



This gravestone in Old Woodlawn Cemetery (Andover, Maine) belongs to Enoch Adams' first wife, Sarah, who died in 1801. The inscription at the bottom of the gravestone reads: "She was the first person buried in this yard."

# “Until Death Do Us Part”: Wills, Widows, Women, and Dower in Oxford County, Massachusetts, 1805-1818

JEAN F. HANKINS



*Abstract: This study of the wills and estate files, 1805-1818, of some 250 individuals from Oxford County (then Massachusetts) examines Massachusetts laws of probate and descent in light of the testamentary practices of the time: how men provided for their families and how well this worked. The focus is on Enoch Adams of East Andover, Maine, whose will was typical of most: he gave his wife little more than what Massachusetts law required, favored two sons over the other three, and left only furniture to his daughters. This article critically examines the rationale and effects of the dower system, which historically provided a safety net for widows but also stifled their economic independence.<sup>1</sup>*

\* \* \* \* \*

On August 19, 1819, Enoch Adams of Andover, Maine, died at the age of sixty-seven. A founder and leading citizen of the town, he had had a long and eventful life, but the act of dying was one of the most consequential things he ever did. Most importantly, his death significantly changed the status of his wife, sons, and daughters. He left a will and several deeds so detailed and complete that they serve as the focal point of this article.

---

<sup>1</sup> I thank Professor James Leamon for his general encouragement and title suggestions. I am also grateful to Tom Winsor and Bruce Rood, former and present registrars of probate, Oxford County; to Larry Glatz for help in locating maps; and to Walt Putnam and Pixie Williams, photographers.

Adams' documents are among 247 files of individuals housed in the offices of probate records and registry of deeds in the Oxford County courthouse, town of Paris, Maine. Stored in four large boxes, these papers span the period from 1805, when Oxford County was first formed, to 1820, when Maine became a state separate from Massachusetts. Over these years, they reveal the patterns of inheritance that Oxford County's first English-speaking settlers brought with them from Massachusetts. How well these pioneers provided for their widows and dependent children is the focus of this article, which examines the wills left by 67 of those 247 individuals.

Enoch Adams' file is not only alphabetically the first but also one of the most revealing. After a brief preamble invoking God and avowing that he is "weak in body but of sound mind," he left his beloved wife Lydia all the household goods that she brought into the marriage as well as other specified items. These included one large iron pot, one small tablecloth, crockery and tin ware, a Bible and hymn book, and one last puzzling item, "one half of the Carpit."

Adams' distribution of his agricultural tools, animals, and land was even more complex and detailed. To his youngest son, William, he bequeathed one bed and bedding and his farming tools and livestock but, rather curiously, no land. Three other sons, Enoch, Joseph, and Moses, each received one dollar. Adams chose to leave the remainder of his estate to his second son, John Emery Adams, stipulating that he should receive "all my Estate, Real & Personal and intermixed, including my Clock, that isn't disposed of otherwise."<sup>2</sup> Adams also remembered his three daughters, the two oldest of whom were married, by leaving them all the rest of the household furniture except for those items he had willed to his wife or sons William and John.

This handwritten will suggests a host of complicated family relationships and personal stories from this period, all the more tangled because of the large size of the families. Those who died "testate" (that is, leaving a will) make up only 27% of all the Oxford County estate files for the period 1805-18. All these records are the responsibility of the county's probate court, which deals primarily with matters of guardianship and inheritance. A number of probate files have vanished during the 200 years since Oxford County was created, and many of the existing files, including Adams's, are incomplete.<sup>3</sup> Despite these shortcomings, these early Oxford County wills

---

<sup>2</sup> Adams' will may be found in Box 1, Probate Records 1805-1820, Oxford County Probate Records, Paris, Maine.

<sup>3</sup> Enoch Adams' file has only three documents and lacks such common items as an inventory of the estate and the administrator's accounts.

and estate records promise to shed new light on old questions raised by other historians about American inheritance practices.<sup>4</sup> These studies raise a number of issues – notably about the legal rights of women and widows, the changing status of sons and women in the family, the persistence of common law traditions, and the impact of the ideal of equality after the American Revolution. Their general conclusion is that individuals’ testatory practice, or how they chose to write their wills, lagged behind advances in laws regarding inheritance. Their consensus is that the status of widows did not improve substantially until well into the nineteenth century.<sup>5</sup>

Oxford County, Maine, is distinctly different from the Massachusetts and New York communities studied by other historians interested in inheritance patterns. In the early nineteenth century, Oxford County constituted a frontier area. Still sparsely populated today, the county is bordered on the south by Cumberland County, on the west by New Hampshire, and on the east by Franklin and Androscoggin counties. It thrusts a narrow spear north to share a border with the Province of Quebec. The county’s physical landscape is dominated by mountains, large lakes, and extensive forests. Its older towns were first settled just before the American Revolution, but most of the towns within its present boundaries were not even surveyed until after 1776.<sup>6</sup> The first English settlers faced not just a difficult physical environment, but also the challenge of re-establishing their familiar network of political, religious, economic, and social institutions.

---

<sup>4</sup> The most relevant of these studies are: for Barnstable, MA., John Waters, “The Traditional World of the New England Peasants: A View from Seventeenth-Century Barnstable,” *New England Historic Genealogical Register*, Vol. 130 (1976), pp. 3-21; for Andover, MA., Philip J. Greven, Jr., *Four Generations: Population, Land and Family in Colonial Andover, Massachusetts* (Ithaca: Cornell Univ. Press, 1970); for Woburn, MA., Alexander Keyssar, “Widowhood in Eighteenth-Century Massachusetts,” *Perspectives in American History*, Vol. 8 (1974), pp. 83-119; for rural Massachusetts, Gloria L. Main, “Widows in Rural Massachusetts on the Eve of the Revolution,” pp. 67-90 in *Women in the Age of the American Revolution*, ed. Ronald Hoffman and Peter J. Albert (Charlottesville: Univ. of Virginia Press, 1989); for Duke’s County, MA., Richard H. Chused, “Married Women’s Property and Inheritance by Widows in Massachusetts: A Study of Wills Probated between 1800 and 1850,” *Berkeley Women’s Law Journal*, Vol. 2 (Fall 1986), pp. 48-58; for Westchester Co., NY, Norma Basch, *In the Eyes of the Law: Women, Marriage, and Property in Nineteenth-Century New York* (Ithaca: Cornell Univ. Press, 1982).

<sup>5</sup> In fitting Oxford County into the larger picture developed by other historians, I encountered a number of peripheral issues concerning the changing structure of the family in nineteenth century New England: fertility, life expectancy, mobility, mortality rates, marriage age, and the like. Because the handful of women’s wills makes them statistically insignificant, this study deals only with those left by men.

<sup>6</sup> Jean F. Hankins, “Settling Oxford County: Maine’s Revolutionary War Bounty Myth,” *Maine History*, Vol. 42, No. 1 (October 2005), pp. 135-157, especially Table 1.

The first arrivals were families of English stock moving north from Massachusetts or New Hampshire or from older Maine communities. Among them was the family headed by Enoch Adams, which moved to Maine from Andover, Massachusetts, in 1788. Indeed, a number of the new Maine towns, like the one Adams knew as East Andover, took their names from older Massachusetts towns. Many of the first settlers, again like Adams, were proprietors or first-owners of the new Maine towns that promised cheap land and future prosperity.

The 247 Oxford County individuals had some other common characteristics that are less obvious. Most were born between 1750 and 1760. Many of the men either served in the American Revolution or had fathers who were veterans. Nearly all of them married, and married young: men at an average age of twenty-five; women at twenty-two.<sup>7</sup> Like Adams, who had ten children, the men who moved north fathered very large families, averaging seven children, nearly all of whom lived to adulthood. Most of these Oxford County men married only once; but if their first wife happened to die, as in twenty-nine cases, they remarried quickly. Once they arrived in Oxford County, they tended to remain in the area – though some did move from one town to another. In general, most were fairly prosperous. The men tended to die at a younger age than one would expect, at an average age of fifty. But, like Enoch Adams, by the time of their deaths most had accumulated enough property to support their large families and to help establish the next generation.<sup>8</sup> How they did this, and how well their estates provided for their widows and dependent children, is one topic of this article. Examining their wills helps us judge the extent to which Adams and his contemporaries were social as well as political pioneers.

---

<sup>7</sup> This includes first marriages only. I found birth and marriage ages for 86 men in the sample but for only 39 of their wives. In cases where there was no marriage date but where children's birth dates were available, I estimated the date of marriage as one year before the first child's birth.

<sup>8</sup> Of the 239 men in the estate files, I found birth and death dates for 139 – well over half. The Oxford County average age of death of 50 for men contrasts sharply with the average age of death which Philip Greven found for the Andover, Mass., generation born about 1740-50; that is, somewhat earlier than most of the Oxford County sample. His average age of death for the Andover women living to age 21 or older was 61.6; for the men, 59.8 (Greven, *Four Generations*, p. 196). David Hackett Fisher has calculated mean age of death for all Americans who died in 1800 at about 56 for both men and women; his figures for 1850 are 62 for men and 61 for women. See *Growing Old in America* (New York: Oxford Univ. Press, 1978), Table VI, p. 279.

## WIVES AND WIDOWS

In the early nineteenth century, men, women, sons, and daughters all had distinctly different inheritance rights under Massachusetts law. But many, if not most, of the men who died in Oxford County owned no land at all, which meant that their estates were not subject to the probate process. The 247 estates probated in Oxford County between 1805 and 1820 probably represent less than half the men who died in this period. Of the total number, only 27% left wills.<sup>9</sup>

The early nineteenth-century inheritance law of Massachusetts specified that when a man died “intestate” (without leaving a will) two-thirds of his estate went equally to his surviving children, with sons and daughters receiving equal amounts. If the deceased man left a widow, his estate was subject to the common law principle of dower, which provided that the widow was entitled to receive for life use only the remaining one-third of his estate. By law, the widow was prohibited from selling or otherwise “wasting” this property.<sup>10</sup> The dower, then, constituted a life estate. Commonly known as the “widow’s thirds,” the property she acquired through the dower principle remained hers even if she remarried. On her death, the dower property she had held in trust passed to her husband’s heirs, usually his children.

Women’s right of dower was an ancient piece of English common law. The Magna Carta of 1215 enlarged the dower privilege somewhat to include all the lands the husband owned during marriage.<sup>11</sup> The provision became part of the Massachusetts Body of Liberties in 1647, which contained an explicit statement giving the widow one-third interest for life in all the “lands, tenements, and hereditaments” her husband owned during their marriage. Even after the American Revolution, a wife’s dower right persisted in nearly every state with no basic changes. Despite the egalitarian rhetoric of America’s founding fathers, the new state of Massachusetts adopted virtually intact the old common law doctrines governing relations between husbands and wives, including dower.<sup>12</sup>

---

<sup>9</sup> The number of those dying intestate today is considerably lower. According to Tom Winsor, former Registrar of Oxford County Probate, 40% of those having estates probated during the last ten years left wills. He estimates that perhaps half of those dying today leave no estates subject to probate (telephone interview, October 10, 2008).

<sup>10</sup> Carole Shammas et al., *Inheritance in America from Colonial Times to the Present* (New Brunswick, NJ: Rutgers, 1987), pp. 63-65.

<sup>11</sup> Elizabeth B. Warbasse, *The Changing Legal Status of Married Women, 1800-1861* (New York: Garland, 1987), p. 10.

<sup>12</sup> Kathleen M. O’Connor, “Marital Property Reform in Massachusetts: A Choice for the New Millennium,” *New England Law Review*, Vol. 34, No. 1 (1999), p. 283.

The dower was, in effect, a life estate given to the widow, a kind of life insurance policy to provide the widow with a means of subsistence. Although real estate encumbered by a dower could not be sold, in practice the dower right could be removed as long as the wife agreed. This consent was usually given in a written statement signed by the wife at the time of the property transfer.<sup>13</sup> One important stipulation was that the dower be awarded to the widow before any creditors were paid. In the eyes of the law, the widow's welfare took precedence over all else. A committee of local citizens appointed by the probate judge had the responsibility of establishing her dower or widow's thirds of each piece of her husband's real estate. This amounted to a precise measurement, recorded in what was called "metes and bounds." For example, when Richard Bryant of Waterford died in 1815, leaving no will, the probate judge ruled that his widow Mary was entitled to a dower of one-third of his real estate. The committee then determined that this amounted to forty-one acres and forty-four rods (one rod equals 5.5 yards). She also received a third of the house. Following usual practice, the committee carefully spelled out the areas of the house to which Mary was entitled. They awarded her the east part of the house to the second post and third rafter with the privilege of the fireplace in that part of the house and also in the kitchen yard. She also received the north part of the cellar and the privilege of using the stairway up to a chamber, or bedroom, and the use of the well and access to the barns.<sup>14</sup>

The dower system provided a way to protect the widow from disinheritance and possibly becoming a public charge. Judicial decisions routinely upheld the dower principle against pressure from land speculators seeking to remove legal encumbrances from real estate. For example, in 1812 the Massachusetts Judicial Court ruled a sale of land invalid because the deed did not include the wife's signed disavowal of her dower rights.<sup>15</sup> Although the dower did give most widows a degree of financial protection, its effectiveness as old age insurance depended on the wealth

<sup>13</sup> Richard H. Chused, "Married Women's Property Law: 1800-1850," *Georgetown Law Journal*, Vol. 71 (1983), pp. 1386-87; George Lee Haskins, "The Beginnings of Partible Inheritance in the American Colonies," *Yale Law Journal*, Vol. 51 (1942), p. 1290. The requirement of the wife's consent varied from state to state. Some states mandated that the wife's consent be given privately. Apparently probate courts' compliance with and enforcement of the consent requirement also varied. The Oxford County land records are rife with deeds signed by married men which lack the required signatures of their wives.

<sup>14</sup> Probate file for Richard Bryant of Waterford, 1815, in the Oxford County Probate Records office, Paris, Maine. All estate files cited hereafter are also located here.

<sup>15</sup> *Catlin v. Ware*, 9 Mass. 218 (1812), in *Massachusetts Digest of the Decisions of the Supreme Judicial Court of Massachusetts* (Boston: Little, Brown, 1862), 1: 467. In the early years of Oxford County,

of the husband. That is, if he owned no property, his widow would receive no dower.

The dower system operated only when a man died intestate. By writing a will, Enoch Adams had more choices and could, if he wanted, leave more than a third of his estate to his wife. If he wished, he could leave the property to her “in fee simple,” that is, without restrictions. This would give his widow the option of selling the property. Or he could divide his land between his children. He could also create life trusts or place certain restrictions and conditions on his bequests. By law, however, he was required to leave at least two-thirds of his estate to his immediate family,<sup>16</sup> and he had to keep the dower right in mind. If he left his wife less than a third of his estate, by Massachusetts law she could refuse the award made in the will and claim her dower right – that is, one third of his property, for life.<sup>17</sup>

Enoch Adams was not very generous to his widow Lydia, who was his second wife. He returned to her all the furniture that she owned before their marriage. He then gave her some additional furniture, a Bible, a hymn book, and half the carpet but also stipulated that the gifts were only for life. Accordingly she could not sell or give them away. The major provision Adams made for his wife was exactly what she would have received if he had died intestate: one-third of the home farm for life. Adams’ will does contain one clue about his plans for his widow. In leaving her just half the carpet, he probably indicated his expectation that Lydia would remain in the family home which his second son, thirty-one-year-old John Emery Adams, would inherit. For the remainder of her life, Lydia would have the proceeds from one-third of the farm as well as a supply of furniture, some dishes, and a half share in the carpet, assuming it was not cut into halves. Because Adams left a sizeable estate, his will did provide the customary safety net for his widow. But on his death, the responsibility for her personal security and well-being immediately shifted from father to son. Henceforth, Lydia would be entirely dependent on her stepson John, the new owner of the other two-thirds of the farm and, presumably, the rest of the carpet. Because a lifetime restriction had been imposed, Lydia became the mere custodian of one-third of the home farm – property that would

---

few deeds actually complied with this requirement. Those that do usually involve the sale of the family farm.

<sup>16</sup> Marylynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill: Univ. of North Carolina Press, 1986), p. 15.

<sup>17</sup> Six widows in the Oxford County sample did so, some because the estate was encumbered with debt; others perhaps because of a restrictive widowhood provision.



go to her stepson on her death. The life restriction had great potential for creating tension between widows and other heirs, especially if the widow should live on for many years.

The life estate provision reflects women's legal standing in the early nineteenth century. For the most part, a woman who was not married had the same property rights as men. She could buy or sell property, make contracts, and write a will. Once married, however, her situation changed drastically. As historian Nancy Cott has put it, as late as 1835 a married woman in New England "had no legal existence apart from her husband's; she could not sue, contract, or even execute a will on her own; her person, estate, and wages became her husband's when she took his name."<sup>18</sup> By law, her husband was entitled to manage and control his wife's land. Any property she might own before she married, regardless of whether this property was money, goods, or land, passed into the ownership of her husband upon their marriage. This practice was based on the English common law doctrine of *coverture*, which Blackstone's *Commentaries*, written in 1765, explained this way: "By marriage the husband and wife are one person in law . . . The legal existence of the woman is suspended during marriage . . . and consolidated into that of the husband: under whose wing, protection, and care, she performs everything."<sup>19</sup>

Enoch Adams' will reflects this consolidated authority of the husband. In its very first clause, he gives his wife Lydia "all the furniture that she brought to me," furniture that by law became Adams' property when they married. Lemuel Jackson, Sr., of Paris, made a similar bequest in his 1817 will, when he left his second wife Susanna "the whole of the house furniture of which she was possessed when we were married." The wife's legal subordination was so complete that she did not even own her own clothing. In a number of wills, including Jackson's, the husband leaves the wife "her wearing apparel." Jackson also decreed that Susanna should receive "money sufficient to purchase a full suit of mourning."

How did the other sixty-two men from Oxford County who left wills treat their wives? Enoch Adams, it turns out, was less generous than thirty-four of them, or 52% of the testators, who left either half or two-thirds of their estates to their wives. Of these, only six, or 10%, gave real estate to their wives without a life estate clause. One was Eleazer Twitchell of

---

<sup>18</sup> Nancy N. Cott, *The Bonds of Womanhood: "Women's Sphere" in New England, 1790-1835* (New Haven: Yale Univ. Press, 1997), p. 5.

<sup>19</sup> William Blackstone, *Commentaries* (1765, ch. 15, p. 441), quoted by Richard H. Chused, "Married Women's Property and Inheritance by Widows in Massachusetts: A Study of Wills Probated between 1800 and 1850," *Berkeley Women's Law Journal*, 2 (Fall 1986), p. 48 n.26.

Bethel, who died in 1819, and whose will states clearly that his widow was to inherit his property with no strings attached: “I give my wife what the law may give, by way of improvement of one third part of my real estate, for her to dispose of as she pleases, or to her heirs forever.” An analysis of the estates of the six men who broke with tradition to make this kind of bequest fails to explain why they did so. Their real estate holdings ranged from small to very large. Two of the six apparently left no children, which might explain their unusual generosity to their wives. Some of the other six had adult children; some had younger children. One widow, Martha Twitchell of Bethel, finally rejected her husband’s unrestricted gift of one-third of his small estate in order to claim her widow’s dower. She probably chose to do so because of heavy debts against the estate. If she chose to accept the widow’s dower, that third would be set aside to her *before* the debts were paid.<sup>20</sup>

If Enoch Adams’ provisions for his wife were somewhat stingier than most, at least he did not make his bequest to his wife contingent on her remaining single after her death. Of Oxford County men with wills, 17% did just that.<sup>21</sup> One was Abner Benson of Paris who died in 1814 and left his wife Catherine the use and improvement of one-third of his estate “so long as she shall remain sole and unmarried and to be for the use of my three children after her death or remarriage.” Shortly after his death, Catherine, who was only twenty-five, waived the provisions made for her in the will and requested her dower share of the estate. She doubtless did so because of the widowhood restriction. By law, she could retain her

---

<sup>20</sup> Only four of the Oxford County men left their wives less than one third of their estates. In such cases one would think the widow would be better off to renounce the will and claim her widow’s thirds, as she had a right to do. However, it appears that in most cases the widow did not do so. In at least two of the four Oxford County cases, there is more here than meets the eye because other arrangements had been made to support the widow. For example, although Eliphalet Burbank’s will left his wife Susannah nothing in the way of real estate, Oxford County land records show that he had amply provided for her through elaborate lease and indenture arrangements with two sons whereby Burbank sold tracts of land to each of the sons. On the same day, however, the sons leased the farms back to their father with the promise they would provide living space for their parents and three unmarried sisters, as well as specified amounts of firewood, meat, and vegetables. (See Oxford County Registry of Deeds, 14:508, for an indenture or lease dated May 21, 1816 between Abraham Burbank and Eliphalet Burbank; and 14:510 for indenture also dated May 21, 1816 between John Burbank and Eliphalet Burbank.) Abraham and Susannah Burbank had eleven children, including three sons, of whom Abraham was the oldest and John the fourth. Through these legal transactions, Burbank showed himself more farsighted than most of his contemporaries in planning for the old age security of himself and his wife. But the fact that he was wealthier than most made these arrangements possible.

<sup>21</sup> This compares with 43% of the wills made by men in Edgarton, MA., from 1800-1809, where use of the widowhood clause decreased with time. In Edgartown from 1820-1829, it was down to 39%, and to 25% in the decade 1840-50 (Chused, “Widows in Massachusetts,” Table 6, p. 64).

dower third even if she remarried. Doing so might create more tension between generations, particularly if the widow chose to continue living in the family home with her new husband. On the other hand, a good dower probably increased the widow's chances of remarrying, even though it was hers only for life. For Catherine Benson, a second marriage was clearly the best alternative. In 1825, at the age of thirty-six, she married John Butterfield and produced four more children.<sup>22</sup>

Another reason widows like Martha Twitchell might prefer to waive the provisions of the will and claim their dower right is that if the husband simply willed the property to her, the creditors' claims would be deducted first. The widow's dower, on the other hand, was set aside before any claims were allowed against the estate. A new widow had good reason to take this into consideration, particularly if, like Catherine Benson, she was still fairly young. Even in early nineteenth-century New England, women were outliving their husbands and facing an uncertain financial future.<sup>23</sup> Their premature deaths in childbirth were offset by men's death in military service such as the War of 1812 and by a high rate of fatal accidents in an agricultural society. Although the recorded death dates for women in this study are too limited in number to be significant, those we do have show many widows living into the 1840s and beyond.

## SONS

Returning to Enoch Adams, it appears that by leaving a third of his estate to his wife for life use only, he may have been less generous than most of his contemporaries, but unlike many others, he did not restrict her inheritance with a "widowhood only" provision. Unlike a number of other widows, Lydia Adams accepted this inheritance and made no effort to claim her dower right.

Once Adams had provided for his widow in his will, his next task was to decide how to divide his property between his five sons.<sup>24</sup> A proprietor

---

<sup>22</sup> William B. Lapham and Silas P. Maxim, *History of Paris, Maine* (Paris, 1884), p. 506.

<sup>23</sup> Carl Degler comments that in the 1840's and 1850's, U.S. life expectancy for a girl at birth was higher than that of a boy by about three years. See *At Odds, Women and the Family in America from the Revolution to the Present* (New York: Oxford Univ. Press, 1981), p. 6. Another historian has noted that statistically, "Women, then, had a greater chance of becoming widows than of dying in childbirth." See *Loving, Parenting and Dying: The Family Cycle in England and America, Past and Present*, ed. Vivian C. H. Fox and Martin H. Quitt (New York: Psychohistory Press, 1981), p. 400.

<sup>24</sup> Adams fathered ten children, including seven sons, all by his first wife, Sarah, who died in 1801. Two of the sons, Henry and Samuel, died before their father and are not mentioned in his will. The main sources of information on Enoch Adams and his family are Stuart F. Martin, *New Penacook*

who served as early surveyor of the town of East Andover, Adams was also the town's largest land owner. He owned over 1,000 acres of land situated on both sides of the Ellis River,<sup>25</sup> most of which his sons reasonably could expect to inherit. Almost no one in Oxford County left his land exclusively to his wife. Of the fifty-five male testators in Oxford County who had children, only John McMillan of Fryeburg gave all his extensive real estate to his wife alone, leaving her everything in fee simple and stipulating that she provide a good college education for their three sons and education “equally as good” for their one daughter.<sup>26</sup>

Enoch Adams followed the prevailing custom of favoring sons over daughters. He also followed the custom of favoring one or two sons over the others. The favored son was not always, as one might expect, the oldest. By 1819, when Adams died, the colonial Massachusetts custom of leaving a double share to the oldest son had all but disappeared.<sup>27</sup> Still, Adams' bequests to his five sons must have raised a few eyebrows. He left his livestock, bees, and some farm equipment to his youngest son, William; most of his real estate and personal effects, including a clock and half the carpet, to his second son, John; and only one dollar to each of the other three sons, Enoch, Joseph, and Moses. On the face of things, Adams was disinheriting these three, but a closer look at the Adams family members explains a great deal.

When Adams died he was sixty-seven, older than most in the sample. Surviving him were five sons: William, eighteen; Moses, twenty-six; Joseph, thirty-one; John, thirty-nine; and Enoch, forty. Of these, the only son left at home was the youngest, William. Adams may have been

---

*Folks* (Rumford, Maine: The Author, 1980), and Agnes Blake Poor, *The Andover Memorials*, rev. ed. (Bryant Pond, Maine: Inman Printing, 1997). My copy of *The Memorials* included an unbound 18 x 24" map titled "Andover, Maine #230 C-1," further identified as "Traced from a plan compiled from unknown sources [sic] by Winslow Talbot for Silvanus Poor Esq. about 1845." This map gives lot boundaries and owners' names for the ranges on the west and east sides of the Ellis River in Andover. Hereafter referred to as Silvanus Poor's map.

<sup>25</sup> See Silvanus Poor's map.

<sup>26</sup> McMillan left his wife half his personal estate, with the other half to be divided between the four children. Confusingly, in a codicil written two months later than the will, McMillan provided that if his widow should choose to "take her dower," she could do so without waiving the provisions of the will. McMillan left a large amount of real and personal property but also large debts against the estate. Although his widow did claim her dower, the estate remained unsettled for many years.

<sup>27</sup> Main, "Widows in Rural Massachusetts," p. 79. Waters, "Traditional World," p. 17, found that 14% of seventeenth-century testators in Barnstable gave a double share to one son. The only clear instance of this practice in the Oxford County sample is the 1807 will of Anthony Bennett of Norway, who left seven children, with an eighth born posthumously. Bennett willed one equal share to each of his six younger children, one share to the posthumous child, and "two equal shares" to his oldest son, Isaac.

satisfied that he had done well by his older sons. Three years earlier, the third son, Joseph, acquired family land in nearby Rumford where he had established a successful medical practice.<sup>28</sup> And only two months before he died, Adams sold large tracts in Andover to sons John and William.<sup>29</sup>

This still leaves the oldest Adams son, Enoch, and the fourth son, Moses, unaccounted for, holding no land. Fortunately, a close neighbor, Silvanus Poor, knew the family well and left us some information about both. In his candid opinion, Enoch II was a solid citizen whom his father had not neglected: “Mr. Adams was a very industrious, prudent man, on very good terms with his family. . . . He accumulated a little property.” Poor tells quite a different story about Moses Adams. His capsule biography deserves to be quoted in full:

Moses Adams, son of Enoch, was the third white child born in town. He lived with his father till he was 21 years of age, and was expecting to live with and take care of his parents, but became engaged to a Miss Abbot. His parents and family were not willing he should marry her, and gave him a yoke of oxen to break off the engagement, which he accepted and broke it off, and after a few years married Miss Dorcas Farnum of Rumford, who came here and lived on the old farm very pleasantly. He contracted the habit of drinking strong drink, left his wife and family and went west. The last that was known of him he was seen and helped to money by H. B. Smith of Hanover in Ohio in 1830—a poor broken down man without friends to care for him.<sup>30</sup>

Whatever other conclusions we may draw about the Enoch Adams family, the fact remains that when it came time to write his will Adams followed the well-established custom of choosing one or two sons over the others. Yet by the time he died, Adams would have been satisfied that all his sons, with the exception of the hapless Moses, had become prosperous citizens. His oldest son, Enoch, remained in the Andover area, raised a large family, and was active in local politics. John inherited the family farm by

---

<sup>28</sup> See Oxford County Registry of Deeds, 22:79, dated February 16, 1816. Although some deeds seem to be missing, ownership presumably went from Enoch Adams to his son Enoch and then from Enoch II to Joseph.

<sup>29</sup> Oxford County Registry of Deeds, 16:270 and 16:271, both dated June 17, 1819.

<sup>30</sup> Poor, *Andover Memorials*, p. 16.

Item I give to my Son Moses Adams one Dollar to be  
 paid at my decease  
 Item I give to my Son John C. Adams all my State -  
 Real and personal and intermixed and including my  
 Clock that in what other ways disposed of at my decease  
 his paying out the legacies and my just Dues - & I do  
 constitute ordain and appoint my said Son John C. Adams  
 Sole Executor of this my last Will and Testament  
 In testimony whereof I do hereunto set my hand and  
 Seal the year and day above mentioned  
 Signed Sealed and published  
 pronounced and delivered by  
 the said Enoch Adams as and  
 for his last Will and Testament  
 in the presence of us at his request  
 and in his presence we subscribed  
 our names as Witnesses  
 Joseph Pragg  
 Timothy Abbott  
 Enoch Abbott  
 June 28 1819 Paris

The last will and testament of Enoch Adams signed July 28, 1819. The original is in Oxford County Probate Records Office, Paris, Maine.

the clause in his father's will which gave him all the estate "that is not in other ways disposed of."<sup>31</sup> Joseph was a thriving physician. Youngest son William soon settled, with livestock, plow, and swarm of bees on a nearby farm and, in the words of Silvanus Poor, "increased in property."<sup>32</sup>

In the Oxford County sample, the forty-four men who owned some real estate and also had at least two sons faced an end-of-life decision similar to Adams'.<sup>33</sup> (See Table 1 below.) While five of this group (11%) willed their land equally to sons and daughters, and three (7%) even favored their daughters over their sons, the great majority (70%) chose their sons in preference to their wives, daughters, and other relatives. Many of these men had only one piece of land, the hundred-acre farm they lived on, but others owned enough so that they did not need to divide the home farm between two or more sons.

**TABLE 1**

**Preferences Indicated in Wills of 44 Land-Own-  
ing Oxford County Men Who Had At Least Two Sons**

Oldest son	9%	(4)
Youngest son	25%	(11)
In-between son	9%	(4)
Two sons equally	20%	(9)
All sons equally	7%	(3)
All sons & daughters equally	11%	(5)
One grandson	2%	(1)
Wife only	9%	(4)
All daughters equally	7%	(3)

<sup>31</sup> This conclusion is also based on information in Poor, *Andover Memorials*, pp. 14-15, and in Silvanus Poor's map, as well as on clues from a tedious search through the Oxford County Registry of Deeds. It appears that in 1826, seven years after his father's death, John Emery Adams sold the original Adams home farm in Andover and moved to Cleveland, Ohio. See his deed to John Farrington, Oxford County Registry of Deeds, 35:112, dated October 12, 1826, and also a deed to John Emery Adams "of Cleveland," at 35:112, dated April 11, 1836. This is the registry's last entry for John Emery Adams.

<sup>32</sup> Poor, *Andover Memorials*, p. 16.

<sup>33</sup> Out of the whole sample of sixty-three male testators, all but three of those who had children had more than one son.

Of the nineteen men who favored one son over the others, four chose the oldest; three, including Adams, a middle son; and eleven, the youngest son. Nine others gave their real estate, including the home farm, to two sons jointly. Interestingly, historian John Waters found similar inheritance patterns in seventeenth-century Barnstable, Massachusetts. He has sought to explain both why so many favored the youngest son and why so many left their land to two sons together. Favoring the youngest, he suggests, results from a family situation in which only one son, often the youngest, is left at home at his father's death. The other sons, on reaching adulthood, have already married and moved out. The youngest son, often still unmarried, then becomes the logical one to inherit both the family farm and the responsibility of caring for his mother and any unmarried sisters.<sup>34</sup>

The ages of his dependents helps explain the actions of any individual will-writer in Oxford County. James Osgood of Fryeburg, a large property owner, died in 1815, leaving three sons and ten daughters. Since his two oldest sons were aged thirty-one and twenty-seven and were presumably well established in life, he chose to leave the home farm and other property to his youngest son, Lewis, then fourteen. Osgood stipulated that Lewis should receive half the property when he reached twenty-one and the other half on the death of Osgood's wife, Abigail. But then Osgood added another clause that indicates his family priorities. If Lewis should die before he reached twenty-one, the land was to be divided between all the remaining children. But they were not to receive equal shares. Two-thirds would go to his two other sons, and Osgood's ten daughters would divide the remaining third.

The rationale for leaving the bulk of the estate equally to two sons requires more explanation. Waters believes that this practice harks back to a persistent belief that somehow two sons, usually the two oldest, could work together as an harmonious team for the common good of the whole family. Together, they would assume their father's position as head of family. In some cases, the testator attached some obligations. For example, Ebenezer Benson of Jay provided that his two sons should share equally but should also give “their mother in all respects an honorable support all the time she shall remain my widow.” Likewise, brothers Cyrus and Otis Bicknell shared equally in the estate of their father, Noah Bicknell of Hebron, but were required to pay \$50 to each of their three sisters within three years, and \$75 to Noah's other four sons. A further condition was

---

<sup>34</sup> Waters, “Traditional World,” esp. pp. 6, 7, 17, 21.



that Noah's youngest sons, Hosea, Luke, Timothy, and Tristram, were "to live and labour" with Cyrus and Otis until they turned twenty-one. In this complicated will, it appears that Bicknell was attempting to provide as best he could for the future of his adolescent sons.

Wills were not, of course, the only way to transfer property to the next generation. One could also give it away or sell it. Several of the Oxford County wills, in making a token bequest to a son, contain a phrase such as "in consideration of what I have already given him" or "settlement already made."<sup>35</sup> As indicated above, Enoch Adams sold land to two of his sons only a short time before his death. But a random search in the land records for deeds involving the sixty-three male testators led to three interesting findings. First, unless their deeds were never recorded or have been lost, most of the men in this study did *not* sell or give land to their children.<sup>36</sup> This proved true even for many of those whose wills contained explicit language that they had done so. In other words, when Adams in his old age sold land to his sons, he was somewhat unusual. Second, the fathers preferred to sell the land, not give it. I found only one or two outright gifts to children. Without much question, the sons' ages affected the timing of the property transfer: the older the son, the more likely his father was to give or sell him land. The third finding is that those fathers who did sell land to their sons almost always retained at least one important piece, usually the home farm.

## DAUGHTERS

However it was conveyed, the land belonged to men. According to the traditions established centuries earlier, the wife served as a transitional figure to reproduce generations and to transmit property from husbands to sons. Despite the fact that a handful of Oxford County men left more of their property to their daughters than to their sons, nearly all acted on the assumption that once married, women were the sole responsibility of their husbands. Men sometimes left their daughters cash, sometimes a sheep or cow, often some beds and chairs, but seldom any real estate. Enoch Adams, typical of his generation, left only a small amount of furniture to his three daughters.

---

<sup>35</sup> See will of James Osgood of Fryeburg, 1815.

<sup>36</sup> The main reasons deeds might not be recorded were 1) the cost of a recording fee, and, probably more pertinent, 2) the need to travel a considerable distance, at a considerable expense, to record the deeds at the county court house. Andover, Maine, was 30 miles of poor roads — one long day's travel — from the Paris courthouse.

The concern of many will-makers for their dependents, especially their unmarried daughters, helps explain why a few men (8) left the bulk of their estates to their daughters. Their motive was probably less to make the daughters financially independent than to improve their prospect of marrying well. It helps explain why Joseph Leavitt of Turner left \$1.00 to each of his four sons, all over thirty years old, but then willed \$30.00 to daughter Sylvia and \$150.00 to daughter Laurinza. All his real estate, subject to the widow's dower, was to be divided by three daughters, none of whom were married when Leavitt died at fifty-eight. Josiah Bisco of Paris, another well-off landowner, followed this pattern when he willed \$50.00 each to two sons and one granddaughter, \$200.00 to a second daughter, and all the rest equally to his two youngest, unmarried daughters. And John Nourse of Waterford left \$1.50 to each of seven children but, after his wife's death, everything else he owned to his two youngest daughters, who were single.

Although Oxford County men generally favored their sons in their wills, most also made small bequests to unmarried daughters and other dependents.<sup>37</sup> In addition to small sums of money, they often gave their parents, unmarried sisters, and elderly servants special rights to occupy rooms in the family home. For example, Daniel Holman of Livermore gave his unmarried sister Dolly “a privilege in the house with my wife during her pleasure.” Likewise widower Daniel Tuttle willed his youngest daughter Lucy one good bed, one good cow when she reached eighteen, and “a privilege in my house . . . to make it her home so long as she shall remain a virgin.” However helpful such provisions were for the dependent parents and unmarried daughters, they also had the potential for creating family friction. For example, Lucy Tuttle, who was about sixteen when her father died, became completely dependent on the goodwill of her twenty-one-year-old brother Daniel to whom their father had left the family home and land. A petition nineteen years later from Richard Anderson, who had married Lucy, complains that brother Daniel never complied with the terms of the father's will. Specifically, Lucy had not received the bed or cow and she had been denied “the liberty of making her father's house her home.”<sup>38</sup> Just why Lucy's husband took this public action at a time

---

<sup>37</sup> Norma Basch believes that the reluctance of testators to be generous to their married daughters is not so much a distrust of their sons-in-law as an assumption that these daughters were not in need. The Westchester County, NY, wills she studied show a concern especially for unmarried daughters *who might not marry*. See *In the Eyes of the Law*, p. 102.

<sup>38</sup> The petition seeks permission to bring suit against Daniel Tuttle, Jr.

when Lucy no longer required a bed, cow, or place to live indicates some unresolved tensions in this family.

Although early nineteenth-century Massachusetts inheritance law gave equal rights to sons and daughters alike, very few men left any landed property to their daughters, married or not. For this reason, most Oxford County daughters fared better at their father's death if he died intestate. For example, if Enoch Adams had died without a will, each of his three daughters and five sons would have been entitled, after their stepmother's death, to one-eighth of their father's personal and real estate. Under the terms of Adams' will, the daughters received only beds and chairs.

In view of the strong tendency of Oxford County men to favor one son over the others, we can learn something by looking at the five instances where the deed-writer had only daughters. After leaving their wives a life interest in at least part of their property, all five gave their daughters an equal share of real estate. But Jacob Daniels of Paris, one of the five who had no sons, was the only Oxford County man with children who chose also to remember his siblings. A well-off cordwainer, Daniels left \$150.00 to each of three brothers and \$75.00 to a sister and, upon her mother's death, everything else to his one daughter.<sup>39</sup> The case of Amos Edes of Livermore is also interesting. While he left one equal share of his estate to his four surviving daughters, he complicated matters greatly by also giving each of his seven granddaughters and five grandsons an equal share, meaning that his estate would be split into sixteenths. These five wills together suggest that when fathers were concerned only with their daughters' inheritance, their guiding principle was to treat them exactly alike. That is, none of the five testators made any effort to favor one daughter over the others.

## **POOR WIDOWS**

Few of the Oxford County men leaving wills were as well off as Enoch Adams. This study has not attempted to compare the financial status of the 247 individuals in the estate files or of the 67 who left wills. The impression gained from studying their records, however, is that longevity equaled prosperity. Those who died young were less fortunate than those who lived beyond the age of fifty. There was, for example, Joseph Dale of Paris who, after serving in the War of 1812, came home sick and died a few months

---

<sup>39</sup> Daniels stipulated that his executor sell all his real estate in order to pay these legacies. The remainder was to be invested for his daughter to inherit when she became 21 or married. In a case like this, the widow's share usually would be converted to cash also.

later, leaving “a family of nine children in the care of his widow, with little or none for their support.”<sup>40</sup> His will bequeaths to his wife Phebe almost everything he owned, mostly some livestock, farm tools, furniture, and clothes. The total value was only \$314.00, a small amount even then. To his oldest son and daughter, he left “one sheep apiece, within six months of my death.” Then, rather poignantly, he directs that “William Dale, Anhelus Dale, Phebe Dale, Benjamin Dale, Elliot Dale, Charles Dale and Mary Dale my children get one sheep apiece . . . as soon as they are 13.”

How this family managed to survive remains an historical mystery. Phebe Dale, though burdened with nine small children, was still young enough to marry again, but there is no evidence she did so. Although nearly all of the Oxford County men who died between 1805 and 1820 left a widow, existing records show only twenty-three of their widows marrying again. These widows represented only 17% of those for whom personal information exists.<sup>41</sup> Sally Silver, widow of Nathan Silver of Rumford, faced a future just as bleak as Phebe’s when her husband died in 1811, also leaving her with nine children. Four years later, however, Sally married Robert Hinkson and produced two more children.<sup>42</sup>

In analyzing the options open to poor widows, our figures for nineteenth-century Oxford County agree in large part with those Alexander Keyssar compiled in his study of widows in Woburn, Massachusetts, from 1700 to 1750. Keyssar found that most marriages ended with the death of the husband, not the wife; that only a small percentage of the widows remarried; and that those who did were almost always of childbearing age.<sup>43</sup> If she did not remarry, the needy widow’s remaining survival choices were: 1) seek support from married children; 2) find gainful employment; and 3) depend on public poor relief or private charity.<sup>44</sup>

Keyssar argues that the theory that widows were in high demand is “untenable.” In a typical case, also true of nineteenth-century Oxford County, “the bulk of the widow’s wealth lay in land which she could not sell, and the chances of renting the land very profitably were extremely slim.

<sup>40</sup> Osgood N. Bradley, *Norway in the Forties*, ed. Don L. McAllister (Norway, Maine: Twin Town Graphics [1986]), p. 310

<sup>41</sup> Interestingly, my research shows that only 29 of the men (21%) married more than once. All seem to have had children. Four of these 29 married three times.

<sup>42</sup> Martin, *New Penacook Folks*, pp. 394-401.

<sup>43</sup> Keyssar, “Widowhood in Massachusetts,” especially pp. 88, 90, 93-94. See also Daniel Scott Smith, “Inheritance and the Social History of Early American Women,” pp. 45-66 in *Women in the Age of the American Revolution* (Charlottesville: Univ. of Virginia, 1989). Of the twenty-four Oxford County widows who remarried, only three were older than forty-five.

<sup>44</sup> Daniel S. Smith, “Inheritance,” p. 54.

Moreover, the westerly end of a small dwelling house, shared with another generation, would not necessarily be an alluring living arrangement for a new husband.” According to Keyssar, Woburn’s poorest widows did not remarry. In Oxford County, the picture looks different. Of the twenty-three widows there who remarried and for whom we have an estate inventory, thirteen of the deceased husbands left an estate of average or above average value; ten a below average estate. Of these ten, eight could be considered “poor.”<sup>45</sup> One possible explanation for the differences between Woburn and Oxford County may be that in Oxford County a poor widow’s future options were more limited, especially her chances of moving to a larger population center where she might find employment. Then, too, Oxford County’s higher marriage rate for poor widows may indicate only that the region’s general population was less well-off than Woburn’s.<sup>46</sup>

## CONCLUSIONS

The dower system, designed to serve as a kind of trust fund to support the widow while protecting the estate and the line of succession, did not work very well in early nineteenth-century Oxford County and elsewhere. Although their husbands’ wills usually gave them more than the one-third dower amount, these wills almost always tied the widows’ hands by attaching the same life-only trust provision found in dower law. When the widows’ restricted inheritance was in the form of real estate, not money, they faced another dilemma, which one historian explains this way: “Most of what widows received, land and housing, was capital in an economy where such capital was abundant and where labor was scarce. A widow could not work a farm alone, and finding tenants or farm workers was likely to be difficult and expensive.”<sup>47</sup> This situation changed little until the 1840s, when state after state began reforming inheritance laws.

The four boxes of early Oxford County estate records constitute a rich repository of 200-year-old records that provide revealing glimpses into the lives of individuals making timeless, end-of-life decisions. In general, the wills left by the men who settled Oxford County indicate they were breaking no new ground as they transferred their property to the next generation. Like Enoch Adams, most of them followed the old ways. The English-speaking men who settled Oxford County brought with them not

---

<sup>45</sup> I calculated an average estate as \$900-\$1500; below average, \$600-\$900; and poor as below \$600.

<sup>46</sup> Keyssar, “Widowhood,” pp. 108-109.

<sup>47</sup> Keyssar, “Widowhood,” p. 109.

just large families and hopes for a better future but also a host of customs and legal traditions which placed women under the protection of and subordination to their husbands. Family affection and the humane feelings of men like Adams prompted them to consider the welfare of their widows and other dependents. Their wills suggest that though these men wanted to assist all their deserving sons, most felt it important to leave the home farm to one son, frequently the youngest, in order to carry on the family heritage. Working against the pioneers' tendency to provide adequately for their families was the fact that the Oxford County men tended to die younger than expected, often leaving their widows with small children and property encumbered by restrictions and centuries-old customs.

Even in 1819, as three neighbors were witnessing the signing of Enoch Adams' last will and testament, the winds of change were swirling. For many New England sons like John, Joseph, and Moses Adams, the family farm no longer represented the future. In the decades after the War of 1812, new areas of the nation, especially Ohio, drew so many from Maine, including three of the Adams sons, that Bangor named one of its thoroughfares "Ohio Street."<sup>48</sup> As the country's destiny moved not just westward but towards industrialization, reformers and developers found that the old restrictions in inheritance laws and customs impeded the easy expansion of capital. The Panic of 1837 was a more immediate stimulus for reform by creating widespread economic problems in the 1840s and also exposing the plight of widows and abandoned wives.<sup>49</sup>

Enoch Adams' granddaughters were probably among the first to benefit when, in the 1840s, the states of Massachusetts and Maine became leaders in passing new laws which improved the property rights of married women. Although the reformers' actual goal may have been more economic than humanitarian, the effect of this legislation was to initiate the first American women's rights movement, of which the Seneca Falls Convention (1848) may be the best example.<sup>50</sup> Massachusetts in 1842 gave a married woman the right to make a will and in 1845 the right to hold property "for her sole and separate use."<sup>51</sup> Maine was not far behind. Its reforms came piecemeal, slowly but surely: in 1844, the right to own and control property; in 1876

---

<sup>48</sup> For more on the Ohio fever, see Clarence A. Day, *A History of Maine Agriculture, 1604-1860*, University of Maine Bulletin, LVI, No. 11 (April 1954), especially chap. XV.

<sup>49</sup> Chused, "Married Women's Property Law" (1983), p. 1400.

<sup>50</sup> Peggy A. Rabkin, *Fathers to Daughters: The Legal Foundation of Female Emancipation* (Westport, CT: Greenwood Press, 1980), p. 12. See also Warbasse, *Changing Legal Rights*, p. 307.

<sup>51</sup> See *Massachusetts Acts and Resolves*, 1841, chap. 74; 1845, chap. 208; 1855, chap. 304.

the right to bring suit; in 1889 the right to execute a will. The last crucial piece did not fall into place until 1895, when Maine finally abolished dower altogether.<sup>52</sup> For the wives and daughters of Oxford County, these changes came none too soon.

HJM

---

<sup>52</sup> *Maine Acts and Resolves*, chap. 117 (March 21, 1844); *ibid.*, chap. 61, sec. 5 (1876); *Maine Revised Statutes*, chap. 63, sec. 1 (1889); *Maine Acts and Resolves*, chap. 157, sec. 1-2 (1895).