

Book Review: Women, Property, and the Letters of the Law in Early Modern England, by Nancy E. Wright, Margaret W. Ferguson and A. R. Buck (eds)

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Book Review

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WOMEN, PROPERTY, AND THE LETTERS OF THE LAW IN EARLY MODERN ENGLAND EDITED BY NANCY E. WRIGHT, MARGARET W. FERGUSON & A.R. BUCK (TORONTO: UNIVERSITY OF TORONTO PRESS, 2004) 316 pages.¹

BY KAREN PEARLSTON²

Women, Property, and the Letters of the Law in Early Modern England is an ambitious interdisciplinary collection. Edited by legal historians Nancy Wright and Andrew Buck, and English professor Margaret Ferguson, it presents a range of narratives exploring aspects of how women (and men) lived among the variant and rapidly changing property regimes of early modern England.

The collection makes an important contribution to our understanding of the diverse ways in which English women negotiated property and property law despite the common law rules of coverture, under which married women could not own property, make contracts, or sue or be sued alone at common law.³ Coverture has loomed large in the imaginations of lawyers and feminists. The dominance of the idea of coverture helped to skew law, politics, and historiography from the mid-nineteenth century onwards⁴ in a direction that emphasized female helplessness in the face of oppression. Moreover, this dominant conception of coverture naturalized distinctions between the sexes on

¹ [*Letters of the Law*].

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³ As William Blackstone described it: "The very being or legal existence of a woman is suspended during marriage, or at least it is incorporated or consolidated into that of her husband, under whose wing, protection and cover she performs everything, and she is therefore called in our law a *feme covert*." *Commentaries*, 1:441.

⁴ By skewing law from the mid-nineteenth century, I am referring to case law involving women who attempted to play some public role only to face judges who considered them naturally unfit. Women had previously been permitted to play such roles in England. See Li Xiu Woo, "The Cracked Mirror: How 'Judicial Notice' Beat Historic Evidence in the 19th Century Decline in Women's Constitutional Rights" (1994) 52 *The Advocate* 349. According to Woo, "the differences between the 18th century cases and those that followed are so striking that one cannot help but wonder whether the rise of the women's movement in the 1800s was a reaction to aberrant judicial reasoning." (*Ibid.* at 350). By skewing politics, I am referring primarily to feminist politics, as discussed immediately below.

the basis of presumed affinities and capabilities, and contributed much to the ideology of separate spheres. When coverture was first assailed by women and their allies in the nineteenth century, it was on the basis that women, because of their natural emphasis on caring and commitment to their children, required protection from the harm caused by dissolute or drunken husbands.⁵ This battle was fought primarily by white middle-class Christian women who emphasized the maternal and moral aspects of their feminism and their presumed superiority to immigrant and working-class people.⁶ The resulting reforms were often of little use to women of small or no property.⁷

It is only recently that historians have begun to grasp the extent to which the nineteenth-century conception of coverture was a revisionist one.⁸ In response to the social and political upheavals of the late eighteenth and early nineteenth centuries, judges and other thinkers re-inscribed a particularly restrictive notion of women's place in law and the family.⁹ Because of this phenomenon, and aided by movements to rationalize and codify English law,¹⁰ the doctrinal and ideological

⁵ See Constance B. Backhouse, "Married Women's Property Law in Nineteenth-Century Canada" (1988) 6 L. Hist. Rev. 212-75; Anne Lorene Chambers, *Married Women and Property Law in Victorian Ontario* (Toronto: University of Toronto Press, 1997); Elizabeth Clark, "Matrimonial Bonds: Slavery and Divorce in Nineteenth-Century America" (1990) 8 L. Hist. Rev. 25; and Lee Holcombe, *Wives and Property: Reform of the Married Women's Property Law in Nineteenth-Century England* (Toronto: University of Toronto Press, 1983).

⁶ See e.g. Elizabeth B. Clark, "Religion, Rights and Difference in the Early Women's Rights Movement" (1987) 3 Wis. Women's L.J. 29; Linda Kealey, ed., *A Not Unreasonable Claim: Women and Reform in Canada, 1880s-1920s* (Toronto: Canadian Women's Educational Press, 1979); and James W. St. G. Walker, "Race," *Rights and the Law in the Supreme Court of Canada* (Toronto: Wilfrid Laurier University Press, 1997) at 78-83.

⁷ See Amy Dru Stanley, "Conjugal Bonds and Wage Labor: Rights of Contract in the Age of Emancipation" (1988) 75 J. Am. Hist. 471; and Reva B. Siegel, "The Modernization Of Marital Status Law: Adjudicating Wives' Rights to Earnings, 1860-1930" (1994) 82 Geo. L.J. 2127.

⁸ On changing doctrinal and ideological usages of the doctrine of coverture and the fiction of marital unity, see Maeve E. Doggett, *Marriage, Wife-Beating and the Law in Victorian England* (London: Weidenfeld and Nicolson, 1992).

⁹ Ursula Vogel, "Whose Property? The Double Standard of Adultery in Nineteenth-century Law," in Carol Smart, ed., *Regulating Womanhood: Historical Essays on Marriage, Motherhood, and Sexuality* (London: Routledge, 1992) 147; Susan Staves, *Married Women's Separate Property in England, 1660-1833* (Cambridge: Harvard University Press, 1990) at 166. See also Woo, *supra* note 4.

¹⁰ Vogel analyzes similar processes in relation to adultery law as "related to a dialectical process of modernization and reaction." *Ibid.* at 149-50.

conception of coverture at the middle of the nineteenth-century was unusually unified.

In early modern England, however, coverture was understood differently. The meaning and scope of a married woman's equitable separate estate were not yet fixed;¹¹ there was also law that was not common (such as borough or manorial custom) to which the rules of coverture did not apply, or at least not in the same way. Many different jurisdictions also existed, with distinct approaches to married women's property.¹² These legal regimes had their own systems for female subordination, but the variations between them provided scope for women to have or to use property in ways that ignored or avoided coverture, or were not affected by it in the first place.

An important aspect of the new historiography has been a growing appreciation that women of all classes were involved with property in early modern England. In their introduction, the editors of *Letters of the Law* rightly point out that the attention paid by historians to the assumed dominance of coverture, and to the travails and triumphs of privileged women and their inherited or equitable property tended to divert attention from "[n]arratives about resourceful women who managed to 'shift' the boundaries placed upon them by legal disabilities."¹³ Early modern women exercised agency in relation to property, and they used the law to do so, representing their own interests or, more often, acting as agents for husbands who were away at sea or at war. Although this agency "was limited and temporary," it "nonetheless requires analysis and explanation if we are to understand the diverse consequences of property law for women in early modern England."¹⁴

¹¹ Staves, *supra* note 9. See also Amy Louise Erickson, *Women and Property in Early Modern England* (London: Routledge, 1993) at 149-50.

¹² Tim Stretton, *Women Waging Law in Elizabethan England* (Cambridge: Cambridge University Press, 1998) [*Women Waging Law*]; Tim Stretton, "Women, Custom, and Equity in the Court of Requests" in Jennifer Kermode & Garthine Walker, eds., *Women, Crime and the Courts in Early Modern England* (London: UCL Press, 1994) 170; Margaret R. Hunt, "Wives and Marital 'Rights' in the Court of Exchequer in the Early Eighteenth Century" in Paul Griffiths & Mark S. R. Jenner, eds., *Londonopolis: Essays in the cultural and social history of early modern London* (Manchester: Manchester University Press, 2000) 107; and Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge: Cambridge University Press, 1987).

¹³ Nancy E. Wright & Margaret W. Ferguson, "Introduction" to *Letters of the Law*, *supra* note 1 at 4.

¹⁴ *Ibid.* at 8.

Letters of the Law is organized into three parts: "Credit, Commerce, and Women's Property Relationships," "Social Reproduction, and Patrilineal Inheritance," and "Women's Authorship and Ownership: Matrices for Emergent Ideas of Intellectual Property." The essays span the early sixteenth through the late eighteenth centuries. During this period, property relations in England underwent major shifts due to factors including the development of the strict settlement, the consequent consolidation of large landowning families, and the statute law reforms of the Tudor and Stuart parliaments.¹⁵ Social and economic factors were also vital to these shifts, especially the enclosure of common lands, and the beginning of industrialization, with the concomitant demographic shift from the country to the cities.

The collection presents a wide variety of situations and points of view. Most of the contributions fall into the general category of literary criticism, with interdisciplinary offerings from historians and legal historians, and one essay by a sociologist. Although the interdisciplinary approach may offer a great deal, it seems that the editors of this collection are not always certain of their audience. As a result, the reader's appreciation of the individual essays is likely to vary depending on disciplinary background.

My scant background in the basic texts and conventions of literary criticism may explain why I was left cold by Patricia Parker's "Temporal Gestation, Legal Contracts, and the Promissory Economies of *The Winter's Tale*."¹⁶ Parker's essay was the least accessible in the book, probably because her close textual reading of the play assumes that her reader will already be schooled in both Shakespeare's plays and some of the related criticism. As such, she fails to open up either the play or her reading of it to a cross-disciplinary reader. In addition, I am not persuaded that her observations can take her as far as she claims: comparing the language of pregnancy and gestation to that of debtor-creditor relations does little to advance our understanding of women and property in the period. Moreover, her focus on the literary language

¹⁵ These included the *Statute of Uses* (1535), the *Statute of Wills* (1540) the introduction of bankruptcy in 1542, the *Statute of Artificers* (1562), the *Fraudulent Conveyances Acts* (1571 and 1584), the *Poor Law Acts* (1598 and 1601), the *Statute of Tenures* (1660), and the *Statute of Frauds* (1677), many of which are ably explained by A.R. Buck in his contribution to the collection.

¹⁶ In *Letters of the Law*, *supra* note 1, 25.

of a male playwright detracts from the more critical issues of women's agency.

Parker's aim is to "foreground the connections the play itself forges between its dramatic emphasis on pregnancy, gestation, or bearing ... and the new economy of contractual relations that depended on the gestational passage of time."¹⁷ She does this by looking at how Shakespeare uses language indicative of the passage of time, for example, the importance of a bear to the plot,¹⁸ the idea of gold left to "breed,"¹⁹ the relationship between "promise" and "performance,"²⁰ or between "principal" and "increase."²¹ All of these terms have some connection to metaphors associated with both pregnancy and credit relations in a developing market economy.

Prominent among such metaphors is that of the note. She explains that it is related in this play (and others by Shakespeare) not only to the promissory note, but also to "what Hamlet calls the 'nothing' that 'lies between maids' legs' ... the place of female sexuality and of generational bearing or increase," which in its turn is "part of a rich Shakespearean network, linking the generative female 'O' to the zero, cipher, or 'O' of a different kind of increase and multiplication."²² Parker uses this idea of the "female 'O'"²³ to connect gestation with commerce (playing upon the "homophones of 'nothing' and 'noting'"²⁴), and with the male fear of losing control in the face of "the potentially uncontrollable 'nothing' or 'O' of female sexuality and 'anxiety about the male role in' (or lack of control over) procreation itself."²⁵ Unfortunately, Parker does little with the insights she has gleaned from the text, and her interpretive reliance on the "O," with its focus on the symbolic value of women's sexual and reproductive functions, seems out of place in a collection on women and property.

¹⁸ *Ibid.* at 28.

¹⁹ *Ibid.* at 29.

²⁰ *Ibid.* at 33.

²¹ *Ibid.* at 30.

²² *Ibid.* at 37-38.

²³ *Ibid.* at 39.

²⁴ *Ibid.* at 37.

²⁵ *Ibid.* at 39.

Parker's reading of *The Winter's Tale* may be a valuable contribution to feminist literary criticism; however, it does not seem to fit into a collection which, according to its editors, places some importance on expanding understanding of women's agency in the face of the prescribed passivity imposed by coverture. The collection's introduction makes it explicit that early modern women "did not exercise agency as theorized by liberals"²⁶ because they did not conceptualize themselves as autonomous in that sense. Notwithstanding this *mentalité*, the agency exercised by these women was one of the means by which property relations were complicated and diversified. The complexity that this approach adds to our conception of early modern women's agency is one of the contributions of the collection overall, but Parker's essay adds little to it.

In "Putting Women in Their Place: Female Litigants at Whitehaven, 1660-1760"²⁷ historian Christine Churches examines female litigants who lived or had dealings in the port town of Whitehaven. The originality of Churches' contribution flows from her methodology. Most historians of women and legal relations have chosen to examine the records of a single court. This method enables them to compare, for example, the litigation strategies and the treatment of women and men in a particular venue, or to focus on women's responses to specific issues.²⁸ Churches has taken a different tack. She examines the litigants in all courts from a single locality in order to reconnect them "to the society in which they lived and worked." This reminds us, if we are focusing on gender, "that most women lived and worked as part of a family unit and did not perceive themselves as autonomous individuals."²⁹ The result is a densely textured essay that tells the story of woman litigants in a specific legal and economic context and takes account of factors such as local custom and the dominance of certain trades and families. She is also able to compare women's participation at local courts to their participation at the central common law courts of King's Bench and Common Pleas. Churches' essay weaves a tapestry of

²⁶ *Ibid.* at 12.

²⁷ In *Letters of the Law*, *supra* note 1, 50.

²⁸ *Ibid.* at 51, citing Stretton, *Women Waging Law*, *supra* note 12, as her example of the former, and Laura Gowing, *Domestic Dangers: Women, Words, and Sex in Early Modern London* (Oxford: Clarendon, 1996) for the latter.

²⁹ *Ibid.* at 51.

female activities in an expanding coal- and tobacco-based shipping economy. It is flawed only by its brevity.

In "Women's Property, Popular Cultures, and the Consistory Court of London in the Eighteenth Century,"³⁰ historian David Lemmings provides a new explanation for the continuing popularity of the London church courts in the eighteenth century. As Lemmings explains it, the conventional understanding is that these courts rapidly lost importance in the last years of the seventeenth century, when "legislation established a limited form of toleration for Protestant dissenters and supposedly undermined the popular legitimacy of the established church."³¹ Because they had jurisdiction over both slanderous speech and matrimonial causes, the church courts had been an important venue for women, and plebeian women in particular, during the early seventeenth century. Focusing on the London Consistory Court, Lemmings finds that, in the early eighteenth century, it became "even more dominated by women than it had before 1640."³² Most of the cases heard were defamation suits prosecuted by women of the "lower 'middling' sort."³³ Thus, the church courts continued to represent "the culture of plebeian women, negotiating their customary rights and reputations."³⁴ By the middle of the eighteenth century, this business fell off and the court began to be dominated by propertied couples seeking a church-sanctioned separation. Since more men than women sued for separation (in part because of the double standard for adultery and the high threshold for proving cruelty or abandonment), the gender and class character of the London Consistory Court changed dramatically between 1700 and 1800:

from enabling women actively to defend their honour and propriety as women, and even "to claim a [limited] verbal and legal authority" in the gendered regulation of sexual and social relations, it became preoccupied with a species of litigation which supported male commerce in women's persons as property, and at best rendered them as passive victims of abusive husbands.³⁵

³⁰ In *Letters of the Law*, *supra* note 1, 66.

³¹ *Ibid.* at 66.

³² *Ibid.* at 73.

³³ *Ibid.* at 73-74.

³⁴ *Ibid.* at 75.

³⁵ *Ibid.* at 82.

Because of the processes that ultimately pushed plebeian women's causes out, Lemmings concludes that the story of the eighteenth-century London Consistory Court provides an example of one way in which "the institutions and culture of law were becoming official and polite 'property,' rather than the currency of Everyman and Everywoman."³⁶

Lemmings' attentiveness to the gendered dynamics of respectability and class formation make his essay an ideal companion piece to Laura J. Rosenthal's "The Whore's Estate: Sally Salisbury, Prostitution, and Property in Eighteenth-Century London."³⁷ Rosenthal's contribution is a rich account of the intersectional development of gender, class, and property relations. Rosenthal's primary sources are contemporary biographies of Sally Salisbury, a famous prostitute who died in Newgate Gaol while serving a one-year sentence for stabbing her lover.³⁸ Although written as literary criticism, this essay could not be more different from Parker's. It is accessible to a non-specialist reader not only because Rosenthal spends time establishing the content and context of the texts she discusses, but also because her arguments draw directly and clearly on work in all of the disciplines represented in the collection, as well as on feminist theory.

According to Rosenthal, most early modern criminal biographies focused on issues of property violation (or, one might add, on violence). Prostitute biographies are different because prostitution "involves a contractual agreement ... and thus more closely resembles the mainstream experience of the marketplace."³⁹ The stories told in prostitute biographies also stand in open contradiction to the civic humanist "connection between estate and virtue."⁴⁰ In the most significant of the Salisbury biographies, there is an emblematic anecdote told of this social and discursive positioning of the prostitute in response to the social and political upheavals of the late eighteenth and early nineteenth centuries. She deflates the pretension of a "fortune-hunting clergyman" who is impressed by her opulent clothing and lifestyle; in

³⁶ *Ibid.* at 89.

³⁷ In *Letters of the Law*, *supra* note 1, 95.

³⁸ Rosenthal does not date Salisbury's death, but it appears to have been around 1720.

³⁹ *Supra* note 37 at 98.

⁴⁰ *Ibid.*

response to the clergyman's insistence that Salisbury must "have a very considerable number of Acres," Salisbury is reputed to have whipped up her skirts, placed her hand upon her vulva, and said "This is my only Support, and I hope will continue so to my life's end."⁴¹ Rosenthal depicts Salisbury's symbolic importance as connected directly to her active and conscious deployment of her vulva, in contrast to Hamlet's "nothing' that 'lies between maids' legs."

The fungibility of both sex and money was key to the symbolic power of Salisbury's story. In a period that is conventionally understood to have been the crucible for middle-class gender ideologies, with their focus on virtue and animation of the public/private division, Sally Salisbury "challenged the ... claims to inherent superiority of birth from a perspective that had nothing to do with middle-class virtue as traditionally understood."⁴² By selling sex for money, and with enough success to enable her to mingle with the aristocracy, Salisbury transgressed both the public/private divide and her class position.

Rosenthal's essay crosses the good girl/bad girl divide that has characterized too much feminist writing on prostitution. She avoids letting the symbolic power of the Salisbury figure overtake her analysis. Instead, Rosenthal places Salisbury as symbol, and what we can discern of Salisbury the woman, into their historical contexts in a manner that increases understanding of the social processes in which the symbol functioned and the woman lived. This essay is a gem, perhaps the most successful example of interdisciplinarity in the collection.

Mary Murray's "Primogeniture, Patrilineage, and the Displacement of Women"⁴³ is a sociological analysis of patrilineal inheritance practices. Like Parker, Murray draws on metaphors of birth, but here the point is that, because primogeniture enabled men to dominate the generative practices related to death and inheritance, "it is men rather than women who gave birth."⁴⁴ Drawing on Philippe Ariès' theorization of the communal, public, and religious nature of death for medieval and early modern people, Murray reads patrilineal inheritance as one of a variety of "resurrective practices." These, as noted by

⁴¹ *Ibid.* at 95.

⁴² *Ibid.* at 103.

⁴³ In *Letters of the Law*, *supra* note 1, 121.

⁴⁴ *Ibid.* at 128.

Benedict Anderson, help to connect the dead to the living, thereby creating imagined communities and reproducing the social order, in this case the patriarchal and class relations of early modern England. As Murray puts it:

Clearly, in the first instance, it is women who give biological birth to the men that inherit. But it is men who appear to be the principal agents in social and economic generation. As equivalents to parthenogenesis, primogeniture and patrilineality enabled men to give birth to the body social and its economic and jural relationships.⁴⁵

Murray provides a skilful summary of the literature on inheritance practices and their relationship to the development of the English state. But her primary concern is to marshal this evidence in order to contribute to sociological and anthropological literature on death and dying. Like Parker's essay, Murray's is written primarily in response to literature in her own field. It is more easily understood by a non-specialist reader, but its focus on male actors and their interpretation of birth and death adds little to our understanding of the diverse property relations in which women took part.

Literary critic Natasha Korda's "Isabella's Rule: Singlewomen and the Properties of Poverty in *Measure for Measure*" makes effective use of recent historical writing on singlewomen. That body of work, exemplified in the important collection *Singlewomen in the European Past, 1250-1800*,⁴⁶ has demonstrated that, although the rules of coverture did not apply to them, the lives of never-married women and of widows were constrained by local and manorial law, social custom, and economic practices that could be equally restrictive. According to Korda, singlewomen were numerous in early modern England. Many of them lived in and around convents, and were displaced when those religious institutions were dissolved in 1536-1540.⁴⁷

Measure for Measure was written in 1604. The play is usually interpreted in relation to marriage contract law (as failure of the main characters to complete their marriage contracts drives much of the plot), but Korda argues that the play should also be read through what is left

⁴⁵ *Ibid.* at 129.

⁴⁶ Judith M. Bennett & Amy M. Froide, eds., *Singlewomen in the European Past, 1250-1800* (Philadelphia: University of Pennsylvania Press, 1999).

⁴⁷ Natasha Korda, "Isabella's Rule: Singlewomen and the Properties of Poverty in *Measure for Measure*" in *Letters of the Law*, *supra* note 1, 131 at 138.

unsaid, specifically the cultural and social anxieties created by the dissolution of the nunneries and consequent displacement of singlewomen. According to Amy Froide, Tudor and Stuart authorities were intensely fearful of disorder: "The targets of this fear were often poor, female, and young: those people who seemed to threaten a social order run by adult, married males of middling and elite status."⁴⁸

Singlewomen were the group most likely to be poor in England in this period.⁴⁹ They were not counted among the deserving poor who were eligible for poor relief,⁵⁰ and they were subject to punishment if they attempted to live independently of a master or a male family member.⁵¹ The female characters in *Measure for Measure*, whose lack of dowry made them unable to complete their marriage contracts, were cast into similarly difficult positions. New forms of coercive regulation that were established during the late Tudor period, for example the 1601 *Poor Law*, are reflected in the play. For Korda, Shakespeare's fictional ruler's "shadowy surveillance of and manipulation of his subjects, a policy that is repeatedly defended within the play as a form of 'charity,' ... best exemplifies the lengthening arm of the state in domestic governance and, in particular, its 'growing use of poor-relief as a means of social control'."⁵² Both the play and the new social order that it reflects prescribed marriage as the cure for the (always) unruly singlewoman, reinforcing an already existing "politics of domestication"⁵³ despite the difficulties that many women experienced in attempting to achieve the state of matrimony.

In their fine interdisciplinary contribution, "Marriage, Identity, and the Pursuit of Property in Seventeenth-Century England,"⁵⁴ Mary Chan, a literary theorist, and Nancy E. Wright, a legal historian, explore the meaning of property for aristocratic seventeenth-century women. Some of these women resisted the commodification of their inheritances in a context where the meaning of property as money had begun to

⁴⁸ Amy Froide, "Marital Status as a Category of Difference: Singlewomen and Widows in Early Modern England" in Bennett & Froide, *supra* note 46, 241.

⁴⁹ *Supra* note 47 at 140.

⁵⁰ Froide, *supra* note 48 at 253.

⁵¹ *Supra* note 47 at 140; Froide, *supra* note 49 at 239-41.

⁵² Korda, *ibid.* at 141.

⁵³ *Ibid.* at 153.

⁵⁴ In *Letters of the Law*, *supra* note 1, 162.

overtake its older connections to the rights and duties owed to self, family, and class. For these women, resisting the commodification of their inheritances meant resisting their own transformation into mere transmitters of money. Using the diaries and letters of two aristocratic ladies, the authors demonstrate that these women were motivated by their identity as landowners and not by money itself. Indeed, one of their subjects, Lady Anne Clifford, spent more than thirty years pursuing her claim to be heir-general to her own family's estates, and to the office of baron that came with that status. Clifford's early refusal of a settlement that would have made her a rich woman is proof that the other incidents of the estate were more important to her than money. She persisted in her legal struggle, finally succeeding to the property and title after the death of the last eligible male heir.

Chan and Wright argue that such resistance to commodification was rooted in women's identification as a part of their family and not in any notion of individual rights. The story of Elizabeth Wiseman, the daughter of one of the most powerful families in late seventeenth-century England, demonstrates this most clearly. A wealthy widow, Elizabeth was courted by many men. One of her brothers, standing to benefit by the proposed match, promoted a particular suitor. Elizabeth could not stand the man. When her brother and her suitor conspired in repeated attempts to force the marriage, Elizabeth appealed to her other brothers for help. Like Lady Anne Clifford, she saw the bestowal of her person and fortune as a matter of importance that transcended the merely commercial. She wanted to marry again but she also wanted to ensure that she would be married to someone who could contribute to the maintenance and development of her family's position, and not merely for the short-term benefit of one of her brothers.

In Shakespeare's *King Lear*, written in 1604-1605, Cordelia is disinherited at the beginning of the play, and dies at the end. In Nahum Tate's 1681 adaptation of the play, Cordelia regains her inheritance, and Lear survives to give her in marriage. In his essay "Cordelia's Estate: Women and the Law of Property from Shakespeare to Nahum Tate,"⁵⁵ legal historian A.R. Buck makes effective use of these versions of *King Lear* to frame his analysis of seventeenth-century legal changes and their effect on women. Inheritance and succession laws were awkward

⁵⁵ In *Letters of the Law*, *supra* note 1, 183.

and uncertain in the early seventeenth century. This insecure property regime forms the background for the Shakespeare play, in which Cordelia leads an army in an unsuccessful attempt to protect her father's property, and his honour. By the end of the century, which saw the creation of absolute property in the 1660 *Statute of Tenures*, the abolition of verbal contracts in relation to land in the 1677 *Statute of Frauds*, and the development of the strict settlement and the rule against perpetuities, claims to title in landed estates had been rendered more certain. In this context, Cordelia no longer needs to lead an army. Instead, in the Tate play, Cordelia "relies on her beauty and her tears" to show "her fitness for her role, which is to be the conduit by which the inheritance passes from one generation to the next in a world of confident, aristocratic, propertied values."⁵⁶ Although Cordelia retains her importance, her role at the end of the seventeenth-century is a more limited one.

The third section of the collection under review, "Women's Authorship and Ownership: Matrices for Emergent Ideas of Intellectual Property," is the least satisfying, although its lead essay is a strong one. In "Writing Home: Hannah Wolley, the Oxinden Letters, and Household Epistolary Practice,"⁵⁷ Jennifer Summit, a literary theorist, undertakes to establish household letters as a part of material history by considering how "in letters, texts become things."⁵⁸ Although nominally authored by individuals, letters written by women in the early modern household "map[ped] relationships that extend outward into broader social and textual networks."⁵⁹ Summit provides a convincing portrayal of feminine literacy in the household context, where letter writing stood "as a female 'accomplishment' alongside the domestic practices of needlework and cookery,"⁶⁰ and was recognized as such in the domestic advice books of the time. Advice books and letters were central to the development of household refinement and to the production of appropriate individuals within the household.

⁵⁶ *Ibid.* at 195.

⁵⁷ In *Letters of the Law*, *supra* note 1, 201.

⁵⁸ *Ibid.* at 202.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

For example, Summit discusses letters written by the widower Henry Oxinden. According to the letters, Katherine, Henry's sixteen-year-old ward, was enticed to London by neighbours in an attempt to marry her and her £100 fortune to someone of their choosing. They were unsuccessful. When Katherine returned to Henry's home, her contrition and expressions of her esteem caused him to fall in love with her. His letters from that point employ various strategies to persuade his family to support the match. The letters were addressed to Henry's cousin, with the knowledge that she would share them with his aunt and uncle, and that the entire family would participate in crafting the reply. For Summit, the ways that the Oxinden family used letter writing show us how rooted the practice was in "household circuits of exchange and negotiation," and also "how texts, like their writers, find meaning within a world of things."⁶¹

From Jennifer Summit's essay analyzing letters as female literary production, we move to Lloyd Davis' similar but less successful assessment of will-making. As a literary theorist, Davis' analysis of "Women's Wills in Early Modern England"⁶² is less legally sophisticated than some of the other essays in the collection. Davis reminds us of women's restricted testamentary capacity, refers to the potentially transformative effects of a will, and tells us, as have others before him, that women's wills were often both morally and materially particular, as well as evincing a concern for dispersing money and goods to those who needed them most. Furthermore, where Summit argued for the special place of letters as a part of advice book literature, Davis makes similar claims for wills, suggesting that "advice books are a kind of discursive adaptation of the will, developing the latter's complex of familial, moral, and material concerns and its hybrid private-public address into a personally voiced, socially oriented genre."⁶³ Davis' essay is at its strongest when he uses the evidence from his primary sources to remind us "not only of the cultural conditions in which self, kinship, and property are situated, but also of the experiential and affective facets of people's lives that both permeate property relations and are constituted

⁶¹ *Ibid.* at 216.

⁶² In *Letters of the Law*, *supra* note 1, 219.

⁶³ *Ibid.* at 231.

by them.”⁶⁴ Yet he seems to overplay his case when he strays from wills themselves into the arguably related genre of advice books written by mothers for their children. According to Davis, these works were often characterized as “legacies,” and women used them to “shift the terms of inheritance away from material to spiritual value and in doing so [challenge] an inheritance system that works against women’s rights to property.”⁶⁵ But challenging property relations is not precisely the same as being involved in them, and establishing that these texts form an important genre of early modern women’s writing does not establish that the texts themselves were a part of the property relations that they addressed. Davis’ essay provides little nuance or substantiation about how these texts fit into the overall picture provided by the other essays in the collection.

Historian Claire Walker’s “Spiritual Property: The English Benedictine Nuns of Cambrai and the Dispute over the Baker Manuscripts”⁶⁶ also focuses on the communal nature of literary property in the period, in this case a set of manuscripts that were produced by the Benedictine nuns of Cambrai⁶⁷ in collaboration with their spiritual director, Augustine Baker. Although Baker was the nominal author, the collaboration was developed because of and through Baker’s approach of adapting his meditative techniques to the needs of individual nuns. This method stood in contrast to the more orthodox and outwardly focused Jesuit techniques of spiritual direction. This situation led to conflict in 1655, long after Baker’s death, when the head of the Benedictine congregations attempted to remove the Baker manuscripts from the Cambrai convent in order to purge them of their heretical tendencies. In response, the nuns asserted their ownership of the manuscripts based on their collaborative work in developing them. In the end, the nuns retained control of the manuscripts. Walker’s essay works with Jennifer Summit’s contribution to strengthen one of the overall arguments in the collection: that the collaborative writing produced by early modern English women should be viewed as an important aspect of their overall literary production.

⁶⁴ *Ibid.* at 221.

⁶⁵ *Ibid.* at 233.

⁶⁶ In *Letters of the Law*, *supra* note 1, 237.

⁶⁷ The Cambrai convent was “one of several English contemplative communities for women established abroad” after the English Reformation. *Ibid.* at 239.

The final two essays in the collection seem to have been written for a specialized audience. In "The Titular Claims of Female Surnames in Eighteenth-Century Fiction,"⁶⁸ literary theorist Eleanor F. Shevlin analyzes female surnames in relation to the themes and incidents of the novels in which they appear. Shevlin argues persuasively that female surnames both denote episodic elements in the novels and code underlying themes, such as respectability, patronage, and class. Although entertaining, it does not fit well with the collection.

In contrast, Paul Salzman's essay "Early Modern (Aristocratic) Women and Textual Property"⁶⁹ fits well but is not easy for the non-specialist reader to understand. His analysis of who owned the manuscripts produced by Margaret Cavendish and Lady Anne Clifford, how the ownership was passed on and why, and the meaning of the ways in which those texts have been presented by modern editors (including Salzman himself) would probably have a lot to say to a reader with a sustained level of interest in the texts discussed. Salzman offers some evocative description of the texts in their manuscript form and how the ways in which the authors presented their texts could inform the reader's understanding. It is unfortunate, then, that most of the essay is too focused on the particular texts and specific interpretations of them to offer much of interest to the general reader.

In a short and impressive "Afterword,"⁷⁰ Margreta de Grazia brings the discussion back to coverture, the common law property rule that formed the background for the property relations and ideas that are portrayed in the collection. Drawing on the theme of the collaborative nature of early modern property, and of the non-individualist approach to property relations that this fostered, de Grazia points out that men as well as women were not entirely free (in the modern sense) as persons or as owners: "both husband and wife were constrained by coverture, but only if we think of them as two individuals with vying claims."⁷¹ De Grazia suggests that although the wife was subordinated, coverture was meant to benefit the couple and the family, and not the man as an individual. For de Grazia, "coverture may be important precisely

⁶⁸ In *Letters of the Law*, *supra* note 1, 256.

⁶⁹ In *Letters of the Law*, *supra* note 1, 281.

⁷⁰ In *Letters of the Law*, *supra* note 1, 296.

⁷¹ *Ibid.* at 300.

because the persons it brings into 'union' cannot be understood as individuals."⁷² She urges researchers to be cognizant of this possibility, and to avoid reading modern individualism back into early modern property relations. These are important points, but in making them, de Grazia seems to ignore several of the contributions to this book that stress gender conflict over property. Surely part of the reason for analyzing property relations is to help us to understand the processes that fostered conflict about property between husband and wife, and the gendered family roles that informed those conflicts. While de Grazia is right to remind us that early modern people did not think of themselves as individual in the modern sense, we are nevertheless left with the fact that coverture did not always work for mutual benefit, and the interests of husband and wife could diverge. The legal disputes that sometimes ensued helped to form the law of coverture that is the subject of de Grazia's analysis.

It is possible (perhaps even likely) that a reader with a background in literary criticism might find some of the legal history in the collection a bit difficult, as I, a legal historian, had difficulty with the some of the literary criticism. At its best, an interdisciplinary collection will allow scholars from a variety of disciplines or backgrounds to broaden their thinking about an issue. But, to work effectively, the individual authors have to be alert to the differing backgrounds of their readers. Some of the authors in *Letters of the Law* have been more successful at inclusiveness than others. As a whole, the collection succeeds in portraying a wide variety of property relations, and accommodation to them, that were organized along the axes of class and gender. The book conveys an impression of the dynamic complexities of the process, and leaves the reader with a sense of rapid motion. For scholars of gendered property relations, this collection is a worthy addition to the body of work documenting women's active participation in, and resistance to, the property regimes in which they lived. In so doing, it demonstrates the propensity of patriarchal social relations to adjust to the challenges posed by those who, consciously or not, would resist.

⁷² *Ibid.* at 301.