

Wives and household wealth: the impact of the 1870 British Married Women's Property Act on wealth-holding and share of household resources

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ABSTRACT. I examine wealth-holding and the share of household wealth owned by women married in the years surrounding the 1870 Married Women's Property Act. The Act, which gave women married after 1870 the right to own and control personal property, serves as a natural experiment to examine the extent to which individuals respond to the law. I link wealth-holding data to census information and find that, as a result of the Act, women married after 1870 shifted their wealth-holding away from real property to personal property. Moreover, women married after the Act owned a larger share of household wealth than women married before the Act.

I. INTRODUCTION

Nineteenth-century Britain witnessed a natural experiment with the potential to change the lives of women: the 1870 Married Women's Property Act. Until the passage of the Act the doctrine of coverture provided the husband with legal ownership over the wife's personal property, such as stocks, jewellery, money, and clothing, and managerial rights over her real property, such as land and other immovables. The Act gave women married after 1870 the right to own and control certain forms of property and thus provided them with the opportunity to change their investment portfolios and shift wealth-holding to forms of property that they could both own and control. It is for this reason that contemporary reformers hailed the Act as a major achievement of the women's movement.

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In subsequent debates, scholars have commented on the factors that enabled coverture to endure, and they have provided persuasive evidence about factors that led to coverture's demise. Most agree with Robert J. Morris' claim that the most persuasive arguments in favour of the Acts had less to do with the rights of women than with the responsibilities of property owners; however, there still exists a debate among modern scholars about whether British women benefited from the Act.¹ A few argue that the Act deserves a place in the pantheon of historical events and praise its impact on the lives of women.² Some note, however, that even after the Act other factors in combination with the law were likely to have limited the ability of women to control their economic lives on an equal footing with men.³ While gaining legal rights did not mean attaining equality, the extension of such rights may well have enhanced wealth-holding and the control of household resources by women.

Historians, political scientists, and economists alike share an appreciation for the importance of property rights and the impact of property-rights legislation on decisions that individuals make. The 1870 Act is a specific example of how a law may change the economic lives of married women. Here I study the effects of the Act using household-level data from the period. The passage of the Act provides a unique opportunity to examine whether and how individuals (and in this case women) respond to and benefit from changes in property law. Nineteenth-century data that are related to the Act grant a unique perspective on the wealth-holding decisions of individual household members for a number of reasons. First, the 1870 Act is important because it had the potential to alter the wealth-holding and share of household resources owned by married women. Second, the Act was not retroactive; it applied only to women married after 1870. The cohort married before 1870, then, serves as a control group to which the cohort married after 1870 may be compared directly. Thus, I am able to isolate the effect of the Act from other variables relevant to the wealth-holding decisions of married women such as investment returns, prices, and household factors. Third, the records from which the wealth-holding data were collected differentiate between personal and real property. Thus, it is possible to study the effects of a law that granted women the right to own and control personal (and not real) property. Last, because census data are available for the period, it is possible to link the wealth-holding data to information on household composition. Similar data are not available in modern public records due to privacy restrictions.

The findings described below suggest that women married after the Act transferred a substantial amount of their wealth into forms of property that they could own and control. Moreover, women married after the Act

owned a larger share of household wealth. I test the hypothesis that the Act may have played a primary role in the shift in women's property-holding and share of household wealth.

II. MARRIED WOMEN'S PROPERTY RIGHTS BEFORE AND AFTER 1870

From the early thirteenth century until 1870, English common law held that most of the property that a wife had owned as a *feme sole* came under the control of the husband at the time of marriage.⁴ Specifically a married woman's 'personal property vested in the husband absolutely, since there could be no estates in chattels, and therefore he could dispose of it absolutely'.⁵ Thus a woman, on marrying, relinquished her personal property – moveable property such as money, stocks, furniture, and livestock – to her husband's ownership; by law he was permitted to dispose of it at will at any time in the marriage and could even will it away at death.⁶ 'Paraphernalia', considered a sub-category of personal property and described as any clothing, jewellery, and other items 'limited to necessaries and personal ornaments appropriate to her degree' could be sold or given away by the husband at any time during the marriage, but could not be willed away by the husband.⁷ Unlike other personal-property items, the wife's paraphernalia legally reverted back to her control in widowhood. A married woman's real property, however,

vested in the husband only during coverture, although if she died first he was entitled to be tenant by curtesy for the rest of his own life. During the marriage the husband and wife were seised in right of the wife. This meant that the husband had seisin and took the profits; but he did not acquire his wife's inheritance, and if he granted away his wife's land it could be reverted back after his death by the widow or her heir.⁸

Thus a wife retained legal ownership of her real property (immovable property such as housing and land) but she could not manage or control it. She could not sell her real property, rent it, or mortgage it without her husband's consent.⁹ The wife also had no right to rents from her real property; the husband had those rights. The husband, however, could not dispose of the wife's real property without her consent: As a *feme covert*, the wife's legal identity came under the cover of her husband; by law she could not make a contract or leave property by will.¹⁰ Known as the doctrine of coverture, the common-law distinction provided the husband with legal power to assume 'profitable guardianship ... over the wife and over her property'.¹¹

Of course not all marriages followed the law in practice. The degree to which the law served as a legal fiction depended on each individual marriage and, to some extent, on the Court of Equity. For example, even

though women married before 1870 did not have the common-law right to own and control personal property, this does not mean women did not hold wealth in the form of personal property. Wives held personal property under three common circumstances. First, wives held forms of personal property that were considered necessities and, as noted above, that also fell under the sub-category of ‘paraphernalia’. A husband had a legal obligation to provide his wife with necessities that at the very least met subsistence-level needs, such as basic clothing. A wife whose basic subsistence-level needs were not being met could seek relief in the Court of Equity. A woman married before 1870 who wished to sue in the Court of Equity had to appear with someone who was referred to as a ‘next friend’. A next friend usually was a man – her father or brother – but also could be any single or widowed woman – a sister, mother, other relative, or friend – who maintained the legal identity of *feme sole*.

Such was the case with Mrs William Gleaves who, in 1862, threw herself on the mercy of the court.¹² Her husband had obtained a loan of £700 by mortgaging her real estate, and shortly after he obtained the loan he went bankrupt and defaulted on his debts. The creditors to her husband claimed the right to her property. Mrs Gleaves filed a complaint in the Court of Equity, arguing that since her husband only had the right to the interest in her real estate, the interest was all the creditors were entitled to claim – not her real property. Her complaint included a plea on behalf of the Gleaves’ seven children and warned of their imminent destitution, since she ‘had no property or means of support for herself and her children except the mortgaged property’. Mrs Gleaves won her case. Lord Chancellor Westbury ruled in favor of protecting Mrs Gleaves, stressing the necessity of ‘making a reasonable provision for the performance of the moral obligation of the husband to maintain the wife’.¹³

Second, a wife might have access, through trustees, to personal property that had been set aside for her in trust at the time of her marriage by any sane person of legal age, such as her parents or husband. Indeed, as early as the fifteenth century ‘trusts of property for a wife’s separate use were established and enforced’ by the Court of Equity.¹⁴ In addition there is evidence of marriages where a husband held land on behalf of his wife but permitted his wife to manage and control its uses.¹⁵ In cases where the husband held property for the wife and the marriage was an egalitarian one, the law with respect to married women’s property would be a legal fiction. Indeed, for this reason Shanley and Morris doubt the effect of the Act on upper-middle-class women, many of whom had come to acquire protection through marriage settlements and trusts created on their behalf. Such avenues of circumventing the common law became more common in the final decades of the nineteenth century.¹⁶

Third, a wife might choose to hold personal property with the knowledge that the property could be legally misused by the husband. If a wife took this kind of wealth-holding risk and the marriage turned sour the wife had little legal recourse if the husband disposed of any of the wife's personal property.

The possible impact of the Act, therefore, varied a great deal, but it clearly provided relief for at least two types of wives married before 1870: those wives who, like Gleaves, initially trusted their husbands but later sought protection in equity, and those wives who, from the outset, made risk-averse investment choices and invested primarily in real property. A woman who married after 1870 would have benefited even more dramatically, because she gained rights over her earnings in any trade or occupation carried on separately from her husband.¹⁷ In addition she gained the right to control her personal property if held in savings-bank accounts, public stock and funds, shares in joint-stock companies, or shares in industrial, provident, or friendly societies. She gained the right to personal property and sums of money under £200 left to her in wills, as well as the right to control the rent from any freehold and copyhold property left to her in wills. The Act substantially reduced the risk of having items of personal property taken away by the husband. Moreover, the Act provided women with the opportunity to change their investment portfolios and shift wealth-holding from forms of real property to forms of personal property, such as stocks, that had the potential to earn higher real returns. The Act of 1870, therefore, had the potential to increase the wealth-holding and share of household resources owned by married women and to alter the distribution of resources within the household.¹⁸

Admittedly, the Act could not affect women who lacked all access to property. Working-class women owned little property and most of what they earned was spent on subsistence purchases such as rent and food, not on savings or real estate.¹⁹ Nevertheless, another set of women often received small legacies and sometimes were free to spend or invest them as they saw fit, even though they lacked resources to establish trusts of the sort identified by Morris and Shanley.²⁰ Families of shopkeepers such as butchers, brewers, and bakers arguably provide a useful example and accordingly receive special attention.

In the sections that follow, I examine data on the wealth-holding and investment choices of wives of shopkeepers who married in the years surrounding the Act. By documenting trends in individual and household wealth-holding in this article I aim to bring quantitative evidence to the debate about the Act. Specifically, I provide evidence that suggests that the Act enhanced the ability of these women to capitalize on their new

property-owning status and exert more control over their own property and household wealth.

III. THE DEATH DUTY AND CENSUS DATA

To study the wealth-holding patterns of the shopkeeping class, I collected data on wealth-holding from the Death Duty and Succession Duty Registers for England and Wales which run from 1796 to 1903.²¹ The Death Duty and Succession Duty Registers (hereafter ‘registers’) consist of handwritten entries in 8,000 volumes covering all duties levied on a deceased person’s estate.²² Whether or not a will was written, the registers cover all estates worth over £20 from 1796 to 1881, and subsequently all those over £100. For tax-collection purposes it was necessary for Inland Revenue officers to determine whether a bequest was absolute, conditional, or an annuity in order to distinguish between property that was women’s legal property to bequeath and the property that merely ‘passed through them’ as bequeathed by their husbands or fathers. This allows me to distinguish the woman’s property regardless of whether she wrote a will.

Most registers provide information on occupation, address, spouse’s name, children’s names, and number of children. In the majority of entries the information regarding property is generally categorized as either real or personal property; moreover, the registers are the only source from which it is possible to deduce net values of personal estates for most of the nineteenth century. From 1853, when succession duty was introduced, they included a valuation, previously unobtainable, of all land, settled or unsettled. One or two reliable local men, who were known as appraisers, typically compiled the information on the property in the deceased person’s estate.²³ Inheritance-tax rates did not vary with the kind of property bequeathed. Rather, the rates were based on consanguinity, or the relationship of the legatee to the deceased. For example, spouses and children of the deceased paid no tax; sisters and brothers of the deceased paid a 3 per cent tax; and non-blood relations paid a 10 per cent tax. I use these data for three specific purposes: to examine wealth-holding patterns, to compare household information for the women married before and after the Act, and to estimate the share of household wealth owned by wives.

Wealth-holding patterns are revealed through an examination of three groups of shopkeeping women: those who died in the years 1860, 1890, and 1901–1903. I refer to this group, which consists of 1,238 women, as ‘the main sample’. All the women from the main sample who died in 1860 and 1890, and some of those who died 1901–1903, married before 1870. I refer to these as ‘the pre-1870 cohort’. The women who married after

1903 and died between 1901 and 1903 are ‘the post-1870 cohort’. One of my goals is to compare the wealth-holding of women in the two cohorts defined by their marriage date.

In addition, I use the data of women who died between 1901 and 1903 (both pre-1870 and post-1870 cohorts) to create two sub-groups of the main sample. One sub-sample incorporates additional household information from the census. Specifically, from the main sample I attempt to link the 641 women dying between 1901 and 1903 to the 1891 census. This effort, the first attempt to link Death Duty Registers to the census, establishes a linkage for 214 of these women. These data, which I refer to as ‘the census-linked sample’, allow me to examine the influence of household circumstances and other influences (including the Act of 1870) on wealth-holding.

Next, I construct a sub-sample of the census-linked sample to examine household wealth and calculate an estimate of the share of household wealth owned by women. Specifically, I link the data from the individuals in the census-linked sample to the registers of their spouses. It is possible to do this for 62 women. This sub-sample, referred to as ‘the census-spouse-linked sample’, contains data on the wealth at death of wives and husbands in households that also are linked to the census. In the remainder of this section I describe in detail the data-collection procedure.

To obtain information about wealth-holding patterns, I collected data for the main sample from the registers for the years 1860, 1890, and 1901–1903. There are no indexes to the registers. I compiled the data by consulting each individual entry in the registers containing last names beginning with C or D. Since the register entries as a whole capture the wealth at death of individuals whose economic and social positions practically run the gamut from princes to paupers, I did not collect wealth-holding information on every individual in the registers; rather, as noted above, I searched for particular occupations. Again, to control for the large income range of registrants captured in the pages of the registers and also to keep the focus of the study on the group most likely to be affected by the Act, the lower middle-class, I focus on shopkeepers.

The data from the main sample on registrants dying in 1860 and in 1890 captures general wealth-holding information, such as average real and personal property holdings, for women in the shopkeeping class who were married before 1870. The data for portion of the main sample collected on registrants dying in the years 1901–1903 captures similar wealth-holding information, but, as noted above, for two cohorts of women: the pre-1870 cohort, those in the shopkeeping class who were married before 1870 who died between 1901 and 1903, and the post-1870 cohort, those in the shopkeeping class who were married after 1870 who died between 1901

and 1903. In total I collected information on the wealth-holding of 1,238 individuals: 310 who died in 1860, 287 who died in 1890, and 641 who died in 1901–1903. Of the 641 who died in 1901–1903, 123 were married before 1870 and 518 were married after 1870.

To illustrate the data-collection procedure for the main sample of 1,238, consider the example of Louisa Chalmers.²⁴ A typical register entry, the one for Louisa Chalmers, is shown in Figure 1. From the register it is possible to know that Louisa died on 2 January 1903, and that by a will dated 8 March 1891, written only a few months after her husband Henry, a chemist and druggist, died ('A' in Figure 1), Louisa left £100 worth of household furniture and effects ('B' in Figure 1). In addition Louisa left other personal property worth a net value of £444, and she had £65 worth of debts at the time of her death ('C' in Figure 1).

Again, for tax collection purposes it was necessary for Inland Revenue officers to distinguish between property over which individuals had legal ownership and therefore could devise by will, and property in which individuals had only a life interest and therefore could not devise by will. In Louisa's case the property that she could not devise by will included any property that her husband Henry left her for life only. The distinction between a wife who has 'legal ownership' over property and one who has only a 'life interest' in property is crucial for the study of wealth-holding, since any woman who has legal ownership over some property has a degree of decision-making power with regard to the property; she may sell or will this property away in widowhood. From the Inland Revenue distinction I was able to obtain an estimate of the property that Louisa owned separate from Henry. I used this procedure to collect wealth-holding data for the 310 individuals who died in 1860, the 287 who died in 1890, and the 641 who died in 1901–1903.

Next, I used the data collected on the two cohorts of registrants who died in the years 1901–1903 to create the census-linked sample. First, I obtained information on household makeup by attempting to link each of the 641 registers for those dying in 1901–1903 to the manuscripts of the 1891 census.²⁵ The census links provide additional information on household makeup: from the census I obtained the ages of the couple and their children, which children were living at home at the time of the census, how many servants the family had, whether they had boarders or other family members living at the house at the time of the census, and often the number of years the couple had been married. In the sections that follow I provide a discussion of the potential importance of census and non-census information. The census-linked sample used in the study of the wealth-holding of registrants who died in the years 1901–1903 contains census and wealth-holding information on 214 out of the original

The Estate passing on the death of
Louisa Chalmers

Died on the 2nd

NAME	The Rank	Particulars of Property and Description and Estate owned	DUTY AND POWERS	Name and Address of Beneficiary	Name of Beneficiary	Rate of Duty	Amount of Duty	DEATH DUTY AND RETIREMENT DUTIES			
								Value for Duty	Rate	Amount of Duty	Rate
<i>Louisa Chalmers</i> <i>(deceased)</i> <i>1895</i>	D.	<i>General charge of all (deceased's) debts</i> <i>to pay by</i>	<i>Power to settle in case of death a settlement to the surviving child to have any portion of the estate after the funeral expenses (amount)</i>	<i>John Chalmers 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100</i>	<i>John Chalmers</i>						
<i>M.C.B. 1895</i>		<i>Bequest to David John Chalmers</i>	<i>John Chalmers has by deed of 21st Dec 1895 transferred to John Chalmers the above title and a hereditament of Chalmers</i>	<i>John Chalmers</i>							
<i>David John Chalmers</i> <i>1895</i>	A.		<i>Offt 297 of 7 1895</i>	<i>John Chalmers 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100</i>							
<i>David John Chalmers</i> <i>1895</i>			<i>England 1895</i>	<i>John Chalmers</i>							
<i>David John Chalmers</i> <i>1895</i>			<i>Scotland 1895</i>	<i>John Chalmers</i>							
<i>David John Chalmers</i> <i>1895</i>			<i>Wales 1895</i>	<i>John Chalmers</i>							
<i>David John Chalmers</i> <i>1895</i>			<i>Ireland 1895</i>	<i>John Chalmers</i>							
<i>David John Chalmers</i> <i>1895</i>			<i>Foreign 1895</i>	<i>John Chalmers</i>							
<i>David John Chalmers</i> <i>1895</i>			<i>Other 1895</i>	<i>John Chalmers</i>							

FIGURE 1. Inheritance tax record for Louisa Chalmers, Public Record Office Death Duty Register IR 26/8498/149.

TABLE 1
Occupations represented by the census-linked sample of 214

<i>Occupation</i>	<i>Number in sample</i>	<i>Pre-1870 marriage</i>	<i>Post-1870 marriage</i>
Auctioneer	1	0	1
Baker	11	5	6
Brewer/Licensed Victualler/Publican	48	27	21
Hotel proprietor/Innkeeper	21	10	11
Bookseller	2	2	0
Butcher	17	9	8
Chemist	6	3	3
Confectioner	3	1	2
Dairyman	4	2	2
Draper/Tailor	17	5	12
Furniture dealer	1	1	0
Florist/Gardener	5	3	2
General dealer/Shopkeeper	9	5	4
Glass merchant	3	1	2
Grocer/Fruiterer	27	19	8
Manufacturer	3	2	1
Merchant	24	8	16
Pawnbroker	2	1	1
Shoedealer	3	0	3
Stationer	4	2	2
Upholsterer	3	1	2

Sources: Public Record Office, Kew, Death Duty, Succession Duty, and Estate Duty Registers, Class IR26, volumes for last names beginning with C or D: 1860–1903.

641 registers collected.²⁶ The information on these 214 households is complete. The majority of this group lived in and around Leeds, London, and Liverpool. Table 1 provides a list of the census-linked sample by occupation. The occupations listed in Table 1 indicate that the sample contains information on 21 of the main occupations representative of the shopkeeping class.

Next, I created a sub-sample of the census-linked sample by attempting to link the Death Duty Registers of the 214 individuals (whose registers I linked to the census) to the Death Duty Registers of their spouses. Through this sub-sample, ‘the census-spouse-linked sample’, I obtained information on total household wealth and the share of total household wealth owned by wives.

To illustrate how I created the census-spouse-linked sample, I again use the example of Louisa Chalmers to demonstrate the register-linking procedure. The register entry for Louisa (see Figure 1) lists the value of

property in which Henry gave Louisa a life interest: proceeds from sale of the real estate worth £867. It is important to note that the register entry for Louisa lists *only* the sums that Louisa left and that Henry left Louisa; it does not list property that Henry left to others. The only way to know the value of total property that Henry left is to find his register entry. A note in Louisa's account ('D' in Figure 1), however, indicates that Henry died in 1891 and as a result I was able to find his register entry (see Figure 2).²⁷ The items listed in the register for Henry verify that he left no property other than that which he left to Louisa. From other information provided in the register one can see that Henry named Louisa as one of the executors of his will ('A' in Figure 2), that he left his 'household goods, furniture, and effects, and £100 to Louisa absolutely' ('B' in Figure 2). Last, Henry indicated that after the death of his wife he wished to have his property divided equally between his children, William Henry, John, and Jane Chalmers ('C' in Figure 2).

From the matched registers I was able to identify the total value of property that Louisa left by will and therefore the property that was considered legally hers at the time of her death, as well as the total value of property that Henry left by will and therefore the property that was considered legally his at the time of his death. These values allow me to make a rough estimate of total household wealth without double-counting and therefore the share of total household wealth owned by Louisa. The estimate may be regarded as an approximation because no adjustment is made for any change in the value of money or further accumulation of wealth during the ten years that Louisa survived her husband.²⁸

I successfully matched the records of 62 of the 214 couples from the census-linked sample in the same way that I matched the records for Henry and Louisa Chalmers. The sample size of the census-spouse-linked sample is small, but its characteristics are statistically the same as the characteristics of the census-linked sample of 214 households.²⁹

IV. PATTERNS OF HOUSEHOLD WEALTH BEFORE AND AFTER 1870

A first indicator of the responsiveness of women to the change in property law may be the wealth-holding patterns of women married in the years surrounding the passage of the Act. The average values of real and personal property holdings from the sample of 1,238 women are listed in Table 2 and shown in Figure 3. The sample of women who died in 1860 held, on average, £855 and £732 worth of real and personal property at death (marked 'A' in Figure 3). The sample of women married before 1870 who died in 1890 held real and personal property in approximately the same ratio; the average values of real and personal property held by

TABLE 2
Average values of real and personal property at death of women in shopkeeping households

<i>Year of death</i>	<i>Total records (N)</i>	<i>Average real property per record (£)</i>	<i>Average personal property per record (£)</i>	<i>Average total property per record (£)</i>
1860	310	855	732	1,587
1890	287	921	750	1,671
1901–1903, married before 1870	123	958	762	1,720
1901–1903, married after 1870	518	435	1,299	1,734

Sources: Public Record Office, Kew, Death Duty, Succession Duty, and Estate Duty Registers, Class IR26, volumes for last names beginning with C or D: 1860–1903.

this group at death were £921 and £750 (marked ‘B’ in Figure 3). The sample of women married before 1870 who died between 1901 and 1903 held real and personal property in approximately the same ratio: £958 and £762 (marked ‘C’ in Figure 3). These results suggest a consistent pattern of wealth-holding for the women married before 1870 *regardless* of their date of death. Women about to be married, and the parents of these women, took care to hold and bequeath real property that would revert back to the daughter on widowhood rather than personal property that the husband disposed of as he wished.³⁰

Since the Act did not apply retroactively its effect would not be evident until the women who married after 1870 began to die. In fact, register entries for women who married after 1870 and who died at the turn of the century suggest a different pattern of wealth-holding. Average real property holdings of the women married after the Act fell to £435, while average personal property holdings increased to £1,299 (marked ‘D’ in Figure 3). The increased proportion of personal property supports the hypothesis that greater long-term security for personal property encourages women to hold more of their assets in that form, and less as real property.

Although the shift in wealth-holding is understandable given that the Act granted women married after 1870 ownership and control over most forms of personal property, it is still not clear that the change in the wealth-holding of wives altered the economic position of wives in the household. One way to begin a discussion of the economic position of wives is to compare the total value of their property to the total value of the property of their husbands, and use this information to obtain an

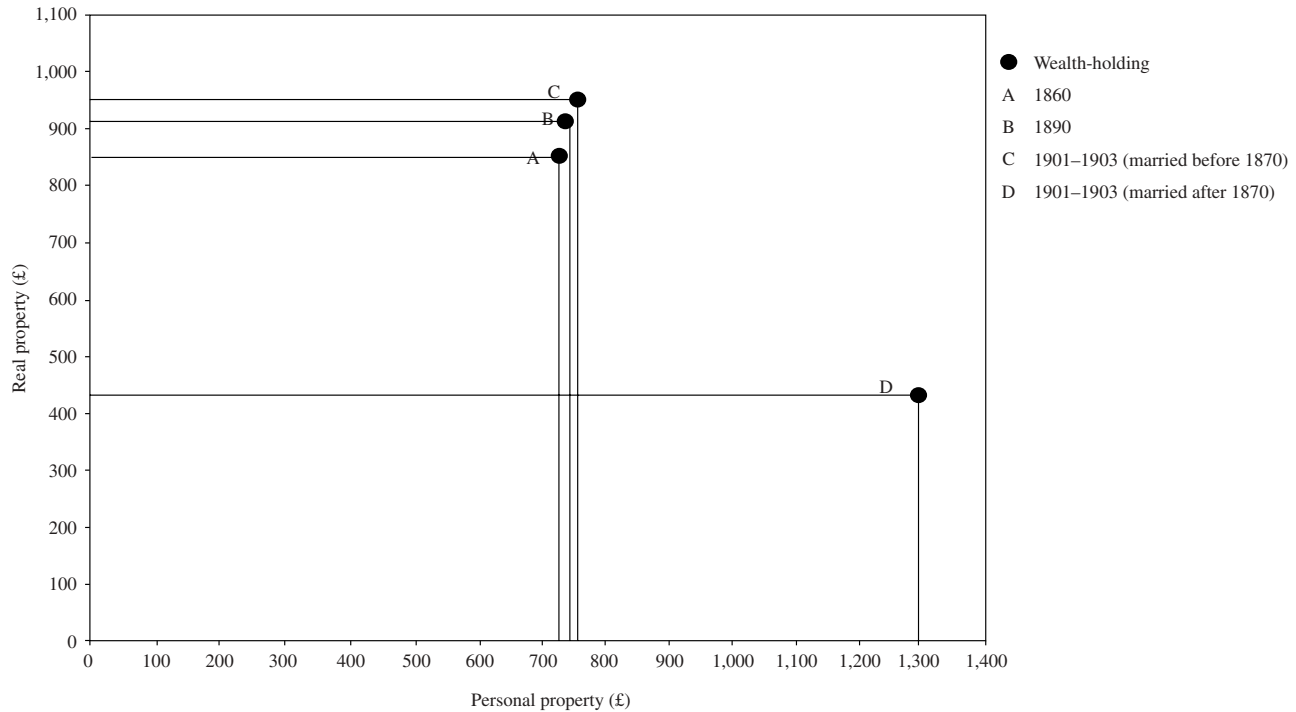


FIGURE 3. Average wealth-holding of women married before the Married Women's Property Act who died in 1860, 1890, or 1901-1903 and of women married after the Act who died 1901-1903. (Source: as in Table 3.)

TABLE 3

The wives' share of wealth in shopkeeping households, by marriage date

<i>Year of death</i>	<i>Total records</i>	<i>Average real property per record owned by wives (£)</i>	<i>Average personal property per record owned by wives (£)</i>	<i>Average total property per record owned by wives (£)</i>	<i>Average share of household wealth (%)</i>	<i>Average total household property per record (£)</i>
1901–1903, married before 1870	30	964	718	1,683	23.8	7,071
1901–1903, married after 1870	32	430	1,269	1,699	38.0	4,471

Sources: Public Record Office, Kew, Death Duty, Succession Duty, and Estate Duty Registers, Class IR26, various volumes for last names beginning with C or D: 1860–1903, and Class IR19, residuary accounts (inventories) linked to the IR26 documents. This is the census-spouse-linked sample (see text).

estimate of the share of total household wealth owned by wives. The census-spouse-linked sample of 62 households allows me to compare the estimate of the share of household wealth owned by the women married before the Act to the estimate of the share owned by the women married after the Act. Table 3 presents the data on the share of household wealth owned by wives. In this group as well we see a substantial shift from real to personal property. Women married before 1870 held most of their wealth in the form of real property, while women married after 1870 held most of their wealth in the form of personal property.³¹ The results from Table 3 indicate that women married before 1870 who died between 1901 and 1903 owned, on average, 23.8 per cent of household wealth, while the women married after 1870 owned, on average, 38 per cent of household wealth.³² The difference in the average share owned by women married before the Act and the average share owned by women married after the Act is evident in Figure 4, a plot of total household wealth and share of household wealth owned by each of the wives in the census-spouse-linked sample. From the plot it is clear that most wives married before 1870 held less than 30 per cent of total household wealth, whereas most women married after the Act held more than 30 per cent of total household wealth. The overlap between the distribution of shares owned by women married before and after 1870 is limited.³³

My examination of the two sub-samples consisting of 214 and 62 households is consistent with the hypothesis that wives altered the composition of their wealth-holding and increased their share of household

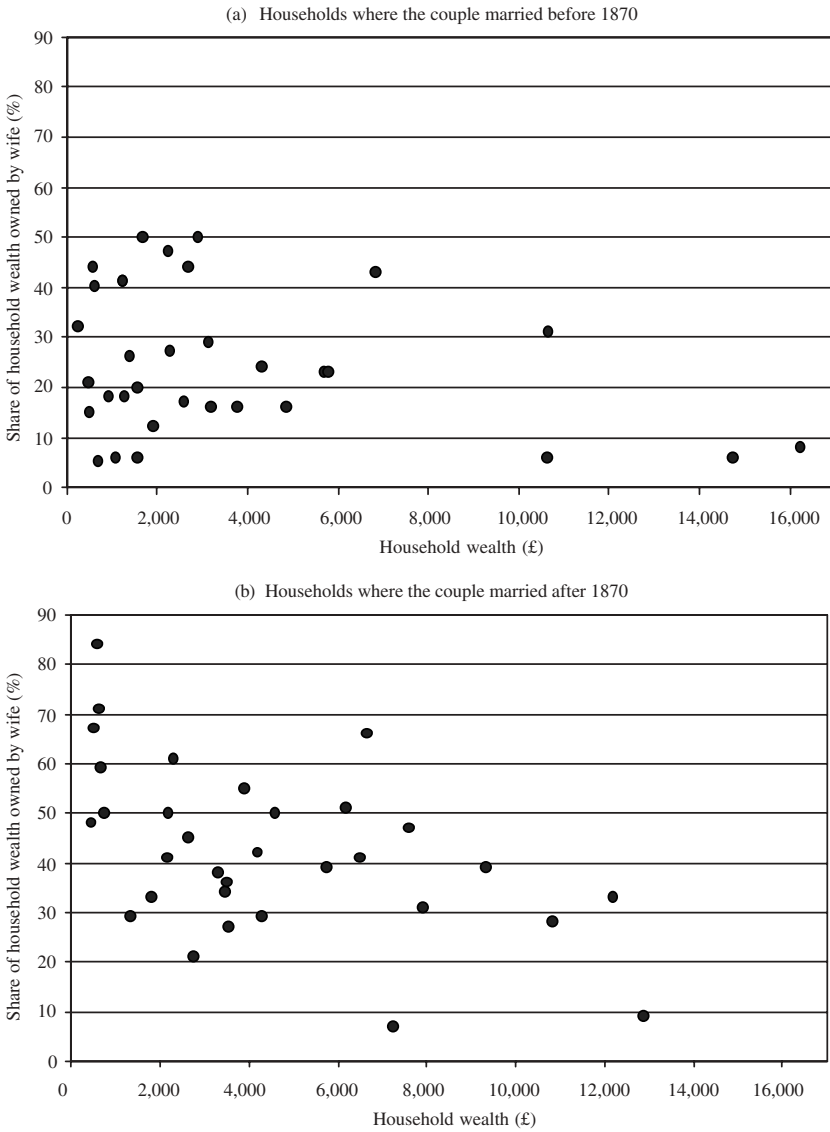


FIGURE 4. Shares of household wealth among women married (a) before and (b) after 1870.

assets as a consequence of the Act. It is possible, of course, that some other difference between those married before and after the Act might account for these results. A brief comparison of household characteristics of the two groups, based on information recorded in the census and

TABLE 4
Summary statistics: the census-linked sample of 214 British shopkeepers' households

	<i>Pre-1870 marriages (n = 107)</i>		<i>Post-1870 marriages (n = 107)</i>	
	<i>Mean</i>	<i>Standard deviation</i>	<i>Mean</i>	<i>Standard deviation</i>
Real property	958	490	435	428
Personal property	762	511	1,299	684
Number of sons at home	1.18	1.56	1.12	1.31
Number of daughters at home	1.19	1.34	1.07	1.14
Number of sons in labour market	0.55	0.93	0.24	0.58
Number of daughters in labour market	0.32	0.61	0.22	0.74
Number of servants	0.72	1.18	0.62	0.97
Number of boarders	0.17	0.63	0.11	0.34
Number of visitors	0.05	0.22	0.2	0.48
Number of other family members at home	0.34	0.70	0.36	0.87
Total number of children (in and out of household)	4	2.7	3.3	2
Distance from birthplace: husband/wife ratio	11.6	44	15.6	60
Years married at death	43.3	11	23 ^a	7.3
Husband/wife age ratio	1.07	0.11	1.1	0.25
Average age of couple at time of census	53	9.23	41	11.9

^a Average age at marriage is higher for this group because some of the people in this cohort were widowed and then remarried after 1870.

presented in Table 4, suggests that this is unlikely. The two cohorts are structurally very similar apart from the inevitable difference that the second cohort was younger on average because the pre-1870 cohort *had* to have lived longer in order to survive until the end of the century and enter my sample. The average age at death of the post-1870 cohort is similar to the average age at death of the two samples of women who married before 1870 and died in 1860 and 1890.³⁴ Aside from the age difference and its various correlates summary statistics for the two cohorts are similar.³⁵

The census also reports place of birth, which is of interest. The distance between place of birth and place of current residence may give some idea of ease of access to support networks of family and friends. A married

woman who lived closer to her birthplace (and therefore possibly closer to her parents or other relatives) might have benefited in two ways: the family might be able to keep an eye on her and her property, or at least serve to reinforce verbal agreements made at the time of marriage about what she brought to the marriage and what was considered – *in practice if not in law* – her property. Also, a married woman who had family living close by had an additional support network and possibly a place to stay should the marriage go wrong.

While it is possible that an individual who was born in one city moved with her parents to another city soon after her birth, it is also possible that the individual remained living in the town or city of her birth for many years. As a result the place of birth remained a source of social connections for many individuals, as the cases of Mrs Weedon and Sarah Elcock demonstrate. In 1843 one Mrs Weedon was deserted by her husband.³⁶ In 1859 Mrs Weedon was involved in a Chancery suit over her inheritance. She inherited a sum of money from her father and her husband returned to claim the inheritance – which, under common law, was considered to be the property of the husband. The wife, however, testified in court that her husband had deserted her on 31 January 1843 – *16 years earlier* – and that she had been living nearby with her mother and father since that date. Mrs Weedon claimed that the property was lawfully hers since she even had gone so far as to obtain a protection order for her property under 20 and 21 Vict. C. 85, s. 21, on the ground of causeless desertion. (The judge who presided over the case, Lord Justice Turner, decided in favour of the wife and ordered the husband to pay the costs.)

The example of Sarah Elcock also supports the plausibility of using distance from birthplace as a proxy for distance from parents or other close relatives. In 1883 Sarah's husband, Edward, died, leaving her with four children, all under 12 years of age.³⁷ Sarah was 39 years old. Soon after Edward's death Sarah moved back to the town in which she was born – a place where she undoubtedly had a support network of family and friends to help her. Elcock, Weedon, and married women like them who lived close to family had an additional support network and therefore more decision-making power with regard to wealth-holding than women who lived far from their family. The information provided in Table 4 indicates that the cohort married after 1870 tended to live closer to the birthplace of the husband and further from the birthplace of the wife than the cohort married before the Act.

In most other respects the household makeup of the pre-1870 cohort is almost indistinguishable from the household makeup from the post-1870 cohort. Most families had about 3 or 4 children, no servants or just one, and about the same likelihood of having other family members, such as

grandparents or siblings, living in their home. Both cohorts were more likely to have sons working in the labour market than daughters and it was more common for husbands to live further from their birthplace than wives.

V. CONCLUSION

The data used in this article suggest that a government policy that changes the control of resources within marriage can affect individual wealth-holding decisions and the distribution of property within marriage. The 1870 Married Women's Property Act reduced the risk of having personal property items taken away by the husband and provided married women with a legal right to make choices about their wealth-holding. They seized the opportunity. Married women used their newly acquired legal independence to gain a measure of economic independence; women married after the Act transferred their wealth-holding into forms of property that they could own and control. Furthermore, it seems possible that after gaining the right to own and control certain forms of property, married women asserted their new property-owning status and gained control over a larger share of household wealth.

In the case of England the wealth-holding evidence supports the long-held claim that the Married Women's Property Act had a substantial impact on a married woman's wealth-holding. For, as Shanley asserts, 'although a married woman's right to hold property did not equalize men's and women's vastly different economic resources, a woman had to be able to possess her own property before she could effectively counterpoise her will to that of her husband'.³⁸ With their new economic independence women had the ability to choose for themselves in ways that they had not been able to before. The choices would affect their wealth, the wealth of their children, and their future legal and economic lives.

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ENDNOTES

- 1 See R. J. Morris, 'Men, women, and property: the reform of the Married Women's Property Act 1870', in F. M. L. Thompson ed., *Landowners, capitalists, and*

- entrepreneurs* (Oxford, 1994). On motivations for the United States' married women's property acts, see R. Geddes and D. Lueck, 'The gains from self-ownership and the expansion of women's rights', *American Economic Review* (in press). On Canada see G. Hamilton, 'Property rights and transactions costs in marriage: evidence from pre-nuptial contracts', *Journal of Economic History* **59** (1999), 68–103; Sue Ingram and Kris Inwood, 'The impact of married women's property legislation in Victorian Ontario', *The Dalhousie Law Journal* **23** (2000), 405–49, and Kris Inwood and Sarah Van Sligtenhorst, 'The social consequences of legal reform: women and property in a Canadian community', *Continuity and Change*, this issue.
- 2 C. Shammass, 'Re-assessing the Married Women's Property Act', *Journal of Women's History* **6** (1994), and L. Holcombe, *Wives and property: reform of the Married Women's Property Law in nineteenth century England* (Toronto, 1983), and *Victorian ladies at work: middle-class working women in England and Wales, 1850–1914* (Toronto, 1973).
 - 3 L. Davidoff, *The best circles: women and society in Victorian England* (Princeton, 1973), 95. Also see C. Backhouse, 'Married women's property law in nineteenth-century Canada', *Law and History Review* **6** (1988), 211–57; N. Basch, *In the eyes of the law: women, marriage, and property in nineteenth-century New York* (Ithaca, 1982); P. Baskerville, 'Women and investment in late nineteenth century urban Canada: Victoria and Hamilton, 1880–1901', *Canadian Historical Review* **80** (1999), 191–218; M. Berg, 'Women's property and the Industrial Revolution', *Journal of Interdisciplinary History* **24** (1993), 233–50; P. Branca, *Silent sisterhood: middle-class women in the Victorian home* (London, 1975); 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* (1987), 87–102; Chambers, *Married women and property law in Victorian Ontario* (Toronto, 1997); R. Chused, 'Married women's property law: 1800–1850', *Georgetown Law Review* **71** (1983), 1359–425; L. Davidoff, 'The family in Britain', in F. M. L. Thompson ed., *The Cambridge social history of Britain, 1750–1950*, vol. 2: *The people and their environment* (Cambridge, 1996; 1st publ. 1990); L. Davidoff and C. Hall, *Family fortunes: men and women of the English middle class, 1780–1850* (London, 1994); L. Davidoff and B. Westover eds., *Our work, our lives, our words: women's history and women's work* (London, 1986); A. Erikson, *Women and property in early modern England* (London, 1993); M. Finn, 'Women, consumption, and coverture in England, c. 1760–1860', *Historical Journal* (September 1996); L. Kerber, *Women of the republic: intellect and ideology in revolutionary America* (New York, 1986; 1st publ. 1980), *Toward an intellectual history of women* (Chapel Hill, 1997), and *No constitutional right to be ladies: women and the obligations of citizenship* (New York, 1998); Z. Khan, 'Married women's property laws and female commercial activity: evidence from the United States patent records, 1790–1895', *Journal of Economic History* **56** (1996), 356–80; J. Lewis, *Women in England 1870–1950* (Bloomington, 1993; 1st publ. 1984); E. Rappaport, "'A husband and his wife's dresses': consumer credit and the debtor family in England, 1864–1914', in Victoria de Grazia and Ellen Furlough, eds., *The sex of things: gender and consumption in historical perspective* (Berkeley, 1996); M. Salmon, *Women and the law of property in early America* (Chapel Hill, 1986) and 'Women and property in South Carolina: the evidence from marriage settlements, 1730–1830', *William and Mary Quarterly* **39** (1982), 655–85; C. Shammass, 'Early American women and control over capital', in R. Hoffman and P. Albert eds., *Women in the age of the American Revolution* (Charlottesville, 1986), 134–54; M. L. Shanley, *Feminism, marriage, and the law in Victorian England* (Princeton, 1989); R. Siegel, 'Home as work: the first woman's rights claims concerning wives' household labor, 1850–1880', *Yale Law Journal* **103**

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- 4 A. H. Baker, *An introduction to English legal history* (2nd edn, London, 1990), 552.
 - 5 *Ibid.*
 - 6 C. Shammas, M. Salmon, and M. Dahlin, *Inheritance in America from colonial times to the present* (New Brunswick, 1987), 3.
 - 7 Baker, *An introduction*, 552.
 - 8 *Ibid.*
 - 9 Holcombe, 'Wives and property', 25.
 - 10 See Staves, 'Married women's separate property'.
 - 11 Kerber, 'Women of the republic', 120.
 - 12 *Gleaves v. Paine*, 15 Jan. 1863, *English law reports*, 46, 34, Lord Chancellor Westbury and Court of Appeal in Chancery. Note: the first name of Mrs Gleaves is unknown, since she was referred to only as 'Mrs' in court documents.
 - 13 *Ibid.*
 - 14 Baker, *An introduction*, 553.
 - 15 See R. J. Morris, 'Men, women, and property: the reform of the Married Women's Property Act 1870', in F. M. L. Thompson ed., *Landowners, capitalists, and entrepreneurs: essays for Sir John Habakkuk* (Oxford, 1994). For examples from marriages in early modern England see Erikson, *Women and property*.
 - 16 A sample of inheritance-tax records taken from the 1850s to the 1880s suggests that by the latter decades of the century over a third of male shopkeepers left property to wives and daughters in trust. Specifically 21 per cent in the 1850s directed their executors to sell the business property and to hold the sums in trust for the wife. In samples of similar size the percentage increased steadily over the next three decades to 24 per cent of wills in the 1860s, 30 per cent in the 1870s, and 36 per cent in the 1880s (Source: Public Record Office; Death Duty, Succession Duty, and Estate Duty Registers, Class IR26, volumes for last names beginning with C or D: 1850–1889). Also see Morris, 'Men, women, and property'. For more information about separate estates and trusts see Shanley, *Feminism, marriage, and the law in Victorian England* (Princeton, 1989); S. Staves, *Married women's separate property in England, 1660–1883* (Cambridge, 1990); and Shammas, 'Re-assessing the Married Women's Property Act', *Journal of Women's History* 6 (1994).
 - 17 33 & 34 Vict., c 93.
 - 18 It should be noted that in 1882 an amended version of the 1870 Act, the Married Women's Property Act of 1882, was passed. The Act of 1882 gave women married after 1 January 1883 the right to all property that they possessed or were entitled to at the time of marriage and also all property that they acquired or became entitled to after marriage. In order to avoid any possible confusion between the effects of the 1870 and 1882 legislation I exclude from analysis the few women found in the 1903 Death Duty Registers who married after 1883 (see note 21, below).
 - 19 Floud asserts that 'the reality of working class lives [was that] there the decreasing opportunities for employment for married women combined with a birth rate which remained high until the end of the century, produced both economic dependence of women upon men and often its corollary in terms of suffering and sacrifice'. See R. Floud, 'Britain, 1860–1914: a survey', in R. Floud and D. N. McCloskey eds., *The economic history of Britain since 1700*, vol. 2: 1860–1939 (Cambridge, 1994; 1st publ. 1981), 12.

- 20 Shanley, *Feminism, marriage, and the law* and Morris, 'Men, women, and property'.
- 21 Public Record Office, Kew: Death Duty, Succession Duty, and Estate Duty Registers, Class IR26, Volumes for last names beginning with C or D: 1850–1903: 2628, 2960, 3122, 3132, 3214, 3459, 3460, 3510, 3594, 3719, 3746, 3761, 4245, 4304, 4312, 4313, 4314, 4315, 4442, 4526, 4544, 4558, 4753, 4754, 4756, 4758, 4759, 6377, 6378, 7597, 7642, 7644, 7747, 7871, 7874, 7935, 7938, 8241, 8242, 8243, 8244, 8245, 8246, 8247, 8248, 8249, 8250, 8259, 8340, 8498, 8499, 8500, 8501, 8502, 8503, 8506, 8507, 8509, 8510, 8511, 8512; Residuary Accounts, Class IR19, Boxes 95–226. Unfortunately, the post-1903 registers do not survive.
- 22 B. English, 'Probate valuations and the Death Duty Registers', *Bulletin of the Institute of Historical Research* LVII (1984), 80–91. Rubenstein was one of the first to use the Death Duty Registers. See W. D. Rubenstein, 'Occupations among British millionaires, 1857–1969', *Review of Income and Wealth* xvii (1971), 375–8. Also see M. Collinge, 'Probate valuations and the Death Duty Registers: some comments', *Bulletin of the Institute of Historical Research* LX (1987), 240–5.
- 23 For additional discussions about the household inventory procedures, see Erikson, *Women and property*, 21–45; M. Scott, *Prerogative Court of Canterbury wills and other probate records* (London, 1997), 43–54; J. Cox, *Affection defying the power of death: wills, probate, and Death Duty Records* (London, 1988) and *Wills, inventories and death duties* (London, 1988); J. West, *Village records* (London, 1982) and the sources identified in the previous note.
- 24 Public Record Office Death Duty Register IR26/8498/149.
- 25 This research was undertaken before the 1901 census became available; linkage to the new source is now being planned. Census references for the successful linkages are available from the author.
- 26 Finding a shopkeeper in the register does not guarantee that the person will be found easily in the census because, among other reasons, people moved. Recent advances in surname-indexing for the 1891 census has been useful for some names. Of course common names like Elizabeth Cooke and Emma Dickinson pose additional problems. Verification, for example that I had the correct Emma Dickinson, was accomplished by referring to other family members listed in both the census and Death Duty Register.
- 27 Public Record Office Death Duty Register IR26/4313/5958.
- 28 This effect is unlikely to have been large. Inventories of wealth filed with the registers give the date of purchase of stocks and other interest-bearing investments. Fewer than 1 per cent of the accounts in my sample show any indication of reinvestment of dividends during widowhood. See Public Record Office Residuary Accounts, Class IR19, Boxes 19–226. It might be noted as well that the register-linking procedure cannot account for inter-vivos transfers, since the registers provide a glimpse of property in the deceased person's possession at the time of death. The registers share this limitation with all other sources that identify wealth at death.
- 29 Pooled-variances t-tests for the means of real and personal property give test-statistics below 1.0 and strongly suggest, at a 95 per cent confidence level, that the group of 62 is structurally comparable to the larger sample of 214 observations. See M. B. Combs, 'A measure of legal independence', Fordham University working paper, 2002.
- 30 Baker, *An introduction*, 552. Again, most marriages probably were good ones; however, many parents would have wanted to err on the side of protecting their daughters and their property. See Shammass, Salmon, and Dahlin, *Inheritance in America*, 3; Staves, *Married women's separate property*; and M. Anderson, 'The social implications of demographic change', in Thompson, *The people and their environment*, 1–70.

- 31 For a detailed discussion of the determinants and implications of the shift in wealth-holding from real to personal property, see Combs, 'A measure of legal independence'.
- 32 Total household wealth is smaller for the post-1870 cohort largely because they were, on average, 12 years younger than the pre-1870 cohort. Had the cohort married after the Act lived as long as the cohort married before the Act, their investments would have accrued interest over the additional 12 years. To account for the difference and to obtain data on total household wealth that is comparable, I used average rates of return for personal and real property investments over the period to estimate what the value of the investments of the post-1870 cohort would have been had the members of the cohort lived as long as the pre-1870 cohort. After adjusting for the age difference the value becomes £8,508. See M. B. Combs, 'Cui bono?', Fordham University working paper, 2002.
- 33 Admittedly, the census-spouse-linked sample, because of its method of construction, only contains information on households in which the wife held her own property and survived her husband. There is no reason to think that these households differed from the larger population, but the possibility should be recognized.
- 34 National average ages of death at the time were 52 (males) and 55 (females). Since shopkeepers generally had better housing and standards of living than the working classes, who numbered two-thirds of the total population, it does not seem unusual that shopkeepers would have average ages at death higher than the working class and the population as a whole. See Anderson, 'The social implications of demographic change', 1-70.
- 35 The number of years married at death and age at death suggest that the average age at marriage may have been higher for the post-1870 cohort than the pre-1870 cohort. This likely results from a higher proportion of remarriages in the post-1870 cohort, who had an average age at marriage comparable to national averages for this income group. Michael Anderson's study of demographic change in Britain reports the average age at marriage among shopkeepers to be 27 (males) and 24 (females); see Anderson, 'The social implications of demographic change', 34. The average number of years married at death is almost twice as great for the pre-1870 cohort. Again, this reflects the remarriage of widowed women in the second cohort and the difference in age at death between cohorts.
- 36 *Rudge v. Weedon*, 26 May 1859, *English law reports*, 45, 84, Lord Chancellor and Court of Appeal in Chancery.
- 37 Public Record Office, Death Duty, Succession Duty, and Estate Duty Registers: Sarah Elcock IR26/8247/932; Edward Elcock IR26/3497/1179; census link to 1891 census for Sarah and Edward Elcock, RG 11/2894/47.
- 38 Shanley, *Feminism, marriage and the law*, 13.

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