy were friends and distant kin. The evidence clearly indicates that friendship could not transcend family ties or, to return to the themes of David M. Smith, that the 'ethic of care' that would appear to dominate the inheritance strategies of nineteenth-century Stopfordians, runs contrary to the notion of impartiality sometimes associated with bourgeois mentalities.¹² Nearest were dearest and always came first. A glimpse of how this hierarchical 'system' shaped property disposal decisions can be found in the will of John Collier.¹³ Collier, who described himself as a gentleman, died in October 1817. Just over a year before, in August 1816, he published his will. The information contained therein suggests him to be a man of considerable means, probably a Quaker, and the friend of a number of prominent townsmen. Upon his death he ordered that most of his estate be liquidated in order to fund a number of cash legacies to 'esteemed friends' and charitable and religious institutions, including the Stockport Dispensary and Fever Wards, The Stockport Auxiliary Bible Society and the Quaker Meeting House. Indeed, his wife was the only family member to benefit from the will. However, towards the end of his will, a special clause ordered that the legacies were to be revoked if his wife became pregnant, and that the estate be used instead to provide for his children. Like many other familial male testators he then outlined a more common two-stage partible disposal of his estate, ultimately transmitting all of his property to his children. It is to the issue of family provision that the chapter now turns.

The family: provision, supervision and welfare

While a consideration of the range and number of beneficiaries helps in determining the limits and broad patterns of testamentary beneficence, a better understanding of how inheritance affected different individuals and social groups can only be gained

¹¹ See Hanlon and Carruthers, 'Wills, inheritance and the moral order in seventeenth-century Agenais', for similar observations in a different context. The obligation to provide is discussed further below.

¹² Smith, 'How far should we care?', p. 15.

from an examination of the nature and content of legacies. This section will focus on the family as the main destination of testamentary property, firstly to identify the broad strategies of family inheritance, and secondly to examine in detail the experience of particular family members.

The single enduring theme that seems to underpin all testamentary property disposal within close families is that of *making a provision*. Most legacies bequeathed to family members were not conceived of as ‘gifts’ – a token or gesture of regard, or a signal of approbation – rather, they were made with a strong sense of responsibility and duty.¹⁴ ‘Gifting’ was clearly seen by many testators as a more frivolous exercise – a light-hearted and relatively inconsequential affair. In contrast, the transmission of property to close kin was a serious matter often requiring careful planning and involving the expertise of others to supervise and administer the transfer. The emphasis was thus on providing rather than disposing, and, to some extent, on managing and preserving estate, rather than fragmenting and dispersing it. In making a provision the needs of individual family members, both within the context of the dynamic relational space of the family and amidst public expectations of provision, had to be carefully considered. The ability to provide was partly a matter of demonstrating good parenting. However, it also signalled a morally responsible use of accumulated wealth and offered public proof of some degree of financial solvency.¹⁵ These were useful masculine virtues in a volatile business community where personal reputation and trust were of crucial importance in day to day economic transactions.¹⁶

Some evidence of the pervasiveness of public expectations about providing for family members can be gleaned from a tale of misfortune reported in Stockport’s local newspaper. On 13 January 1826 the *Stockport Advertiser* announced the sudden death of local solicitor Thomas Hudson from ‘a fit of apoplexy’.¹⁷ Hudson was only forty-

¹³ Will of John Collier of Stockport, Gentleman, WS 1817, Consistory Court of Chester, CRO.

¹⁴ Here I am consciously contradicting Avner Offer’s understanding of the motives behind inter-generational bequests which he argues are gifts ‘designed to elicit regard from offspring’. See Offer, A. (1997) ‘Between the gift and the market: the economy of regard’, *Economic History Review*, Second Series, L (3), p. 461. More generally, however, it could be argued that the very act of making a provision was partly designed to elicit a public sense of regard within middling-sort communities.

¹⁵ On the morally responsible use of wealth see Gunn, S. (1992) ‘The Manchester middle class, 1850–1880’, Unpublished University of Manchester PhD Thesis, pp. 165–169.

¹⁶ For an exploration of these themes in an early modern context see Muldrew, C. (1998) *The Economy of Obligation. The Culture of Credit and Social Relations in Early Modern England*, Macmillan, Basingstoke.

¹⁷ *Stockport Advertiser*, 13 January 1826.

three years of age and, because of ‘unfortunate circumstances over which he had no control’, he left his family almost entirely unprovided for. In spite of his occupation he had not made a will and letters of administration were granted on his meagre estate to his widow by the Consistory Court of Chester in July 1826.¹⁸ Such was the level of sympathy for Hudson’s bereaved family that the *Stockport Advertiser* launched an appeal for financial donations for their support. A subscription fund was duly established which, by 17 February 1826, had raised £30 for the family’s benefit and it was reported that this sum was ‘likely to rise further’.¹⁹ In this unfortunate case the failure of Hudson to provide for his family – and it was recognised that the family’s problems had been exacerbated by his failure to make a will – made them the objects of pity and charity.²⁰ They became a ‘fallen’ family at the mercy of the goodwill of the town’s social elite of which they had once been a part. Indeed, the Hudson case illustrates that providing for a family was a matter of preserving status as much as well-being.

According to Richard Dickson’s guide of 1830 making a will was an ‘act of human obligation’ which could help to avoid a testator’s family becoming ‘almost beggared with his children scattered on the wide world.’²¹ This discourse of obligation was central to notions of proprietorial masculinity. While the process of transmission within families was charged by this sense of obligation, the disposition of estate was not always indiscriminate, and the individual needs of family beneficiaries might also be mitigated by judgements of individual worthiness. The net result was that Stockport testators with children adopted a range of inheritance strategies which, while mostly sharing the common theme of making a provision, displayed a variety of different transmission tactics and outcomes.

Figure 6.2 shows the full range of inheritance strategies adopted by familial Stockport testators.²² The most widely used property transmission strategy was the two stage, trust-based, partible estate provision (strategies IVa-IVd), favoured by some 137 (or

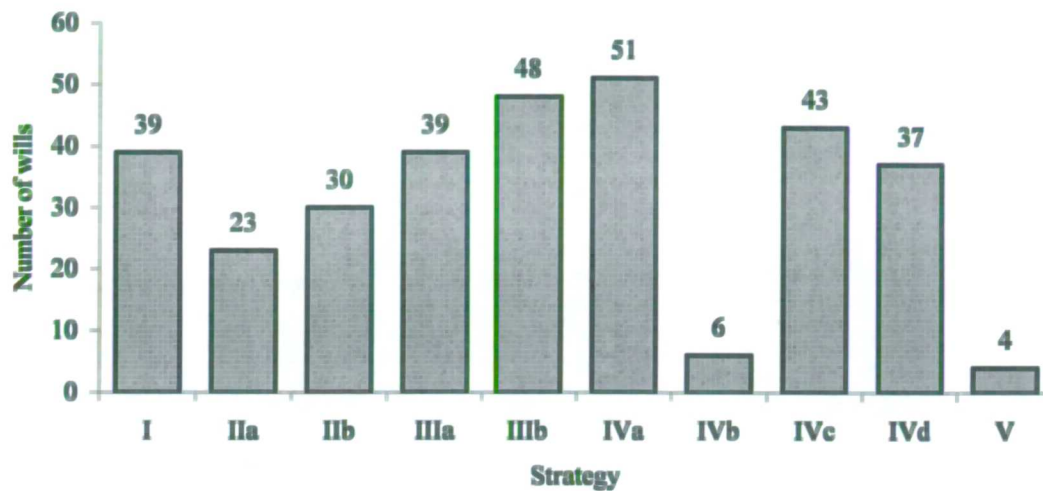
¹⁸ Letters of administration are recorded in the *Probate Act Book of the Consistory Court of Chester, 1826–58*. (Lancashire County Record Office). Hudson’s personal estate was valued at under £5.

¹⁹ *Stockport Advertiser*, 17 February 1826.

²⁰ *Stockport Advertiser*, 13 January 1826.

²¹ Dickson, R. (1830) *A Practical Exposition of the Law of Wills*, Sherwood, Gilbert and Piper, London, p. 3.

Figure 6.2
Inheritance strategies adopted by testators with children



Key to strategies

- I Simple universal estate transmission.
- IIa Immediate or delayed liquidated partible estate transmission.
- IIb Immediate or delayed non-liquidated partible estate transmission.
- IIIa Immediate impartible gift/cash legacy transmission.
- IIIb Trust-based impartible estate transmission.
- IVa Two stage, trust-based partible estate provision (mostly funded by real estate).
- IVb Two stage, trust-based partible estate provision (mostly funded by business estate).
- IVc Two stage, trust-based partible estate provision (mostly funded by new investment).
- IVd Two stage, trust-based partible estate provision (mostly funded by mixed sources).
- V Other trust based transmission.

Figures above columns refer to absolute number of wills displaying such a strategy. Further discussion of these strategies can be found in Chapter Two.

forty-two per cent) of testators with families. This strategy and its variants arguably epitomised bourgeois inheritance. It was a multi-stage transmission involving active post-mortem estate supervision. It was technically relatively complex and legally sophisticated requiring the use of a solicitor in order to set it up. It also treated and used property flexibly. The aim of the first stage of such a strategy was to maintain and support widows and dependent children by using estate to generate a rentier income. This process required careful supervision and trustees were appointed for this purpose. They were usually directed to raise an income from one or more of a number of specific sources, including existing real estate, business interests or newly invested liquidated estate. As the priority of most testators was to ensure the consistency and regularity of payment of an income, trustees were frequently granted the power to sell and re-invest property as appropriate. Yet, in the end, the choice of strategy for

²² A full discussion of the description and classification of inheritance strategies can be found in Chapter Two.

generating a rentier income depended on the availability of and access to different sorts of property and the perception, on the part of testators and trustees, of the risks involved. Figure 6.2 reveals the relative popularity of each source, suggesting that real estate and investments were considered secure funds for rentier incomes while businesses were not.²³

Table 6.4
Provision incomes

	<i>Income Source</i>			Category Total
	Real Estate	Business	Investments	
Wife	87	14	64	165
Son	22	3	16	41
Daughter	29	1	34	64
Children	10	0	12	22
Father	3	0	2	5
Mother	3	0	2	5
Grandson	2	0	2	4
Granddaughter	2	0	3	5
Grandchildren	1	0	4	5
Brother	4	0	5	9
Sister	9	0	14	23
Nephew	4	0	4	8
Niece	2	1	6	9
Total (wills)	127	16	140	n/a

Note: Figures refer to number of wills (rather than absolute number of beneficiaries) where at least one legatee of the named beneficiary categories received an income. In some wills a beneficiary may have received an income of more than one kind.

Source: Sample of wills proved at the Consistory Court of Chester, 1800–57

Described by Davidoff and Hall ‘as the classic form of income provision for the dependant: female kin, “friends” and ex-servants’, the annuity was the most common form in which rentier incomes were paid to family beneficiaries.²⁴ An annuity is simply a guaranteed annual (or sometimes half-yearly or quarterly) cash payment raised from large or lump sum investments. Its value to testators was that it offered a certain degree of security, allowing them to restrict access to estate while affording protection to annuitants to whom a regular fixed, rather than fluctuating, payment could be guaranteed. Table 6.4, compiled from all wills in the sample, reveals the main recipients of provision incomes. Once again it is the nuclear family, and most

²³ See Chapter Three for a discussion risk, property ownership and the popularity of real estate investment in Stockport. Chapter Seven explores the relationship between business activity and post-mortem estate provision.

²⁴ Davidoff and Hall, *Family Fortunes*, p. 211.

conspicuously wives, who stand out as the main beneficiaries of provision incomes and their presence is testimony to the popularity of the two-stage, trust-based, partible provision among Stopfordian testators.

The will of the wealthy Stockport grocer George Ferns provides a good, clear example of how the first, supervised income provision, stage of the strategy worked.²⁵ Upon his death, Ferns ordered that his three trustees – John Kenyon Winterbottom (a prominent local banker, attorney, and sometime Mayor of Stockport), John Broadhurst (an established draper in the Market Place) and Thomas Slack (a doctor of physic) – sell and dispose of all his real, copyhold, customary and personal estates, and, after discharging his debts, invest the proceeds in the ‘parliamentary stocks or public funds of Great Britain or other government or real securities.’ They were to use the issues and profits arising from these investments to pay to Ferns’ wife Lettice a £300 annuity for the first year after his death and the generous sum of £200 every year thereafter for her natural life. She was also to receive an additional £30 per annum for each child until they reached the age of twenty-one or were married. This was to be strictly used for their maintenance and education or, additionally in the case of sons, for entering them into an apprenticeship. As was characteristic with most two-stage, trust-based, partible provisions, Ferns’ wife Lettice was also given ‘as much of the household goods and furniture as are sufficient for furnishing a house’ for the period of her natural life, as well as ‘all items of household consumption’ for her own use and benefit absolutely.

The second phase of a two-stage, trust-based, partible family provision began when all the testator’s children had reached their age of majority or were married and, in the case of males, the testator’s wife had died. At this point the provision incomes were stopped, the investments called in, and the estate divided equally among the surviving children. Accordingly, George Ferns directed in his will that when his wife died, his sons had attained the age of twenty-one, and his daughters were married, each child was to receive an equal share of the liquidated estate. The priority at this stage of the transmission was to provide each offspring with a modest portion of estate that they could use productively for their own advancement. R. J. Morris has argued that such a

²⁵ Will of George Ferns (The Elder) of Stockport, Grocer, WS 1829, Consistory Court of Chester, CRO.

division provided enough capital for sons or daughters to engage in industrial, commercial or professional enterprise and to enter the adult phases of the middle-class property cycle.²⁶ Transmitting property in an alienable form was therefore a priority and usually the estate was liquidated before being divided between the testator's children. However, in some cases the remaining property was simply distributed among the children in its existing form as tenants in common. Whatever strategy was adopted, provision at this stage was individualistic in character rather than collective.

The other methods for transmitting estate favoured by familial Stockport testators were less complex and do not require as much discussion. The category II strategies that appeared in fifty-three (or seventeen per cent) of the wills were closely related to the two-stage category IV provision (Figure 6.2). Being essentially identical to the second stage of that strategy, testators were motivated by exactly the same priorities. In most cases this more simple testamentary disposal occurred in older families where wives had already died and children had exceeded the age of twenty-one. Without dependants, there was no need to set up a trust-based provision income and the goal of testators simply became the equitable division of estate. Nevertheless, trusts were still widely used among testators who adopted this strategy in order to circumvent common law restrictions and ensure female kin received an alienable portion of estate for their own use and benefit.

Impartible inheritances were also fairly common among testators who had children with almost twenty-eight per cent making a category III estate transmission (Figure 6.2). The form of an impartible disposition of property was inevitably more varied. Many transmissions were immediate with a simple, but unequal, division of estate between wives and children. Others were more sophisticated and might involve a number of stages and incorporate the use of trusts. A particularly complex example can be found in the will of James Hobson, a pawnbroker of London Place in Stockport.²⁷ Hobson's will was drawn up in September 1850 by a solicitor named Frederick Thomas of Manchester and ran to a massive thirteen pages in length. Most of the legacies contained in the will benefited his wife Ann, his sons John and Henry,

²⁶ Morris, R. J. (1979) 'The middle class and the property cycle during the industrial revolution', in Smout, T. C. (ed.) *The Search for Wealth and Stability, Essays in Economic and Social History Presented to M. W. Flinn*, Macmillan, Basingstoke, p. 93.

and his daughters Ann Braddock and Mary Lomax. While his daughters each received what must have been a substantial trust provision income raised from a number of shares in Stockport Bank and thirty-nine freehold houses Hobson owned in and around Stockport, his sons received a variety of other *alienable* gifts. John was given fifty shares in Stockport Bank for his own use and benefit, a £50 cash gift and a quarter of the residue of the estate. Henry received a £300 cash gift, the family dwelling house and business warehouse in London Place and a quarter share of the residue of the estate. Henry's cash legacy of £300, in addition to £1000 he had already received as an *inter vivos* gift, was, according to Hobson's will, 'in consideration of his services rendered to me in my business ever since he was a boy and of the benefit resulting from such services to my whole family.' Thus James Hobson's will was impartible in at least two ways. First, he treated his daughters differently from his sons by bequeathing them with a provision income over which they could take no absolute control since the property passed to the grandchildren upon their death. In contrast, the sons were given alienable bequests.²⁸ Second, he treated his children differently in order to reward one son for good services. All in all, Hobson's will suggests that he was a man who took seriously the idea of making a 'fair' distribution of his estate. His idea of fairness was in part founded upon a gendered understanding of the uses of property, but, in the case of his son Henry, it also embraced what has been termed a 'productivity ideal' of distributive justice. The net result was an impartible transmission of estate.²⁹

The final inheritance strategy appropriated by a considerable number of familial testators was the most simple and involved the transmission of all estate to a single 'universal' legatee. In fifteen per cent of cases a familial testator disposed of all of his or her property to just one person. More often than not, as in the case of widow Mary Axon who left all the 'real and personal estate to which I am entitled to my son John', the will would suggest that this legatee was the sole surviving member of close kin.³⁰ On other occasions a male testator might pass all his property to his wife allowing her

²⁷ Will of James Hobson of Stockport, Pawnbroker, WS 1851, Consistory Court of Chester, CRO.

²⁸ Similar gender differentiations were found by Davidoff and Hall; see *idem*. *Family Fortunes*, p. 206, especially the example of wealthy Birmingham banker, Samuel Galton.

²⁹ On the theme of the productivity ideal of social justice and kinship property transmission see Haslett, D. W. (1997) 'Distributive justice and inheritance', in G. Errygers and T. Vandeveld, (eds.) *Is Inheritance Legitimate? Ethical and Economic Aspects of Wealth Transfers*, Springer, Heidelberg, pp. 135–155.

³⁰ Will of Mary Axon of Stockport, Widow, WS 1847, Consistory Court of Chester, CRO.

to dispose of it to his children upon her own death. Samuel Knowles, a carrier who died in 1831, left all of his estate to his wife Ann on condition that she brought up and maintained his children. Ann was granted full power to dispose of the estate in any way she thought fit.³¹

While the analysis of strategies of estate transmission helps in establishing the broad patterns of provision and in uncovering some of the key issues testators faced when settling family property, it does not shed much light on the experience of individual family beneficiaries. It is to this that attention will now be turned.

Wives: property custodians

In a lively piece of revisionism Maxine Berg has taken issue with the historiographical consensus that industrialisation led to a deterioration in female property rights.³² Drawing upon extensive research into inheritance practices in late eighteenth-century Birmingham and Sheffield, she claims that the middling women of these industrialising communities enjoyed unprecedented proprietorial autonomy. Such arguments are controversial as they run against established scholarship which suggests that industrialisation and legal reform marched hand-in-hand through the late-eighteenth and early-nineteenth centuries, closing off or restricting opportunities for the ownership and control of property by women.³³ Central to Berg's counter-argument is her optimistic portrayal of the role and position of married women as property owners. This portrayal in part stems from her re-evaluation of the personal trust as a mechanism for transmitting property. She claims that rather than restricting women's access to estate, as has traditionally been argued, trusts were used to safeguard and enhance female property rights. They supposedly ensured that a wife's interest in her husband's estate was protected, allowing her to use and enjoy family property after his death. In addition, Berg argues that wives derived considerable

³¹ Will of Samuel Knowles of Stockport, Carrier, WS 1832, Consistory Court of Chester, CRO.

³² Berg, M. (1993) 'Women's property and the industrial revolution', *Journal of Interdisciplinary History*, XXIV (2), pp. 233–250.

³³ See especially Davidoff and Hall, *Family Fortunes*, pp. 275–279; Holcombe, L. (1983) *Wives and Property: The Reform of Married Women's Property Law in Nineteenth-Century England*, Martin Robinson, Oxford; Shanley, M. L. (1989) *Feminism, Marriage and the Law in Victorian England, 1850–1895*, I. B. Tauris, London; and Staves, S. (1990) *Married Women's Separate Property in England, 1660–1833*, Cambridge University Press, Cambridge, Mass. It should be noted that Berg applies her arguments specifically to late eighteenth-century Birmingham and Sheffield, acknowledging that women's property ownership in the mid-Victorian period was characterised by more constraint. Nevertheless, the contention that industrialisation did not lead to a deterioration of female property rights remains the centrepiece of her revisionist thesis, and provides justification for

power in relation to the use and control of property by acting as a trustee in administering the disposal of estate among family members. This, she argues, could provide women with a useful source of capital for investment. Finally, Berg shows that, as widows, women were frequently independent economic actors in their own right, responsible for setting up trusts and ensuring that other women received 'protected' property.

The picture painted by Berg has recently found broad support from work carried out on women's property-holding in other contexts and it is certainly true that wives were far from invisible in the property transmission process in Stockport.³⁴ Almost all married men's wills in Stockport made some kind of provision for wives and in many cases this property was protected, either by the use of a personal trust, or by designating it for the independent and separate use of the spouse.³⁵ Wives were also heavily involved in administering the disposal of estates. In some fifty-nine per cent of the wills where a male testator named a wife and children, the wife acted as an executor or trustee. Finally, as widows, a considerable proportion (fifty-two per cent) were responsible for setting up trust-based inheritances. Yet, when one looks in more detail at the content and nature of legacies, the conditions upon which bequests were made, and the operation of trust arrangements, it is difficult to sustain the view that the evidence presents a picture of proprietorial independence and freedom among the spouses of male property owners. Indeed, the material from Stockport suggests Berg's revisionist claims may have been overstated and that the principal role of widows who were beneficiaries of their husbands' wills, was to act as the custodians of family estate.³⁶ While eighty-four per cent of married male testators' wives were appointed as an executor or trustee of their husband's will, the conditions attached to most trusts meant that widows were rarely able to take much financial benefit from family

scrutinising her claims within the context of early nineteenth-century Stockport.

³⁴ Broadly in support of Berg's claims is Green, D. (forthcoming) 'Independent women, wealth and wills in nineteenth-century London', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot, and Lane, P. (forthcoming) 'Women, property and inheritance: wealth creation and income generation in small English towns, 1750–1835', in Stobart and Owens, op. cit.

³⁵ One notable exception was the beer seller William Gratrix who announced in his will that 'whereas my wife Lucy hath never conducted herself in a proper manner to me since I was so unfortunate as to contract my unhappy marriage with her having run me in to debt and wasted my property and whereas she has several times left me and lived with another man now I give and bequeath unto her the sum of one shilling!' (Will of William Gratrix of Stockport, Beer Seller, WS 1841, Consistory Court of Chester, CRO). The use of wills for showing public disapproval of the behaviour of family members is discussed further below.

³⁶ For an excellent discussion of Victorian widowhood see Jalland, P. (1996) *Death in the Victorian Family*, Oxford University Press, Oxford, Chapter Eleven, pp. 230–250.

property. Within prevailing systems of inheritance, widows largely looked after property for others and could only use it prudently for the maintenance of themselves and minority children. They were, therefore, often simultaneously the lynch-pin of inter-generational provision systems while being its least rewarded beneficiary.

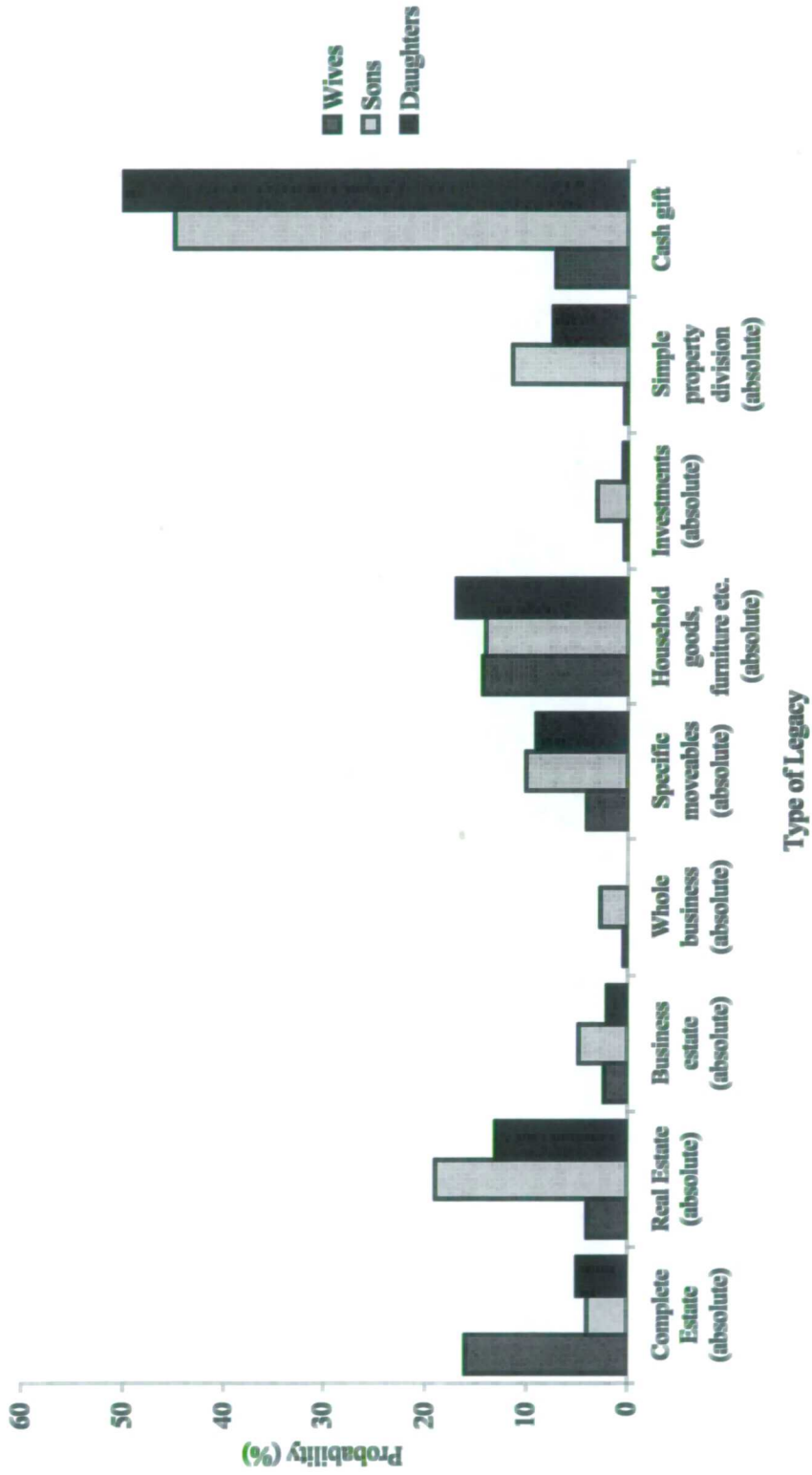
This picture is dramatically confirmed by Figures 6.3 and 6.4, which show that wives overwhelmingly received legacies that provided an interest in an estate for a limited period of time only.³⁷ In fact, only twenty-eight per cent were made bequests of property 'absolutely', i.e. where they had freedom to alienate and dispose of estate independently of others. This was in stark contrasts to sons who received eighty-three per cent of legacies as an absolute gift. In accordance with the trust-based family inheritance strategies described above, most gifts were made to widowed wives for the remainder of their natural life, or until the testator's children had reached their age of majority. At this stage the property was passed on to the next generation. Wives were intermediaries in a system of 'delayed' inter-generational estate transfer and most wills simply re-affirmed their role as maintainer, provider and protector of the family order.³⁸ Thus, through the medium of spouses, bourgeois male inheritance acted as a mechanism for the material and ideological reproduction of middle-class domesticity. Evidence from Stockport suggests that it is within this context that the property transmission experiences of married women and other family beneficiaries need to be located.

A range of more specific evidence demonstrates the way in which widows were confined to specific roles within this reproductive mechanism. To ensure the ultimate division of property among children, many testators tried to restrict their spouse's lifetime interest in their estate. Frequently, as in the will of weaver John Emerson, a wife was given property strictly on condition that it was used solely for the maintenance of herself and the family and that she did not 'sell, dispose or make any wilful waste' of the estate.³⁹ Another restriction, where a special clause revoked, or part revoked, legacies to wives if they chose to remarry, was found in fifty-four (or twenty per cent) of the married men's wills. Such practices helped to 'lock' wives into

³⁷ Total number of men's wills mentioning a wife: 265, sons: 238 and daughters: 216.

³⁸ For a general discussion of delayed domestic inheritance strategies see Siddle, D. (1986) 'Inheritance strategies and lineage development in peasant society', *Continuity and Change*, 1 (3), pp. 333–361.

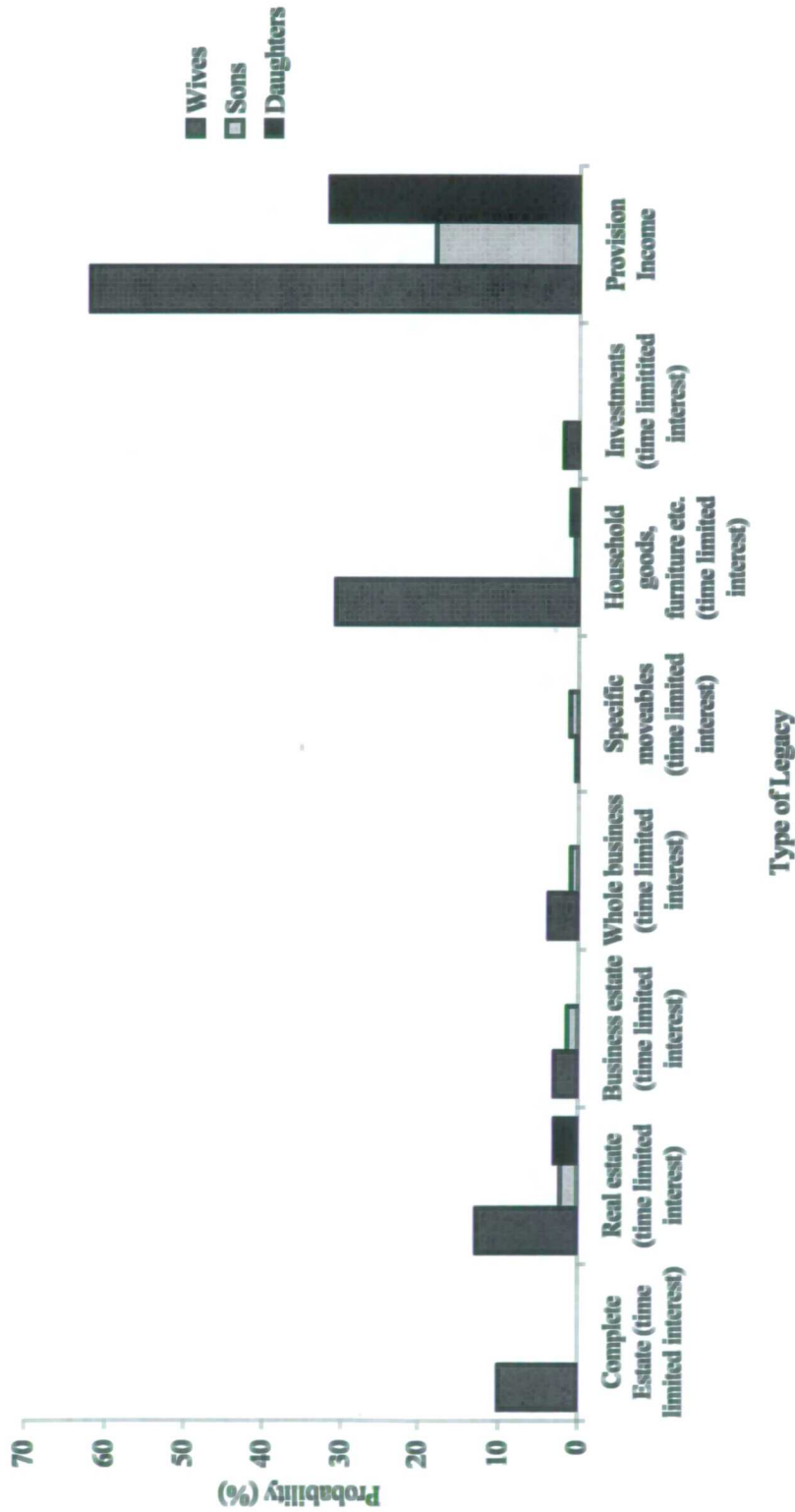
Figure 6.3
Probability of receiving different types of legacy as an absolute gift, wives and children



Source: Sample of wills proved at the Consistory Court of Chester, 1800-57

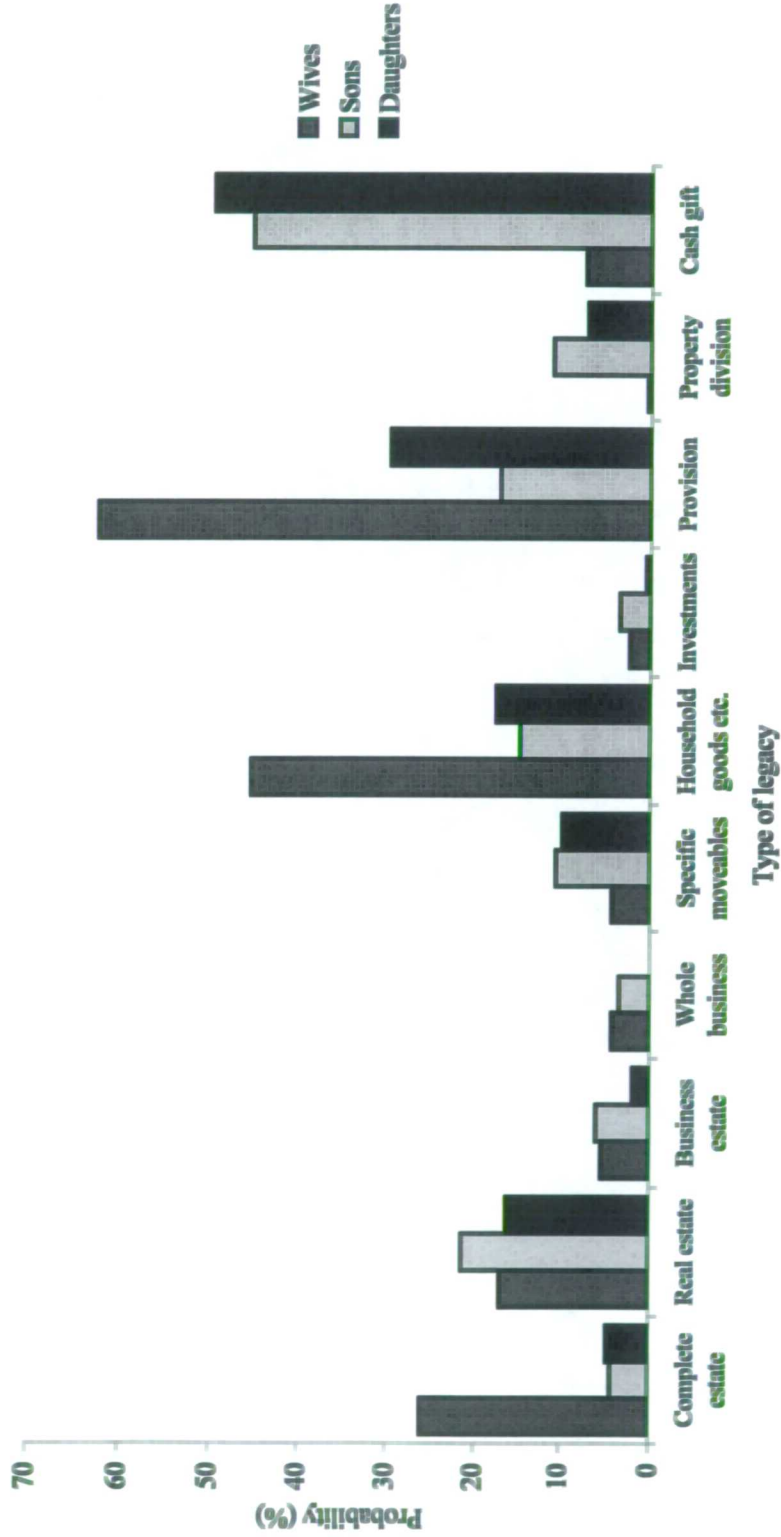
³⁹ Will of John Emerson of Stockport, Weaver, WI 1802, Consistory Court of Chester, CRO.

Figure 6.4
Probability of receiving different types of legacy as a limited time interest gift,
wives and children



Source: Sample of Wills proved at the Consistory Court of Chester, 1800-57

Figure 6.5
Probability of receiving different types of legacy:
wives and children (absolute and limited time interest gifts combined)



Source : Sample of wills proved at the Consistory Court of Chester, 1800-57

widowhood and a carefully regulated domestic social role. Thomas Matthew King, a printer, stationer, and radical-Whig newspaper publisher, bequeathed his wife Martha a provision income generated from the investment of liquidated estate.⁴⁰ However, if she remarried, King instructed that £50 of the dividends of the invested property were to be seized by his executor Edwin Oldham and used at his discretion for the maintenance and education of his son Thomas. Martha could only receive the residues of the dividends. Furthermore, her authority as mother of her son Thomas was partly usurped by that of King's executor Oldham. Some male testators even exercised their prerogative to block any common law right that a wife might have to claim an interest in her husband's estate.⁴¹ Thus, twenty-two (or ten per cent) of married men's wills contained clauses like that of Stockport publican Henry Lomas, instructing 'that the provision hereby made or intended for or in trust for my said wife shall be accepted by her and for her jointure and in lieu and full satisfaction of all dower and thirds to which she is or may be entitled to out of all or any part of my real estate at the common law.'⁴² By accepting this provision Sarah Lomas was thus forced to surrender any common law interest in her husband's property. It is clear that even in widowhood married women's rights to family property were largely determined by their dead husband.

A more detailed look at the types of legacy received by wives lends further support to the claim, contra Berg, that married men's inheritance practices placed wives 'on the margins of property ownership.'⁴³ Figures 6.3 to 6.5 all reveal that the experience of spousal beneficiaries was considerably different to that of sons and daughters. Except where wives were the sole beneficiaries of an estate, usually when there were no children to be provided for, legacies tended to be in two forms. Either they were given a bequest of property of obvious domestic utility, such as household goods, furniture and other general moveables, or, as Figure 6.5 strikingly demonstrates, they were bequeathed a provision income legacy. Both types of bequest were clearly aimed at family maintenance: the former to enable continuity of the home and the latter for its

⁴⁰ Will of Thomas Matthew King of Bridge Street, Stockport, Printer and Stationer, WS 1847, Consistory Court of Chester, CRO.

⁴¹ This prerogative was confirmed by the Dower Act of 1833 (3 & 4 Wm. IV, c 105); See Holcombe, *Wives and Property*, pp. 20–23.

⁴² Will of Henry Lomas of the White Lion Inn and Coaching House, Great Underbank, Stockport, Publican, WS 1834, Consistory Court of Chester, CRO; a 'jointure' is a form of provision.

⁴³ Davidoff and Hall, *Family Fortunes*, p. 275.

members' upkeep. Furthermore, neither form of legacy significantly ate into the value of most estates. Provision incomes relied upon the capital value of an estate remaining untouched, while household goods and furniture were often of relatively insignificant value in relation to other types of property. Even then, gifts of household goods and furniture to wives could be restricted. Joseph Lowe's wife, for example, was allowed to take, use and enjoy furniture from his estate, but only up to the value of £20.⁴⁴ A similar strategy was that followed by solicitor Edward Reddish who allowed his wife to take as much furniture 'as is sufficient to furnish a house with.'⁴⁵ Some male testators, like husbandman Philip Millar, adopted a more direct approach, specifying room by room the furniture his wife could take.⁴⁶ Others, such as cotton spinner James Adkinson, insisted that a wife could only use and enjoy household moveables if she signed an inventory, thus preventing her from selling the estate.⁴⁷

As recipients of provision incomes and gifts of household goods and furniture, wives tended to miss out on other, more alienable legacies. As Figure 6.3 reveals, they rarely received cash gifts. Over half of the nineteen (or seven per cent) that did, were given small pecuniary legacies to be used for paying the immediate expenses following their husband's death. James Knowles, for example, bequeathed £20 to his wife Sarah to pay 'debts, funeral and testamentary expenses.'⁴⁸ It was also rare for wives to be given absolute gifts of real estate with just four per cent receiving such a legacy. Indeed, the only type of legacy where married male testators provided wives with alienable gifts of property in any significant number was where they were given the whole of the estate and became its universal legatee. Of the forty-two wills where this occurred (equivalent to sixteen per cent of all married men's wills), thirty-eight were those of childless testators. This suggests that the degree of proprietorial freedom of widows was closely related to the existence of other nuclear family members. Within the two-stage intergenerational systems of family provision identified above, widows clearly did not benefit much from inheritance.

⁴⁴ Will of Joseph Lowe of Stockport, Yeoman, WS 1801, Consistory Court of Chester, CRO.

⁴⁵ Will of Edward Reddish of Stockport, Gentleman, WS 1824, Consistory Court of Chester, CRO.

⁴⁶ Will of Philip Millar of Stockport, Husbandman, WS 1802, Consistory Court of Chester, CRO.

⁴⁷ Will of James Adkinson of Stockport, Cotton Spinner, WS 1820, Consistory Court of Chester, CRO.

⁴⁸ Will of James Knowles of Stockport, Plumber, WS 1830, Consistory Court of Chester, CRO.

For most wives, therefore, it is likely that the death of their husband marked no great leap into proprietorial independence. Rather, it was a crucial point in the life-cycle of the middling sort when the role of a wife as a maintainer, supporter, educator and carer of the family was publicly reasserted. The regulation of property disposal by a series of laws, particularly in this context by the law in equity, helped to 'fix' women into this particular social position by giving such practices a powerful source of authority.⁴⁹ As such, *family inheritance* did more to constrain the married women of industrialising urban communities than it did to socially or economically empower them. This is not to deny the existence of other opportunities for wealth creation by the women of Stockport's middling sort.⁵⁰ It would be wrong to suggest that the spouses of Stockport's familial male testators faced a widowhood of complete proprietorial subservience to domesticity. Indeed, the very marginalisation of widows from family property must have provided an incentive for them to generate their own incomes. However, there is little evidence from the wills analysed here that family inheritance systems provided the married women of Stockport with the degree of proprietorial autonomy that Berg suggests. What, then, of their children?

Sons and daughters: a suitable provision

Partibility is often considered the hallmark of family inheritance among the middling sort of industrialising England.⁵¹ The equal division of estate amongst children supposedly set the emerging bourgeoisie apart from the landed gentry and aristocracy, who, obsessed with the preservation of great estates, preferred an impartible succession based on the custom of primogeniture. But whilst many middling testators did make a partible (or near-partible) division of estate, evidence from wills in Stockport would suggest once again that disposal practices were driven more by the desire to make what a testator considered to be a fair and appropriate provision, than by an ideological attachment to the principles of egalitarianism. Indeed, if there was a common thread amongst all testamentary dispositions to children, it was simply that

⁴⁹ The courts of equity regulated the 'enjoyment' of property under a will (or other legal document). Thus they ensured that trusts were carried into effect and heard the pleas of suitors who made claims against the will. As their name suggests their basic function was to apply principles of justice to legal matters See PP 1833 XXII *Law of Real Property Fourth Report, Wills*, p. x.

⁵⁰ See Chapter Three.

⁵¹ See for example Davidoff and Hall, *Family Fortunes*, p. 207 and Morris, 'The middle class and the property cycle' and his discussion of 'life after death', p. 92.

sons and daughters were seen by testators as having a right to be provided for.⁵² This did not, however, necessarily extend to equal treatment.⁵³ Partibility thus becomes one, albeit very significant, strategy of property transmission within the broader and more accommodating strategy of provision.

The extent to which testators made an equitable division of estate can be gauged from Table 6.5, which measures partibility in three ways. Firstly, a testamentary transmission was described as ‘partible’ if the final distribution of estate was exactly equal. Secondly, where the distribution was essentially equal but certain legatees received additional small gifts, such as specific objects of material or sentimental value, or a modest pecuniary legacy, the wills were classed as ‘partible plus’.⁵⁴ Finally, where the distribution of estate was clearly unequal the will was classified as ‘impartible’.

Table 6.5
Partibility among Stockport testators

	Total testators	Male testator	Female testator	Males with children	Females with children
Partible	174 (45.3%)	156 (51.3%)	19 (23.8%)	123 (53.2%)	11 (31.4%)
Partible plus	69 (18%)	49 (16.1%)	19 (23.8%)	39 (16.9%)	7 (20%)
Impartible	141 (36.7%)	99 (32.6%)	42 (52.5%)	69 (29.9%)	17 (48.6%)
Total	384	304	80	231	35

Source: Sample of wills proved at Consistory Court of Chester, 1800–57

Note: Wills where only one beneficiary was named and there was no evidence of others being deliberately excluded from the will, are not included in the table. The category ‘partible plus’ is explained in the text above.

Of those male testators with children, Table 6.5 reveals that a clear majority (seventy per cent) made a ‘partible’ or ‘partible plus’ division of their estate. In other words,

⁵² Indeed, a number of wills suggest that children were able to secure inter vivos loans from their parents against this expectation. The value of the loan (with interest) would be deducted from the child’s legacy in the parent’s will. See also discussion of ‘hotch potch’ below.

⁵³ The discourse of ‘obligation’ that drove testators to provide for children was in some senses ‘formalised’ by property law. As an accepted and naturalised source of authority property law was a powerful force acting upon inheritance strategies. The courts of equity existed to ensure fairness of principle in the disposition of estate, while the statute for the distribution of intestates’ estates offered a normative benchmark for the distribution of property that privileged nuclear family.

⁵⁴ The ‘partible plus legacy’ is an concept taken from Gross, ‘Hand ng down the farm’, p. 200.

they believed that the fairest and most appropriate way to provide for their children was to treat them equally, regardless of gender. Indeed, some testators were so concerned that their children received exactly equal portions of estate, that they insisted that any *inter vivos* gifts or loans made to sons or daughters were deducted from their share of the estate. This practice was known as bringing property into 'hotch potch' and is exemplified by the will of William Coppock who instructed his executors to consult his account book and deduct various sums of money advanced to his seven children from their equal share of his estate.⁵⁵ Thirteen other testators made a similar request. In this context, such findings lend weight to Maxine Berg's claim that 'property holding and property transmission' in industrialising towns 'were not gender typed'.⁵⁶ More accurately, the evidence suggests a qualification to Berg's argument, recognising that the situation for daughters was notably different from that of wives. However, the experience of daughters should still not be overstated. The most obvious problem in making optimistic claims about the proprietorial freedom of female children is that it flatly contradicts the experience of wives. The vast majority of these daughters also became wives and in many cases they would receive their portion of the family inheritance upon entering wedlock. Given the conspicuous absence of marriage settlements among Stockport's female testators (just four examples were found among the sample) most inheritance was probably surrendered to husbands upon marriage under common law. Alternatively, as a number of wills indicate, a daughter's inheritance portion might form a suitable dowry payment.

Nevertheless, the more equal treatment of sons and daughters is captured in Figures 6.3 to 6.5. The importance of cash gifts is also highlighted, with roughly one in two wills making bequests of ready money to sons and daughters. Indeed, cash legacies were the most popular type of gift made to children, accounting for approximately a third of all offspring bequests. Sums of money were also the most alienable of all bequests and their purpose seems to have been to give children a good start in life. As noted above, most sons and daughters received such a gift upon attaining their age of majority or upon marriage, a pivotal stage in the life-cycle when they were officially no longer dependent upon their parents. The disposition of cash to children therefore

⁵⁵ Will of William Coppock of Stockport, Gentleman, WS 1843, Consistory Court of Chester, CRO. The Coppock family were well known in Stockport and beyond. William's son Henry was the town's ambitious Whig town clerk and his son James was secretary of the Reform Society in London as well as a notorious radical Liberal agitator.

chimes with the supposedly pervasive bourgeois conception of property as individualistic in character. At this stage in the life-cycle it was up to each individual child to use their 'fortune' to make his or her way in life. A bequest of cash thus not only represented a transmission of wealth it also embodied a transferral of risk and a moral transmission of responsibility.

While sons and daughters also received other types of property in equal shares a significant number of testators handed down their estate impartibly. Sometimes inequality flowed along gender lines where, to recall the example of James Hobson, daughters were given property in a different form to sons. It was rare, however, for a daughter to be left unprovided for and, while many transmissions were strictly impartible, it was unusual for them to be framed in a way that suggested partiality. It was simply that the notion of (im)partibility was sometimes understood by testators as a gendered concept. Thus, as Figure 6.4 suggests, a provision income was often considered a fairer legacy for females than some kind of absolute gift.⁵⁷ In a similar way, in a number of cases, an absolute gift of business or real estate was clearly thought of as a more appropriate bequest to a son than to a daughter (Figure 6.3). So while such strategies were clearly impartible and resulted in a more restricted control and use of family property by daughters, they did not run contrary to the notion of a 'fair provision' that dominated most family testamentary gifting.

Also deserving of a mention here is the kind of testator who, while not making exactly equal gifts of property to his or her children, essentially made very similar bequests of estate to each. In this case, equality of provision was confined by the practicalities of giving unequally-sized and relatively inflexible units of property to multiple beneficiaries. Typical here were those testators who R. J. Morris has labelled 'urban peasants'.⁵⁸ The hallmark of this group's inheritance strategies was the disposal of portions of real estate, usually in the form of cottage property, to family dependants. Such testators adopted a more holistic conception of provision, not only aiming to

⁵⁶ Berg, 'Women's property and the industrial revolution', p. 250.

⁵⁷ However, the extent to which female offspring were provided with provision income rather than absolute legacies does not appear to be as great as is suggested by Morris's study of inheritance in 1830s Leeds. See his discussion of 'gendered equity' in Morris, R. J. (1998) 'Reading the will: cash economy capitalists and urban peasants in the 1830s', in Kidd, A. and Nicholls, D., *The Making of the British Middle Class: Studies in Regional and Cultural Diversity Since the Eighteenth Century*, Sutton, Stroud, pp. 121–123.

⁵⁸ Morris, 'Reading the will', p. 127.

provide legatees with a place to live and make a home, but also supplying them with a maintenance income raised from the rents of tenanted estate. John Oldham, a plumber and glazier who died in 1821, provided each of his three children with a portion of real estate and a part of his personal estate.⁵⁹ Of the real estate, his daughter Sarah was given five houses, his son Edward two houses and a factory, and his second daughter Maria one house and a part share in a wagon warehouse. In total, gifts of real estate accounted for sixteen per cent of all bequests made to sons and twelve per cent of those made to daughters.

Impartible divisions of estate to sons and daughters were also made for other reasons. While more generous gifts rewarded some children for their good services (as in the case of James Hobson's son Henry), smaller bequests could be used to punish sons and daughters who had behaved in a way the testator felt inappropriate. Widow Elizabeth Mottershead passed nearly all of her estate to her daughter Hannah and cut her other children out of the will with a gift of just one shilling each.⁶⁰ While she did not give reasons for her actions, she explained (with a not imperceptible touch of irony) that the tiny bequests were made 'as a token of parental affection which I have and beareth towards each of them'! In all, seventeen testators specified some kind of cut off legacy, though sometimes, as in the case of Martha Barlow, it was used merely as a threat to prevent troublesome or litigious legatees from challenging the provisions of the will.⁶¹ In this context, the prospect of having one's bequest cut to a shilling helped to minimise family conflict and promoted a harmonious and good ordered transmission of estate. This was not fundamentally a strategy for the unequal treatment of legatees.

Family provision: concluding remarks

That the nuclear family was at the heart of inheritance in an industrialising town like Stockport is not a remarkable fact in itself. Across time and over space, immediate kin appear, almost without exception, to be the main recipients of testamentary disposition. The most striking finding of this analysis has been the clear identification of the social role that inheritance fulfilled within the family. The tendency to see

⁵⁹ Will of John Oldham of Stockport, Plumber and Glazier, WS 1821, Consistory Court of Chester, CRO.

⁶⁰ Will of Elizabeth Mottershead of Stockport, Widow, WS 1829, Consistory Court of Chester, CRO.

⁶¹ Will of Martha Barlow of Stockport, Widow, WS 1807, Consistory Court of Chester, CRO.

inheritance as an inward-looking, domestic, ‘private-sphere’ affair should not obscure the fact that it was a widely practised activity that spun webs of dependency, expectation and obligation throughout the property-owning classes and related professionals of nineteenth-century urban society.⁶² Moreover, the breadth, sophistication and far-sighted ambition of testamentary property transmission within families suggests that it must be seen as something more than an inconsequential ‘private’ affair. Will-making became a legal mechanism for ensuring the future and continuity of family life. Indeed, family inheritance acted as a powerful source of informal, though in many senses state-regulated, inter-generational welfare provision. Inheritance thus needs to be recognised as part of the moral economy of provision among the middling sort.⁶³ Through it, they thoughtfully and actively ensured their own material reproduction. Inheritance thus deserves recognition alongside state systems of welfare provision like the New Poor Law, as *one* of the key social support mechanisms of the nineteenth century. Furthermore, as this analysis has shown, it is also necessary to acknowledge the unequal gender distribution of power that underpinned inheritance as a system of family-centred welfare support.

Beyond the immediate kin: esteem and reward

‘Why are families without issue like bald-headed men? – Because they are hair-less.’⁶⁴

If testamentary gifting to the nuclear family was a strategic, complex and long-term exercise, then the disposal of property to wider kin and friends was a more haphazard, immediate and preferential affair. This reflected the differing social goals of inheritance. Whereas family legacies were left out of a sense of obligation and duty, bequests to others were aimed at a cultivating a different sense of status and reputation. Regard, respect and reward were thus the main forces driving such bequest strategies, and they worked to produce an uneven, theatrical and sometimes rather self-indulgent transmission of estate.⁶⁵ Nevertheless, this kind of gifting always came second to satisfying the needs of dependants, both within the close family and

⁶² See Chapter Five.

⁶³ On the theme of the moral economy see the classic essay and commentary by Thompson, E. P. (1991) *Customs in Common*, Penguin, London, Chapters Three and Four. Victorian theories of welfare provision are discussed in a different context by Lees, L. (1998) *The Solidarities of Strangers. The English Poor Laws and the People, 1700–1948*, Cambridge University Press, Cambridge, Chapter One.

⁶⁴ Joke from the *Stockport Advertiser*, 12 March 1830.

⁶⁵ On the relationship between gifting and regard see Offer, ‘Between the gift and the market’, pp. 450–457.

sometimes within the wider kin. Rarely, therefore, did ostentatious and preferential gifting completely dominate testamentary disposition.

Distant kin

Disposing of property to more distant family members took on two forms: either it became a mechanism for displaying affection and regard, or it took on the more substantial responsibility of providing for dependent kin. In some cases these strategies of provision were not discernibly different from those adopted by will makers for proximate family members. In the absence of children of their own, some testators simply decided to shift the focus of provision to the next closest consanguinal tier of family members. Thus, among the sample of Stockport wills, sisters stand out as the fourth largest group of recipients of provision incomes after wives, daughters and sons. Likewise, after sons and daughters, nephews and nieces form the third and fourth largest group of inheritors of cash gifts respectively. The resulting picture is that roughly a half to two-thirds of all bequests made to brothers, sisters, nephews and nieces appear in size and character to be 'provision legacies', rather than token gifts. Wealthy testators might also take on the responsibility of providing for those left unprovided for by others. Thus Samuel Sims, the prominent Stockport Quaker and druggist who died in 1840, thought it 'right and just to make a provision for' his sister-in-law Ann Perchel who had not received anything from his father's will.⁶⁶

Other gifts to family members appear to have been symbolic of affection and regard. They were intended as signals of approbation rather than as a source of material support. Such legacies tended to be in the form of small cash sums or items of specific sentimental or material value. Occasionally they would be accompanied by a statement explaining the significance of the gift. Martha Smith, for example, made a bequest of ten shillings to her cousin Ann Smith as 'a token of my respect'.⁶⁷ Jane Worsley was one of ten testators who made bequests in recognition of the help and support provided by wider family members in times of distress.⁶⁸ She gave her sister

⁶⁶ Will of Samuel Sims of Stockport, Chemist and Druggist, WS 1840, Consistory Court of Chester, CRO. See the discussion of Samuel Sims in Chapter Five.

⁶⁷ Will of Martha Smith of Stockport, Widow, WS 1825, Consistory Court of Chester, CRO.

⁶⁸ Will of Jane Worsley of Stockport, Spinster, WS 1837, Consistory Court of Chester, CRO.

Mary an assortment of furniture, earthenware, glassware, silver cutlery, kitchen utensils and clothes as a token of gratitude for 'her kind services during my illness'.

Finally, other items of estate were given to particular family members purely because it was felt that they should remain within close consanguinal confines. Possessions such as bibles, watches or portraits were seen as familial rather than individual property and, where a testator had no children of his or her own, such items had to be passed to an appropriate relative. The value of such possessions only really took on meaning within the context of the family. Driven by this priority, spinster Ann Ardern bequeathed her treasured portraits of her Uncle Charles, father and mother and a 'miniature picture of Sir John Crewe' to her Uncle, John Ardern.⁶⁹

Friends, servants and others

'Money is like manure ... no use unless well spread.'⁷⁰

There were also essentially two types of gift to non-kin: the first was made as some kind of reward or remuneration for service, and the second was intended as a token of goodwill, symbolising a happy and rewarding friendship. Bequests made to servants (twenty cases), executors (seventeen cases) and carers (four cases) dominated the former category. Except in the occasional case of long-term domestic service, such individuals were not seen as dependants and therefore did not receive a full provision from a will. However, servants were often important members of the domestic world of middling families and their presence among beneficiaries could also be interpreted as an attempt upon the part of the testator to maintain the ordered stability of the family home. As Figure 6.6 confirms, most testators who made a bequest of estate to servants, executors or carers gave a cash legacy. Mary Hyde, for example, gave her servant £50 'as a reward for her long services' while weaver Edward Brown gave his 'friend' Mrs. Lingard the sum of £5 'as a small remuneration for her attention to my wants during my indisposition.'⁷¹ Although most wills permitted executors and trustees to take expenses from the estate in order to cover the costs of probating the

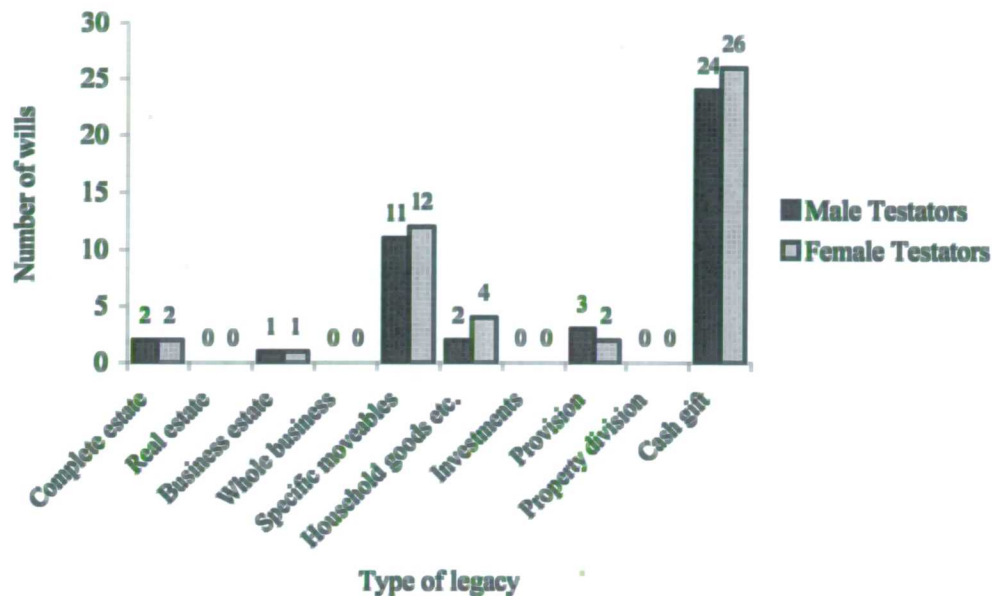
⁶⁹ Will of Anna Maria Ardern of Stockport, Spinster, WS 1805, Consistory Court of Chester, CRO. The Arde(r)n family were among Stockport's oldest and most wealthy families. They owned much of the land in and around Stockport.

⁷⁰ The words of banker Samuel Brooks, quoted in Gunn, 'The Manchester middle class', p. 165.

⁷¹ Will of Mary Hyde of Stockport, Widow, WS 1822, Consistory Court of Chester, CRO, Will of Edward Brown of Stockport, Weaver, WS 1852, Consistory Court of Chester, CRO.

will, selling and conveying property and managing its distribution, some testators, like Robert Davies, also felt it appropriate to give their executors a small cash gift ‘as an acknowledgement of the trouble they will have as an executor and trustee of this will.’⁷²

Figure 6.6
Legacies to friends and other non-relatives



Note: Total number of wills where legacy to friend or other non-relative was sixty-eight (thirty-three male testators, thirty-five female testators). Above graph refers to number of wills containing a particular type of legacy, rather than absolute number of legacies.

Source: Sample of wills proved at Consistory Court of Chester, 1800–57

Other bequests to friends offered the opportunity to show affection and admiration, and it was the symbolic rather than material value of such gifts that mattered most. Above all, bequests to friends suggested wealth and status, and identified the testator with a particular social group. Such legacies also helped to dramatise death and ritualise mourning. Thus, many gifts took the form of mourning rings or dress, or were specific possessions of emotional significance to a testator, intended as a token of remembrance. Even cash legacies took on a different meaning in such a context, often made in the denomination of guineas rather than pounds, suggesting they were conceived of as being beyond the normal exchange economy.⁷³ The wealthy Stockport spinster Anna Maria Arden made bequests of property to over thirty-five individual

⁷² Will of Robert Davies of Stockport, Gentleman, WS 1857, Consistory Court of Chester, CRO.

⁷³ Perhaps part of the ‘economy of regard’ as Offer has noted in *idem.*, ‘Between the gift and the market’.

beneficiaries ranging from close family members to distant friends.⁷⁴ Among those who received gifts from her will were: Mr. Egerton of Tatton Park, a member of a local landed gentry family, who was given £500 ‘as a tribute of gratitude for his friendship’; The Reverend Charles Prescott, Rector of Stockport, who was given 10 Guineas; Mr. Wilbraham of Delamere Lodge, another wealthy Cheshire landowner, who received 10 Guineas ‘for a ring’; and Ardern’s ‘dear friend’ Latitia Rudd, who inherited a ‘sapphire ring with diamonds’.

Charities and Institutions

Although testamentary disposition is frequently associated with charitable giving, few testators in early nineteenth-century Stockport bequeathed property to charitable or religious institutions. Given the evidence presented in earlier sections of the chapter it is tempting to conclude that ‘charity began at home’, but this would be to ignore the widespread lifetime practice of giving to charitable causes. It also directly contradicts the claims made by many of the obituaries and death notices of those who died. Robert Hardy, for example, a cotton manufacturer whose will was proved at the Consistory Court of Chester in April 1828, left all his property to his family, yet a local newspaper obituary reported that his name will be one that ‘Stockport will affectionately enrol among the most upright and philanthropic of her sons.’⁷⁵ An account of Hardy’s funeral in the next edition of the paper praised his involvement in Stockport Sunday School and his ‘many other’ charitable endeavours.⁷⁶ Moreover, benevolence and charitable giving were important ways in which property could be used to assert bourgeois masculine status and demonstrate a morally responsible use of wealth. Evidence from other local sources like newspapers would suggest, however, that charitable gifting within a needy and volatile community like Stockport was generally more reactive than pro-active. In times of want or distress, those with property were frequently called upon to subscribe to relief funds or building projects. Regularly adorning the front page of the *Stockport Advertiser*, charitable subscription funds with lists of subscribers and specific details of gifts, offered a much more

⁷⁴ Will of Anna Maria Ardern of Stockport, Spinster, WS 1805, Consistory Court of Chester, CRO.

⁷⁵ *Stockport Advertiser*, 11 April 1828.

⁷⁶ *Stockport Advertiser*, 18 April 1828

responsive method of reacting to distress or need, as well as more visible way of eliciting a benevolent reputation.⁷⁷

Nevertheless, it is perhaps significant that over half of the seven testators that did make charitable bequests in their wills were women. If these tiny figures are in any way representative, they suggest that a greater proportion of women made charitable legacies than men. As most newspaper subscriptions were dominated by the names of male property owners, testamentary gifting perhaps offered an opportunity for women to be independently benevolent.

In summary, although only fourteen per cent of testators among the sample of wills passed property to people or institutions outside of the family, analysis of their bequesting strategies reveals a different motive for making a testamentary disposition. Such wills demonstrate a more conspicuous attempt by testators to reckon their social position within the broader social circles. Alongside the more sober act of providing for family members, inheritance offered the opportunity to cast personal reputation within the memories of others. While a dead testator could clearly not expect personal reciprocation of such gifts, the advantages of association with wider social contacts that these gifts established might be useful to surviving family members. In the words of contemporary legal writer Richard Dickson, extra-familial gifting helped to make one's memory 'smell sweet in the grave'.⁷⁸

Men, women and property

Property and possession

As well as exposing something of the complexity of the social structures of middling-sort life, an examination of inheritance strategies also provides an insight into different attitudes towards property and its use. In particular, the naming and bequest of specific types of property is revealing of the nature of 'possession'. Indeed, it was through the active process of possession and dispossession that property took on meaning and value. In this respect, the most conspicuous feature of the sample of

⁷⁷ Two examples from the newspaper that stand out are the subscription for the erection of a National School in Stockport which appeared in the *Stockport Advertiser* of 4 February 1825, and the lists of subscribers to the Stockport Relief Fund established at the height of economic depression in December 1841. The latter adorned the front pages of the *Stockport Advertiser* for several months during late 1841 and early 1842. See, for example, *Stockport Advertiser*, 24 and 31 December 1841 and 7 January 1842.

Stockport wills is the relative lack of specification of different types of property. Evidence of ‘possessiveness’ is fairly scant. Most wills simply describe estate using a standard, generic all-encompassing legal phraseology. This practice can largely be explained by the uses to which family property was put, which were more geared towards the provision of income and capital than the bequest of specific items of estate. Moreover, lack of specification suggests a very pragmatic attitude towards property. Unlike the landed upper-classes, the emerging bourgeoisie of towns like Stockport did not seek to protect and consolidate property, they aimed instead to use it in versatile, creative and adaptable ways. In the words of Davidoff and Hall, ‘the particular characteristic of middle-class property was its flexibility.’⁷⁹ Property was thus not regarded as ‘fixed estate’, but was seen ultimately as something more abstract: a source from which ‘value’ could be derived. Furthermore, it was recognised that the maintenance of the fluidity of property through transformation and exchange allowed additional ‘value’ to be derived from estate. Treating property in this way enabled middling-sort families to face some of the risks and uncertainties that impinged upon their struggle to make a living.⁸⁰ It is perhaps for this reason that so many testators, both male and female, ordered that all or part of their property be liquidated upon death (Table 6.9).

Table 6.6
Liquidation of property

	Total	Men	Women
All	178 (36%)	144 (36%)	34 (33%)
Part	63 (13%)	53 (13%)	10 (10%)
Left to discretion of others	5 (1%)	3 (1%)	2 (2%)
TOTAL	246 (49%)	200 (51%)	46 (45%)

Source: Sample of wills proved at Consistory Court of Chester, 1800–57

The generic nature of many wills and the absence of accompanying inventories thus makes it difficult to discuss patterns of property ownership in detail. Nevertheless, a few wills provide a glimpse of the sorts of property that nineteenth-century Stopfordians owned, even if they cannot be used to determine breadth of ownership.

⁷⁸ Dickson, *A Practical Exposition of the Law of Wills*, p. 4.

⁷⁹ Davidoff and Hall, *Family Fortunes*, p. 215

⁸⁰ See Chapter Three.

Table 6.7
Frequency of different possessions mentioned in wills

<i>Description of item</i>	<i>Total wills where item mentioned</i>	<i>Male wills where item mentioned</i>	<i>Female wills where item mentioned</i>
Watches	21	11	10
Beds and bedding	19	10	9
Silver cutlery	14	6	8
Clocks/barometers	13	9	4
Clothes	13	2	11
Tables	12	5	7
Chest of drawers	11	7	4
Pictures/portraits	10	6	4
Silver plate and tankards	7	4	3
Books	7	6	1
Chairs	6	5	1
Looking glass/mirror	6	3	3
Fire grate/utensils/screen	6	5	1
Other Valuables	6	3	3
Cupboard	5	3	2
Jewellery and trinkets	5	0	5
Other kitchen utensils	5	2	3
Plate	5	4	1
Desk	4	2	2
Chest	4	2	2
Pots and pans	4	3	1
Kettle	4	3	1
Musical instruments	4	3	1
Bible	4	3	1
Couch/sofa	3	1	2
Carpet	3	1	2
Earthenware	3	0	3
China	3	0	3
Glassware	3	2	1
Trays	3	0	3
Wash Stand	3	2	1
Dressing table	2	2	0
Book case	2	2	0
Stand	2	2	0
Candlesticks	2	1	1
Warming pan	2	2	0
Table Cloths	2	0	2
Other furniture	1	0	1
Gun	2	2	0

Note: The number of wills where specific items of household goods and furniture or valuables were mentioned was fifty-eight (twelve per cent of total sample). This comprises of twenty-one female testators (twenty per cent of female wills) and thirty-seven male testators (nine per cent of male wills).

Source: Sample of wills proved at Consistory Court of Chester, 1800–57

Descriptions of specific household goods, furniture or valuables appear in some fifty-eight (or twelve per cent) of wills. Of these, only twenty-six (or five per cent) listed more than four items. So, in spite of popular images that suggest otherwise, early-Victorian wills did not in general specify long lists of cherished material possessions. Table 6.7 schedules the range of possessions mentioned and bequeathed in the wills. Not surprisingly, those objects mentioned most frequently tended to be of greatest material value, such as watches, clocks and silver cutlery. These items were also of high emotional and familial value, with testators displaying a sense of concern to keep family property within the immediate kinship group. Thus, Daniel Jackson, a Methodist minister who died in 1824, bequeathed to his eldest son William 'the watch purchased by me for my wife before our marriage.' If William died, then the watch was to pass to Jackson's other son Daniel.⁸¹ The more mundane items of furniture that appear on the list come from the wills of those testators who took a very thorough approach to providing for needy dependants, bequeathing them with a range of furniture to suit their exact needs.

Gender and property

One notable feature of the sample of wills that tallies with other research on inheritance is the greater propensity for women to name, describe and bequeath household goods, valuables and items of furniture. A more detailed look at the evidence reveals that twenty per cent of female testators mentioned such items in comparison to just nine per cent of men. These findings also chime with the earlier discovery that women were more inclined to make a more dispersed and preferential transmission of property. Together the evidence suggests that some women viewed the ownership of property differently to men. Without overstating or essentialising these differences, men appeared to view property with a sense of detachment, as something to be manipulated, and ultimately defined by the fulfilment of beneficial consequences of its use. Women, on the other hand, had a more immediate understanding of possession; property was valued in its existing material form and was 'embodied' with specific emotions and meanings that restricted its future use. Explaining these differences in attitude is difficult but, in part, they would seem to stem from broader contemporary notions of femininity, whereby women defined their

⁸¹ Will of Daniel Jackson of Stockport, Methodist Minster, WS 1825, Consistory Court of Chester, CRO.

identity through the consumption and transmission of domestic goods.⁸² In addition, as was highlighted above, women's more restricted access to other forms of property may have generated an incentive for greater possessiveness. The contrasting behaviour of men was also shaped by gendered notions of property ownership. As earlier sections of this chapter have shown, masculine identity was underpinned by an efficient and responsible use of property, geared towards providing for dependants. In reality, therefore, men and women were both constrained and enabled by property transmission. Recognising the significance of gender in understanding property ownership thus rests on untangling the practices, ideologies and material realities of the proprietorial lives of men and women.

Conclusion

The material presented in this chapter suggests that inheritance was a crucial mechanism for the material and ideological reproduction of people and property. Above all, it was a device which actively delineated the social role of the nuclear family as a provider of welfare, stability and companionship. In this context, the material also shows inheritance to be at the heart of the production of gender identity, reasserting the role of women as mothers, carers and maintainers. Moreover, the testamentary behaviour of Stockport's middling sort provides clear evidence of the ways in which bourgeois identity was familial rather than individualistic. The value of property was largely understood in terms of its domestic utility and, as a result, it was treated as having a certain amount of fluidity and flexibility. Indeed, the widespread liquidation and partible intra-family dispersion of property through wills, suggests the need for a re-evaluation of the popular historiographical image of the emerging bourgeoisie as a class of rampant individualistic accumulators. The family was at the centre of the world of the middling sort and its importance is seminal in understanding the accumulation, use and transmission of property.

⁸² See discussion in Berg, M. 'Women's consumption and the industrial classes of eighteenth-century England', *Journal of Social History*, 30 (2), pp. 415–434; Weatherill, L. (1986) 'A Possession of one's own: women and consumer behaviour in England, 1660–1740', *Journal of British Studies*, 25, pp. 131–156 and the more critical discussion in Vickery, A. (1993) 'Women and the world of goods: a Lancashire consumer and her possessions, 1751–1851', in Brewer, J. and Porter, R. (eds.) *Consumption and the World of Goods*, Routledge, London, pp. 274–301.

So how, then, do the findings of this chapter tally with the separate spheres thesis?⁸³ Certainly, at first glance, the evidence presented would appear to support the argument that the public and private worlds of middling sort life were segregated, by revealing a seemingly powerful way in which the private/domestic/ feminine sphere was materially and ideologically manufactured. However, the notion of the *separation* of social spheres through inheritance is problematic. A more plausible interpretation would seem to be to suggest the opposite. Inheritance and property *connected* the different spheres of middling-sort life.⁸⁴ Put simply, the ‘public’ accumulation of property was driven by the ‘private’ needs of inheritance provision, which in turn were founded upon expectations about the future ‘public’ uses of property. This inter-connection, as was revealed in chapter five, was further intensified by the social networks of personnel who managed and administered property transmission. Therefore, the inheritance strategies of nineteenth-century Stopfordians suggest that the social geography of bourgeois life was more complex than the separation of the social world into ‘the public’ and ‘the private’. Rather, they reveal one way in which the different social spaces of the middling-sort world were interpenetrative and mutually constitutive. Indeed, it would seem that the inheritance practices of Stockport’s middling sort provide a good example of the ways in which ‘the lives of women, men and families, politics and the economy, and “interiors” and “exteriors”, merged and converged.’⁸⁵ The next chapter interrogates these themes further by exploring the relationship between business activity, the most visible aspect of masculine-bourgeois ‘public-sphere’ life, and the domestic priorities of post-mortem family provision. This also provides an opportunity to assess the impact of inheritance on the economy and assess its role more broadly within the context of wealth accumulation.

⁸³ The idea of ‘separate spheres’ as an organising historical concept finds its most sustained use in Davidoff and Hall, *Family Fortunes*. See also discussion in their chapters, particularly Chapter Two

⁸⁴ Hirschon makes a similar point in Hirschon, R. (1984, ed.) *Women and Property. Women as Property*, Croom Helm, London, pp. 5–6.

⁸⁵ Hunt, M (1996) *The Middling Sort. Commerce, Gender and the Family in England, 1680–1780*, University of California Press, Berkeley, p. 8.

CHAPTER SEVEN

Inheritance and the life-cycle of family firms in Stockport, 1800–57

Introduction

The relationship between inheritance and the economy has been of long-standing interest to historians. Josiah Wedgwood's important study of the economics of inheritance in Britain in the early part of the twentieth century was one of the first to consider the role of *inter vivos* and *post mortem* property transmission in understanding inequalities of wealth, opportunities for capital formation, rates of economic growth and entrepreneurial attitudes.¹ Some of these themes have also been explored by Sir John Habakkuk in his examination of the impact of continental inheritance practices on economic change in nineteenth-century Europe.² In a groundbreaking paper he identified the various ways in which inheritance influenced the economy, demonstrating how it affected the distribution of property, the nature of the market, the supply of capital, the type of agriculture, and the level of its efficiency. He also argued more broadly that inheritance was important in understanding the changing economic role of the family in the early stages of industrialisation. This chapter covers similar territory by exploring the effects of inheritance on Stockport's economy in the early-nineteenth century. More specifically, the chapter looks at the impact of inheritance practices on business succession and on the longevity and life-cycle of family firms. This brings the study full circle, back to a consideration of the economic matters first discussed in chapter three. While that chapter explored the economic environment of opportunity and risk which formed a context for the inheritances strategies of Stockport's middling sort, this chapter looks at the way in

¹ Wedgwood, J. (1929) *The Economics of Inheritance*, Penguin, Harmondsworth.

² Habakkuk, H. J. (1955) 'Family structure and economic change in nineteenth-century Europe', *Journal of Economic History*, XV (1), pp. 1–13.

which property transmission practices were constitutive of that economic context. It also builds on the previous chapter by examining the way in which the social relations of property transmission reproduced economic structures as well as familial ones.

As the previous chapter revealed, inheritance not only involved the transmission of property it also frequently entailed its disposal and translation into money or investments. Property existing in one form was converted into another in order to meet the complex requirements of inheritance strategies. The impact of this strategic translation of property on the early Victorian economy has not been widely investigated. It seems particularly pertinent to explore what happened to business property upon the death of a testator. After all, family businesses were one of the most significant sources of wealth and property for the Victorian middling sort. Furthermore, the strategies of family businesses are key to understanding processes of capital formation and ultimately the nature and growth of the Victorian economy. It is the aim of this chapter to begin to address these issues.

In order to understand what happened to firms when testators died it is first necessary to understand, in an economic sense, what is meant by a firm. Precisely what assets a firm consisted of must have had a bearing on what a testator chose to do with it when he or she died. The ability to 'translate' business property into other, more inheritable, estate depended upon what an enterprise consisted of in the first place. The assets of a firm are usually thought of in terms of the more abstract notion of 'capital'. According to Phyllis Deane, business capital can be defined as 'a stock of assets ... which are capable of generating a flow of economic output.'³ She argues that in reality most enterprises were comprised of 'a heterogeneous collection of physical and intangible assets and claims to assets.'⁴ Both contemporaries and historians have attempted to make sense of this heterogeneous collection of assets by distinguishing between the different sorts of capital which made up the firm. Typical in this respect was J. S. Mill who, along with most other political economists, recognised the distinction between fixed and circulating capital. He defined the former as those 'instruments of production, of a more or less permanent character; which produce

³ Deane, P. (1973) 'The role of capital in the industrial revolution', *Explorations in Economic History*, 10 (4), p. 353.

⁴ *ibid.*, p. 351.

their effect not by being parted with, but by being kept; and the efficacy of which is not exhausted by single use.’⁵ Fixed capital was, he went on to argue, the ‘durable’ assets of a business such as machinery, buildings and implements of trade. Mill’s definition of fixed capital also included ‘sunk’ costs such as the investments made by a businessman or businesswoman in erecting a factory or installing machinery. In contrast, Mill understood circulating capital to be those assets that are not tied up in the physical infrastructure of a firm. This included credits, debts, wages and other more flexible means of production.

In the early-nineteenth century, the exact configuration of fixed and circulating capital that comprised firms varied enormously within and between different economic sectors. Indeed, such was the level of variation and the general fluidity of business property that the label ‘firm’ perhaps implies a rather more coherent entity than was actually the case for many early Victorian enterprises. Furthermore, as Pat Hudson argues, the distinction between fixed and circulating capital was not always clear.⁶ Variations and blurrings in the configuration of business capital must have been present across the three economic sectors investigated in this chapter: the cotton industry, the tailoring and drapery sector and the publican and brewing trade. Of these it is likely that the cotton industry was the most capital intensive. It certainly would have had the largest fixed capital requirements.⁷ The other two sectors had fewer fixed capital demands and the majority of their assets would have been taken up by stock-in-trade in liquid or fabric form. The differences in the configuration of capital between these sectors was no doubt further complicated by variations within them. The obvious distinctions are between those firms that owned the fixed capital of their premises and those which rented the buildings in which the firm’s activities were undertaken. Likewise there was variation in the sizes of workforces between firms within and between sectors. While many cotton firms had sizeable ‘human capital’, many public houses were run by a single person or family. As other economic historians have shown, these structural differences within and between different

⁵ Mill, J. S. (1891) *Principles of Political Economy with Some of Their Applications to Social Philosophy*, George Routledge and Sons, London, Book I, p. 72.

⁶ Hudson, P. (1989) ‘Capital and credit in the West Riding wool textile industry, c. 1750–1850’, in Hudson, P. (ed.) *Regions and Industries: A Perspective on the Industrial Revolution*, Cambridge University Press, Cambridge, p. 80.

⁷ See Chapman, S. D. (1970) ‘Fixed capital formation in the British cotton industry’, *Economic History Review*, Second Series, XXIII (2), pp. 235–266, which focuses specifically on the Stockport cotton industry.

occupational sectors influenced the birth and death of firms. Ultimately this is not an issue that this chapter, which looks at the termination of firms through inheritance, can explore in any depth. However, recognition of the varying degrees of 'capitalisation' of business in the early-nineteenth century needs to be borne in mind when considering the relationships between business succession, death and inheritance.

Families and enterprise

Investigation of these matters invites consideration of the relationship between families and enterprise.⁸ Family firms provided a key source of wealth and property for the middling sort of early Victorian England. As chapter three revealed, business activity played an important role in accumulating, securing and maintaining family fortunes. The family firm also provided a source of respectable employment for family members. However, studies of enterprise and entrepreneurship have often viewed the family in a negative light. Seen as a source of backwardness and conservatism, the family has frequently been regarded as a barrier to enterprise. Alfred Chandler, for example, has argued that the 'personalised capitalism' of the nineteenth-century family firm acted as a brake upon Britain's entrepreneurial dynamism.⁹ Indeed, many British historians blame the family for the country's so-called industrial decline. According to Martin Wiener, for example, businessmen's aspirations for family gentrification severely damaged Britain's economic competitiveness and its capacity to be entrepreneurial.¹⁰ However, not all economic historians have taken such a negative view of the family and its role in economic development. Sir John Habakkuk, for example, has claimed that changes in family structures in certain parts of nineteenth-century Europe provided an important stimulus for rapid economic growth.¹¹ Likewise, Jan de Vries has highlighted, through the idea of the 'industrious revolution', the ways in which the family and household can be thought of as facilitators of economic development rather than obstacles to it.¹²

⁸ This relationship also forms the central theme of Rob n Mackie's (1999) 'Family ownership and business survival, Kirkcaldy, 1870–1970', unpublished paper. I am very grateful to Dr. Mackie for providing me with a copy of this paper.

⁹ Chandler, A. (1990) *Scale and Scope*, Cambridge University Press, Cambridge.

¹⁰ Wiener, M. J. (1981) *English Culture and the Decline of the Industrial Spirit, 1850–1980*, Cambridge University Press, Cambridge.

¹¹ Habakkuk, 'Family structure'.

¹² de Vries, J. (1994) 'The industrial revolution and the industrious revolution', *Journal of Economic History*, 54

Similarly, the detailed work of Mary Rose has done much to redress negative images of family enterprise.¹³ Her studies have shown that nineteenth-century family-led firms were often no less efficient than managerially-operated businesses. Likewise, Roy Church has demonstrated that firms run by family members performed just as successfully as those that were not.¹⁴

Indeed, in acknowledgement of Stana Nenadic's observation that the Victorian era was the 'age of the family firm' a growing number of social, economic and business historians have begun to pay attention to the ways in which, enterprise, family and economic development were intertwined.¹⁵ Martin Daunton, for example, in a study of business succession in the City of London has argued that 'more attention should be paid to the way in which the middle-class family affected the structures and strategies of the firm.'¹⁶ Similarly, Rose has recently observed that 'the strategy of any family firm can only be interpreted in the context of the priorities and aspirations of the family.'¹⁷ This chapter heeds the advice of Daunton and Rose and explores the relationship between the family priorities of inheritance and the longevity of firms in Stockport over the first half of the nineteenth century.

Families and firm longevity

Recent work on the longevity of firms during the early industrial revolution has highlighted the profound vulnerability of the business landscape until the advent of full limited liability in 1862.¹⁸ Arguing against the orthodox historical view that large 'family owned firms that survived through several generations were ... a dominant

(2), pp 249–271.

¹³ Rose, M. B. (1993) 'Beyond Buddenbrooks: the family firm and the management of succession in nineteenth-century Britain', in Brown, J. B. and Rose, M. B. (eds.) *Entrepreneurship and Networks in Modern Business*, Manchester University Press, Manchester, pp. 127–141; Rose, M. B. (1994) 'The family firm in British business, 1780–1914', in Kirby, M. W. and Rose, M. B. (eds.) *Business Enterprise in Modern Britain from the Eighteenth to the Twentieth Century*, Routledge, London, pp. 61–87; Jones, G. and Rose, M. B. (1993) 'Family capitalism', *Business History*, 35 (4), pp. 1–16.

¹⁴ Church, R. (1990) 'The limitations of the personal capitalism paradigm', *Business History Review*, 64 (4), pp. 703–710.

¹⁵ Nenadic S. (1993) 'The small family firm in Victorian Britain', *Business History*, 35 (2), p. 86.

¹⁶ Daunton, M. J. (1988) 'Inheritance and succession in the City of London in the nineteenth century', *Business History*, 30 (3), p. 269.

¹⁷ Rose, 'The family firm in British business', p. 72.

¹⁸ See Mackie, 'Family ownership and business survival', for an overview. Consideration of firm longevity has stemmed from a growing interest by business historians in the role of smaller firms in the industrial revolution. See *inter alia* Berg, M. (1993) 'Small producer capitalism in eighteenth-century England', *Business History*, 35 (1), pp. 17–39; Nenadic, S., Morris, R. J., Smyth, J. and Rainger, C. (1992) 'Record linkage and the small family firm: Edinburgh 1861–91', *Bulletin of the John Rylands University Library of Manchester* 74 (3), pp.169–195.

presence on the business landscape', Stana Nenadic has claimed that the majority of firms were born small, remained modest in size and had a relatively short life-span.¹⁹ Focusing her research on Victorian Glasgow and Edinburgh she highlights the vulnerability of many family businesses, arguing that 'it is a truism to state that the experiences of such firms were largely dictated by the experiences of the individual owner ... and the uncertainties of everyday life.'²⁰ Lending support to this argument in a survey of the early nineteenth-century Mancunian cotton industry, Lloyd-Jones and Le Roux have noted the rapid turnover of firms in the highly volatile small business sector.²¹ Further refinement to this picture of economic instability is provided by Craig Young's detailed work on small craft businesses in late nineteenth-century rural Scotland, where he demonstrates that there was considerable inter-sectoral variation in the rates of survival of small firms.²² For example, he claims that although the drinks industry as a whole was a relatively stable trade, inn keeping was a very precarious business. By contrast, his evidence suggests that tailors and clothiers tended to be in business for longer periods.

A number of theories have been advanced to try and explain the high turnover rates of such firms and it is clear that no single explanation can be called upon to account for the disappearance of businesses at all times and in all places. Various factors such as firm size, organisation, structure and tenure, credit regimes and the vagaries of supply and demand, must be recognised as important reasons for the birth and death of firms. However, there is a somewhat anachronistic tone to much of the research that has attempted to explain the high turnover rates of businesses in the early nineteenth century. Too many studies assume that firms always exited the business landscape through misfortune or failure. This may well be a function of the evidence available to historians where instances of failure, such as bankruptcy and insolvency, are better documented than examples of business termination caused by other factors. However, the assumption that firms failed is frequently based upon a very narrow conception of what constitutes success and failure. Where a defiantly economic approach is taken

¹⁹ Nenadic 'The small family firm', p. 91.

²⁰ *ibid.*

²¹ Lloyd-Jones, R. and Le Roux, A. A. (1982) 'Marshall and the birth and death of firms: the growth and size distribution of firms in the early nineteenth-century cotton industry', *Business History*, 24 (2), p. 144.

²² Young, C. (1994) 'The economic characteristics of businesses in rural lowland Perthshire', *Business History*, 36 (1), pp. 35–52.

to evaluating the success of business activity the social goals of producer capitalism are either ignored or cast in a negative light.²³ Yet this is to forget that the primary function of the family firm was to maintain a standard of living for family members. In the early nineteenth century at least, the firm was not widely seen as a vehicle for 'the avid pursuit of profit' or dynastic commercial glory.²⁴ As a focus for family activity its day-to-day operation had a more mundane goal – providing employment, expertise and power. It is therefore clear that in attempting to understand the life-cycle of family firms greater attention should be paid to the life-cycle of the family.

This chapter seeks to challenge the idea that businesses were always terminated because of economic failure by examining the disposal of firms within the context of family ambitions and priorities. It focuses on a specific, yet significant, stage in the lifecourse of families and firms by exploring the relationship between firm disposal and inheritance. Although the perspective provided by inheritance on families and enterprise is a unique one, it is suggestive of some of the broader ways in which family priorities shaped business strategies over other phases of the life course.

The chapter demonstrates that the death of a businessman or, occasionally, a businesswoman, was an important reason why firms were terminated in nineteenth-century Stockport. Somewhat surprisingly, there has been very little investigation of the impact of death on the survival rates of businesses. Lloyd-Jones and Le Roux's paper, for example, which examines the 'birth, growth and death' of firms in the early nineteenth-century cotton industry, makes no mention of the death of a business proprietor in attempting to explain why so many firms exited the business landscape.²⁵ Nenadic, on the other hand, hints that the absence of inter-generational succession among the small business sector might account for the short life span of most firms, but does not examine this speculation.²⁶ Some researchers have explored this issue in more detail.²⁷ Their studies have suggested that the death of a business proprietor may have been an important factor in determining the longevity of firms. For many

²³ This applies, for example, to Lloyd-Jones and Le Roux, 'Marshall and the birth and death of firms'.

²⁴ Davidoff, L. and Hall, C. (1987) *Family Fortunes Men and Women of the English Middle Class, 1750–1850*, Routledge, London, p. 16.

²⁵ Lloyd-Jones and Le Roux 'Marshall and the birth and death of firms', pp. 141–155.

²⁶ Nenadic, 'The small family firm', p. 91.

²⁷ Daunton, 'Inheritance and succession'; Mackie, 'Family ownership and business survival'; Rose, 'Beyond

families, it is argued, succession problems made it impossible for a business to carry on. However, in identifying reasons why businesses died with their owners this chapter does not intend to resort to arguments about the *problems* of managing succession within family enterprises – the usual way in which this issue has been considered by business historians.²⁸ Instead, the aim is to interpret the termination of business less as a *problem* of managing succession and more as strategy for *achieving* a particular form of post-mortem estate provision. By interrogating the inheritance strategies of business owners it becomes apparent that many firms were voluntarily disposed of not through misfortune but in order to realise widely held ambitions of providing for family members in certain ways. In short, the aim is to demonstrate how business termination helped to achieve certain social and economic goals within middling-sort families.

Investigation of these issues not only raises questions about the middling sort and their attitude to enterprise, it also invites consideration of the broader historiographical problem of how business activity should be evaluated. Rather than judging the achievements of early nineteenth-century businesses against some notion of entrepreneurship that stresses rampant capital accumulation, profit maximisation and the strategic technological and organisational development of a firm, the aim here is to evaluate success against a more modest conception of enterprise associated with making a living and providing for a family. It would seem anachronistic to do otherwise. The ability of businessmen or businesswomen to fulfil their own social priorities must be the first measure of success or failure. Before the emergence of legal frameworks that allowed for different business structures, family capital, family expertise and family priorities provided the main co-ordinates of enterprise.²⁹ There is thus a need for business historians to move beyond simply examining the ways in which the family affected the strategies of firms, to a recognition of the family as the *raison d'être* of the firm. As Daniel Defoe remarked, 'a tradesman who does not delight in his family will never long delight in business.'³⁰ Indeed, the very idea that

Buddenbrooks'.

²⁸ See, for example, Rose, 'Beyond Buddenbrooks' and Nicholas, T. (1999) 'Clogs to clogs in three generations? Explaining entrepreneurial performance in Britain since 1850', *Journal of Economic History*, 59 (3), pp. 688–713, where the issue of business succession is framed as a problem.

²⁹ See Muldrew, C. (1998) *The Economy of Obligation The Culture of Credit and Social Relations in Early Modern England*, Macmillan, Basingstoke, for an exploration of these themes in an early modern context.

³⁰ Quoted in Davidoff and Hall, *Family Fortunes*, p. 17.

the social goals of business activity are somehow separate from, or in conflict with, economic goals – a feature of much of the ‘family capitalism’ literature – is a difficult distinction to maintain. It is also a distinction that was muddled within the minds and activities of contemporaries.

Nevertheless, this chapter also aims to demonstrate how the termination of many firms upon the death of their owner actually made good economic sense – as it might be defined by modern business historians – within the social and demographic context of a town like Stockport. Business termination eliminated some of the risks and potential inefficiencies associated with family management of firms while freeing up capital, stock, equipment and machinery for new rounds of investment and new firm formation. While such tactics may have held back the ‘deepening’ of capital, seen as an essential feature of modern economic growth, they undoubtedly contributed to its ‘widening’. As Phyllis Deane has argued, this widening of capital was an equally important way in which the British economy shifted from a pre-industrial to a modern economic growth path in the early nineteenth century.³¹ In short, the chapter aims to show through the example of inheritance how the termination of businesses in early nineteenth-century England was not always a result of their failure. While the evidence presented relates primarily to business disposal at the point of death, the chapter aims to signal more generally the danger of assuming that business termination was both a reflection and a cause of a poorly performing economy.

Choice of occupational groups and sources

The analysis will concentrate on three key occupational groups within early nineteenth-century Stockport: cotton manufacturers, tailors and drapers, and publicans and brewers.³² As chapter three revealed, the town of Stockport was economically, socially and politically dominated by the textile trade, making cotton manufacturers an obvious choice. Combining the various sectors of the industry, they were one of the largest groups listed in the town’s trade directories, accounting for ten per cent of

³¹ Deane, ‘The role of capital in the industrial revolution’, p. 363.

³² The category *Cotton Manufacturers* includes: check manufacturers, cotton bleachers, cotton dealers, cotton doublers, cotton manufacturers, cotton spinners, cotton waste dealers, cotton waste spinners, dyers, gingham manufacturers, waste dealers and waste spinners. Those who described themselves as weavers or handloom weavers, many of whom probably worked in the silk rather than the cotton sector, have been excluded. *Tailors and Drapers* include: draper, cotton draper, linen draper, tailor and woollen draper. *Publicans and Brewers* include: beer retailer, beer seller, brewer, inn holder, inn keeper, publican and victualler.

the total entries in 1825, seven per cent in 1838 and seven per cent in 1864.³³ More significantly, the sector was also the town's largest employer. By 1851 thirty-eight per cent of Stockport males over the age of twenty and thirty-three per cent of adult females were engaged in the industry.³⁴ Drapers, on the other hand, comprise a much smaller, but by no means insignificant, group and, as retailers, provide a suitable contrast to the cotton manufacturers. According to Mitchell the number of mercers and drapers in the town substantially increased after 1816.³⁵ There were some forty-five tailors and drapers listed in the 1825 directory out of a total of 1,202 entries (almost four per cent), fifty-nine in the 1838 directory, out of a total of 2,387 entries (two per cent) and one hundred and three in the 1864 directory, out of a total of 2,075 entries (five per cent). The 1851 census suggests that there were 510 males over the age of twenty-one and thirty-four females employed in the sector. Publicans and brewers were chosen as they too were an important element of the town's occupational structure and because their substantial presence reflects Stockport's role as a retailing as well as a manufacturing centre. Unlike drapers they met the day-to-day consumption needs of the town's population and were an important part of the social fabric of its growing industrial community. Individuals in this sector have the added advantage of being associated with particular premises, the changing ownership and occupation of which is relatively easy to trace. They accounted for some nine per cent of directory entries in 1825, sixteen per cent in 1838 and ten per cent in 1864. The 1851 census records suggest that there were 300 adult males and 140 adult females employed in the sector.³⁶

Material collected for analysis in this chapter was taken from a range of sources and was assembled and analysed using the technique of nominal record linkage.³⁷ Wills and trade directories formed the main sources. All the wills of persons dying in Stockport between 1800 and 1857 and proved at the Consistory Court of Chester, in

³³ See *List of Primary Sources* for trade directories consulted.

³⁴ Kirk, N. (1984) *The Growth of Working Class Reformism in Mid-Victorian England*, Croom Helm, Beckenham, pp. 47–53. See also Chapter Three.

³⁵ Mitchell, S. I. (1974) *Urban Markets and Retail Distribution 1730–1815, with Particular Reference to Macclesfield, Stockport and Chester*, Unpublished DPhil Thesis, University of Oxford, p. 259.

³⁶ This includes the category 'Victualler's wife'.

³⁷ A critical evaluation of the record linkage approach can be found in Morris, R. J. (1979) 'In search of the urban middle class: record linkage and methodology, Leeds, 1832', *Urban History Year Book*, 6, pp. 15–19; Nenadic, S. (1987) 'Record Linkage and the exploration of nineteenth-century social groups: a methodological perspective on the Glasgow middle class in 1861', *Urban History Yearbook*, 14, pp. 32–40; and Nenadic, et. al. 'Record linkage

each of the occupational groups, were consulted and analysed. This resulted in a rather uneven distribution of wills among the three sectors. There were twenty-two wills of tailors and drapers, sixty-eight wills of publicans and brewers, and fifty-nine wills of cotton manufacturers. All but three of the wills were made by men. A series of trade directories was scrutinised between 1811 and 1864 in order to trace the business activities of testators' families before and after death, and to look more generally at business survival among the various occupational groups over the period.³⁸ This material formed the main basis of the analysis, but was supplemented for part of the period by other information taken from the local newspaper, *The Stockport Advertiser*, classified according to its type.³⁹ Data recorded included: notices of bankruptcies and insolvencies; dissolutions of partnerships; death notices and obituaries; legal notices and advertisements relating to the disposal of property; and advertisements announcing a change in the status of a business or trade – for example, notices of individuals declining business or entering into new partnerships. This material was used to build up a more comprehensive picture of business strategies within the town.

The next section uses trade directories to investigate firm longevity in Stockport. Finding evidence to support the claim that most family firms were short-lived enterprises, some speculations are made as to the reasons why. In the following section attention turns to examining the impact of the death of a business owner and their inheritance practices on the life-span of firms. After demonstrating the links between death, *post mortem* estate provision and firm disposal, the focus then shifts to look at the wider consequences of these events for the local economy. In the final section a number of conclusions are offered re-evaluating the role of the family firm in industrialising England.

Firm survival

Evidence from the study of Stockport trade directories broadly confirms the

and the small family firm'.

³⁸ See *List of Primary Sources* for trade directories consulted. The reliability of Stockport Directories is discussed in Mitchell, *Urban Markets and Retail Distribution*, p. 244 and pp. 259–61. He argues that the Pigot directories form a reliable series after 1820.

³⁹ Newspaper material was collected for the period from 1822 (when the *Stockport Advertiser* was founded) until 1849.

observations of others that most firms in the early industrial revolution had a short life span (Figures 7.1 to 7.3). However, there were slight variations in the survival rates of firms within the three different sectors under investigation. The most volatile groups were the cotton manufacturers and the brewers and publicans, where only two-thirds of firms listed in the 1821 directory were still in operation four years later in 1825. The drapery sector was more resilient with over seventy per cent of business still trading seven years later in 1828. However, in all three sectors well over half of the firms listed in the 1821 directory had disappeared by 1834. By 1850 less than ten per cent of firms in all three areas were still trading. It is clear from this evidence that firms built upon long-running business dynasties were a rare presence within Stockport's commercial landscape.

Figure 7.1
Survival of firms listed in 1821 directory: Cotton manufacturers

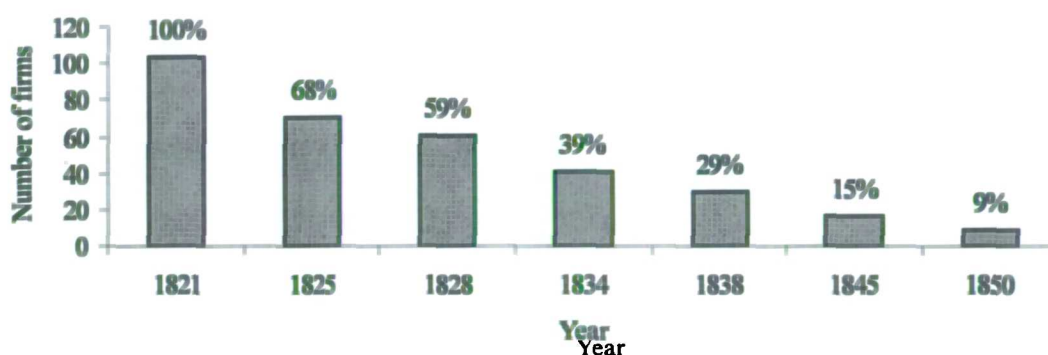


Figure 7.2
Survival of firms listed in 1821 directory: Tailors and drapers

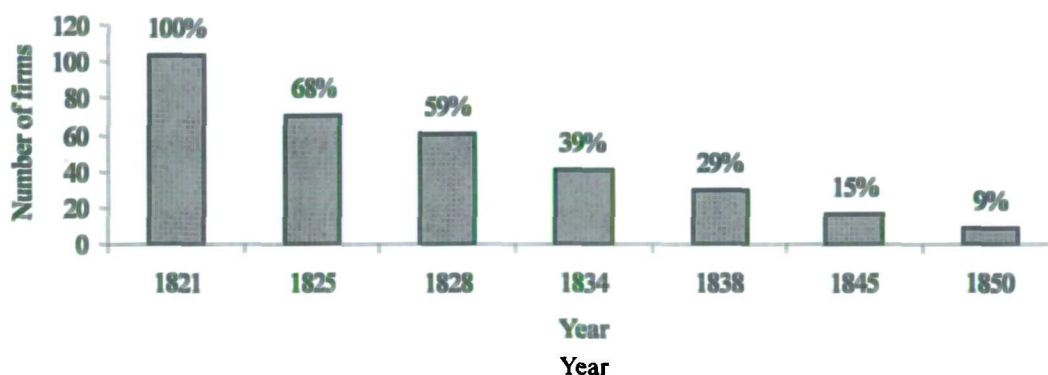
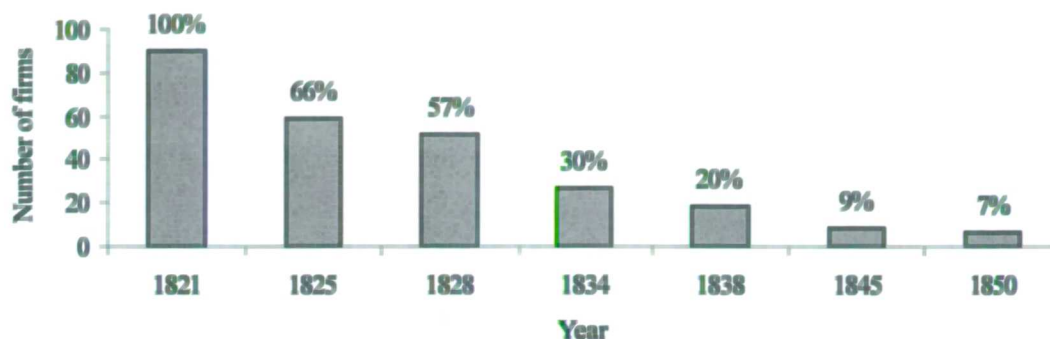


Figure 7.3
Survival of firms listed in 1821 directory: Publicans and brewers



Note: Figures 7.1–7.3 consist of all those firms in each of the three sectors that were listed in the Pigot trade directory of 1821. The cohort of firms for each sector was traced through a series of subsequent directories in order to provide some sense of the turnover rates of businesses (see *List of Primary Sources* for directories consulted). Firms were tracked by the name of their owner and where possible by the address of the premises. Where an individual remained economically active in the same sector but entered into new premises, or a new partnership, the business was treated as a surviving firm. This is a fairly crude technique for determining the life-span of firms and the results should be treated with caution. Crucially, it needs to be remembered that the reliability and coverage of the commercial directories over the period in question is somewhat uneven. As with most trade directories, there is also a possibility that the inclusion of retail trades is more thorough than that of manufacturing. The figures may therefore underestimate the length of time some firms were in operation.

It is possible to speculate on a number of reasons why the turnover of businesses was so high in industrial communities like early nineteenth-century Stockport. Chapter three has already outlined some of the risks and uncertainties that stemmed from the emerging trade cycle and created a climate of volatility for business activity. In general, economic historians have sought to understand the high turnover rates of businesses by examining how these sorts of conditions brought about the failure of firms. Various researchers have suggested that business longevity was a function of firm size. Small firms, it has been argued, were inherently more vulnerable than larger enterprises. Prone to the instabilities of family management and unable to cope with the uncertainties of the market, they are seen as being predisposed to failure. Thus, Young proposes that medium-sized firms tended to fare much better than their smaller – often one person, or single family – counterparts.⁴⁰ Lloyd-Jones and Le Roux have come to similar conclusions in their study of the growth of cotton firms in early nineteenth-century Manchester, claiming that ‘small firms died in large numbers’.⁴¹ With easier access to credit, they argue that medium-sized and larger firms were

⁴⁰ Young, ‘The economic characteristics of businesses’, pp 39–40.

⁴¹ Lloyd-Jones and Le Roux, ‘Marshall and the birth and death of firms’, p. 148.

better able to endure the cyclical fluctuations of the early Victorian economy.

The structure of firms has also been seen as a significant factor affecting their survival. Many businesses were run by single individuals or as small partnerships. Not only did this potentially limit the size of a firm, it also engendered a climate of instability where the future of a firm might be threatened at any moment by an owner or partner declining business. The physical and financial structure of firms must also have influenced exit rates from the business landscape. Research by Michael Winstanley on early-industrial Lancashire has convincingly demonstrated that many members of the urban 'petite bourgeoisie' of north-west towns did not own the premises that they ran their businesses from.⁴² The assets and liabilities of many firms were therefore fairly limited, consisting largely of stock and rather more intangible resources like the 'goodwill' of the business. Without fixed capital assets and liabilities such as real estate, it would have been much easier for firms to stop trading in times of distress or uncertainty. The importance of firm structure in underpinning the security of business activity is also underlined by work examining the impact of limited liability in promoting more stable conditions for firm growth and survival.⁴³ The introduction of limited liability under the Companies Act of 1862 removed some of the risks and uncertainties that thwarted successful business activity and allowed firms a better chance to survive the booms and slumps of a turbulent economy and the uncertainties of family ownership.

Within Stockport, fragmentary evidence from the local newspaper provides a glimpse of some of the more local and sectorally specific factors that might explain the rates of business turnover within the trades under consideration. In general this material highlights instances where firms were disposed of as a result of their failure. By its very nature, the evidence only casts a partial light on the reasons for firm disposal and reveals very little about the capital structure the enterprises involved. However, it does provide a broad picture of business-survival strategies, indicating examples of businesses that stopped trading for reasons other than bankruptcy and insolvency.

⁴² Winstanley, M. (1998) 'Owners and occupiers: property, politics and middle-class formation in early industrial Lancashire', in Kidd, A. and Nicholls, D. (eds.) *The Making of the British Middle Class? Studies in Regional and Cultural Diversity since the Eighteenth Century*, Sutton Publishing, Stroud, pp. 92–112.

⁴³ Cottrell, P. (1980) *Industrial Finance 1830–1914 The Finance and Organisation of English Manufacturing Industry*, Methuen, London; Mackie, 'Family ownership and business survival'.

Before the impact of death and inheritance on firm survival is considered, some of these factors will be briefly explored.

Cotton Manufacturers

The vulnerability of the cotton industry in nineteenth-century Britain is well recognised and was discussed in detail in chapter three.⁴⁴ It is not necessary to recall in detail that material here. In summary, the course of commercial prosperity in Stockport's cotton industry was one that was steered to a large degree by changes in overseas supply and demand. This influenced both new firm formation and the survival of businesses. A town like Stockport, which depended so heavily upon the trade, was hit hard by depression. The knock-on effect was dramatic. Credit networks within the sector were ruptured and there was a general downturn in supporting producer services. Eventually depression spread to the consumer service sector and the whole of the local economy became stifled by the poor performance of the cotton industry. The vitality of some of the larger firms in the sector was also affected by turnouts and strikes.⁴⁵ The resulting picture is therefore one of instability and, if the situation in Stockport was similar to elsewhere, there was a fairly rapid turnover of cotton firms in the first part of the nineteenth century.⁴⁶ Over the eleven years between 1833 and 1843 – a period of prosperity followed by one of depression – notices published in the *Stockport Advertiser* reveal that at least twenty-nine cotton manufacturers went bankrupt and a further twenty-two were declared insolvent. However, judging by the trade directory evidence presented above, it is clear that not all firms could have exited the business landscape because of their indebtedness. While it is not possible to discover the motives for their actions, two proprietors simply announced they were declining business and an additional eleven dissolved partnerships.

Tailors and Drapers

The clothing industry was also an uncertain business. It was particularly sensitive to

⁴⁴ See in general Chapman, S. D. (1972) *The Cotton Industry in the Industrial Revolution*, Macmillan, London and Farnie, D. A. (1979) *The English Cotton Industry and the World Market, 1815–1896*, Clarendon Press, Oxford.

⁴⁵ On strikes and turnouts in early nineteenth-century Stockport, see Glen, R. (1984) *Urban Workers in the Early Industrial Revolution*, Croom Helm, Beckenham.

⁴⁶ Lloyd-Jones and Le Roux 'Marshall and the birth and death of firms' and Gatrell, V. A. C. (1977) 'Labour, power, and the size of firms in Lancashire cotton in the second quarter of the nineteenth century', *Economic History Review*, Second Series, XXX (1), pp. 95–137

sudden changes in demand brought about by downturns in other economic sectors. Evidence from the *Stockport Advertiser* in the 1830s and 1840s suggests that tailors and drapers succeeded in business through a variety of strategies. The most visible of these was the aggressive advertising that frequently paraded across the paper's front pages. The sector appeared to be closely linked to fortunes of the London trade from which the latest fashions and designs were bought or copied. Mitchell, who studied the account books of Stockport tailor and draper George Birkin, found that he was buying wholesale cloth from London and employing journeymen tailors to make up the latest fashions.⁴⁷ John Cawley, a draper who had been trading in the town since at least 1824, was typical of others in the sector. He advertised in the *Stockport Advertiser* of 6 October 1837 that he had just returned from London with an extensive stock of furs and an intimate knowledge of the latest fashions. Like many of his fellow drapers he relied on the misfortunes of others by selling off bankrupts' stock at reduced prices. Indeed, he boasted in his advertisement that he had a 'perfect knowledge of the cheapest markets.' In September 1837 John Tapp, another draper with premises in the Market Place, announced that he had purchased the entire stock arising from the 'great bankruptcy' of R. S. Wurt and Son of London.⁴⁸ Throughout the 1840s examples of such discounting became widespread. After the opening of the railway in 1840, Stockport drapers also began to feel the competition of Manchester retailers whose shops were now within easy reach of the town's customers. Thus, during the early 1840s, Manchester firms such as Irving and Banton advertised on a regular basis in the *Stockport Advertiser*.⁴⁹ Stockport drapers clearly recognised the need to compete with Mancunian firms. An advertisement published by M. I. Jacobs in 1840 began by instructing customers not to 'go to Manchester to buy your clothes!'⁵⁰

The picture that can be built up from these advertisements and other notices published in the *Stockport Advertiser* suggests the drapery sector was characterised by instability and fluidity. Over the eleven-year period from 1833 to 1843 at least four drapers went bankrupt and a further seven were declared insolvent. However,

⁴⁷ Mitchell, *Urban Markets and Retail Distribution*, pp. 351–352.

⁴⁸ *Stockport Advertiser*, 22 September 1837.

⁴⁹ See, for example, editions of *Stockport Advertiser* published during May 1841.

⁵⁰ *Stockport Advertiser*, 6 November 1840.

nineteen drapers simply chose to 'decline business' and an additional ten dissolved partnerships in order to pursue different business ventures. Thus only a minority of firms stopped trading because they had been declared legally unfit to do so.

The fortunes of John Worthington during the 1830s and 1840s provide some indication of the fluidity of proprietorship and business capital in the drapery sector. He first arrived in the town in 1833, announcing in the *Stockport Advertiser* that he was setting up a shop in the Market Place in partnership with his uncle John Fowden.⁵¹ They were listed in the 1834 directory as 'Linen and Woollen Drapers'. In late 1836 the decision was made to dissolve the partnership and a newspaper advertisement announced that the stock was to be sold off.⁵² The official dissolution of the partnership was recorded on 10 February 1837 and a few weeks later Worthington advertised that he was setting up shop on his own.⁵³ Early in May he entered into a new partnership with John Coltman, a man who boasted 'considerable experience in the West End of London and other markets', and they opened premises together at 2 Lower Hillgate.⁵⁴ In August they published a newspaper advertisement announcing they were selling off goods because of commercial distress.⁵⁵ The *London Gazette* of 17 August 1837 declared Worthington and Coltman bankrupt and in October Kendal, Milne and Faulkner of Manchester bought their stock.⁵⁶ Ever resilient, Worthington reappeared in November announcing that he was managing a new business on the premises formerly occupied by Henry Kirkham and Co. in the Market Place.⁵⁷ In spite of his own failure, he clearly saw this as a moment of opportunity declaring 'the depressed state of trade was the most favourable for purchasing stock'. By March 1839 Worthington was on the move again announcing that he had left 'his late situation in the Victoria Drapery House in the Market Place' and was now entering into a new partnership with John Tapp at premises called Albion House elsewhere in the Market Place.⁵⁸ In 1841, after a decision was made to close the Albion House business, Worthington switched to yet another firm, advertising in March that he was

⁵¹ *Stockport Advertiser*, 22 February 1833. Fowden had been around longer, appearing in the 1821 directory as a linen and woollen draper of the Market Place.

⁵² *Stockport Advertiser*, 2 December 1836.

⁵³ *Stockport Advertiser*, 10 February 1837 and 3 March 1837.

⁵⁴ *Stockport Advertiser*, 12 May 1837.

⁵⁵ *Stockport Advertiser*, 18 August 1837.

⁵⁶ *Stockport Advertiser*, 20 October 1837.

⁵⁷ *Stockport Advertiser*, 17 November 1837.

opening a ‘new bonnet emporium’ on Great Underbank.⁵⁹ This enterprise survived until July 1842 when it was announced that he was ‘declining business and changing residence owing to ill health.’⁶⁰ With this Worthington’s energetic career as a Stockport draper came to an end.

Publicans and Brewers

Research by Kent on insolvency in nineteenth-century Britain has shown that landlords and publicans were particularly prone to debt.⁶¹ Like other retailers, their relationship with their clientele was often based on goodwill and trust. Systems of credit meant that customers sometimes built up considerable debts to landlords, while landlords themselves relied on the goodwill and financial flexibility of brewers and other suppliers. As a result, Kent suggests that the credit networks of publicans were generally more fragile than retailers in other sectors. Evidence from the *Stockport Advertiser* lends support to this argument. Between 1833 and 1843 at least four publicans or brewers went bankrupt and a further thirty-one were declared insolvent. An additional twenty-five publicans published notices announcing that they were declining business. This was possibly a strategy that pre-empted failure as voluntary termination rates were particularly high during the depression of the early 1840s.⁶² Fierce competition within the alcoholic drinks industry also added to the high turnover rate of businesses. In a report in the *Stockport Advertiser* in February 1840 it was claimed that ‘within a borough of approximately 60,000 inhabitants there were one hundred and eighteen public houses and upwards of two hundred and thirty “jenny shops” (beer shops).’⁶³ While licensing laws were increasingly used by the borough authorities to regulate competition and exert some control over new firm formation, such a large number of retail outlets made it difficult to secure a living in times of distress.⁶⁴

Further evidence from the local newspaper suggests that the sector faced other

⁵⁸ *Stockport Advertiser*, 29 March 1839.

⁵⁹ *Stockport Advertiser*, 12 March 1841.

⁶⁰ *Stockport Advertiser*, 15 July 1842.

⁶¹ Kent, D. A. (1994) ‘Small businessmen and their credit transactions in early nineteenth-century Britain’, *Business History*, 36 (2), pp. 47–64.

⁶² See chapter three for discussion of the impact of the depression on the alcoholic drinks trade.

⁶³ *Stockport Advertiser*, 14 February 1840.

⁶⁴ In 1840 the Borough Licensing Committee granted no new public house licences because of ‘the great

pressures. During the 1830s pubs became more partisan, associating with particular political groups or factions within the town. In 1837 landlords of some Tory pubs claimed to be suffering from exclusive dealing.⁶⁵ Later in the same year a number of publicans clubbed together to form the 'Licensed Victuallers Protection Society' in order to try and put a stop to such practices.⁶⁶ This organisation evolved and during the 1840s began to campaign on other issues that it felt threatened the viability of the industry. In 1843 attempts were made to resist the local borough council's plans to impose licensing restrictions on opening hours.⁶⁷ By 1844 the group was launching a spirited attack on taxation which it believed unfairly prejudiced the livelihoods of publicans.⁶⁸

Summary

Thus, in all sectors under consideration there were plenty of reasons why businesses might not survive. Many of these reasons were unpredictable and beyond the control of the firm's proprietor. It was also impossible for businesses to be unaffected by those life course events which were more certain. One such event was the death of a businessman or businesswoman. In cases like these firms were not necessarily terminated because of their poor performance or failure. The next section will explore in detail the ways in which the inheritance practices of Stockport's middling sort are of crucial importance in understanding survival rates of firms within the town.

Death and business survival

As the last chapter revealed, death was a key moment in the life cycle of the middling sort when the ownership and form of property were fundamentally altered. Businesses were not immune to this proprietorial upheaval. Table 7.1 suggests that the vast majority of firms of Stockport will makers in each of the three sectors did not survive long after the death of their owners. Well over two-thirds of businesses in each sector continued for less than five years after a testator's death. While the numbers are small, and therefore need to be treated with caution, the evidence suggests that tailors' and drapers' businesses and publicans' and brewers' firms were less likely to survive for

deterioration in the value of public house property', *Stockport Advertiser*, 11 September 1840.

⁶⁵ *Stockport Advertiser*, 8 September 1837. See the discussion in Chapter Three.

⁶⁶ *Stockport Advertiser*, 15 September 1837.

⁶⁷ *Stockport Advertiser*, 24 November 1843.

long after the death of their owner than cotton manufacturing enterprises. In this latter sector there appears to have been greater firm longevity with roughly a quarter of businesses still in operation ten years after the death of the firm's original owner. Overall, however, it is clear that the inheritance practices of Stockport's businessmen and businesswomen were responsible for the death of firms. Over the period 1822 to 1847, for every seven cotton manufacturing, publican and brewing or tailoring and drapery firms that stopped trading because they were declared bankrupt, at least six were terminated at the direction of the testamentary wishes of the firm's owner.

Table 7.1
Survival of firms of Stockport businessmen and businesswomen
whose wills were proved 1822–47

	<i>Cotton Manufacturers</i>	<i>Tailors and Drapers</i>	<i>Publicans and Brewers</i>
Less than five years	21 (68%)	6 (86%)	30 (86%)
5–9 years	2 (6%)	1 (14%)	2 (6%)
Over 10 years	8 (26%)	0 (0%)	3 (8%)
Total	31	7	35

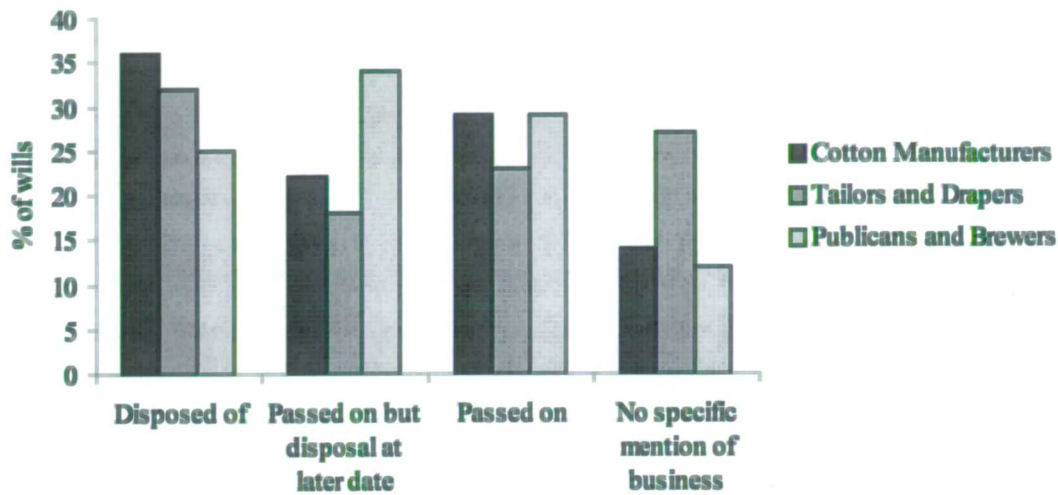
Sources: All wills of Cotton Manufacturers, Tailors and Drapers and Publicans and Brewers proved at the Consistory Court of Chester, 1822–47. The length of time firms were continued after the death of a businessman or businesswoman was determined from selected Stockport Trade Directories 1821–1864 (see *List of Primary Sources* for further details) and material collected from the *Stockport Advertiser*, 1822–49.

Note: This table only covers the period 1822–47 because of lack of trade directory and newspaper data for other years.

Derived from the wills, Figure 7.4 shows in more detail what happened to family firms when their owner died. Inter-generational transfer of firms was rare in all sectors, with less than a third of businesses passed on as a gift to a family member. A quarter to a third of firms were sold off immediately upon the death of the testator. In all three sectors, but particularly in the publican and brewing sector, a significant number of firms were bequeathed to trustees or family members for a limited period of time, but were then directed to be sold off at a later stage. Overall, well over half of the wills directed that the family business was to be sold off sometime after the death of the proprietor.

⁶⁸ *Stockport Advertiser*, 8 March 1844.

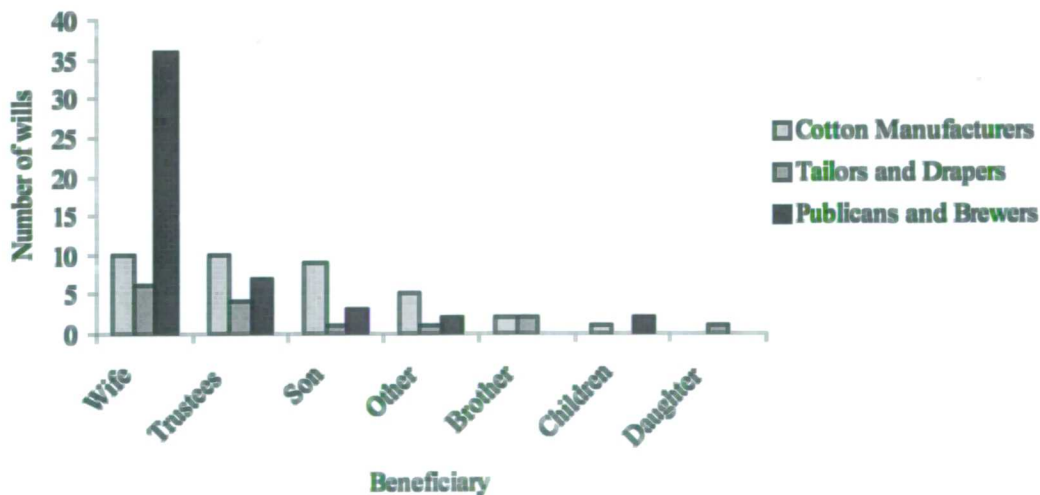
Figure 7.4
Effect of death of testator on family firm



Note: The category ‘no specific mention of the business’ refers to cases where the firm was not explicitly disposed of in the text of the will. This is likely to include testators who disposed of the firm towards the end of their life or those who transferred it to another person as an *inter vivos* gift. Where a testator transmitted property under the generic phrase of ‘all my real (and personal) estate whatsoever’ (or similar) the will was cross checked with trade directories and material collected from the local newspaper to try and establish what happened to the business.

Source: Wills of Stockport Cotton Manufacturers, Tailors and Drapers and Publicans and Brewers, proved at the Consistory Court of Chester 1800–57.

Figure 7.5
Firm beneficiaries



Note: The figure contains both those people who were bequeathed the business for ever as well as those entrusted to take care of it until it was to be disposed of at a later date (mostly trustees/executors and wives). In a few cases the business was transferred to more than one person.

Source: Wills of Stockport Cotton Manufacturers, Tailors and Drapers and Publicans and Brewers proved at the Consistory Court of Chester 1800–57.

Where firms were passed on, either for a limited period or as a permanent gift, it was wives and trustees, rather than sons (the consanguinal group that might be considered 'heir apparent' to the family business) who were the main beneficiaries (Figure 7.5). This was particularly the case among publicans and brewers where testators' wives often took over the running of the public house upon their husband's death – a task which they may well have been doing anyway.

Above all, these results reveal that the family firm was disposable. There is little evidence of a widespread desire to establish a business dynasty, lending support to Nenadic's claim that most firms were 'born small and remained small'.⁶⁹ Nevertheless, a minority of firms did survive and were passed to the next generation of the family. Explaining why some firms were passed on whilst others were disposed of is a difficult task and clearly it would be relevant to mention some of the explanations for firm disposal discussed in the previous section. It might be assumed, for example, that business disposal was related to firm size. The greater longevity of firms in the cotton sector could reflect the fact that many cotton firms were larger enterprises than the 'shop-based' concerns in the other two sectors. When disposing of a larger business there was more at stake and tasks of disposal were therefore more difficult. Other people, such as employees, would be affected by a firm's closure and it would be difficult to dispose of all of a firm's assets while still realising its full operational value. By the same argument, however, it could also be claimed that it was easier to carry on a small firm than it was a large and complex enterprise.

It is difficult to assess firm size from the evidence available and it is virtually impossible to know if size was an issue that testators took into consideration when deciding upon whether to dispose of a business. However, the sworn probate values of the deceased businessmen and businesswomen's personal estates provide a 'proxy' indicator of firm size. These valuations exclude real estate and do not take into account credits and debts, but they do include any leasehold property which may relate to a firm and also incorporate business assets such as machinery and stock in trade. As such, they enable some investigation of the relationship between firm size and method of disposal. An inspection of these values reveals that wealthy testators

⁶⁹ Nenadic, 'The small family firm', p. 91.

were more inclined to dispose of their businesses than those who were less well off. The average value of the personal estate of those testators whose firms were continued after their death was £1,328, whereas the value of the estate of those who disposed of their business was £2,030. This figure excludes the unusually large £35,000 valuation of cotton manufacturer Jesse Howard's estate, who also directed that his business be disposed of immediately after his death. Thus the evidence tentatively suggests that it was smaller firms that were continued, perhaps because they were less complicated to run. However, the average value of the estates of those persons who directed that their firms were to be carried on for a temporary period after their death was £2,041. Perhaps this is a reflection of the profitability of those firms and the faith that a testator had in their ability to provide for family members.

To be sure, the evidence of the way in which the size of firms might have affected their disposal is inconclusive. However, an examination of businessmen and businesswomen's inheritance practices provides a glimpse of other reasons why some businesses were sold while others were continued.

Inheritance and the disposal of family firms

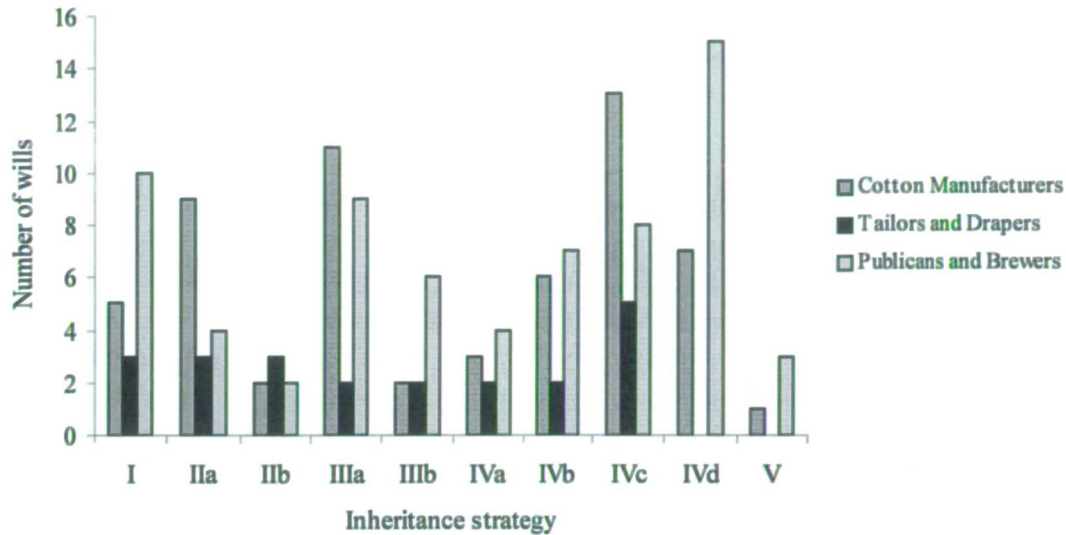
Joseph Heaward, a wealthy Stockport cotton manufacturer who died in 1813, requested in his will that his trustees:

pay unto my son Joseph Heaward the sum of £2,000 which I do hereby give and bequeath unto him in consideration of and in recompense for his care and diligence in conducting and managing the trade and business in which I am engaged and whereby I am enabled to make the provision hereinafter mentioned for my children.⁷⁰

This quote reveals the importance that some testators attached to the family firm in providing for their families after death. Indeed, one striking feature of the wills analysed here is that, whether sold off or transferred, the family firm was often a vehicle by which family provision strategies were realised. The entire range of inheritance strategies pursued by businessmen and businesswomen testators is displayed in Figure 7.6.

⁷⁰ Will of Joseph Heaward of Stockport, Cotton Manufacturer, WS 1813, Consistory Court of Chester, CRO.

Figure 7.6
Inheritance strategies



Key to inheritance strategies:

- I Simple universal estate transmission
- IIa Immediate or delayed liquidated partible estate transmission
- IIb Immediate or delayed non-liquidated partible estate transmission
- IIIa Immediate impartible gift/cash legacy transmission
- IIIb Trust-based impartible estate transmission
- IVa Two-stage, trust-based partible estate provision (mostly funded by real estate)
- IVb Two-stage, trust-based partible estate provision (mostly funded by business estate)
- IVc Two-stage, trust-based partible estate provision (mostly funded by new investment)
- IVd Two-stage, trust-based partible estate provision (funded by mixed sources)
- V Other transmission

Source: Wills of Stockport Cotton Manufacturers, Tailors and Drapers and Publicans and Brewers proved at the Consistory Court of Chester, 1800–57.

The life-cycle of firms and inheritance strategies

The significance of inheritance in understanding the longevity of firms in early nineteenth-century Stockport is signalled by the fact that well over half of the transmission strategies pursued by the town's cotton manufacturers, publicans and brewers, and tailors and drapers resulted in the disposal of a business. Furthermore, a good deal of the other inheritance strategies adopted by the town's businessmen and businesswomen did not guarantee the survival of a firm. However, the disposal of a firm under such conditions was rarely because of its failure. It was usually part of a more self-confident process of creating an equitable economic provision for dependants.

The most popular inheritance strategy among the group was the two-stage trust-based property transmission described in detail in the last chapter (the category IV strategies

depicted in Figure 7.6). Liquidation of family property, including businesses, was an intrinsic feature of this strategy. This particular method of estate disposal was chosen by roughly half of the cotton manufacturers and publicans and brewers, and by two-fifths of the tailors and drapers. The exact timing of the disposal of the firm depended upon the testator's judgement as to what would provide the most reliable and satisfactory income to support a family during the first stage of this provision. Three main strategies, sometimes pursued in combination with each other, were adopted by Stockport testators to create an income: the continuation of the family business; the exploitation of real estates to generate a rentier income; or the investment of liquidated estate to create a stable capital flow. Figure 7.6 suggests that there was considerable inter-sectoral variation in the preferred strategy for generating an income in the first stage of provision.

In a minority of cases the family firm was chosen as the most appropriate generator of provision incomes (see category IVb, Figure 7.6). This strategy guaranteed the temporary survival of the family business. In such cases a testator allowed trustees to apply the profits of the business to the support of his or her family. Often the decision of whether to continue the firm was left to the executors or trustees, who were granted power to re-invest the property elsewhere if the enterprise was no longer profitable. It was therefore important that a testator appointed executors or trustees who were both competent and trustworthy. As a result many executors were family members and married men frequently selected their wives to perform such duties – a responsibility consistent with their role as family maintainers described in the last chapter. Testators also sometimes appointed an executor or trustee with a similar occupation to themselves. This was particularly the case among cotton manufacturers, where fifty-three per cent selected a fellow cotton manufacturer as an executor or trustee (see Figure 7.7).

If the family firm was to be transferred into the care of a trustee (usually for the benefit of the family) then there were obvious advantages in appointing someone with a knowledge of both the technical aspects of the trade and of the overall business climate. In a turbulent economy it was clearly useful if the continuation of the firms could be left to those who could make an informed decision. However, the firm would not be carried on indefinitely. In accordance with the model of provision outlined in

Figure 7.7
Choice of executors



Note: Figures above columns refer to absolute number of wills.

Source: Wills of Stockport Cotton Manufacturers, Tailors and Drapers, and Publicans and Brewers proved at the Consistory Court of Chester, 1800–57.

the last chapter, the business was usually wound up upon the youngest of the testator's children reaching their majority. At this stage too a trustworthy and knowledgeable executor would be an advantage to testators in helping to ensure that the full market value of a firm could be secured. This liquidation of business and other property was crucial to testators wishing to provide their offspring with exactly equal shares of estate. In short, the disposal of firms was an essential precondition to partible inheritance – the characteristic inheritance strategy of the Victorian middling sort.

A good example of a businessman who pursued this strategy is the cotton spinner Frederick Wilkinson who entrusted the control of his firm into the hands of his trustees.⁷¹ He proclaimed in his will, 'I am desirous that my business should be carried on after my decease for the benefit of my family.' He empowered his trustees – his brother and a friend who were both cotton spinners – to 'employ such persons with such salaries as they shall think proper' to carry on the firm until his youngest child

⁷¹ Will of Frederick Wilkinson of Stockport, Cotton Manufacturer, WS 1857, Consistory Court of Chester, CRO.

reached the age of twenty-one. From the profits of this business, and other liquidated estate, they were to levy the sum of £100 per annum for his wife, to be paid in equal quarterly instalments, and raise discretionary sums for the maintenance, education, or other advancement, of his children. However, the trustees also had the power to decline business and sell the firm, 'if they think it more beneficial for my estate'. If this option was taken, the proceeds from the sale of the firm were to be invested in government stocks, or some other security, and the dividends used to pay for the wife's annuity and children's maintenance. After the death of his wife Martha and when his youngest child had reached the age of twenty-one, Wilkinson instructed that all his remaining estate should be liquidated and divided equally among all his children or their surviving issue.

Nevertheless, Figure 7.6 reveals that the family firm was not favoured as an 'investment workhorse' by cotton manufacturers, with just nine testators following in the path of Frederick Wilkinson and directing their trustees to continue their business after their death.⁷² So whilst cotton manufacturers like Joseph Heaword might view the family firm as an appropriate vehicle for accumulating property prior to death, there was clearly less confidence in the business being able to provide a secure provision after its proprietor had passed away. Publicans and brewers showed slightly more faith in their businesses, with roughly a fifth of testators directing that their firms be carried after their death alongside other income generating activities (category IVb and some of category IVd, Figure 7.6). One obvious explanation for this might be that it was easier for trustees, who were frequently family members, to run a pub than it was for them to run a mill. The cotton industry required a degree of technical expertise and a knowledge of markets and demand that only those with direct experience would be able to cope with. In the publican sector, it is likely that most of the testator's family would already have had some experience of running the business. Separation of home from workplace was less common, and the occupational title of the head of such a household most likely described the business of the whole family. Thus upon the death of her husband proprietor, most publicans' wives were probably well qualified to carry on running the establishment. In sum, the risks of

⁷² This includes three testators who funded a family provision income by continuing the firm alongside other income-generating activities. These individuals are incorporated under the category IVd strategy (Two-stage, trust-based partible estate provision [funded by mixed sources]).

carrying on a cotton manufacturing business were likely to be greater than those of maintaining a well-established public house.

Other variants of this two-stage trust-based estate provision strategy did not even ensure the temporary survival of the firm. A number of testators relied on real estate rather than business estate to generate provision incomes (see category IVa, Figure 7.6). In such cases trustees would be instructed to take possession of the deceased's real estate and raise a rentier income to meet the requirements of the provision. Typically, this property was held in the form of a number of cottages or dwelling houses. Trustees would be required to 'set, let and manage' the buildings, collecting the rents and profits and, after paying any debts and mortgages, pay the residues to the testator's family. Usually the proceeds had to make up a clear annuity and in some instances the will directed that if rents were in arrears, the annuitant beneficiary had the power to enter the property and recover goods to the value of the sum owed. Joseph Daniel, inn keeper at the Bull's Head in Stockport Market Place, who died in 1818, directed his trustees to 'find good tenants for two newly erected messuages in Stockport Great Moor' and continue to let out the Sun Inn to Mr. James Dodge, and from the profits and rents pay to his widow an annuity of £40 for the rest of her life. In default of payment, Mrs. Daniel was granted power of recovery.⁷³ Roughly a third of the testators in each of the sectors raised at least some of their provision income from real estates, suggesting once again (see Chapter Three) that, among the urban middling sort, it was widely considered to be a secure way of investing property.⁷⁴

A further option, particularly favoured by cotton manufacturers and tailors and drapers, was to direct the trustees to sell off all the deceased's property – including the family firm – upon death and invest the proceeds in a 'real or government security'. The dividends generated by these investments would then be advanced to family members. The greater security that this strategy might have afforded is perhaps one reason why some testators favoured this option over continuing the family firm. Many, like James Olerenshaw of Brown Street who died in 1838, directed that all

⁷³ Will of Joseph Daniel of Stockport, Inn Keeper, WS 1818, Consistory Court of Chester, CRO.

⁷⁴ Once again, this proportion includes those who generated an income from real estate alongside other investments. These people fall under category IVd (Two-stage, trust-based partible estate provision [funded by mixed sources]).

their real and personal property, including the goods and effects belonging to him arising from his partnership with his son as cotton waste dealer, should be sold off, 'as soon after my decease as possible', and placed out at interest upon some real or government security. Olerenshaw's wife Lucy was to receive the interest until her death.⁷⁵ For those entrusted with the investment of liquidated estate this was a less demanding form of trusteeship, especially if all of the property was invested in the same place. It was also a flexible way of investing property. Trustees like those of Jonathan Lowndes, one-time landlord of the Royal Oak in Higher Hillgate, were often granted the freedom to reinvest capital sums, 'if better interest can be found elsewhere.'⁷⁶

These two-stage provision income inheritance strategies were not the only property transmission methods that involved the disposal of a family business. A number of testators directed that their entire estates were to be liquidated immediately after their death and that the proceeds were to be divided equally among their children or another consanguinal group (category IIa strategy, Figure 7.6). Inn keeper Henry Hindley, for example, requested his executors to sell all his estate as soon after his death as 'they think expedient' and, after settling his debts, pay the residues equally among his nephews and nieces.⁷⁷ Sometimes, as in the case of spirit merchant William Hallworth, the liquidation and division of property would be delayed until the testator's spouse had died.⁷⁸ Both these strategies ultimately led to the disposal of a business.

Four kinds of inheritance strategies were less likely to result in the termination of a business. These were: universal transmissions, where all the estate was passed to a single person (category I, Figure 7.6); non-liquidated partible transmissions where an estate was shared equally between a number of people (category IIb); impartible transmissions where an estate was divided up unequally (categories III a and IIIb, Figure 7.6); and 'other' transmissions (category V). Combined, these four strategies account for forty-two per cent of all wills made by businessmen and businesswomen

⁷⁵ Will of James Olerenshaw of Stockport, Waste Dealer, WS 1839, Consistory Court of Chester, CRO.

⁷⁶ Will of Jonathan Lowndes of Stockport, Inn Keeper, WS 1832, Consistory Court of Chester, CRO.

⁷⁷ Will of Henry Hindley of Stockport, Inn Keeper, WS 1848, Consistory Court of Chester, CRO.

⁷⁸ Will of William Shuttleworth of Stockport, Inn Keeper, WS 1848, Consistory Court of Chester, CRO.

in the three sectors under consideration. However, it should not be assumed that the pursuit of one of these strategies automatically guaranteed the survival of family businesses. In many such wills there was no mention of a business activity or assets. While this might simply be a function of the generic wording of many testamentary documents, it may also reflect a general indifference towards different kinds of property in formulating inheritance strategies. Alternatively it may suggest that the family firm had already been passed on to a suitable heir as an *inter vivos* gift. Whatever it indicates, trade directory and newspaper evidence confirms that only half of the businesses of those testators who pursued such strategies were continued after their death.⁷⁹

A number of examples illustrate the ways in which these inheritance strategies could ensure the survival of a family business. William Shuttleworth, landlord of the Rope and Anchor public house in Park Street, made a 'universal' transmission of his estate to his wife Sarah Shuttleworth.⁸⁰ While his will makes no specific mention of the transmission of his publican business, it is evident from an 1850 trade directory that Sarah had taken over the running of the firm after his death in 1848. Nevertheless, she only continued as landlord of the business for a short period of time, as by 1857 the Post Office directory confirms that occupancy of the premises had passed to John Lingard. Like many fellow testators, cotton manufacturer William Mellor was keen to ensure that his estate was divided equally between his children.⁸¹ However, unlike other businessmen and businesswomen he did want his estate to be liquidated. After the death of his wife he ordered that all his property including his real estate and his business should be divided between his sons as tenants in common. This strategy ensured the survival of the firm under the joint ownership of his two sons William and John Mellor. Other testators were less concerned about dividing up their property equally between their children. One reason why some estate transmissions were impartible stemmed from the desire on the part of a few testators to pass on their business to the next generation of their family. It was usually older sons rather than

⁷⁹ The figure is based on those whose wills proved between 1822 and 1847. The length of time firms were continued after the death of a businessman or businesswoman was determined from selected Stockport Trade Directories 1821–1864 (see *List of Primary Sources* for further details) and material collected from the *Stockport Advertiser*, 1822–49.

⁸⁰ Will of William Hallworth of Stockport, Spirit Merchant, WS 1841, Consistory Court of Chester, CRO.

⁸¹ Will of William Mellor of Stockport, Cotton Manufacturer, WS 1831, Consistory Court of Chester, CRO.

daughters or younger children who benefited from this move. Cotton manufacturer Thomas Deaville, for example, passed his interest in a candlewick spinning business to his son Isaac.⁸² His other children, including his younger son James and daughter Elizabeth, received different legacies in the form of provision incomes and cash payments.

The nature of the inheritance strategies pursued by Stockport's cotton manufacturers, tailors and drapers, and publicans and brewers are thus of crucial importance in understanding the survival rates of firms in each of the three sectors over the first half of the nineteenth century. While different inheritance strategies impacted on firms in a variety of different ways, in general it is clear that the priority of most testators was to ensure the future of their family and not their firm.

Inheritance and the economies of family capitalism in Stockport

The liquidation and equitable redistribution of business property that were features of the inheritance practices of Stockport testators have important implications for understanding the structure and performance of the local economy. Calibrated against the rhetoric of modern business performance such practices appear at first glance to be unimpressive. The expectation that a firm would be sold upon the death of its owner may have discouraged strategic capital investment and was probably not an incentive for growth. Indeed, R. J. Morris has argued that sometime around middle age, businessmen gradually began to withdraw from the family firm and switch investments towards more stable sources of income.⁸³ This suggests that the disposal of the family firm upon death may have been the culmination of a longer process of disengagement from the risky world of enterprise. It is likely that such practices prevented the deepening of capital investment that some economic historians have identified as being fundamental to modern economic growth.⁸⁴ However, looked at in other ways the disposal of the family firm upon death appears to have a logic that could be regarded as 'efficient' within the prevailing demographic, economic and legal conditions. Moreover, it is obvious that the inheritance practices that often led to

⁸² Will of Thomas Deaville of Stockport, Candlewick Manufacturer, WS 1844, Consistory Court of Chester, CRO.

⁸³ Morris, R. J. (1979) 'The middle class and the property cycle during the industrial revolution', in Smout T. C. (ed.) *The Search for Wealth and Stability: Essays in Economic and Social History Presented to M. W. Flinn*, Macmillan, Basingstoke, pp. 108–110.

⁸⁴ For a discussion see Deane, 'The role of capital in the industrial revolution', p. 357–58.

the disposal of a firm could at least be responsible for the social widening of capital even if they prevented its deepening.⁸⁵

One of the ‘problems’ critics identify with family firms is the difficulty of finding competent heirs to take over the running of a business after death. Hostile commentators on family-run business have poured scorn upon businessmen or businesswomen who handed on their firm to an incompetent heir or one who frittered away the profits through ‘gentlemanly’ pursuits.⁸⁶ However, it would be wrong to assume that nineteenth-century businessmen and businesswomen were ignorant of succession-related problems when deciding what to do with the family business, particularly given the responsibilities that the continuation of a firm might bear in providing for the welfare of the whole family. This concern is, perhaps, demonstrated by the careful choice of executors that many Stockport businessmen and businesswomen appeared to make when they directed that the family business be carried on. It is also demonstrated by the fact that many Stockport business proprietors consciously chose not to hand down the firm to an ‘inappropriate’ heir. As Rose has argued, for many businessmen or businesswomen of nineteenth-century Britain, suitable heirs to take over the running of the family enterprise did not exist.⁸⁷ The firm’s continuation was therefore far too risky an option for testators to take. Indeed, if one looks at available demographic indicators for family structures in industrialising towns it is clear that many of the obvious heirs to family firms would not have been old enough to take over the running of the business.⁸⁸ Many businessmen died comparatively young and, as the previous chapter demonstrated, their wills and inheritance strategies reveal an expectation that minority-aged children would outlive them. As a result, a significant proportion of Stockport testators would have had little choice but to dispose of the family business.

Even where suitable adult descendants were available to take over the control of the family firm continuation still might not have been the best option. It did not fit easily

⁸⁵ *Ibid.*, p. 363.

⁸⁶ See, for example, Lazonick, W. (1992) *Business Organisation and the Myth of the Market Economy*, Cambridge University Press, Cambridge.

⁸⁷ Rose, ‘Beyond Buddenbrooks’.

⁸⁸ For a brief discussion of the relationship between inheritance, beneficiaries and the life cycle, see Anderson, M. (1985) ‘The emergence of the modern life cycle’, *Social History*, 10 (1), pp. 75–76.

with the widespread goal of providing all offspring with an equitable proportion of the estate. While an entire firm could in theory be passed to all children jointly as ‘tenants in common’, such an arrangement created problems for the management of firms. Inexperienced, collaborative family management was inflexible and was likely to generate conflict among family members, thereby ruining the harmony of family order that the overall patterns of inheritance show an enduring preference for. The disposal of a family firm offered a much more certain way of ensuring that children could receive an alienable portion of estate of equal value. Moreover, immediate disposal reduced the risks of firm devaluation that might occur after a testator’s death. In short, it provided testators with a greater degree of control over the property transmission process.

The disposal of firms in this way had implications for the growth and development of the local economy. The clear rejection of the tradition of primogeniture by Stockport’s middling sort allowed wealth and capital to become much more mobile. Partible inheritance helped to expand the economy by providing more people with the capital to enter it. The supply of liquidated shares of an estate to offspring was crucial to this process. As Morris has remarked, the final equitable provision of estate that resulted from inheritance was of crucial importance to the Victorian economy, providing a beneficiary with enough ‘venture capital’ to engage in industrial, commercial or professional enterprise.⁸⁹ Thus, rather than giving sons and daughters interests in a firm that might not survive under inexperienced and inflexible collaborative family management, the system of inheritance favoured by many of Stockport’s testators actually enabled individuals to concentrate on their own talents and money-making endeavours. At the same time, the regular disposal of business assets through inheritance provided these beneficiaries with a readily available source of specialist capital with which to start new firms or enter new business partnerships. Sometimes, as in the case of cotton manufacturer John Heywood, testators’ children were given the opportunity to buy into the family business ‘at a fair valuation’ at the time of its disposal.⁹⁰ In such cases a testator was able to provide the means by which business capital could remain within the family, while still retaining a partible

⁸⁹ Morris, ‘The middle class and the property cycle’, p. 93.

⁹⁰ Will of John Heywood of Stockport, Cotton Manufacturer, WI 1843, Consistory Court of Chester, CRO.

transmission of estate and avoiding the problems of joint ownership.

The buoyancy of the market in business capital is evident from the advertising pages of Stockport's local newspaper. The sale of business property supported a small economy of its own comprising of auctioneers, surveyors and solicitors who specialised in the conveyance of business assets from the distressed, destitute and dead to the energetic, enterprising and entrepreneurial. It is possible to trace the disposal of the business assets of some of the cotton manufacturers, tailors and drapers, and publicans and brewers whose wills have been analysed in this chapter. One of the largest and most protracted sales was that of the cotton manufacturer and former Stockport mayor and justice of the peace, Thomas Steel. Steel died in February 1837 and his will directed that his entire estate was to be sold off 'as soon as possible' after his death. At least eleven different public sales were arranged by the auctioneer John Turner over the following twelve months in order to dispose of all his property.⁹¹ Two solicitor's firms – Winterbottom and Wright and Lingard, Vaughan and Lingard – were also involved with the conveyance of Steel's estate. The various sales incorporated the disposal of everything from Steel's 'valuable bedroom furniture' to several cotton factories, including his main business premises, 'Heap Riding Mill'.⁹² Separate auctions were held to sell off business machinery such as the 'fifteen carding engines, spindles, mules, twenty-eight calico looms and other machinery used for the manufacture of cotton' that were housed in the Heap Riding Mill.⁹³ Although it is not possible to trace the acquisition of this property by specific inheritors, it was sales like this that provided a valuable source of business capital for the beneficiaries of inheritance strategies who were ready to become economically active.

Similar disposals of property were evident in the other sectors. As was demonstrated earlier, the availability of stock through death and misfortune was often seen as an opportunity and means of survival for Stockport's drapers. Following the death of William Marsh in 1835 an advertisement was placed in the *Stockport Advertiser*

⁹¹ See, for example, *Stockport Advertiser*, 17 June 1837 and 26 January 1838.

⁹² *Stockport Advertiser*, 24 September 1837 and 26 May 1837.

⁹³ *Stockport Advertiser*, 13 October 1837.

announcing the sale of his 'first rate' drapery establishment in the Market Place.⁹⁴ Later the same year, fellow draper John Cawley proudly announced that he had moved his business to the shop 'formerly occupied by the late Mr. Marsh.'⁹⁵ The same kind of opportunistic behaviour was also evident in the victualling trade where the fortunes of businesses often hinged upon the reputation built up by a deceased landlord. Following the death of Alexander Barbor in 1835, landlord of the George and Dragon, Edward Furbisher, a former butler, proudly announced that he was taking over the premises and hoped that Barbor's clientele would continue to 'honour him' with their custom.⁹⁶

The prevailing system of inheritance in Stockport was thus one that ensured the future of the family but not the future of the firm as a coherent entity. The genealogy of businesses in Stockport was more complex than the straightforward transferral of an entire 'working' firm from one generation of a family to another. The lineal development of the family realised through inheritance contrasts with the more lateral genealogies of economic development that were its by-product. While inheritance frequently destroyed firms and fractured business capital, it did not eliminate enterprise or necessarily retard the growth of the local economy. Indeed, the evidence presented here lends support to the theory that it might have contributed to the widening of capital ownership and the expansion of the economy. It provided family members with the independence and an opportunity to use the skills, knowledge and experience that they had 'inherited' in more intangible ways from their parents. In an age when the legal structures of firm ownership and management placed the burden of responsibility on single individuals, these patterns of disposal represent a considered response by businessmen and businesswomen to managing the risks and uncertainties of the early Victorian economy.

Conclusion

If the results presented here are typical of places other than Stockport, the role of the family firm during the early-industrial revolution needs some re-evaluation. The received historical account of the rise and insatiable expansion of the dynastic family

⁹⁴ *Stockport Advertiser*, 13 April 1835.

⁹⁵ *Stockport Advertiser*, 13 November 1835.

⁹⁶ *Stockport Advertiser*, 14 August 1835 and 24 June 1836.

enterprise does not ring true for the majority of the urban middling sort of industrialising England. Such business dynasties might have been the celebrities of the commercial landscape, but they were not its most dominant sector. The material presented here suggests that the industrial bourgeoisie viewed the family enterprise much more pragmatically. The family firm was disposable, it was a means to an end. Above all the family firm was for the family. During the lifetime of its proprietor it provided an income and source of employment for family members, but after his or her death, continuation of the business came second to finding a secure investment to support surviving kin. Thus the business became disposable, leaving many family firms as short-lived enterprises, coinciding with the economically active lifetime of their owners.

The implications of this for understanding nineteenth-century industrial economy and society are manifold. The findings of this chapter lend support to Davidoff and Hall's claim that the locus of middle-class identity was familial and domestic.⁹⁷ However, once again, interrogation of inheritance practices reveals the world of the middling sort to be one where 'the public' and 'the private' were interwoven rather than separate. Evidence suggests that the most important and visible aspect of the industrial bourgeoisie's public sphere activity – business life – was umbilically linked to masculine notions of domestic provision in the private sphere. Thus it seems impossible, if not futile, to try and separate 'public' business life from 'private' family life.

Evidence here also suggests that there is a need to think more carefully about how business success is measured. Economic historians might judge the success of firms by the length of time they were in operation. Contemporaries, however, seemed to view business life differently. Providing for family dependants was more important than maximising economic efficiency through long-term growth strategies; family was more important than firm. It is, therefore, anachronistic to always associate short-termism with failure. Businesses did not stop trading only because they had failed. It is necessary for economic historians to recognise business activity as just part of a broader process of wealth accumulation that shifted in response to the changing life-

⁹⁷ Davidoff and Hall, *Family Fortunes*.

course circumstances of individuals and their families. If, as the results seem to suggest, the generation was the optimum lifetime of a business, then it needs to be considered in more detail what effect this had on patterns of investment, the nature of innovation and change, and rates of economic growth. In short, there is a need to know more about the 'family' in 'family capitalism', and a need to examine how the legal frameworks of business activity shifted in response to these priorities. Such an investigation could reveal much about the changing nature of enterprise and how more modern conceptions of business success came to supersede the sorts of priorities outlined in this chapter.

CHAPTER EIGHT

Conclusions

This study has attempted to demonstrate the social significance of property and inheritance within the lives of the middling sort of early nineteenth-century Stockport. It has identified the different social roles that property transmission fulfilled and has sketched out many of the social relations that were created and sustained by inheritance. The findings presented have a number of implications for studying and understanding both property and the middling sort in nineteenth-century Britain. In terms of the latter, each chapter has attempted to provide a window onto various issues, practices and forms of social organisation that are central to understanding the middling sort. The study has incorporated discussion of the role of locality, social status, family, gender relations, government and politics, business activity, and personal success and failure that are prominent themes within the historiography of the middling sort. In terms of the former, the findings presented cast light on the meanings and material significance of property within industrialising Britain. The aim of this conclusion is to highlight and summarise some of the key findings of the study, evaluate their significance, and assess their limitations.

A detailed interrogation of different aspects of the inheritance process has proved to be a profitable way of trying to understand the social relations of property among the middling sort of industrialising Stockport. Investigating inheritance from legal, social and economic perspectives, while situating it within the social and economic relations of the locality, has turned out to be a particularly illuminating methodological approach. It has provided a basis for interpreting with a greater degree of sensitivity the ways in which property and its disposal were embedded within the broader confines of middling-sort life. Such an approach has made it possible to avoid the rather incomplete and partial understanding of inheritance that has characterised some

other studies of the property transmission process. Thus, for example, this study has revealed that within the context of nineteenth-century Britain, inheritance was of far greater significance than studies of probate valuations frequently imply. Likewise, it has been demonstrated that the concentration by some historians on the patterns of landed succession among aristocratic social groups misses the importance of inheritance within the lives of those who were generally less wealthy and whose well-being depended largely on non-landed property.

Chapter three stressed the need for strategies of property transmission to be understood within the local context of wealth accumulation in Stockport. Like many other industrialising towns of the period, Stockport was regarded as a place of opportunity where large fortunes could be amassed. By virtue of these opportunities the town became a venue within which the middling sort acquired and exercised power and status. However, Stockport was also a place where fortunes could be quickly lost and where financial disaster could lead to social ruin. Indeed, as the process of making a living in Stockport became increasingly interwoven with a complex economic geography of textile production at regional, national and international scales, so it became a more risky place within which to acquire wealth and power. The way in which these processes were played out and experienced at local level, whether it be through the 'public' channels of newspapers and associations or the 'private' networks of friendship and gossip, had a profound effect upon the nature of property accumulation, ownership and disposal. It resulted in Stockport's middling sort simultaneously being risk takers and creatures of prudence. Their desire to obtain wealth and status was counterbalanced by an equally pressing urge to maintain order and stability. As later chapters revealed, the twin priorities of making and conserving wealth featured prominently in the inheritance practices of Stockport men and women. This two-pronged goal not only informed who inherited property, it also affected the way in which key assets like family firms were disposed of. In short, the material presented in chapter three on the social and economic context of the locality provides an essential lens through which property transmission must be viewed. It reveals that the process of disposing of wealth was an important part of the general struggle to make a living among middling social groups in the shifting economic fortunes of nineteenth-century industrial towns.

Study of legal matters in chapters four and five provided a different perspective on the social relations of property among the middling sort. Both chapters demonstrated the importance of situating legal issues within their social and economic context. Put another way, the production and the consumption of the law at both national and local levels was not detached from the profound social and economic changes that were affecting Victorian society and shaping towns like Stockport. Examination of the reforms to the laws for making wills and to the machinery of succession discussed in chapter four, provided an illuminating glimpse of the ways in which new forms of wealth and property were becoming more significant in Victorian society. The state's involvement in the securing of rights to property through the provision of a modern and uniform system of property transmission is indicative of the growing political importance of new owners of property and new kinds of wealth. While the process of reform was uncertain and contested, the changes represent a collective attempt to enhance the proprietorial rights of the middling sort and to protect them from some of the risks and uncertainties of property accumulation. The reforms can be interpreted as a social democratisation of the legal regime of property, whereby rights to movable property were provided with the same degree of protection as those to landed property. Within contemporary discourses of inheritance, the changes reveal the importance attached to notions of adult male testamentary freedom, family rights, security of title and power of alienation. The identification of these legal priorities of inheritance offers another lens through which property transmission strategies at local level must be viewed and interpreted.

The way in which these legal issues informed property transmission strategies at a local level formed the subject matter of chapter five. It demonstrated how the legal activities surrounding will making and estate disposal subjected the essentially 'private' matter of inheritance to a degree of 'public' regulation. The importance attached to acquiring professional expertise in making a will highlighted the desire of most testators to accomplish a secure and ordered transmission of property. It is also reflective of the growing professionalisation of public life that characterised the activities of the middling sort of towns like Stockport. Furthermore, the social relationships that had to be formed as part of the process of making a will and disposing of property served as a way of magnifying the responsibility, status and honour that inheritance entailed. It sent out a public message of good citizenship and,

within an industrial town like Stockport, suggested a degree of proprietorial competence and creditworthiness that was useful to businessmen and women. In summary, the material presented in chapter five signals the need to view will making and the legal aspects of property disposal as more than simple functional mechanisms for transmitting wealth. The use of lawyers, the choice of executors and trustees and the modes by which property was disposed added a further layer of meaning and significance to inheritance. These activities bound the process of property transmission into the existing social and political relations of the locality.

The discussion of property transmission strategies in chapter six revealed why a secure legal environment and professional expertise mattered to testators when making a will. The central claim of the chapter was that, among middling-sort families, inheritance acted as an important form of intergenerational welfare provision. It was, in short, a mechanism for reproducing nuclear families. In the first instance, strategies of property transmission tended to be directed towards the maintenance and support of dependants. Beyond this, inheritance was used as a mechanism for 'setting up' the next generation of the family. It provided offspring with capital to secure their own proprietorial independence. These findings bear testimony to the centrality of the family within middling-sort life. As with other studies of this important social group, they are also vividly revealing of the gendered nature of domestic relations. Examining strategies of bequeathing beyond the nuclear family, the chapter also demonstrated the ways in which inheritance can provide a map of the broader social world of the middling sort. In the absence of nuclear family descendants, the significance of the extended kinship group and broader networks of friends and acquaintances was highlighted. The nature of bequests made to these people reveals the differing motives of testamentary disposition. In contrast to the sober matter of providing for the material needs of immediate family dependants, legacies made to friends, acquaintances and distant family members were more symbolic in nature and were driven more by a desire to elicit regard and maintain social status. The inclusion of these people could be interpreted as being part of a wider middling-sort quest to publicly demonstrate reputation, trust and proprietorial integrity.

Chapter seven, perhaps more than any other, underlined the need for inheritance to be considered from multiple perspectives. Indeed, the issues discussed in there effectively connect the different aspects of inheritance interrogated in other chapters. It demonstrated the ways in which the legal mechanisms of property transmission, the social priorities of inheritance and the economic realities of making a living within Stockport came together to create patterns of property transmission that have important consequences for understanding the structure and performance of the local economy. Common inheritance strategies resulted in the disposal of family firms and enterprises upon the death of their owner in order to fund provision legacies and achieve a partible division of estate among children. While this practice has generally been viewed negatively by economic historians claiming that it stifled entrepreneurialism and economic development, the chapter argued for a more positive interpretation. It highlighted the role of inheritance in avoiding the risks associated with the transferral of businesses to inept or inexperienced children while widening the supply of capital for new business formation. More generally, the chapter pointed to the need for the economic activities of the middling sort to be seen within the context of family goals and ambitions. While the perspective provided by inheritance on attitudes to business among the middling sort is a unique one, it is suggestive of some of the priorities that directed business activity at other points in the life course. In this respect, further work on the strategies and life-histories of small family businesses – such as the example of draper John Worthington, reconstructed from newspaper evidence in chapter seven – could prove illuminating.

The findings of this thesis have also cast light on a number of broader issues relating to the historiography of the middling sort and the study of the social relations of property. In particular, investigation of inheritance practices has called into question the notion of ‘separate spheres’ that has been central to historical accounts of the middling sort and an important narrative around which their ‘story’ has been told.¹ As was outlined in chapters one and two, the separate spheres thesis suggests that the

¹ Davidoff, L. and Hall, C. (1987) *Family Fortunes: Men and Women of the English Middle Class, 1780–1850*, Routledge, London, is often treated as the definitive study of separate spheres. In truth, the idea of separate spheres is given a much more critical and sensitive treatment in this study than is often assumed. However, key critiques of the separate spheres thesis include, Vickery A. (1993) ‘Golden age to separate spheres: a review of the categories and chronology of English women’s history’, *The Historical Journal*, 36 (2), pp. 383–414; and Wahrman, D. (1993) ‘“Middle-class” domesticity goes public: gender and class politics from Queen Caroline to Queen Victoria’, *Journal of British Studies*, 32, pp. 396–432.

material and ideological separation of the 'feminine' private sphere of the home and family from the 'masculine' public sphere of work and urban civil society, acted as a key motor of middle-class formation. In similar ways to other recent studies of the middling sort, this thesis has provided evidence to challenge this view.² An exploration of the social relations of property transmission has revealed the different spheres of middling sort life to be interdependent and intertwined rather than separate and discrete. Property, as others have noted, appears to transcend private and public spheres.³

There is, therefore, a need to move beyond the dichotomous geographical division of the world of the middling sort into public and private, a dichotomy that can be mapped onto the key locations of middling sort life of town and villa and mill and hearth. This study has shown that the world of the middling sort was founded upon a far more complex social geography, where the public and the private intermingled and were sown together by a complex stitch of dependency, obligation and regard. Property formed part of the connective tissues between the different spheres of middling sort life. This is not to deny that the distinction made between public and private was not a formative social influence upon the middling sort. At a discursive level, as an examination of some of the legal literature relating to will making has demonstrated, such dichotomies remained a potent feature of middling-sort identity. However, it is clear from the evidence presented in other chapters that in order that the very categories of public and private could be produced, social and economic processes like inheritance that linked the two were required. Chapter four, for example, uncovered some of the ways in which the state became involved in protecting the rights of the owners and transmitters of private property. Chapter five demonstrated how the private matter of inheritance depended on a very public set of social relations that enabled wills to be made and estates to be disposed of. Indeed, these very activities of will making and estate disposal drew upon the notions of status, duty, privilege and professionalism that were central to the operation of the so-called public sphere. Chapters six and seven revealed even more vividly how the accumulation of property in the public sphere was driven by the need to maintain the

²A key study rejecting the idea of 'separate spheres' is Hunt, M. (1996) *The Middling Sort: Commerce, Gender and the Family in England, 1680–1780*, University of California Press, Berkeley.

³Hirschon, R. (1984, ed.) *Women and Property, Women as Property*, Croom Helm, London.

gendered domestic order of the private sphere. In short, the investigation of inheritance strategies among Stockport's middling sort has demonstrated the ways in which the private and the public sphere were mutually constitutive.

The study of inheritance has also revealed that the role of property in the formation and reproduction of social relations was a complex one. Indeed, the material presented in this study provides a basis for challenging some of the established theoretical understandings of the social significance of property. To treat property as some kind of structural mechanism that simply determined social relations denies the ways in which its ownership was an active, creative and reflexive social process. Within the world of the middling sort, property was something that took on a range of meanings and was deployed in a variety of different ways. The study of inheritance demonstrates some of these different meanings and uses. Property transmission could act as a form of provision, preserving family stability, cohesion and order. It could also supply independence or could function as a token of regard, affection or as a symbol of social status. As chapter six demonstrated, property was also something that could be viewed in distinctly gendered ways. However, identification of the different meanings that property could take on does not negate the fact that its ownership and transmission also had important material consequences. Indeed, the meanings that were attached to property ownership powerfully shaped its material outcomes. The legal identification of property in gendered ways resulted in it fixing women into particular social roles which potentially closed off opportunities for material advancement. Indeed, the study of inheritance uncovers the difficulty of conceiving of 'meanings' and 'materiality' as separate and oppositional concepts in theorising the social relations of property. The ownership of property was of material significance precisely because of the ways in which it mattered in different social contexts.

The understanding of the social significance of property gained from the study of inheritance challenges other theoretical notions of property. The idea advanced by some commentators that liberal conceptions of private property, founded upon the idea of 'possessive individualism', had come to dominate English society by the nineteenth century is at odds with the more collective understandings of property disclosed by the inheritance practices discussed in chapters six and seven of this

thesis.⁴ While legal discourses offered a conception of property which stressed the exclusivity of individual ownership, a fact that is apparent from the discussions of legal reforms in chapter four, inheritance practices reveal that property was frequently seen as carrying obligations and burdens as well as rights and privileges. Far from disclosing individualistic conceptions of ownership, inheritance practices also demonstrate the importance of the family as a group with collective claims upon property. In short, this study suggests the need for complicating discussions of the conceptualisation of property within industrialising Britain. Once again, this is a matter of recognising that property took on different meanings in different contexts and at different stages in the life course.

In concentrating on property transmission, it is tempting perhaps to overstate the importance of inheritance within the lives of the middling sort. While the thesis has been careful to examine the practices and processes of property transmission within the broader settings of middling-sort life in early nineteenth-century Stockport, it is inevitable that concentration on matters of property transmission at the point of death limits the claims that can be made about the study's findings. At a broad level it is important to recognise that property in general, and property transmission in particular, did not necessarily determine the social relations of the middling sort. While the chapters of this thesis have shown that inheritance was important in creating and sustaining particular social relations, property transmission was clearly entwined in other forms of social relations. Indeed, it is clear, for example, from the material presented in chapter six that the social relations of property transmission were often 'mapped' onto existing gendered familial relationships, playing an important role in their reproduction. Therefore, in trying to identify the precise role that property played in the formation of social relations, attention has to be paid to the ways in which it was fused, merged or cut across by other bases of power and identity. Indeed, it is not the intention of this thesis to claim that property is the master key to understanding the social experience of the middling sort. It forms just one of a number of complex and overlapping dimensions to social identity the significance of which varied over time and over space.

⁴ See, for example, McFarlane, A. (1978) *The Origins of English Individualism*, Blackwell, Oxford.

At a more immediate level, the findings of this thesis are limited by its concentration on the social relations of property transmission at the point of death. While the study has been mindful of this problem, it is impossible to totally avoid a magnification of the significance of inheritance among the middling sort. A more nuanced understanding of the role of property within the middling sort could only be gained from a more detailed consideration of the activities surrounding property accumulation and transmission at other points in the life course. In particular, there is a need for historians to investigate the ways in which the contradictory pulls of conservation, risk and accumulation that figured prominently in decisions made about how to dispose of property at death, affected other proprietorial strategies. It is remarkable, for example, that so little attention has been paid to the life-time investment practices of the middling sort. Not only would investigation of these matters provide insights into the social relations of property at different times and under different conditions, it would also throw a more revealing light on the significance of the practices and process of property transmission at death.

A further limiting feature of this research is its focus on a single locality. While Stockport was chosen as a venue in which to study property transmission because it was typical of a particular genre of industrialising towns in the period, it was, as chapter three demonstrated, a unique context shaped by distinctive social, economic and geographical processes. A more rounded picture of the social relations of property in Victorian Britain could only be gained from studies of other towns and contexts. Detailed work on the geography of ownership and provision needs to be carried out in order to see whether the findings for Stockport have any general application and in order to understand how and why processes of property transmission are different in places with other economic and social conditions. In this regard, work in progress by other scholars will form an interesting basis upon which to evaluate the significance of the findings of this study.⁵ However, an obvious focus of further research, building upon my own earlier interests, would be London. While David Green has recently explored the relationship between gender and property transmission in the nineteenth-

⁵ See various contributions to Stobart, J. and Owens, A. (forthcoming, eds.) *Urban Fortunes: Property and Inheritance in the Town*, Ashgate, Aldershot; Morris, R. J (1998) 'Reading the will: cash economy capitalists and urban peasants in the 1830s', in Kidd, A. and Nicholls, D. *The Making of the British Middle Class: Studies in Regional and Cultural Diversity Since the Eighteenth Century*, Sutton, Stroud, pp. 113–129; and idem. (1999) 'Making a will in England in the 1830s: gift, contract or symbol?', *Paper presented to conference on 'Wealth,*

century metropolis, the way in which the unique economic structure of London both shaped and was shaped by inheritance practices is undoubtedly an issue that would repay further attention.⁶

Closely related to this necessity for geographical comparison is the need to investigate how some of the strategies of property transmission described in this thesis altered over the course of the century. In particular, the impact of changes to the legal regulation of property ownership and transmission require further investigation. Two relevant areas of legislation are those which relate to the extension of property ownership and transmission rights to married women and the invention of limited liability. These changes, which took place in the latter half of the nineteenth century, had the potential to radically alter the kinds of property transmission strategies outlined in chapters six and seven.

In spite of these limitations, the findings of this study are significant in disclosing the importance of property to the middling sort of industrialising Britain. It played an important role in shaping individual and collective forms of social identity. Yet, while the first half of the nineteenth century is widely recognised as a period of marked economic and social change in Britain, studies of the social relations of property remain limited. In part, this reflects the ambiguous position of property within the subdisciplinary terrain of history. While economic historians have generally focused on studying the processes of producing wealth in a way that frequently divorces property from its social context, many social historians have simultaneously regarded the economic aspects of property ownership as being beyond their remit of consideration. This position has been exacerbated by recent change in the theoretical direction of social history which has prompted many of its practitioners to move away from studying the social relations of property. This study has attempted to avoid the limiting perspectives that these two disciplinary standpoints can result in and has implicitly made the case for a more interdisciplinary study of the social relations of property. In much the same way that inheritance fuses, merges and interconnects the lives of the middling sort, so this thesis has revealed how the study of property can

Poverty and the Victorians, Trinity and All Saints College, Leeds, 12–14 July 1999.

⁶ Green, D. R. (forthcoming) 'Independent women, wealth and wills in nineteenth-century London', in Stobart, J. and Owens, A. (eds.) *Urban Fortunes Property and Inheritance in the Town, 1700–1900*, Ashgate, Aldershot.

connect the seemingly divergent spheres of economic, social, legal and political history. In some respects this interdisciplinary perspective is an explicit acknowledgement of the importance of issues of geography. The social significance of property in general and of inheritance in particular can only be understood within the spaces and places of middling sort life and the specific constellations of social, economic, legal and political processes that constituted them.

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