

The social consequences of legal reform: women and property in a Canadian community

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ABSTRACT. This article examines patterns of property-holding in an Ontario town before and after legislation in 1872 and 1884 that permitted married women to hold property in their own name. The experience of Guelph follows that of other North American urban communities in which women substantially increased their share of urban property during this period. Single and widowed women achieved most of the gains although married women also increased their holding of real property. Indicators of long-term change derived from assessment records, census manuscripts, wills, mortgages and property transfers support the hypothesis that the legislation was instrumental in the rise of female ownership. The effect of the law was felt through various channels of causation, including a change in inheritance practice that favoured women.

I. INTRODUCTION

The passage of married women's property acts during the second half of the nineteenth century marked a significant turning point in the campaign to win equal economic and political rights for women. Until these changes married women were subject to the restrictions of *coverture*. Details varied but in most common law jurisdictions *coverture* denied married women the right to hold, control or dispose of property in their own name. The passage of the married women's property acts made it possible for women, regardless of their marital status, openly and straightforwardly to manage, use, profit from, sell and will their own property. Full access to property, in turn, implied that voting rights were likely to follow, inasmuch as property-ownership was a criterion for municipal suffrage in many

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jurisdictions. The right of married women to hold property altered the basis on which men and women came together in marriage, and of course it permitted a greater accumulation of wealth in female hands.¹

Although clearly important as a symbol of the changing economic status of women, the significance of the married women's property acts is questioned for a number of reasons. One consideration is that earlier generations of women attempted and were at least partly successful in circumventing the restrictions of married women's property acts. *Cverture* conditioned the nature of their political and economic activity, but in Britain at least some married women were able to evade the restrictions, engage in business, and even control property through a variety of legal constructs.² The success of these strategies is one reason to question the practical economic importance of the legislation. The narrow scope of judicial interpretations of the new laws reinforces scepticism about the efficacy of the married women's property acts. Moreover, patriarchal assumptions about family and work continued to limit the potential for female incomes, and in any case ownership remained outside the reach of many families.

Precisely how, if at all, the married women's property acts changed life for most women remains an unresolved question in the literature of a number of countries. Of course, similar legislative intent might have given rise to different outcomes in the various common law jurisdictions because laws differed, as did the nature of local property markets and the timing of legal reform in relation to local economic conditions. Most eastern American states introduced some form of property ownership for married women before 1860, which was followed later in the century by greater control of earnings for women and the effective elimination of *coverture*.³ In England, the debate about property rights prompted more than twenty Parliamentary bills beginning in the 1850s, although effective legal change waited until 1870 and, much more significantly, 1882.⁴ The right to hold personal property was liberalized a few years before the right to real property in England. The key changes in Scotland were made in 1877 and 1881. In Canada, the provinces followed at different dates; for example, Ontario followed the British lead in 1872 and 1884, while Nova Scotia waited until 1884 and 1898.⁵ The right to dower also retreated at a different pace in the various jurisdictions.⁶

Jurisdictions also differed in their use of the separate estate. The importance of the married women's property acts was conditioned by the prior possibility of retaining property in an estate separate from the marriage and thereby protecting and in some circumstances controlling it.⁷ Women in England, for example, made extensive use of the separate estate.⁸ Historians of North America, in contrast, tend to emphasize the

disadvantages of the separate estate and the infrequency of its use.⁹ Creation of a separate estate was costly; it required prior approval of the groom and appointment of a trustee. Rental income and other personal property remained outside the separate estate and subject to disposal by the trustee at his discretion. And it could be difficult to reclaim the property from trust in the event of family dissolution.¹⁰ For these and other reasons North American women appear to have used the separate estate rather infrequently. Even in Quebec, with its tradition of marital agreements, a small and diminishing proportion of marriages adopted settlements during the nineteenth century.¹¹

The scarcity of marriage settlements enhances the potential significance of the change in North America, where the married women's property acts allowed married women to share in the widely held aspiration to acquire property.¹² Even in this environment, however, women remained at a disadvantage because of inferior opportunities for education and a pervasive gender inequality in power, social status and labour market opportunities. Women could and did engage in business,¹³ but clearly their property-holding and other business activities were hampered in ways that did not afflict men even after the married women's property acts. For this reason, the legislation's impact on everyday life remains uncertain. If we are to believe that the married women's property acts had a practical impact on the lives of ordinary women, their effects should be visible in the propensity of women to hold property, especially those women who entered marriage following the legislation. In this article we investigate patterns of property-holding in a single community which provides a useful case study. Throughout the article we focus on real property (such as land and buildings) rather than personal property.

II. INTERPRETATIONS OF THE IMPACT OF THE MARRIED WOMEN'S PROPERTY ACTS

Recent investigation of the nature and patterns of property-holding by women in various jurisdictions has produced mixed evidence about the extent to which women made gains during and immediately after the period of legislative reform. Studies of will-making in rural Canada suggest no improvement in and perhaps even a diminution of the female share of property during the nineteenth century.¹⁴ In contrast, evidence from Canadian cities seems to suggest that women increased their share of property-ownership.¹⁵ American women also appear to have improved their position in the same period.¹⁶ Studies of common law jurisdictions outside North America are scarce. Elsewhere in this issue Mary Beth Combs reports the first systematic evidence for England. Her study

suggests that the 1870 English law increasing married women's rights over personal property had a considerable impact.¹⁷

Several interpretative challenges shape our investigation of the impact of the married women's property acts. One challenge is simply to document the changing pattern of property-holding by women and men during the era of married women's property legislation. Many scholars have given reasons why we should not expect to see a significant movement of women into the ranks of property-owners. Indeed, some argue for a general impoverishment of both men and women. The available evidence, however, is limited and somewhat mixed. Additional case studies based on a wider variety of sources will help to provide a firm empirical base on which to ground our understanding.

Even if the evidence should suggest that some women gained property in the aftermath of the married women's property acts, there remains a difficult question of causal interpretation. For example, there is room to doubt the contribution of the married women's property acts if women were improving their holdings even before the legislation. This gap in the current literature is worrisome because an emerging body of analysis identifies social, economic and political pressures for legislative change which may also have led to an increase in ownership by women.¹⁸ In other words, broad social transformation may have been the fundamental source of change, and the legislation – although important in an enabling way – is more properly seen as a result rather than a cause. The interpretation of causality is especially difficult in such situations. We are more inclined to attribute causal significance to the legislation if it is seen to coincide with some turning point in the long-term experience. Unfortunately, few studies draw upon a sufficiently long run of evidence to permit a credible assessment of the timing of change.

Finally, any recognition of the impact of the married women's property acts on property-holding would be incomplete without some understanding of the channels of causation. What kinds of women gained access to property, and in what circumstances? Did women come to bargain on a more equal footing with a prospective partner because of the enhancement of their rights as married women? Did enhanced access to resources during the marriage increase the potential for wives to acquire property? Or did single women and widows try harder to obtain their own property knowing that henceforth they would be able to retain title if they happened to remarry? Did fathers and husbands, for the same reason, alter their inheritance strategies in a way that transferred an increasing share of property to daughters and widows?¹⁹ Empirical research is needed to determine which (if any) of these channels of causation contributed to the patterns of women and property during the later nineteenth century.

III. THE MARRIED WOMEN'S PROPERTY ACTS IN ONTARIO

We investigate the married women's property acts in the Guelph, a small city in the province of Ontario with a population large enough to sustain generalizations based on individual experience and yet small enough to be manageable. Ontario is a useful jurisdiction because the phased introduction of the legislation is particularly well documented.²⁰

During the second half of the nineteenth century Guelph was the market centre for Wellington County in the middle of Canada's most prosperous farming region.²¹ Permanent settlement by Europeans and the first municipal institutions began in the 1820s. A generation later the first railway reached Guelph. The town soon had effective rail links to markets in the west (London, Detroit), south (Hamilton, Buffalo), east (Toronto, Montreal) and an expanding agricultural hinterland to the north. A growing industrial and commercial sector ensured that no single sector dominated local employment. Guelph's population, 6,900 in 1871 rising to 10,500 people in 1891, was small enough to allow us to examine all inhabitants and yet large enough to provide a rich body of evidence. We supplement some lines of evidence with records drawn from smaller towns nearby in order to expand the sample size in the early years.

The legislation that removed restrictions on married women in Ontario appeared in two stages. Legislation in 1872 and 1873 recognized the authority of married women to dispose of their own personal property (money and chattels) and broadened a statutory separate estate to include earnings.²² Nevertheless, married women remained unable to dispose of real property or enter contracts on it until 1884, in which year new legislation removed most restrictions on her use and disposal of property. The 1872 and 1873 laws were especially important for married women in business on their own (without their husbands) and for women who were trying to accumulate chattels or financial savings.²³

There are several reasons to think that patterns of real property-holding may have begun to change in anticipation of the legislation passed in the spring of 1884. The 1872 and 1873 legislation undoubtedly enhanced the legitimacy of ownership of all kinds from the point of view of widows and single women. Second, the 1872 law initially appeared to convey greater rights than were supported by subsequent judicial interpretation.²⁴ Some women may well have begun to acquire real property on the basis of a (mistaken) liberal interpretation of the 1872 law. Indeed, by the end of the 1870s most observers anticipated further change because of inconsistency in the existing legislation and the well-publicized advance of suffrage campaigns. The passage of a new married women's property act in England during 1882 further reinforced the expectation that further change in

Ontario was imminent.²⁵ It is also worth noting that the first round of legislation allowed married women to hold personal property and thereby prepare for the acquisition of real property if they should be widowed. All of these factors might account for some increase in real property held by women in advance of the legislation in 1884.

Although some women may have acquired real property before the legislation, others would have delayed until afterwards. Not everyone who eventually would acquire property was in a position to act immediately, for financial reasons and because family and social patterns of behaviour do not change overnight. Moreover, as a practical matter the legislation did not bind couples who entered marriage before the married women's property acts. This matters to the researcher because vital registration in Ontario was not sufficiently comprehensive to allow us to discriminate between couples who married before and after the legislation.²⁶ These considerations ensure that any impact of the married women's property acts will not be immediately visible in any body of evidence that includes all married couples, for practical as well as conceptual reasons.

The likelihood of a gradual and protracted effect rather than a sharp turning point complicates the empirical analysis because it becomes more difficult to separate the impact of legal reform from other influences. In British North America men were the typical first recipients of land alienated by the Crown and companies it chartered, but many men passed some property to their daughters and wives. Indeed, differential mortality created a sizeable class of propertied widows, while falling fertility would have increased the number of families with daughters but no sons who might inherit. More property might pass into female hands simply because the incidence of daughter-only families increased. Urbanization, in itself, meant that more and more women lived on non-farm property which they were more likely to inherit.

The importance of urbanization may be seen in a tabulation of wills probated in nearby south-western Ontario. An index to the London District Surrogate Registry (1800–1839), the Middlesex County Surrogate Court Register (1846–1853/4) and the Elgin County Surrogate Court Register (1859–1900) makes it possible to survey easily the share of estates originating with women.²⁷ This is a crude although useful barometer of the gender distribution of property since although not every testator held real property, many did so and all held property of some kind. The female share of estates increased in both rural and urban areas of Elgin County but, significantly for our argument, women accounted for a much larger share of urban than rural estates throughout the century. Consequently, a county-wide measure would exaggerate the increase of women's participation because it combines the effect of urbanization with that of

changing female experience within each of the urban and rural areas. As a practical matter, therefore, it is important to restrict the focus to either urban women or rural women, to the extent that the sources will allow.

Economic factors appear to have favoured a gradual increase in the number of propertied women within each of the rural and urban areas, regardless of the married women's property acts. Some change would be expected simply because incomes were rising, as was the number of properties. As well, Geddes and Lueck argue that a long-term trend increase in the importance of human capital favoured a more independent status for women, including property ownership, because human capital investment was costly to monitor.²⁸

Improvements in transportation and communication widened the markets in which local businesses bought and sold, which in turn required participation in credit transactions over longer and longer distances.²⁹ As business dependence on personal relationships diminished, property became a more important anchor to credit-worthiness. Married women in business needed to hold and make contracts on their own, without the participation of their husbands and with no confusion about who precisely owned family property.

It is also possible that women in this period expanded their work activities outside the home. This would have increased the need for business premises of their own and expanded potential for generating income with which to purchase property. Admittedly, the changing bias of census enumeration makes it difficult to know whether or not work outside the home by women really did increase.³⁰

Any or all of these factors may have caused some increase in women's share after an initial male dominance of property-holding. This complicates the analysis insofar as any increase in female property-holding during or after the period of legislative change might have resulted from other pressures as much as the legislation itself. Isolation of the impact of the married women's property acts relies, therefore, on sources that can reveal if any shift in ownership after 1884 was somehow larger or faster than would otherwise have occurred.

IV. EVIDENCE OF WOMEN AS OWNERS OF REAL PROPERTY IN GUELPH

One possible source of information about the holding of real property is the census. Most Canadian enumerations included questions about property. For our purposes it is particularly unfortunate that Canadian enumerators were instructed to record property as belonging to the 'head of family'.³¹ With the 1901 census these instructions changed to recognize that property might belong to anyone, whether or not the individual was

TABLE 1
Share of household heads owning a house, Ontario, 1871

	Female head (%)	Male head (%)
Age of head		
20–29 years	24	46
30–39 years	48	61
40–49 years	63	73
50–59 years	64	75
60–69 years	58	85
70+ years	63	74
Urban only	39	44
Rural only	60	72

Source: Gordon Darroch and Lee Soltow, *Property and inequality in Victorian Ontario* (Toronto, 1994). These data describe a sample of 4,119 household heads from the 1871 census. The rural and urban figures were adjusted to match the age structure of the sample with the provincial age structure.

a head.³² Nevertheless, it is not clear how many enumerators tried, much less succeeded in distinguishing ownership among individual family members. In Guelph 11 of the 12 enumerators in 1901 attributed ownership only to heads of household. The twelfth enumerator recorded some properties as being owned by family members other than the head but census staff later altered his records so as to re-assign ownership to the household head.³³ Not surprisingly the assessment roll identifies many more female owners than the census, even in 1901.³⁴

The Canadian census understates ownership by non-heads and women and, by implication, overstates ownership by male household heads. Nevertheless, it does provide a useful overview of patterns of ownership at the level of the entire household. Darroch and Soltow demonstrate the value of this source with their unbiased sample of households taken from the 1871 census in Ontario.³⁵ These data, summarized in Table 1, outline the broad patterns of property-ownership in the province. The share of male-headed households owning their own homes was nearly three-quarters in rural areas and less than half in urban areas.³⁶ The census data also reveal a life-cycle pattern in which property ownership increased with marriage and age and diminished slightly at advanced ages.³⁷ Households headed by married men between 45 and 60 years old had the highest rate of ownership.³⁸ Households headed by women were less likely to own property in both rural and urban areas.

In order to investigate ownership within the household we must turn to other sources, of which the municipal assessment roll is the most readily

accessible. The nature and quality of assessment information differed by municipality and changed from year to year, but almost always it specified the name of the owner, the tenant (if any) and who paid the tax. Of course, any tax-related source such as an assessment reflects tension between individual strategies for tax evasion and the municipal capacity for administrative integrity and control. The assessment's inventory of real property is generally thought to be comprehensive, since both real property and the assessment roll were visible to the public, although valuations are less reliable.³⁹

One disadvantage of the assessment roll is that people appear only as a by-product of the property inventory. The unit of observation is the 'property' rather than the 'individual'.

Not surprisingly, the tax-assessed and census-enumerated populations differ. In some communities the assessment excludes most adult women and a quarter of adult males (and possibly some household heads).⁴⁰ The assessment roll tends to show a higher rate of ownership than do census records because of the latter's treatment of property for non-heads, as noted above, and also because the assessment typically identifies fewer people.⁴¹

Assessment-based studies of Ontario municipalities indicate that the propertied share of the population did not diminish markedly if at all during the 1870s and 1880s.⁴² During the same period Baskerville demonstrates that the women of Victoria and, to a lesser extent, Hamilton, gained property.⁴³ Assessment records for Guelph summarized, in Table 2, suggest a similar tendency, although the experience of women in two farming townships immediately outside Guelph was rather different. The assessment data for Puslinch and Eramosa Townships indicate even more clearly than the data in Table 1 that rural women were less likely to hold property than their urban sisters. Ownership by rural women increased modestly during this period but it remained at very low levels. Presumably this reflects a male-to-male transmission of rural wealth, documented in other studies.⁴⁴

The changing odds of ownership over the life-cycle during the last quarter of the nineteenth century raises the possibility that an aging of the Canadian population (due to falling fertility and a switch from net immigration to emigration) may have contributed to the patterns visible in assessment-based studies. Incomplete demographic coverage in the assessment rolls makes it necessary to link to the census in order to adjust for the impact of demographic change on ownership patterns. Susan Ingram has completed this onerous task for Guelph in 1871 and 1891.⁴⁵ Ingram obtains information about the owners of land and buildings from the municipal assessment records, and then finds these owners in the census

TABLE 2
*Female-held share (%) of property in Guelph and nearby rural townships,
 1851–1901^a*

	<i>Puslinch Township</i>	<i>Eramosa Township</i>	<i>Guelph</i>
1851		3	7
1856		2	9
1861		4	6
1866		2	9
1871		4	6
1876	5	5	7
1881	6	6	10
1886	6	7	10
1891	7	n/a	16
1896	8	n/a	17
1901	8	8	19

^a The properties included in this table are those owned by a man or a woman (or the estate of a man or woman). Institutional and corporate owners are excluded. (n/a = figures not available.)

Source: Guelph Public Library Main Branch, Assessment Records for Guelph, Puslinch Township and Eramosa Township.

enumeration.⁴⁶ This procedure allows us to examine ‘individuals’ rather than ‘properties’ as the unit of observation. The Ingram data presented in Tables 3 and 4 document the incidence of ownership of real property in Guelph by age, sex and marital status for all residents 20 years or older.

Not surprisingly, married men constituted the largest group of owners in Guelph, although less than half of even this group held property. Ownership increased with age for all groups (except for widows and widowers at advanced ages).⁴⁷ The proportion of married men who owned property increased slightly from the pre- to post-married women’s property acts era, but the gains were small and confined to the higher age classes. Younger married men in 1891 were less likely to own property than their counterparts two decades earlier.⁴⁸

Women’s experience in the property market differed in a number of respects. In both years, women were less likely than were men to hold property. In both years widows account for more than half of the female owners. Nevertheless, the number of female owners and the female-held share of properties expanded rapidly in all parts of the town. Married, single and widowed women participated in the change. Only one of the women recorded as owners in the 1871 assessment appears to have been married. Twenty years later 31 married women owned property in Guelph and others may have owned property elsewhere. Eight single-women

TABLE 3
*Share (% of the population) of women owning land or a house in Guelph,
 1871 and 1891^a*

<i>Age</i>	<i>Married</i>	<i>Single</i>	<i>Widowed</i>	<i>All</i>
1871				
20–29	—	14*	—	
30–39	—	3	12	2
40–49	—	19	06	2
50–59	—	—	21	4
60–	—	7	17	9
All	—	2	15	2
1891				
20–29	1	2	9*	1
30–39	2	6	23	3
40–49	2	16	24	7
50–59	3	23	34	12
60–	3	24	29	17
All	2	5	28	6

^a Owners are those recorded as such in the 1871 and 1891 municipal assessment record. There are 20 or more women in the denominator of each cell except for those asterisked (*).

Source: Linked census and assessment data for women aged 20 or older recorded by the 1871 and 1891 census as living in Guelph, from the Guelph Public Library Main Branch. See Sue Ingram, 'Patterns of property ownership by the women of Guelph, 1871 vs 1891', MA Research Paper, University of Guelph, 1977.

property-holders in 1871 increased to 59 in 1891; the number of widows owning property grew from 19 to 104.⁴⁹ The incidence of ownership among widows rose from 15 per cent in 1871 to reach 28 per cent, a level close to that of widowed men. Single women also closed the gap with single men; ownership among the former increased from 2 to 5 per cent, in contrast to the rate for single men, which was 11 per cent in both years. A large difference between married men and women persisted although in a qualitative sense it too was changing.

These data confirm that the increase in female property was no artifact of demographic re-composition. Women in all demographic categories increased their ownership of property, and they did so faster than men. Interestingly, single women and widows account for most of the gains. Married women accounted for only 16 per cent of female owners in 1891, a large proportional change from a level of 3 per cent twenty years earlier but it was still a small minority of all female owners. Clearly, we will need to explain how the legislation aimed at married women brought considerable gains to women who were not married.

TABLE 4
*Share (% of the population) of men owning land or a house in Guelph,
 1871 and 1891^a*

<i>Age</i>	<i>Married</i>	<i>Single</i>	<i>Widowed</i>	<i>All</i>
1871				
20–29	14	9	1*	11
30–39	32	17	45*	30
40–49	42	11	17*	40
50–59	55	18*	33*	50
60–	53	27*	33	48
All	37	11	35	29
1891				
20–29	11	7	—*	8
30–39	30	14	5*	28
40–49	47	30	28*	44
50–59	54	32	52	52
60–	60	33*	35	53
All	40	11	38	32

^a Owners are those recorded as such in the 1871 and 1891 municipal assessment record. There are 20 or more men in the denominator of each cell except for those asterisked (*).

Source: Linked census and assessment data for men aged 20 or older recorded by the 1871 and 1891 census as living in Guelph, from Guelph Public Library Main Branch. See Sue Ingram, 'Patterns of property ownership by the women of Guelph, 1871 vs 1891', MA Research Paper, University of Guelph, 1977.

The linked census and assessment data in Tables 3 and 4 also illustrate a fundamental ambiguity surrounding the holding of real property by women. The rate of ownership by women tripled during twenty years. This is fast change, albeit from low initial levels. The experience of younger wives is particularly interesting because their marriages clearly fell under the authority of the married women's property acts and because the incidence of ownership decreased slightly among younger married men.⁵⁰ One explanation for the latter effect would be the decision of young wives to exercise their new legal right to keep property in their own name. In spite of these gains, only 6 per cent of adult women owned property by 1891, in stark contrast to the third of men who were propertyed. The data, therefore, provide evidence for those who are optimistic about the effects of the married women's property acts as well as those who are pessimistic. Optimists can point to the evidence of fast change from the situation before the acts, while pessimists point out that most women still were propertyless, and that the gap between men and women remained large.

TABLE 5

Numbers of female-owned properties as a share of male-owned and female-owned properties and as a share of all properties in Guelph, 1853–1913 (in six-year averages)

<i>Years</i>	<i>No. of female-owned properties</i>	<i>Female/ all^a</i>	<i>Female/ male + female^a</i>
1853	28	8	8
1854–1859	48	5	6
1860–1865	86	6	7
1866–1871	124	6	6
1872–1877	192	6	7
1878–1883	349	9	9
1884–1889	423	10	11
1890–1895	563	13	16
1896–1901	663	16	18
1902–1907	704	16	20
1908–1910	753	15	19
Average	357	10	12

^a ‘Male-owned’ and ‘female-owned’ properties are those which have a single owner whose forename unambiguously indicates gender. Owners and therefore properties which cannot be typed in this way include estates, institutions, governments, businesses, corporations, multiple owners, unknown owners and owners with gender-ambiguous forenames.

Source: Guelph Public Library Main Branch, Assessment Rolls, 1853–1913.

V. INDICATORS OF LONG-TERM CHANGE

An ability to situate the changes of the 1870s and 1880s in a longer-term perspective would help us to assess their significance. Three sources of systematic evidence have the potential to be useful: (i) assessment records, (ii) legal instruments recorded in the County property registry, and (iii) wills. We begin with the assessment records between 1853 and 1913. We classify each property as being under (i) male ownership, (ii) female ownership or (iii) some other kind of ownership (corporations, institutions, estates and so on). We report in Table 5 the number of female-held properties and the share of all properties that they represent in successive six-year averages. Other statistical measures are available to describe the trajectory of these ratios over a sixty-year period. Each method has its own strengths and weaknesses, but successive multi-year averages are easily understood and suffice to reveal trends and approximate turning points.

The long-term pattern identified by the assessment records in Table 5 is unambiguous. The number of female-owned properties in Guelph rose continuously with the growth of the town. A more telling indicator is the

female share of properties. Both variations of this measure fluctuated between 5 and 9 per cent throughout the 1850s, 1860s and 1870s, reached nearly 10 per cent during the early 1880s, and then increased steadily to almost 20 per cent by the end of the 1890s. No upward trend is discernible before the first legislation in 1872, and perhaps not even before the act of 1884. The female-held share of assessed properties increased from 6–7 per cent during the 1850s to 18–20 per cent on the eve of the Great War. Most of the increase was recorded between 1884 and 1900.

Legal instruments that were registered on property in Guelph provide another glimpse of the long-term patterns. A summary of these instruments is provided in the appendix. This source, like the unlinked assessment evidence, takes as the unit of observation a ‘property’ rather than the ‘individual’. We have examined the ‘Abstract Index’ to the property registry for 95 lots in ten contiguous blocks first occupied during the 1830s.⁵¹ This is the oldest-settled residential neighbourhood in Guelph. The Index records 3,158 instruments registered on these properties between 1834 and 1910. About a third of the instruments register a transfer of ownership and another third register a mortgage or other credit. The remaining instruments register neither ownership nor credit, and are not examined further. We report in Table 6 two kinds of transactions, those that transferred property and those that issued or assigned a mortgage. Because each transaction has a grantor and a grantee, in total we have four distinct indicators: the grantor or seller of property, the grantee or buyer of property, the grantor or borrower of credit and the grantee or lender of credit.

Our examination sets aside grantors and grantees which were institutions, corporations, male–female combinations or of unknown gender. This allows us to focus on the female share of grantors/grantees who were either male or female. The results for granting or selling property in Table 6 are reminiscent of the assessments insofar as a turning point of sorts is discernible in the era of the married women’s property acts. The female share hovered between 10 and 20 per cent with no discernible trend until 1884. In contrast after 1884 the female share of property transactions rose steadily to the end of the period, by which time women accounted for roughly half of all sales. The purchasing of property shows a similar rising pattern; a modest upward trend began somewhat earlier, during the late 1860s, but again there is a significant jump in the series around 1884. The female share of participants in credit transactions also increased markedly – beginning 10–15 years before the increase in property transfers. By the end of the period women accounted for more than half of all borrows and lenders examined in this table, as female-only borrowers and lenders outnumbered the male-only borrowers and lenders.

TABLE 6
*Narrowly-defined female share of property credit and transfer instruments
 in Guelph, 1830–1910*

	<i>Property-transfer instruments</i>				<i>Credit-extension instruments</i>			
	<i>Grantor</i>		<i>Grantee</i>		<i>Grantor</i>		<i>Grantee</i>	
	<i>N</i>	<i>% Female</i>	<i>N</i>	<i>% Female</i>	<i>N</i>	<i>% Female</i>	<i>N</i>	<i>% Female</i>
Before 1848	3	33	16	13	1	—	6	17
1848–1853	7	14	64	2	6	—	23	4
1854–1859	39	8	148	4	36	6	96	7
1860–1865	19	11	68	1	25	4	90	9
1866–1871	29	21	104	9	21	14	79	8
1872–1877	27	11	151	9	29	10	117	14
1878–1883	29	10	81	16	38	29	118	21
1884–1889	34	29	80	33	29	34	74	31
1890–1895	42	26	88	27	37	35	64	28
1896–1901	42	31	69	35	21	43	51	29
1902–1907	55	42	136	35	36	33	78	28
1908–1910	29	52	63	43	20	65	33	55
Total	355	24	1068	19	299	23	829	21

^a The grantors and grantees recorded in this table are only those where the index specifies a single man or group of men, or a single woman or group of women. Excluded are the corporations, institutions, combinations of men and women and records impossible to classify.

Source: Wellington County Land Registry Office, Guelph, Canada Company, Plan 8, 'Abstract Index' to the Property Registry, Books I and II, Guelph.

These observations exclude many instruments in which the grantor/grantee is a corporation, institution or a mixed-gender combination, typically a husband and wife. The latter entries probably reflect the preference of buyers and lenders to see the wife identified in the transaction to prevent some future contest on the basis of dower rights. The apparent importance of dower rights directs attention at instruments in which a woman is one of the signatories as opposed to being the only signatory. We examine transactions in which women participate in this much broader way as a share of all instruments registered on property. The results tabulated in Table 7 differ from those of the previous table insofar as female participation as grantors was relatively high by 1860. Among grantees of property (the buyers) and credit (the lenders), however, the broadly defined indicator roughly parallels the narrowly defined female share. Our concern with the independent right to hold property directs attention primarily to the narrow indicators, but the rough parallel of

TABLE 7
Widely-defined female share of property credit and transfer instruments in Guelph, 1830–1910^a

	<i>Property-transfer instruments</i>				<i>Credit-extension instruments</i>			
	<i>Grantor</i>		<i>Grantee</i>		<i>Grantor</i>		<i>Grantee</i>	
	<i>N</i>	<i>% Female</i>	<i>N</i>	<i>% Female</i>	<i>N</i>	<i>% Female</i>	<i>N</i>	<i>% Female</i>
Before 1848	16	44	16	13	7	86	7	29
1848–1853	65	26	64	2	29	79	29	3
1854–1859	154	45	153	4	120	68	112	6
1860–1865	75	68	68	1	91	74	91	9
1866–1871	99	69	106	8	77	75	81	9
1872–1877	158	70	161	12	153	83	158	12
1878–1883	95	71	99	24	154	77	153	19
1884–1889	93	65	96	31	106	80	113	20
1890–1895	88	53	94	26	85	66	84	21
1896–1901	77	61	80	34	55	78	61	26
1902–1907	134	72	148	34	95	73	90	24
1908–1910	67	75	68	44	41	76	39	49
Total	1,121	60	1,153	19	1,013	76	1,018	19

^a In this table, women who appeared in combination with men are included in the numerator, and the denominator consists of all instruments. The large difference from Table 6 in the grantors of property and credit arises because of the frequency of male–female combinations, which were less common as grantee.

Source: Wellington County Land Registry Office, Guelph, Canada Company, Plan 8, ‘Abstract Index’ to the Property Registry, Books I and II, Guelph.

narrow and wide (except where the influence of dower has an impact) is reassuring.

Most of these series show signs of a turning point. All narrowly defined series, for example, describe female participation at low levels during the 1850s and 1860s, and then beginning to increase in the late 1860s and 1870s (for credit transactions) or 1880s (for property transfers). The timing of this change is consistent with the hypothesis that the married women’s property acts were instrumental in the redistribution. All the data series, narrow and wide, agree that by the early twentieth century women accounted for roughly half of the individuals identified as grantors or grantees in the register of property instruments. The growth of women’s participation from less than one-tenth to roughly one-half of all individuals dealing in property is remarkable.

One final source that reflects, albeit indirectly, access to property is the collection of wills written by residents of Guelph and nearby towns and

registered either in the property register of the Land Registry Office in Guelph or in the Ontario Surrogate Court in the Ontario Archives in Toronto. This source is described in more detail in the appendix. Of course, only a minority of people wrote wills, and those who did were unrepresentative of the society at large.⁵² Wills cannot tell us a great deal about the precise timing of change, because of the variable intervals over the life-cycle between property acquisition and establishment of an inheritance strategy, and between the writing of a will and its appearance as a public document. Moreover, the married women's property acts were not retroactive in their effect on marriages, and therefore the full impact on would not become visible until the deaths of those who entered marriage after the law was created.⁵³

Nevertheless, wills reflect the relationship between women and property in several respects. To date we have been able to find more than 1,400 wills made by men and women who lived or held property in Guelph, or in one of the nearby smaller towns, and registered before and during 1914.⁵⁴ The database summarized in Table 8 indicates that women wrote about a tenth of all wills before the mid-1860s, and that their share rose to roughly 40 per cent by the end of the century. The growing presence of women roughly parallels the American experience. Carole Shammas, for example, reports that the female share of all probated decedents increased from very low levels to about a third during the course of the nineteenth century.⁵⁵ Women also acted as executors, although here we distinguish between wills written by men and by women. Beginning in the 1860s women acted as executor for 10–20 per cent of all women writing wills. The share did not increase during subsequent decades. In contrast, women gradually became more active as executors of testaments written by men. By the early twentieth century women were executing 25–30 per cent of all male wills.

The increasing activity of women both as testators and as executors for men reflects, in a general way, their growing standing in the world of law, especially property law. Widows account for roughly half of the female testators whose marital status at death may be ascertained; an eighth were spinsters and the remainder were described as married women. The relative importance of widows and single women is consistent with the linked census-assessment evidence from Guelph (see Table 3) and with the literature of other countries.⁵⁶ Our interest in the relationship between women and property directs particular attention at the female share of wills that passed real property. The final columns in Table 8 report this indicator, which also reveals a pattern of increase in the era of the married women's property acts. Women were responsible for roughly a tenth of the wills with real property from the 1850s to the 1870s. The female share

TABLE 8
Participation of women in wills as testators and executors

	No. of wills	Female share (%)	Female share (%) of executors for female and male wills		Wills involving real property	
			Female	Male	N	Female share
Before 1848	17	12	—	7	11	—
1848–1853	15	7	—	14	11	—
1854–1859	34	12	—	7	21	14
1860–1865	51	10	20	11	27	7
1866–1871	65	18	17	17	30	10
1872–1877	107	17	17	22	58	10
1878–1883	140	28	11	22	85	22
1884–1889	186	28	17	21	104	22
1890–1895	205	35	14	28	115	31
1896–1901	181	38	10	18	100	29
1902–1907	207	39	26	31	106	29
1908–1913	151	41	21	27	85	31
Total	1,359	31	13	19	753	17

Source: Wills of Guelph residents probated in the Ontario Surrogate Court (Ontario Archives, Toronto) or registered on properties in the Canada Company, Plan 8, Abstract Index to the Property Registry, Books I and II, Guelph (Wellington County Land Registry Office, Guelph).

increased at the end of the 1870s and early 1880s, and then it increased again to roughly 30 per cent in the 1890s and thereafter.

VI. INHERITANCE AND THE ACQUISITION OF PROPERTY

The married women's property acts were designed to make it easier for married women to hold property in their own name. The appearance by the 1890s of a small number of married-women owners would appear to be evidence of the impact of the legislation. Admittedly, we do not know the extent to which day-to-day control over property changed in the process. It remains possible that the re-designation of ownership was more cosmetic than real, either because married women in fact did exercise significant control before the married women's property acts or because they did not do so after them. We can say little about this possibility because the sources used in this article to identify broad trends reveal little about the detail of day-to-day control of property.⁵⁷

More interesting, however, and certainly more surprising, is the finding that women who had not married or who had lost their husbands made many of the gains in ownership. There is no reason to regard this change

as cosmetic in any way. We can recognize the potential contribution here of market-widening, fertility change, the increasing importance of human capital or other structural factors. Nevertheless, these factors are unlikely to provide a complete explanation. If they were not strong enough to cause a growth of female property during the 1850s and 1860s, as documented in Tables 5–8, then they are unlikely to have been the principal source of later changes. At a minimum, therefore, the married women's property acts seem to have lifted a constraint on an otherwise natural growth of property-holding for single women and widows, as well as for married women.

We thus return to the idea that women increasingly acquired property because of a general social acceptance signalled by the married women's property acts and because they would be able to retain control in the event of (re)marriage. An examination of individual life histories might reveal who exactly acquired property and in what circumstances. Unfortunately, the broad sweep of our own investigation provides little information about the personal history and family circumstances of individual women. Cross-sectional econometric analysis of linked census-assessment data or other micro-level information might contribute to an explanation of who owned property and why, although the results from a preliminary examination of demographic characteristics are not promising.⁵⁸

One method of property acquisition that left a visible mark in the documentary record is inheritance.⁵⁹ Shammass has suggested that one effect of the married women's property acts was to make husbands and parents more likely to leave property to wives and daughters since husbands would be less likely to gain control of their family property.⁶⁰ Not all women would choose to maintain their property independent of the family enterprise, but the married women's property acts nevertheless gave women a choice that had not been available previously, and thereby altered the terms of negotiation between husband and wife. A changing pattern of bequests may account for at least some of the increase in women's property.⁶¹

Admittedly, the examination of inheritance is complex since property was transferred between the generations using a variety of legal instruments at different points in the life-cycle (and some families did not even use legal instruments).⁶² Nevertheless, even if they do not capture all of the intergenerational transfer, wills are widely used to give some indication of the pattern of inheritance. A sample of wills collected by Livio Di Mateo in Wentworth County, immediately to the south of Guelph, indicates that 53 per cent of testate individuals with daughters who died in 1872 transmitted their property equally among sons and daughters or favoured daughters.⁶³ Twenty years later, following the introduction of the married

TABLE 9
Inheritance by widows in Guelph wills^a

	<i>N</i>	<i>Number of wills in which the widow receives something</i>	<i>Share imposing conditions on the widow (%)</i>	<i>Share conveying real property (%)</i>	<i>Share imposing loss upon remarriage (%)</i>
Before 1854	16	16	88	69	56
1854–1859	27	27	93	59	30
1860–1865	27	26	81	54	35
1866–1871	34	33	72	33	55
1872–1877	53	52	65	52	19
1878–1883	65	63	75	63	19
1884–1889	77	75	60	64	11
1890–1895	82	80	60	68	15
1896–1901	68	66	58	68	11
1902–1907	69	67	46	66	11
1908–1910	113	109	49	73	11
Total	631	614	68	61	0.25

^a This table reports only the wills of men whose wife appears to have been living at the time of his death.

Source: Wills of Guelph residents probated in the Ontario Surrogate Court (Ontario Archives, Toronto) or registered on properties in the Canada Company, Plan 8, 'Abstract Index' to the Property Registry, Books I and II, Guelph, in the Wellington County Land Registry Office, Guelph.

women's property acts, the proportion favouring daughters or treating them equally had risen to 66 per cent. The proportion of widows who inherited at least part of the estate also increased. Wives inheriting a usufruct increasingly received all rather than a portion of the estate. The net result of these changes was an increase in the share of wills giving to the wife more than she would have received if her husband had died intestate (that is, more than the use of a third of real property for life).

Additional evidence is available in our collection of wills from Guelph and adjoining towns. In Table 9 we describe wills written by men whose wives are known to have been alive at the time of writing the will.⁶⁴ This subset of the testaments indicates that husbands increasingly trusted their widows to receive property clear of restrictions. At mid-century 90 per cent of widows received their inheritance subject to some condition. By the end of the century this share had fallen to 50 per cent. The share of bequests that conveyed access to real property fell during the 1850s and 1860s, and then rose dramatically from the 1870s. The initial phase of decline is difficult to understand, but a diminution of conditions that enforced dependence on other family members and the increasing

TABLE 10
The distribution of bequests to sons and daughters in Guelph^a

	<i>N</i>	<i>Favoured daughters (%)</i>	<i>Favoured sons (%)</i>	<i>Equal to sons and daughters (%)</i>
Female wills				
Before 1883	20	35	—	60
After 1884	107	49	13	38
Male wills				
Before 1883	131	7	24	69
After 1884	214	31	20	50

^a This table reports only the wills in which one or more children receive a bequest and for which it is possible to discern a gender bias (or lack of bias) in the treatment of sons and daughters. Some wills probated in 1884 or thereafter were written before the married women's property acts. These wills are included in the post-married women's property acts group because the testator could have made changes after the passing of the law. To the extent that this assumption is incorrect, the table will understate the change consequent upon the married women's property acts.

Source: Wills of Guelph residents probated in the Ontario Surrogate Court (Ontario Archives, Toronto) or registered on properties in the Canada Company, Plan 8, 'Abstract Index' to the Property Registry, Books I and II, Guelph, in the Wellington County Land Registry Office, Guelph.

transmission of real property with diminishing conditions strongly supports the Shammas hypothesis. The declining use of a stipulation that a widow would lose property upon remarriage is particularly instructive. At mid-century roughly half of the testators imposed this condition, but this share fell to a tenth by the 1880s.⁶⁵ Small samples make it difficult to trace the trajectory with precision, but the sequencing is at least consistent with the hypothesis of the importance of the married women's property acts.⁶⁶

We summarize in Table 10 a different subset of wills that provides evidence of inheritance to sons and daughters. Here we examined only the wills that allow us to say something about the extent of gender bias in any bequest to children. Of course, many wills do not mention children, and others are not sufficiently detailed or precise to allow us to say anything about the distribution. Where possible, however, we categorize the wills into those that favoured, or probably favoured, or attempted to favour sons or daughters, and those who appeared to bequeath equally between sons and daughters.

The Guelph evidence suggests that men and women disposed of their property in strikingly different ways. In both sub-periods, female testators were more likely than male testators to favour daughters.⁶⁷ Of immediate relevance to our discussion is the marked increase for both male and

female testators after the married women's property laws in the share of wills favouring daughters. The change for men is particularly significant because (a) they held most of the wealth, and (b) the sample is much larger. After 1884, more men through their testaments favoured their daughters than their sons.

Interpretation of this evidence must remain tentative because the sample size is small, the classification of bequest patterns is difficult, and we know nothing about any transfers to children before death of the testator. Nevertheless, the Guelph evidence provides preliminary support of the hypothesis that the married women's property acts made it easier for men to leave property to their wives and daughters. We hasten to add that if a married women's property acts-induced change in the basis for marriage negotiation was able to influence bequest patterns, there is every reason to expect that it added to the incentive for single women and widows to acquire property in other ways. Our direct evidence arises from the inheritance records, but the channels by which women acquired property as a result of the married women's property acts are potentially quite wide-ranging.

VII. CONCLUSION

We have sought evidence of the gender distribution of property from various sources that were generated by people with diverse reasons to be interested in property and perhaps different conceptions of what it means to own something. The sources examined in this article do not agree precisely with each other, but most of them describe little or no change in female access to property during the 1850s and 1860s (and even the 1870s for some series) followed by a period of substantial increase. Different people with very different goals generated the wills, assessment records and legal instruments, and yet these sources largely agree that the era of the married women's property acts marks a significant turning point in the relationship between women and property. The Guelph evidence, therefore, provides some support for the view that legal reform contributed to an increased holding of property by women. This is not to deny a role for other factors or that the legislation was integral to a larger social process. Indeed, some indicators suggest a degree of change even before the arrival of the legislation. Nevertheless, the weight of the Guelph evidence supports the view that the married women's property legislation in itself was influential.

Admittedly, reform pessimists may still find support in the large majority of women who remained propertyless after the married women's property acts. Many men also lacked property, but not in such large numbers. The limited spread of property-holding, a possible cessation of

change after 1900 and the persistence of a significant disparity between women and men, especially within marriage, clearly define the limits of the effect of the legislation. It should also be recognized that the sources examined in this article do not permit any assessment of the nature of the control exercised by women over property. Further, those who are pessimistic about the impact of the legislation might emphasize that the legislation's effect seems to have varied in different communities. Women in Guelph, for example, appear to have gained more than women in nearby Hamilton, but not as much as those in the western Canadian city of Victoria.⁶⁸ On the other hand, rural women near Guelph increased their holdings very little – a fact of some significance in a still largely rural society.

Those who are more optimistic would emphasize that the distribution of wealth in any society typically changes very little from one decade to the next. Abrupt changes are rare. In the larger context of property redistributions, the growth of female-held property in Guelph during the late nineteenth century is remarkable. Between the 1860s and the early 1900s the female-held share of properties in the municipal assessment rolls doubled to 15 per cent or tripled to 20 per cent (depending on the choice of indicator in Table 5). By the end of the period more women than men appeared as independent grantors in the property transactions (see Table 6). The share of wills written by women increased from 10 to 40 per cent, and the share of wills conveying real property rose from very low levels to 30 per cent (see Table 8). Almost all husbands who died during the 1850s and 1860s restricted the widow's use of her bequest, but by the end of the century fewer than half did so (see Table 9). The onerous stipulation that remarriage would cause a loss of access to family property almost disappeared. The likelihood of a legacy favouring daughters over sons increased noticeably for both male and female testators (see Table 10).

As striking as these changes are, the importance of the married women's property acts went beyond the experiences of women documented here. The legislation marks a fundamental change in the legal status of women that had implications for the nature of marriage itself. Before 1884 any property she brought to a marriage was more or less automatically taken away from a woman. After 1884 women had a new option that altered the terms of negotiation between prospective husband and wife. Of course, not all women chose to maintain their property independent of the family enterprise, but enough did so to confirm that the option was becoming more acceptable. In this way the married women's property acts helped to legitimize the idea of property ownership by married women and to persuade both women and men of its respectability. In the longer term, as property became more accessible in the twentieth century, married women

would be able to share in the broadening of ownership because of the changes introduced in the 1870s and 1880s.⁶⁹

APPENDIX: INDICATORS OF PROPERTY OWNERSHIP

Three indicators identify the long-term pattern of real property ownership by women and men: assessment rolls of Guelph, legal instruments from the Guelph property registry and wills from Guelph and nearby urban areas. The following is a brief description of each indicator.

(i) Assessment rolls

The Guelph Public Library Main Branch holds a copy of all assessment rolls which list taxable property in the city. The pre-1899 records are on microfilm. The earliest available year for useful records is 1853. The assessment rolls for earlier years and also 1900 do not differentiate between the owner and the inhabitants of a property. For every property we class the tax-paying owner as 'male', 'female', 'unknown gender', 'estate', 'multiple owners', 'institution', 'government', 'corporation/business', 'unknown' or 'other'.

(ii) Legal instruments

The 'Abstract Index' found in the Wellington County Land Registry Office in Guelph records the instruments registered on 95 lots in the oldest section of Guelph (Canada Company, Plan 8). We have recorded the lot number, grantor, grantee and transaction type for every entry from the earliest date until 1910. The grantor of a property transaction was the person who sold the property while the grantor of a credit transaction was the person borrowing the credit. The grantee of a property transaction was the person who bought the property while the grantee of credit transactions was the person lending the credit. After these transactions were recorded they were divided into three categories: (i) transfer of ownership, (ii) extension of credit, and (iii) other. We determine the proportion of female participation for the first two categories.

Roughly a third of the entries recorded between 1864 and 1910 in the 'Abstract Index' for the 134 original lots of Canada Company, Plan 8 identify instruments to transfer ownership. Another third document the extension of credit while the remainder of the instruments do neither and have been ignored. The bill and sale accounts for 80 per cent of the instruments to transfer ownership, while the next most common (deed, quit claim, conveyance, will and grant) account for another 17 per cent. Mortgages account for 86 per cent of the credit instruments; almost all of the others are assignments of a mortgage. The instruments that do not transfer ownership or credit are numerous. Partial or whole discharges of mortgages account for 86 per cent of this group.

Instruments suggesting transfer of ownership	880
Bill and sale	702
Deed	71
Quit claim	27
Conveyance	20
Probated will	18
Grant	8

Copy of a will not probated	8
Deedpoll	4
Certificate for order of foreclosure	3
Notice of exercising power of sale	3
Trust deed	3
Probate will & codicil	2
Assignment to creditors	1
Convey & transfer	1
Convey & release	1
Grant & release	1
Grant & quit claim	1
Quit claim	1
Quit claim & deed	1
Quit claim & bill and sale	1
Release & assignment	1
Sheriff deed	1
Surrender & grant	1
Instruments suggesting extension of credit	805
Mortgage	689
Assignment of mortgage	114
Mechanic lien (?)	2
Other instruments	759
Discharge of mortgage	615
Partial discharge of mortgage	41
Agreement	19
Certification	16
Lis pendens	15
Release	7
Covenant	5
Office of visiting order	5
Declaration	5
Dower release	4
Not available (illegible)	4
Confirmation	3
Lease	2
Rent charge	2
Confirmation of deed	1
Codicil	1
Decree	1
Appointment of trustee	1
Caution	1
Certificate of decree	1
Discharge of lis pendens	1
Discharge of disclaimer	1
Discharge of lien	1
Letters of administration	1
Marriage contract	1
Marriage settlement	1
Notice	1

Postponement of mortgage	1
Postponement and release	1
Power of attorney	1

(iii) Wills

We have been able to locate 1,402 wills and 596 intestate files from decedents in Guelph and the nearby towns of Elora and Fergus from the beginning of settlement in this region up to 28 February 1914. Table 8 in the text considers 1,359 wills that appeared by the end of 1913. The principal source for these files is the collection of Ontario Surrogate Court records in the Ontario Archives in Toronto. After 1886 all wills entered probate with the Surrogate Court. Some wills in earlier years are found only in the land registry records (the source of legal instruments above).⁷⁰ Before 1886 about a quarter of the wills appear in the Surrogate Court only, another quarter appear only in the Land Registry Office, and half are in both sources.⁷¹

The 'Abstract Index' identifies wills that are found in three locations within the Wellington County Land Registry Office microfilm. 'Running number' microfilm reels reproduce the instruments in the order of numbering identified in the 'Abstract Index'. Many of the earlier wills are found on a different set of films that use a different coding with letter and numbers. A few additional wills are found only in the drawers of a filing cabinet that contains original documents for various instruments. Pre-1890 wills from the villages of Harriston, Rockwood and Arthur found in the 'Abstract Index' are included as well to thicken the sample in the early years. In all cases we record wills of urban residents and wills that convey urban property. We ignore wills that appear to convey farm property only, even if the testator at death was living in an urban area.

Most wills are found with accompanying documentation that includes the petition for probate, a will or a copy of the will, inventory and valuation of cash, personal and real property, affidavit of execution of the will, affidavit of plight of will, affidavit of death, executor's oath, record of relationship to decedent and inheritance amount.

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ENDNOTES

- 1 Norma Basch, *In the eyes of the law: married women's property rights in nineteenth-century New York* (Ithaca, 1982); Richard Chused, 'Married women's property law, 1800–1850', *Georgetown Law Review* 71 no. 2 (1983), 1359–1425; Philip Girard and Rebecca Veinott, 'Married women's property law in Nova Scotia, 1850–1910', in Janet Guildford and Suzanne Morton eds., *Separate spheres: women's worlds in the 19th-century Maritimes* (Fredericton, 1994); Lee Holcombe, *Wives and Property: Reform of the Married Women's Property Law in Nineteenth Century England* (Toronto, 1983); Marylynn Salmon, *Women and the law of property in early America* (Chapel Hill, 1986); Elizabeth Warbasse, *The changing legal rights of married women, 1800–1861* (New York

- and London, 1987); Sara Ziegler, 'Wifely duties: marriage, labor and the common law in nineteenth century America', *Social Science History* **20** no. 1 (Spring 1996), 63–96.
- 2 Joanne Bailey, 'Favoured or oppressed? Married women, property and "coverture" in England, 1660–1800', *Continuity and Change* **17** no. 3 (Dec. 2002), 351–72; Maxine Berg, 'Women's property and the Industrial Revolution', *Journal of Interdisciplinary History* **24** no. 2 (Autumn 1993), 233–50; Amy Erickson, *Women and property in early modern England* (London, 1993); Penelope Lane, 'Women, property and inheritance: wealth creation and income generation in small English towns, 1750–1835', in Jon Stobart and Alastair Owens eds., *Urban fortune: property and inheritance in the town 1700–1900* (Ashgate, 2000), 172–94.
 - 3 B. Zorina Khan, 'Married women's property laws and female commercial activity: evidence from the United States patent records, 1790–1895', *Journal of Economic History* **56** no. 2 (June 1996), 356–80; Carole Shammas, 'Re-assessing the married women's property acts', *Journal of Women's History* **6** no. 1 (Spring 1994), 9–30. Legal change took the form of a community-property regime rather than separate property for married women in Louisiana and a number of western states.
 - 4 Holcombe, *Wives and property*, chapters 8 and 9.
 - 5 Constance B. Backhouse, 'Married women's property law in nineteenth-century Canada', *Law and History Review* **6** no. 2 (1988), 211–57; Philip Girard, 'Married women's property, Chancery abolition and insolvency law reforms in Nova Scotia, 1820–1867', in Phil Girard and Jim Phillips eds., *Essays in the History of Canadian Law*, vol. III: *Nova Scotia* (Toronto, 1990); Girard and Veinott, 'Married women's property law'; Margaret McCallum, 'Married women and property law in Canada', in *Canadian history in multimedia: 1867 to the present*, ed. Bob Hesketh (Edmonton, 2002); Liliias Townsend, *Development of matrimonial property law in England and Nova Scotia*, study prepared for the Nova Scotia Law Reform Commission (Halifax, 1975).
 - 6 Dower, or the widow's right during her lifetime to a specified portion of family property, became less important as women increased their rights to hold property in their own name. Bettina Bradbury, Peter Gossage, Evelyn Kolish and Alan Stewart, 'Property and marriage: the law and the practice in early nineteenth century Montreal', *Histoire sociale/Social History* **XXVI** no. 51 (May 1993), 9–39; A. R. Buck, "'A blot on the certificate": dower and women's property rights in colonial New South Wales', *Australian Journal of Law and History* **V** (1987), 87–102; McCallum, 'Married women and property law'; Alison Prentice et al., *Canadian women: a history* (Toronto, 1996, 2nd edition), 43, 89; Mel Prewitt, 'Women's matrimonial property on the Canadian prairie frontier', paper presented to the annual meeting of the Canadian Historical Association, May 2003; Liliias Townsend, *Dower and curtesy*, study prepared for the Nova Scotia Law Reform Commission (Halifax, 1973).
 - 7 Lori Chambers, *Married women and property law in Victorian Ontario* (Toronto, 1997), chapter 3; Holcombe, *Wives and property*, chapters 2 and 3; Susan Staves, *Married women's separate property in England, 1660–1833* (Cambridge, Mass., 1990).
 - 8 Erickson, *Women and property in early modern England* (London, 1993).
 - 9 Chambers, *Married women and property law*, chapter 4; Girard and Veinott, 'Married women's property law', 72–3; McCallum, 'Married women and property law'; Shammas, 'Re-assessing the married women's property acts'; Peter Ward, *Courtship, love and marriage in nineteenth-century English Canada* (Kingston and Montreal, 1990), 42–6.
 - 10 Chambers, *Married women and property law*, chapter 3; Kevin Burley, *A particular condition of life* (Kingston and Montreal, 1994), 149 and note.

- 11 Bradbury et al., 'Property and marriage'; Gillian Hamilton, 'Property rights and transaction costs in marriage: evidence from prenuptial contracts', *Journal of Economic History* 59 no. 1 (March 1999), 68–103.
- 12 David Gagan, *Hopeful travellers: families, land and social change in mid-Victorian Peel County, Canada West* (Toronto, 1981), 99. See also Livio Di Matteo and Peter George, 'Canadian wealth inequality in the late nineteenth century: a study of Wentworth County, Ontario, 1872–1902', *Canadian Historical Review* LXXIII no. 4 (Dec. 1992), 453–83.
- 13 Peter Baskerville, "'She has already hinted at board": enterprising urban women in British Columbia', *Histoire sociale/Social History* 26 (1993), 205–4, and 'Women and investment in late nineteenth century urban Canada: Victoria and Hamilton, 1880–1901', *Canadian Historical Review* 80 no. 2 (June 1999), 191–218; Bettina Bradbury, 'Surviving as a widow in nineteenth-century Montréal', *Urban History Review* 17 no. 3 (Feb. 1989), 148–60; Brian Young, 'Getting around legal incapacity: the legal status of married women in trade in mid-nineteenth century Lower Canada', *Canadian Papers in Business History I* (1989), 1–16.
- 14 Marjorie Cohen, *Women's work, markets and economic development in nineteenth-century Ontario* (Toronto, 1988), 159–62; Bruce Elliott, *Irish migrants in the Canadas* (Kingston and Montreal, 1988), 198–200. Cohen finds that a declining proportion of wills made allocations to women, even though a rising proportion of women made wills.
- 15 Peter Baskerville, 'Women and investment'; Sue Ingram and Kris Inwood, 'The impact of married women's property legislation in Victorian Ontario', *The Dalhousie Law Journal* 23 no. 2 (Fall 2000), 405–49.
- 16 Khan, 'Married women's property laws'; Suzanne Lebsock, *The free women of Petersburg: status and culture in a southern town* (New York, 1984), 130; William H. Newell, 'Inheritance on the maturing frontier: Butler County, Ohio, 1803–1865', in Stanley Engerman and Robert Gallman eds., *Long-term factors in American economic growth* (Chicago, 1986), 261–303; Carole Shammas, 'Re-assessing the married women's property acts' and 'Early American women and control over capital', in Ronald Hoffman and Peter Albert eds., *Women in the age of the American Revolution* (Charlottesville, 1989), 134–54.
- 17 Mary Beth Combs, 'Wives and household wealth: the impact of the 1870 British Married Women's Property Act on wealth-holding and share of household resources', *Continuity and Change*, this issue.
- 18 A useful characterization of this argument is given by Zorina Khan who recognizes the possibility that 'the laws merely provides an index of cultural change and that cultural attitudes evolved over the course of the nineteenth century, affecting both the law and women's involvement in nonhousehold production'. See her 'Married women's property laws', 384–5. An insightful analysis of the evolution of the legislation among jurisdictions in the US is given in Rich Geddes and Dean Lueck, 'The gains from self-ownership and the expansion of women's rights', *American Economic Review* 92 no. 4 (2002), 1093–103.
- 19 Shammas, 'Re-assessing the married women's property acts'.
- 20 Chambers, *Married women and property law*.
- 21 Debra Nash Chambers, 'Two steps forward or one step back? The impact of industrialization on community and family in a small industrial city', unpublished PhD dissertation, University of Guelph, 1988; Leo Johnson, *History of Guelph 1827–1927* (Guelph, 1977).
- 22 Chambers, *Married women and property law*.
- 23 Ziegler, 'Wifely duties'.

- 24 Chambers, *Married women and property law*. One purpose of the 1873 law was to clarify the intent of the 1872 legislation; however it is not entirely clear that the clarification succeeded in relation to popular culture.
- 25 For evidence that the debates had reached Guelph see the *Guelph Evening Mercury*, 10 Feb. 1873, cited in Nash Chambers, 'Two steps forward or one step back?', 271. As early as the 1850s Ontario women petitioned for property rights similar to those achieved in other jurisdictions; see Prentice et al., *Canadian women*, 194–5. The importance to Canada of debates elsewhere is argued in Bradbury et al., 'Property and marriage law'; Chambers, *Married women and property law*, chapter 8; and Girard and Veinott, 'Married women's property law'. The difficult methodological challenge of distinguishing between external influences on a small society and the parallel growth of an autonomous sentiment for change (or synchronicity) is identified in a different context by Caroline Betts, Michael Bordo and Angela Redish, in 'A small open economy in depression: lessons from Canada in the 1930s', *Canadian Journal of Economics* 29 no. 1 (Feb. 1996), 1–36.
- 26 George Emery, *Facts of life: the social construction of vital statistics, Ontario, 1869–1952* (Montreal, 1993).
- 27 Volunteers at the Elgin County Library created the index, which is available at <http://www.library.elgin-county.on.ca/history/estate.html>. Leaving aside a handful of ambiguous cases the index contains 1,575 wills or estates from between 1800 and 1883 and 1486 cases from 1884 to 1900. The urban share of testators was 26 per cent in the first period and 39 per cent in the second period. We count as urban anyone whose will was probated in the city of London, in the towns of Goderich, St. Thomas, Port Stanley, Aylmer and Port Burwell, or in the villages of Vienna, Fingal, Rodney, Springfield and West Lorne. Women accounted for 17 per cent of urban wills in the first period and 36 per cent in the second period, which contrasts with only 9 per cent and 20 per cent of rural wills. The tabulation contains some ambiguity, among other reasons because the classification of locations as either rural or urban is inevitably imprecise, and someone identified at death as an urban resident may have held rural property (and vice versa). Nevertheless, the broad outlines of the rural–urban contrast are clear.
- 28 Geddes and Lueck, 'The gains from self-ownership'.
- 29 Ken Cruikshank, 'The transportation revolution and its consequences', *Canadian Historical Association, Historical Papers* (1987), 112–38; Ben Forster, 'Finding the right size: markets and competition in mid- and late nineteenth-century Ontario', in R. Hall, W. Westfall and L. S. MacDowell eds., *Patterns of the past: interpreting Ontario's history* (Toronto, 1988); Peter Goheen, 'The changing bias of inter-urban communication in nineteenth century Canada', *Journal of Historical Geography* 16 no. 2 (1990), 177–96; Glenn Porter and Harold Livesay, *Merchants and manufacturers: studies in the changing structure of nineteenth century marketing* (Baltimore, 1971).
- 30 The share of women reporting occupations did increase (see Ingram and Inwood, 'The impact', table 16), but this may reflect a decline of under-enumeration. Improvements in the quality of occupational enumeration, as evidenced by more extensive enumerator instructions and a more elaborate tabulation of occupations, account for at least some of the appearance of increased work by women. Evidence of gender bias in the nineteenth century census is presented by Nancy Folbre in 'Women's informal work in Massachusetts, 1875–1920', *Social Science History* 17 no. 1 (Spring 1993), 135–60; Nancy Folbre and Marjorie Abel, 'Women's work and women's households: gender bias in the U.S. census', *Social Research* 56 no. 3 (Autumn 1989), 545–69; and Kris Inwood and Richard Reid, 'Gender and occupational identity in a Canadian census', *Historical methods* 32 no. 2 (Spring 2001), 57–70.

- 31 Canada, Department of Agriculture, *Manual containing the Census Act and Instructions to Officers*, Sessional Papers, 1871, no. 64, 137.
- 32 Canada, Census, *Enumerators' manual*, 1901, Instructions for Schedule 2 (Property): 'Usually the references will be to the person who is the head of the family, household or institution but this may not always be the case. A son, daughter, border or other inmate may be the owner or lessee of property as well as the head in the family.' These instructions allow the possibility of recognizing ownership by a married woman even though, perhaps significantly, the wife is not identified explicitly.
- 33 These 'corrections' suggest the possibility that even in 1901 census staff routinely edited manuscript records to deny ownership by non-heads. Examples of the 'editing' of manuscript records are provided by Susan Carter and Richard Sutch in 'Fixing the facts: editing of the 1880 United States Census of Occupations with implications for long-term labor force trends and the sociology of official statistics', *Historical methods* 29 no. 1 (Winter 1996), 5–24, and Kris Inwood, 'The representation of industry in the Canadian census, 1871–91', *Histoire sociale/Social History* 28 no. 56 (Nov. 1995), 347–5.
- 34 Peter Baskerville, 'Property, class and gender: some preliminary observations on two Canadian cities, 1881–1901', paper presented at the annual meeting of the Canadian Historical Association, 1995; Ingram and Inwood, 'The impact'.
- 35 Gordon Darroch and Lee Soltow, *Property and inequality in Victorian Ontario* (Toronto, 1994), table 3.2.
- 36 Variation is visible among urban communities. About half of the adult males in rural areas and villages owned their own home, in contrast to slightly more than a quarter in towns and slightly less than a quarter in cities. See Darroch and Soltow, *Property and inequality*.
- 37 Other sources for Ontario confirm the life-cycle pattern; see Gordon Darroch, 'Occupational structure, assessed wealth and homeownership during Toronto's early industrialization, 1861–1899', *Histoire sociale/Social History* XVI no. 32 (Nov. 1983), 381–410, and 'Early industrialization and inequality in Toronto, 1861–1899', *Labour/Le Travail* (1983), 30–61; Di Matteo and George, 'Canadian wealth inequality'; Livio Di Matteo, 'The determinants of wealth and asset holding in nineteenth-century Canada', *Journal of Economic History* 57 no. 4 (Dec. 1997), 907–34. Admittedly, different cohort experiences intermingle with life-cycle effects in the Guelph data, and probably those of other communities as well. Difference in the experience of early and late immigrants, for example, could account for some of the surprising results obtained for the Irish in Guelph by Ingram and Inwood, 'The impact'.
- 38 The diminution of ownership at advanced ages is masked in this table because the older age classes were more heavily rural (especially for men; see Darroch and Soltow, *Property and inequality*, table A.5).
- 39 The distortions in valuation varied by municipality and changed over time, in part because of changes in the covering legislation. The gap between assessed and market values is documented by Livio Di Matteo in 'Wealth holding in Wentworth County, Ontario, 1872–1892', unpublished PhD dissertation, McMaster University, 1990, 32. Burley (*A particular condition*, chapter 4) adjusts the assessed values to reflect the effect of changing legislation.
- 40 Darroch, 'Occupational structure', 386–8, and 'Early industrialization', 41; Darroch and Soltow, *Property and inequality*, 72 note 11; Michael Katz, *The people of Hamilton, Canada West* (Cambridge MA, 1975), table 3.7a; Paul-André Linteau, *The promoter's city: building the industrial town of Maisonneuve, 1883–1918*, tr. R. Chodos (Toronto, 1995), 111; Debra Nash Chambers, 'Two steps forward or one step back?', 18. Second

- and third workers in a household account for many of the missing people. However, even household heads might not appear in the assessment roll if more than one family shared a household or if the adult boarder was married. Katz (Table 3.7a) provides evidence of census household heads not found in the assessment record. The assessors had little incentive to record transient families or anyone else lacking taxable wealth.
- 41 Darroch and Soltow, *Property and inequality*, 72 note 11. Of course, the municipal assessment itself understates the holdings of local residents insofar as it excludes property held in other communities.
 - 42 Darroch, 'Occupational structure' and 'Early industrialization'; Michael Doucet, 'Working-class housing in a small nineteenth century Canadian city: Hamilton, Ontario 1852-1881', in Gregory Kealey and Peter Warrian eds., *Essays in working class history* (Toronto, 1976), 83-105; R. Harris, G. Levine and B. S. Osborne, 'Housing tenure and social classes in Kingston, Ontario 1881-1901', *Journal of Historical Geography* 7 no. 3 (1981), 271-89; Di Matteo and George, 'Canadian wealth inequality'. Several of these studies suggest that inequality increased during the 1890s.
 - 43 Baskerville, 'She has already hinted at board' and 'Women and investment'. Baskerville's suggestion that a high male/female ratio in British Columbia favoured property-ownership by women echoes arguments elaborated most clearly by Ethel B. Jones, in 'The economics of woman suffrage', *Journal of Legal Studies* 20 (1989), 423-38.
 - 44 Gerard Bouchard, 'Family reproduction in new rural areas: outline of a North American model', *Canadian Historical Review* LXXV no. 4 (Dec. 1994), 175-510. Detailed studies of rural property transfers in nineteenth-century Ontario led Bruce Elliott to conclude that bequests to wives did not change during the course of the century; see his *Irish migrants*, 198-200.
 - 45 The linkage process is described in detail by Sue Ingram, in 'Patterns of property ownership by the women of Guelph, 1871 vs 1891', MA Research Paper, University of Guelph, appendices 1, 2 and 4. The rates of ownership by demographic category are modestly understated because of an inability to link all records.
 - 46 The procedure follows that of Richard Steckel, 'Census manuscript schedules matched with property tax lists', *Historical methods* 27 no. 3 (Spring 1994), 71-85.
 - 47 An urban-rural difference in life-cycle patterns might arise if urban owners were less inclined than farm families to transfer property to younger family members inter vivos. On the rural patterns see Bruce Elliott, 'Sources of bias in nineteenth-century Ontario wills', *Histoire social/Social History* 18 (May 1985), 125-32.
 - 48 Data from a later period would be needed to determine the fate of men who married during the 1870s and 1880s. Cohort analysis of assessment data in nearby Hamilton reveals that by the end of their lives those entering the housing market in the 1870s and 1880s had fared better than those entering in the 1850s and 1860s. See Michael Doucet and John Weaver, *Housing the North American city* (Montreal and Kingston, 1991), 317.
 - 49 Ingram, 'Patterns of property ownership', tables 11 and 14.
 - 50 Admittedly, the gains by women less than 40 years old were modest, although the effect is more dramatic in the context of a declining incidence of ownership among younger men. Of course, some of the older women also may have entered marriage after the married women's property acts. Indeed, it seems that older women may have become more inclined to re/marry insofar as the legislation removed one risk of marriage for a propertied widow or single woman.
 - 51 Wellington County Land Registry Office, Guelph, Canada Company Plan 8, Books 1 and 2. Individual lots were still being assigned in subsequent decades in part because of subdivisions. The 'Abstract Index' and copies of many original instruments are held in

- the Wellington County Land Registry Office. More generally on this source see Fawne Stratford-Devai and Ruth Burkholder, *Ontario Land Registry Office records* (Milton, 2003). Further detail on the instruments themselves is reported in the appendix.
- 52 Because probate is triggered by the death of a testator, the source over-represents the elderly who held property and had not yet passed it to surviving family members. Clearly this matters more for some purposes than for others; see Elliott, 'Sources of bias'.
- 53 The 1884 legislation, for example, would alter the patterns of will-making for those who married after that date, and of those people whose inheritors married after 1884. However, many of these wills would not be probated until the twentieth century, by which point the patterns of property-holding might have changed for reasons unconnected with the married women's property acts.
- 54 We stop on the eve of the 1914–1918 war because war-related deaths would expand the sample rapidly with wills of people whose bequests followed new and different patterns. The smaller towns are Elora, Fergus, Rockwood, Mount Forest and one or two others (see the appendix). The count of 1,300 wills excludes intestate files from the Surrogate Court of Ontario (Ontario Archives, Toronto).
- 55 Carole Shammas, 'Re-assessing the married women's property acts' and 'Early American women and control over capital', 134–54. The trend toward an increasing female presence in will-making appears to have been more advanced in England. Women were responsible for 20–50 per cent of all wills in English cities 1750–1850; most of the female testators were widows. Women's wills appear to have been relatively more numerous in larger cities and in wealthier regions. See Berg, 'Women's property and the Industrial Revolution'; David R. Green, 'Independent women, wealth and wills in nineteenth-century London', in Stobart and Owens, *Urban fortune*; Lane, 'Women, property and inheritance'; Ann McCrum, 'Inheritance and the family: the Scottish urban experience in the 1820s', in Stobart and Owens, *Urban fortune*.
- 56 Berg, 'Women's property and the Industrial Revolution'; Green, 'Independent women'; Lane, 'Women, property and inheritance'; McCrum, 'Inheritance and the family'.
- 57 Shawn Day gives an example of a widow (Rosanna Murphy) who apparently remained in control of a Guelph hotel in spite of remarrying before the married women's property acts, and another example of a property transfer immediately after the married women's property acts from a trust held in the name of a wife to the wife in her own person (Mary Ann and Robert Coulson). See Shawn Day, 'On hotel proprietorship', MA thesis working paper, University of Guelph, August 2003.
- 58 Ingram and Inwood, 'The impact'.
- 59 Inheritance contributed importantly to the wealth of women and to the persistence of inequality. See Leonore Davidoff, *Family fortunes: men and women of the English middle class, 1750–1850* (Chicago, 1987); C. D. Harbury and D. Hitchens, 'Women, wealth and inheritance', *Economic Journal* **87** (March 1977), 124–31; Shammas, 'Reassessing the married women's property acts'; and Josiah Wedgwood, *The economics of inheritance* (London, 1971; originally publ. 1928).
- 60 Shammas, 'Re-assessing the married women's property acts'.
- 61 Owens and Stobart observe that inheritance in the English legal tradition is particularly interesting because it imposes fewer restrictions on testators than the law of many other countries. In other words, inheritance says more about the wishes of individuals and individual families than it would do in other traditions. See Alastair Owens and Jon Stobart, 'Introduction', in Stobart and Owens, *Urban fortune*.
- 62 Bouchard, 'Family reproduction', 489. It is almost impossible to recognize intra-family transfers using conventional sale instruments without intensive micro-level knowledge

- of the family, its property and the legal instruments. Clearly, this kind of study can only be conducted on a small scale. One particularly impressive study along these lines found that 20 per cent of sons of Irish migrants in the Ottawa Valley inherited land in a will. Another 30 per cent received land in another fashion which did not appear in a will. An unknown proportion of the remaining sons received some other assistance, although many may have received nothing. A rough estimate based on this experience is that roughly a third of the intergenerational transfers of rural property used a will. See Elliott, *Irish migrants*, 231.
- 63 We are grateful to Livio Di Matteo for sharing his unpublished tabulations of the Wentworth probate data. The data were collected as part of research for Di Matteo, 'Wealth holding in Wentworth County'. The tabulations are reported in Ingram and Inwood, 'The impact'.
- 64 We set aside from this analysis a large number of intestate files because of uncertainty about the extent to which they reflect the intent of decedents. Alastair Owens, in 'Property, will-making and estate disposal in an Industrial Town, 1800-1857', in Stobart and Owens, *Urban fortune*, reminds us that some individuals may have desired their estate to be allocated according to the rules governing intestate death, and therefore saw no need to incur the expense of writing a will. Unfortunately, we have no way to distinguish intestate deaths which do and do not reflect intentionality.
- 65 Trudi Johnson provides a sensitive discussion of this and other restrictions in the context of Newfoundland; see her 'Women and inheritance in nineteenth-century Newfoundland', *Journal of the Canadian Historical Association*, new series 13 (2002), 1-22.
- 66 Imprecision arises for other reasons, including the possibility that some wills were written several years before death and perhaps even before the change in legislation. Complications of this sort make it more difficult to discern any change consequent upon the legislation and imply that our indicators probably understate its impact.
- 67 McCrum, in 'Inheritance and the family', reports a somewhat similar pattern in early-nineteenth-century Scottish cities. Women were more likely than men to favour daughters, and men were most likely to treat sons and daughters equally.
- 68 Baskerville, 'Women and investment'; Ingram and Inwood, 'The impact'.
- 69 The pattern of home-ownership in nearby Hamilton shows a substantial increase in the twentieth-century although the pattern varied by occupational grouping. For labourers of all sorts little changed between the 1870s and the 1950s, at which point there was a significant increase. White-collar workers experienced a long slow rise to a peak in the 1960s. Home-ownership among professional workers and proprietors rose until the 1920s, declined in the interwar period and then increased again after the war. See Doucet and Weaver, *Housing the North American city*, 329.
- 70 Prior to the Devolution of Estates Act in 1886 lands could be devised by will. The will had the force of a deed and no executor was needed to administer the land. After 1886 all real and personal property in Ontario of the deceased went through probate. A useful study of the business of will-making and its implications for the use of wills as a source for historical research is Owens, 'Property, will making and estate disposal'.
- 71 This observation emerges from a detailed examination of wills written by people whose surnames begin with 'B'. In this paper we consider only wills that surfaced in the land registration system or at the Ontario Surrogate Court. A few wills that did not transfer property may remain in private hands, but it seems likely that we have found a large majority of the wills written by urban property-owners in our period.

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