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**'Power of thirds': The material lives of widows, Portsmouth,
New Hampshire, 1816–1826**

Mitchell, Holly Bentley, M.A.

University of Delaware, 1991

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'POWER OF THIRDS'
THE MATERIAL LIVES OF WIDOWS
PORTSMOUTH, NEW HAMPSHIRE, 1816-1826

by

Holly Bentley Mitchell


A thesis submitted to the Faculty of the
University of Delaware in partial fulfillment for the
degree of Master of Early American Culture

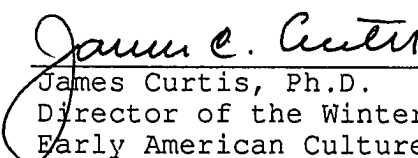
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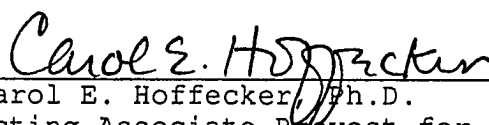
'POWER OF THIRDS'
THE MATERIAL LIVES OF WIDOWS, PORTSMOUTH, N.H.,
1816-1826

by

Holly Bentley Mitchell

Approved: 
Bernard Herman, Ph.D.
Professor in charge of thesis

Approved: 
James Curtis, Ph.D.
Director of the Winterthur Program in
Early American Culture

Approved: 
Carol E. Hoffeecker, Ph.D.
Acting Associate Provost for Graduate
Studies

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Several years ago after completing a study of widows' inventories, one glaring question remained--what became of their possessions. This thesis attempts to solve the mystery. Many have assisted in the process, for which I am deeply appreciative.

The staff of the Rockingham County Court House Probate Office patiently helped me to locate the most elusive records. Special thanks are also in order for Frank Mevers, Andrew Taylor, and Pauline Oesterlin at the Division of Records Management and Archives; Nancy Noble at the Portsmouth Public Library; Jane Nylander, Robyn Mason, Gerald Ward, Barbara M. Ward, Martha Pinello, and Mark Sammons of Strawberry Banke Museum; the staff of the Portsmouth Masonic Society; The New Hampshire Historical Society archivists and

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TABLE OF CONTENTS

| | |
|---------------|-----|
| ABSTRACT..... | vii |
|---------------|-----|

Chapter

| | |
|------------------------------|----|
| 1 WIDOWS AND WILLS..... | 1 |
| 2 WIDOWS AND DOWERS..... | 22 |
| 3 WIDOWS IN COURT..... | 40 |
| 4 TRANSFERS OF PROPERTY..... | 58 |
| 5 THE END OF LIFE..... | 77 |
| BIBLIOGRAPHY..... | 92 |

ABSTRACT

This paper explores the relationship between widows and property in the early nineteenth century through the experiences of 136 women widowed between 1816-1826. Using the process of limited prosopography, diverse documents including wills, dowers, inventories, administration and guardian accounts, court records, land deeds, pauper records, street directories, tax lists, and church records were combined to construct biographies of widows from different economic and racial groups.

Property issues--the central link in this paper--also form the structural divisions. Narratives concerning the material lives of widows are arranged into chapters concerning inheritance of property; court arguments over property; mortgages, sales, and

purchases of property; and, finally, a discussion of the kind of property widows owned at the time of their deaths.

This paper demonstrates that although there was no common experience of widowhood, widows held a carefully defined place in society. A widow's subsistence was nearly always secondary to the concerns of creditors. If their husband died in debt, a widow's dower could be suspended to pay the debt and a judge could alter her allotment of personal estate. Aside from teaching or running a shop, widows generated incomes through holding mortgages, buying and selling real estate, and using their furniture or land as collateral on loans.

Widows' wills suggest that they operated under a distinctly different value system than men. Specific bequests to individuals, usually females, figure largely in their wills. Inventories reveal that widows often

retained only luxury items and bank stock at the end of their life.

Studying widows' lives through property relations reveals that women had a distinct relationship to property. In general, women were more reliant and connected to personal property. Their control over real estate was usually limited by lifetime interest, which only allowed them the right to occupy or rent land. As this study shows, widowhood is a time when women surface in the legal record and in studying their experience, much can be gleaned about the place of women in society.

Chapter One
WIDOWS AND WILLS

On September 17, 1824, Anna C. Smith admitted three men into her house on Russell Street in Portsmouth, New Hampshire. Appointed by the Judge of Probate, the men--Isaac Waldron, Gilman Leavit, and Joseph Walton composed the inventory committee for the estate of Anna's late husband, Simeon, a prosperous cooper. Simeon had died the month before at the age of 47 leaving the bulk of his estate to his wife for her natural life. Essentially, Anna became the keeper of his property--preserving and maintaining the estate for his heirs--their ten children.

Examining the inventory process allows the parameters of Anna's material world to emerge because there is a linear relationship between the numerical value of the objects and the future well-being of Anna and her children. The act of inventory transforms objects' personal value into a monetary value and one can

only imagine what thoughts ran through Anna's mind as she led the men through her house.

New items, such as the carpet in the "Best room" and "Best chamber" were considered more valuable. With few exceptions, everything in the inventory had a static if not decreasing value. Objects of increasing value, such as real estate, were those over which a widow usually had the least amount of control. Personal property was sold first to pay debts--only in extreme cases was real estate sold. Undoubtedly aware of this, Anna had a great stake in the assessment, but little influence.

Simeon died in possession of a large estate and the assessors began their methodical inventory in what they called the "Best room" with the best, most valuable, object, a carpet worth \$25. The carpet was by far the most expensive item in the room especially when compared to the \$10 brass fire set and the six chairs and two card tables which were assigned a total value of \$11. As the inventory progressed into the entry, Anna may have already been feeling overwhelmed by this new definition of things. Sentiment was irrelevant. And yet, did she

perhaps agree with the total value of \$13.50 placed on the collection of entry hall furnishings, which included a dining table, arm chairs, mats, stair carpeting, and fire buckets? Did the total seem fair or extravagant to Anna? Was she surprised to see the sofa in the west room valued at \$10? The carpet in that room was judged as "old" and worn and correspondingly the six chairs were less valuable than those in the best room. However, these "common" objects were just that--objects that had been used and enjoyed by Anna and her family more than the new fashionable objects in the best room.

Continuing into the back room the inventory group was confronted with two tables and twelve chairs which had been just enough for Anna, Simeon, and their ten children. For unknown reasons, the assessors temporarily ignored the kitchen and returned to the hall. Ascending the stairs, the inventory resumed in the "Best chamber" and once again with a carpet of equal size and value to the one in the "best room." Like the "best room" the chamber was sparsely furnished with one bureau and one bedstead, bolster, and pillow set, equal in value to the carpet. Next to this room was the east chamber in which the men first noted the "old" and probably worn carpet

worth only \$3. The room contained a bed bolster and pillow set of comparable value to the one in the best chamber, except that the bedstead had high posts. The 87 yard "Suit of Patch Curtains" probably hung from the posts and was almost as costly as the bedding. The room was large enough to also contain an easy chair, night table, two trunks, a bureau, and six chairs.

Across the hall, the west chamber also contained a high post bed, but this one the assessors termed "common" and along with the beddings, it was assigned a lower value. Similar to the east chamber, the room held six chairs, a bureau, and a stand. The difference lay in the presence of a looking glass and a silver watch worth \$7. The back room with its five bedsteads worth a total of \$3 was most likely the room that housed Mary Ann, Louisa, Frances, Elizabeth, Eleanor, and Caroline--the Smith's six daughters. Their four sons, Josiah, George, Israel, and Simeon shared the other two bedrooms. Four of the bed bolster and pillow sets in the back room were worth in total value as much as one set from the other chamber. Aside from the beds, the room contained only a table. This room also seems to be a repository of linens with 21 pairs of sheets and pillowcases, three dozen

towels and several blankets, table cloths, and bed coverings. However, Anna may have simply gathered the linens in the room in order to aid the inventory process.

The assessors then returned downstairs and created an inventory category called "crockery" which listed the tea sets, the seven dozen plates, dishes, "a lot of crockery in the closet," candlesticks, tumblers, wine glasses, decanters, iron and tin ware, knives, forks, and 12 silver spoons-- the only silver they owned besides the watch. This room, presumably the kitchen, also contained the single most valuable item in the house, a cooking stove worth \$28.

"Pork in a barrel" and ten bushels of corn were the only stored food that the assessors listed. Other, smaller amounts of perishable foods were probably not considered worth listing. Almost last on the household list was Simeon's clothing with a total value of \$20. The total value of the household objects was \$521.67-- slightly more than one tenth the total value of the estate.

The inventory continued down on Fore Street in Simeon's cooper shop. Presumably, Simeon, a master cooper, employed other men and potentially apprentices. None of the tools were assessed at more than a few dollars each. Simeon had a large supply of stock items such as hoops, beef barrels, and staves, worth several hundred dollars. The stock and tools came to a total value of \$770.55. Also involved in sea trade, Simeon's schooner "Ruth and appurtenances" were assessed at \$700. The inventory concluded with the real estate including the house and land on Russell Street listed at \$1800 while the stores, land, and wharf on Fore Street were valued at \$1400. In addition, Simeon left behind a lot of land in the nearby town of Brentwood, New Hampshire, "owned in Common and undivided with Andrew Dudley Esq. containing about 42 acres" and worth \$800. Submitted in September of 1825, a year after it began, the inventory listed a total estate value of \$5992.22.

Simeon had named Anna as administrator of this estate on July 24, 1824, when in a "weak and feeble state of Bodily health, but of sound & perfect memory," he wrote his last will and testament. Simeon's first consideration was his ten children, to whom he left five

dollars a piece. In naming them in the will he effectively eliminated their opportunity to contest it. Anna, his widow and executrix, received the "use & benefit, for and during the term of Her natural life" of all his estate both real and personal. Essentially, Simeon allowed her the role of manager of the estate. Under ideal circumstances his estate was to provide enough money to support her and the children and she in turn would preserve and maintain his land and possessions for his heirs. Anna, 45 years old and pregnant with her eleventh child, suddenly found herself in charge of a substantial estate. As his wife, she legally owned nothing, as his widow she became the guardian of his children, and the manager of his house, cooper's shop and tools, wharf, and schooner in Portsmouth and his acreage in Brentwood. Propertyless in her own right she became the sole administrator of an estate worth nearly six thousand dollars. ¹

What led her husband to assume that she could manage his business ventures and property--that a woman legally limited as a wife and mother could be transformed

¹ Rockingham County Court House (hereafter RCC) Probate Docket 10874, Simeon Smith's will and inventory.

into a manager of children, land, buildings, and a ship? Details concerning Anna's experiences as a wife do not appear in the written record for she left no diaries or letters. Perhaps she was a valued assistant to her husband's business ventures or maybe quite ignorant. As a wife she is submerged even in the legal records. Married women under common law were known as feme covert. Coverture began with marriage when the wife assumed her husband's name and rank. As a wife, a woman could not sue or be sued and she was limited in her authority to make contracts or wills. At the time of marriage, ownership of her personal property, and the management of her real property fell to her husband. Under the rules of common law marriage she essentially became a "nonentity in most situations; her husband subsumed her legal personality."²

Widowhood forced Anna to the surface of the written record just as it forced drastic changes upon her life. In the 46 years she spent as a widow, Anna did not have much success maintaining her husband's estate. Debts and legal battles forced her to sell the land and

² Norma Basch, In the Eyes of the Law: Women Marriage, and Property in Nineteenth Century New York (Ithaca: Cornell University Press, 1982), 17.

the house. Money she owed her daughters led her to mortgage her furniture twice. At the time of her death she lived in a divided half of her husband's old house, now owned by her eldest daughter.

The varied stories of widows offer a striking critique of the concept of separate spheres. Widowhood can be seen as giving women the opportunity, or in some cases, forcing them to transcend the sphere of the home. Anna Smith's experiences and the experiences of the other 132 women widowed between 1816 and 1826 in Portsmouth, New Hampshire, was shaped by a relationship to and control over property. Using the process of limited prosopography, diverse documents including wills, inventories, dowers, administration and guardian accounts, court records, land deeds, pauper records, street directories, tax lists, and church records were combined to construct biographies of widows from different economic and racial groups.³ The only common characteristic is that all their husband's deaths were recorded in the probate office, indicating that they died

³ Prosopography as a method is best described in Lawrence Stone's article "Prosopography" Daedalus, (Winter 1971); 46-79. Billy Smith employed this method in The "Lower Sort:" Philadelphia's Laboring People, 1750-1800 (Ithaca: Cornell University Press, 1990) and has a good discussion of limited prosopography in Appendix A.

owning some form of property. Property issues--the central link in this paper--also form the structural divisions. Narratives concerning the material lives of widows are arranged into chapters concerning inheritance of property; court arguments over property; mortgages, sales, and purchases of property; and, finally, a discussion of the kind of property widows owned at the time of their deaths.

About one third [42] of the women in this study had their widowhood structured by a will. Men were legally empowered through these documents to circumscribe the widow's economic future. In general, the wills written by men begin with a statement of mental and physical competency and then a statement of responsibility. Their first priority was usually the payment of funeral charges and debts, next came the legacies to his children, and finally a statement regarding the economic fate of his "beloved wife." Men held a great deal of flexibility in the allocation of their estates. Provisions had to be made for the widow and they could comprise total control of everything or very limited benefits from certain pieces of property. If the amount was less than absolute control of one third of his personal property--his

movable goods and a life interest in one third of his real estate the widow could waive the provision by petitioning the Judge of Probate, and receive her thirds.

Dower laws seem to have been designed to keep widows from becoming public wards. The one third of the real estate guaranteed her a place to live (or property to rent) while one third of the personal goods gave her the basic necessities of life. Unfortunately for the widow, the claims of administration, funeral charges, and just debts preempted her claims to the estate. Still, the determining factor shaping widowhood was the amount of control her husband gave her over the estate. Husbands were sometimes generous and gave their widows absolute rights to most or all of the estate. Others received only minimal support from the estate during their life or widowhood, or in other words, until death or remarriage.

Simeon P. Smith in leaving small monetary legacies to his children and naming Anna his executrix allowed her a great deal of authority. The estate was to remain under her control until her death. As the executrix of the estate and guardian of the children she

could only sell estate property (both real and personal) by obtaining licenses from the probate court. The estate, Simeon wrote, "to her use & benefit, for & during the term of Her natural life" was only implicitly intended to be used to support the children, and even then, presumably, only as minors.⁶ They were to receive equal portions of the estate at her death and therefore Anna's ability to influence their behavior was sharply curtailed. No matter how her children behaved, they or their heirs would receive an equal portion of the estate.

Dictating the inheritance pattern enabled men to write their wives wills. Edward Cole, an African-American mariner, structured his inheritance pattern in his will on the ninth of April, 1823. He decreed that his wife Margaret receive "all use & benefit of my Real Personal or mixed Estate. . . for & during the full Term of the said Margarets Natural life." At her death the property would go to his daughter Moriah. He left nothing to his two sons from his previous marriage.⁷ Edward died two years later at the age of sixty and Margaret remained his widow for four years until she

⁶ RCC Probate Docket 10874.

⁷ RCC Probate Docket 11054.

married George Ames. Remarriage did not automatically reassign the administration of Edward Cole's estate to Margaret's new husband, but it did operate in the eyes of the law "as an Extinguishment of such womans power." It was the responsibility of the judge to give the administration to George Ames "or to such person as would be entitled to the same in case of her Death."⁸ Records for the exchange of administrative power do not survive, but it seems likely that Moriah gained control and at the time she was probably not feeling kindly toward Margaret. On October 25, 1825, the same year her father died, Moriah had sued her stepmother on the grounds that Margaret had not paid her for some sewing work. This case, which will be discussed in detail later, resulted in the court appointed referee finding in favor of Margaret forcing Moriah to pay damages and court fees.

Concepts of maintenance were more clearly articulated in the will of Preacher Joseph Walton who left everything but some clothes and books to his wife Hannah for her natural life, but made his sons the executors of his estate. Preacher Walton was 82 when he

⁸ New Hampshire Laws of the Second Constitutional Period 1792-1801. (Concord, N.H.: Evans Printing Company, 1917) Volume 6, Chapter 12, page 114.

died and perhaps he expected Hannah to soon follow him.⁹ Hannah died four years later at the age of 86. It seems likely that neither Edward Cole nor Joseph Walton were concerned with the issue of their wives remarriage, especially since the new husband would not gain control over the estate. Each man also assumed that familial relations were good and that their widows and children would amicably agree to the conditions of the will. Wills essentially named a new head of the family, and the transition was not always easily accepted.

Life interest in an estate surely enhanced a widow's marriage prospects.¹⁰ Several men recognized this and specifically stated that a life interest ended with death or remarriage, whichever came first. The phrase they used was "for as long as she remains my widow" with the obvious assumption being that she would no longer need support from his estate when she was dead--either legally (as in remarriage) or physically. Thomas Elwyn had the good fortune to marry the only child of the Governor of New Hampshire--Elizabeth Langdon. When he

⁹ RCC Probate Docket 10402.

¹⁰ Elizabeth Blackmar in Manhattan for Rent, 1785-1850 (Ithaca: Cornell University Press, 1989) discusses the marriage prospects of propertied widows in a community with scarce real estate. See pages 52-54 and 223-225.

died on March 26, 1816, at the age of forty, she received most of his estate with a careful statement of what he recognized as hers, but the law did not. After the legacies to his children he left Elizabeth "generally every thing that in any way she may have had belonging to her father or mother, but which in the strictness of law might be considered as mine, requesting and authorizing my executors to permit her to point out everything of the kind." Except for certain plate, wine, and books she was given all household goods for the use and benefit of herself and the children without "purchasing any thing more of the kind at the expense of my general estate." Finally, Thomas willed that in lieu of her dower or power of thirds that she receive \$1,000 per annum until death or remarriage.¹¹ Thomas Elwyn basically hired his wife to remain his widow. A will enabled a man to return to his wife the things she brought to the marriage. In the case of Thomas Elwyn, he may have been acting out of fear or respect for his still living father-in-law. Wills that distinctly shaped the life of a widow were an effective means of extending male authority beyond the grave.

¹¹ RCC Probate Docket 9270.

Elizabeth Langdon Elwyn remained a widow until her death in 1860 at the age of 83 and her extensive collection of letters documents a life of personal freedom and travel--she never appeared to be constrained by the conditions of her husband's will.¹² However, compared to other widows, Elizabeth Langdon Elwyn was very well provided for. In addition to what she received from her husband's estate she was also sole beneficiary of the large estates of her father and her wealthy aunt, Katherine Whipple. Elizabeth sold or transferred much of her property in Portsmouth and spent time in Boston, New York, and eventually bought a large estate near Philadelphia.

Similarly, though on a much smaller scale, Joseph Tucker's will also legally recognized property that during marriage was considered his. To Mary his "present wife" he left all property for the term of her widowhood "excepting one Bed and the household furniture of every kind which were & was mine before & at my marriage with the said Mary" which he gave to his children. Mary was also given two \$100 notes of hand and several others

¹² Elizabeth Langdon Elwyn Letters, New Hampshire Historical Society, Concord, New Hampshire.

dated January 11, 1802, "which sums are really the property of my said Wife given her by her Father though mine in law and which I now give absolutely to her and shall be considered as her own property . . .not subject to my debts."¹³ What emerges from a will such as this is the notion of psychological ownership--things that are recognized as a woman's property within the context of the family. Joseph Walton's will created a postmortem separate estate in which his wives possessions were absolutely hers. Whether these separations were recognized in cases of insolvency is unknown.

A different notion of property, far more common is the unity of family and possessions, at least during the children's youth. Ship master James Orne believed in the eternal unity of the family and the estate. He asked that his wife, Mehitabel, "hold and manage my Estate, for the best advantages of herself and the children," later adding between the lines, "keeping it and the family together." James willed that his children "suitably educated may rally round her, in their early years, and [sic] esert themselves for the common good of the family." His will is a long prosaic account of the

¹³ RCC Probate Docket 10298.

importance of not dividing the estate, but unfortunately he died insolvent, Mehitabel refused the executrix role, and almost everything was sold at public auction.¹⁴ James Orne's will reflects the ideal concept of widowhood--that an estate is capable of maintaining a widow and children who will remain together as a family.

A woman's capability to manage a family or estate can be either implicitly or explicitly stated in wills. Sarah Bagley is one of two women in this study who received her thirds because of a will. Sarah became a widow in 1816 when her husband Elias died. He had been a successful livery stables keeper and his will seems to indicate that he did not consider Sarah capable of continuing his business. He left her "one third part of my personal Estate to be her own property, and use and improvement of one third part of my real estate for & during her widowhood, or so long as she shall remain single or unmarried after my decease." Sarah was given guardianship of their four young children, so it is likely that she was not considered too old or infirm to manage the estate. Perhaps Elias assumed she would remarry soon and he wanted to protect the estate for his

¹⁴ RCC Probate Docket 10468.

children. Sarah did benefit from this arrangement in that his real estate consisted of a \$2,000 mansion house while his personal estate consisted of \$200 in furniture and \$2,900 in the Livery and Stage Co. Stock--the furniture and stock were considered personal estate. The administrators of the estate, Edward Jones and Sarah's son William note in their accounts that the widow received \$194 in furniture and \$300 in stock and \$725 for "maintenance" of herself. As principal guardian Sarah also allocated funds for the children's schooling, clothes and their shares of house repairs.¹⁵

Wills, despite their imposing language, were, in some respects, mutable documents. Esquire Joseph Y. Burgin gave his widow, Charity, the whole use and benefit of his estate for herself and the children during her widowhood. She could, however, request that the executor, Hall Burgin, sell one fourth of the real estate and convert it to personal estate "as her right of dower and power of thirds, provided she will accept the same." Charity became a widow in 1820, but not until 1836 did she request her fourth of the estate.¹⁶ Widows sometimes

¹⁵ RCC Probate Docket 9417.

¹⁶ RCC Probate Docket 10090.

waited until remarriage or their children came of age to request their dower and it is likely that such an incident caused Charity to wait for her dower.

One widow in this study, Theodosia Lang, went even further in altering her husband's will. Her husband John Lang, a 61-year-old cooper died on November 13, 1825 leaving his grandchildren \$1 each and his wife Theodosia the residue of his estate "so long as She remains My Widow & no longer." The estate, under John Shapley's administration would then go to his daughter Olive. Three days after her husband's death, Theodosia appeared in probate court to petition that "having duly considered the Subject---I have concluded not to accept the Privilege bequeathed in said Will to me & I do hereby decline takeing the Same--but Shall claim my Right of Dower & powers of thirds of said estate. . .to me by Law." Theodosia, unable to sign her name, roughly scratched an "X" as her mark to confirm the request.¹⁷

Theodosia, widowed at the age of 35, preferred absolute control over a part of the estate to a widowhood

¹⁷ RCC Probate Docket 1120.

interest in all the estate. She was the only widow to contest her husband's will. Others had no choice.

Chapter Two

WIDOWS AND DOWERS

The provision for a widow was strictly dictated by law when her husband died without a will. Probate records reveal that it was the widow's task to write the Judge of Probate, inform him of her husband's death, and request an administrator--usually herself, a close relative, or her lawyer. The administrator, just like the executrix of a will, handled the settling of the estate including petitioning for bonds of administration and nominating an inventory committee. Administrators collected debts and paid bills for the "last sickness," the funeral, and the support of the widow and children.

An intestate inheritance law created in 1789 affected most of the widows in this study. Provisions included that administration be assigned to the widow or her suggested alternate within thirty days or the court would assign administration to a creditor. Next in importance was the hierarchy of bills paid out of the personal estate with the order being "last sickness and

funeral," rates and taxes, debts to the State, debts to the creditors, and then, one third part of the "Surplusage (if any there be) to the widow." If there were no children, widows received half of the personal estate. Children under seven received support from the sale of personal estate, and then after age seven, they relied on their share of the personal and real estate. In case of insufficient personal estate to pay debts, more common than not, the law stated that "the Widow shall be entitled to her apparel and such other of the personal Estate as the Judge of Probate shall think necessary according to her quality and degree."¹⁸

Intestate laws centered around the notion of dower as a suitable means to support a widow. Giving a widow a life interest in one third of a house guaranteed her shelter. Her absolute interest in one third of the personal estate could be composed of basic household furnishings and tools and perhaps even luxury items that could be sold.¹⁹

¹⁸ Metcalf, Henry Hansen. editor. Laws of New Hampshire Including Public and Private Acts, Resolves, and Votes: First Constitutional Period 1784-1792. (Concord, New Hampshire: Rumford Press, 1916), Volume 5. Chapter 42. page 54.

¹⁹Ibid., Chapter 63, page 662.

Divisions of personal estate are unclear and few enumerated lists survive. Conversely, real estate divisions were a highly formalized and detailed process comparable to an inventory. Three freeholders of "the neighborhood" were appointed by the judge to survey the real estate, including buildings, and then set off one third to the widow. Dowers partitioned property and created invisible, though very real boundaries within the house. Once the dower boundaries were made, the other two thirds of the real estate could be sold or rented by the heirs. Widows could and did sell or rent their third interest, but this was rarely enough to support them.

Insolvent estates virtually eliminated a widow's "power of thirds." Over one third [33] of the men who died intestate in this study left behind more debts than could be paid for out of the personal estate. Administrators settling such estates petitioned the judge for a committee of insolvency--a group of three men who examined the credits and debts, recommended the sale of real estate and widow's dower, and then proportioned the money among the creditors. The widow's dower was set off even in cases when they knew that it was to be sold. The sale of a widow's dower was usually a reversionary sale--

meaning that it was temporary. Reversions, which will be discussed in detail later, suspended a widow's right to occupy or benefit from her dower. Once again, the legal terminology reveals much about the place of widows for the reversion of her "dower (if the Judge shall think most for the benefit of the Creditors that the reversion of the widow's dower, should be sold, with the rest of the real estate,) shall be sold according to law, unless any Creditor will take it at the appraisal."²⁰ Creditors appear to be the only individuals empowered through this law.

Insolvency also altered the division of the personal estate from one third to "such reasonable sum out of the personal estate, as the Judge may think proper to allow the widow for her support."²¹ Widows seem to be, at best, a secondary concern of the legal system. Their support and right to the estate is less than children and creditors. In examining the variety of experiences women had under this "power of thirds" law the reality of its ability to maintain a widow emerges.

²⁰Ibid., Chapter 63, page 663.

²¹Ibid., 664.

The richest documented examples involve cases of remarriage due to the shift in power and the highly detailed guardian reports. An example would be Ann Wentworth who was 29 and the mother of two children when her husband, Joshua, died on May 28, 1816. Joshua Wentworth earned his living as a trader and had left behind an estate worth nearly seven thousand dollars. Ann, perhaps unwilling to settle accounts typical of a trader, petitioned for Samuel Larkin, a lawyer, to be named as administrator.

Larkin's accounts list all the money give "to the widow." (It is interesting to note that everyone else, except for the widow, listed in the accounts is identified by name.) By June 1, 1816, Ann had received \$888 in personal estate (almost all the inventoried personal estate) and \$200 in cash. The next account of 1817 lists Ann as receiving \$88 and then in 1822 Larkin records payments of \$950 as her one third share of rent and an allowance of \$392.

The accounts also reveal the occupation of the renters including Folsom and Fernald who occupied the store front, the printers Beck and Foster, the widow Mary

Ricker, and Reuban Rand who rented part of the basement. This building, described in the inventory as being "on the Parade" and valued at \$5500 could have easily supported Ann and her children as a rental property. Samuel Furnald, one of the renters had different ideas. In 1817 he appeared before the Judge of Probate petitioning for guardianship of Sarah and Joshua Wentworth, Jr., presumably having married Ann. As guardian, Samuel Furnald paid the bills (out of the children's share of rents) for the children's schooling, clothes and share of building repairs. In addition he charged the estate with the expense of boarding the children at one dollar a week and had the authority to petition for their share of real estate to be sold if necessary.²² In marrying Samuel Furnald and denying the roles of administrator and guardian Ann declined any form of financial empowerment.

On September 9, 1822, Ann Wentworth Furnald and her husband petitioned for her "right of Dower & Power of thirds of real estate of her former husband." Langley Boardman, Joseph Akerman, James Shapley, Joseph Ayers,

²²RCC Probate Docket 9349.

and James Smith composed the dower committee. Ann received right to:

A part of the Store. . .running Southerly. . .to the fore door in the front of said building. . .hence Westerly through said store as the partition now stands that divides the Rooms occupied by said Samuel Furnald & John Nutter. . . with a privilege of passing repassing & occupying the necessary; together all the Chambers & over the above described premises, occupied by said Furnald, except the room occupied by Charles Stavers, being the front chamber on Court Street, and the room over said chamber occupied by Beck & Foster as a printing office; And also the Cellar under said premises, except the part thereof now occupied by Rueben Rand."²³

Ann also received rights to the dwelling house adjoining the store except for the north part of the cellar "now parted off, & commonly improved as a small grocery store." Unlike any other dower in this study Ann Wentworth Furnald's was set off by five men instead of three and made provisions for her land dower rights in case fire destroyed the building.

Ann died three years later on November 24, 1825, at the age of 38 causing the elaborate dower property to revert back to Sarah and Joshua, Jr. Legal records do

²³Ibid.

not reveal anything as intimate as what was Samuel Fernald's true motivation to marry Ann Wentworth, but it is clear that marrying a widow could be a means to achieve financial security. Before marrying Ann, Samuel had to pay rent for his father's shop and also possibly paid rent in a boarding house. As her husband he enjoyed free rent for his shop, rental profits from the rest of the building, and he moved into a fully furnished house.

Mary Manson encountered a similar series of events when her husband, Theodore, died January 1, 1822, leaving her with four children and an estate worth \$4,200, most of which was supplies for making shoes. Mary was 32 when her husband died, and, like Ann Wentworth, she declined administration of the estate and remarried within two years. Mary had become the wife of Parker Manson (her brother-in-law) by May 11, 1824, when he was named the legal guardian of Leonard, Julian, Adeline, and Augusta Manson. Six years after Theodore's death, Mary and Parker petitioned for her dower and right of thirds. Compared to Ann Wentworth Fernald's dower, it was a much less elaborate ritual. The dower committee of three men set off, in measured delineation, part of the land and most of the house, "Reserving out of Said

Dwelling House the Easterly lower Room & Chamber over the Same- for the use & benefit of the heirs of the Said Theodore Manson dec'd."²⁴ No clues remain as to why the committee felt it necessary to designate rooms to the children. Dowers are intended to protect the rights of the widow, not the other heirs. Mary Manson enjoyed the rights of her dower until 1872 when she died at the age of 82.

Children's roles, especially when they are minors, are not explicit in probate records. Guardian records, as noted before, are most elaborate in cases of remarriage, especially when valuable real estate was involved. Most widows, such as Elizabeth Sheldon, did not inherit large estates. Elizabeth Sheldon's husband John was a tailor and owned a shop at the time of his death in 1821. Considering her husband's career she may have run the shop but nonetheless, she declined administration of the estate which was valued at a little over \$1000. Eight months after John's death Elizabeth received her dower in the real estate which gave her right to:

²⁴RCC Probate Docket 10413.

The kitchen, chamber over the same, and the chamber next adjoining south, and the garret over the kitchen chamber as far south as the jog in the floor, with the cellar under the kitchen, and one half the wood house next adjoining the scullery, and. . .part of the garden. . . also the privilege in common with the owners of the other part of said premises of the necessary the scullery and the cistern, except the boilers which are in the scullery and are to belong to the kitchen reserving the privilege to the owners of the other part of said premises of passing and repassing through the kitchen into the scullery.²⁵

Elizabeth did not like this dower arrangement and asked the committee to make an alteration that would make the kitchen, scullery, and cistern free of any incumbrance. In exchange, the widow promised to:

build and finish a scullery contiguous to the room n adjoining the kitchen, to the satisfaction of Samuel Cushman Esq. administrator de bonis non. . .in which case the privilege to pass and repass shall be annulled.²⁶

Due to debts, the estate, including the widow's dower in real estate, was sold the following year. Elizabeth received only \$100 in personal estate, while the estate balance was held by the administrator. Four years later, in 1827, Elizabeth, now the wife of Samuel

²⁵RCC Probate Docket 10393.

²⁶Ibid.

Treat, petitioned the Judge for more money from the estate. She wrote that her when her husband died she was left with two small children and another child was born a few months later. Since his death two of the children sickened and died "one in about four weeks; and the other after a continued sickness of six months; all of which has caused great expense." The petition noted that the Judge of Probate had made Elizabeth an allowance of furniture "appraised at about one hundred dollars, which in reality has not been of more value to her than eighty dollars." The administrator held a balance of \$120 and Elizabeth requested a further allowance be given to her. The petition was signed "Elizabeth A.B. Treat by Samuel Treat." The judge granted her \$50.²⁷

A widow's right to one third of her husband's personal estate proved to be a rewarding law for Margaret Manning. She was 54 when her husband, Captain Thomas Manning, died on March 24, 1819. Even though he was 72, Thomas had not written a will. Margaret nominated herself as primary administrix and four men as administrators--James Shapley, her son Captain Edward

²⁷Ibid.

Manning, and her two sons-in-law Andrew Bell and James Pierrepont. Considering the estate was worth almost \$69,000 the number of administrators seems justifiable as a way of avoiding family conflict and delegating responsibility.

Captain Thomas Manning's real estate consisted of four parcels of land, two shares in the New Hampshire Hotel, and two shares in the turnpike which had a total value of \$7,740. His personal estate inventory was divided into a room by room inventory of his house, his wharf and ships, his store, and his church pews. Also considered personal estate was the \$55,800 in stocks, insurance, and "notes of hand" due from accounts in Philadelphia, London, and Boston.

The first account of administration on August 1, 1820 notes that Margaret received \$13,895 worth of personal estate. Over the next three years she received another \$6,987. In addition Margaret received her real estate dower on February 7, 1821 which, according to the map, adjoined property that seemingly already belonged to

her. For the next 11 years, until her death in 1830, Margaret enjoyed a very financially secure widowhood.²⁸

Lydia Amazeen can also be seen as a financially secure widow, though on a much smaller scale, and under very different living conditions. Widowed in 1824 with the death of her husband, Joseph, a trader, Lydia was granted the role of administrator. She nominated James Smith, William Isley, and John Ross for the inventory committee. They valued John's house and land in Portsmouth at \$750 and his land in nearby New Castle at \$240. Divided into two lists, the personal estate inventory describes one list as the personal property that belonged to Lydia before marriage. Totaling \$38.78 Lydia possessions included three tables, seven chairs, fireplace equipment, an easy chair, a looking glass, two bedsteads with bedding, brass candlesticks, quilts, pictures, iron ware, crockery, knives and forks, and one "old mortar." The total personal estate value was \$119, which suggests Lydia's list was also her preference for the one third of the personal estate.

²⁸RCC Probate Docket 9908.

For her real estate dower, Lydia received life interest in the small shop, a sitting room, small bedroom and two chambers over them and a third small bed chamber. The back stairs, kitchen, front and back entries, and the necessary in the yard were designated as spaces to be shared in common with the other occupants of the house. Lydia's dower of individual and shared spaces accounts for more than half of the house.²⁹

In 1825 Lydia's grown children who lived in New Castle, New Hampshire sold their two thirds of the house and land in Portsmouth to the traders Nathaniel Folsom and Thomas Furnald for \$600.³⁰ One year earlier the total value of the estate in the inventory was \$750. Apparently, Lydia received more than one third of the house and her children received all the property in Brentwood. The factors shaping this allocation of real estate are unknown.

²⁹RCC Probate Docket 10845. The Amazeen House is extant and part of the Strawberry Banke Museum in Portsmouth. Square foot measurements conducted by the author revealed the discrepancy in the dower provision.

³⁰ Portsmouth Land Deeds Rockingham County Court House Folio 244-84.

Twenty-nine widows received dowers in the decade 1816-1826, and eleven of these were reversed due to insolvent estates. Subjectivity of the law is especially apparent in cases of insolvency. In case of insufficient personal estate to pay debts, the law, as discussed earlier, stated that "the Widow shall be entitled to her apparel and such other of the personal Estate as the Judge of Probate shall think necessary according to her quality and degree."³² The words "quality and degree" did not appear in the 1822 revision of the law, yet the practice continued in the assignment of what was ironically termed the "allowance for life." Mary Cutts benefitted from the bias inherent in this law. Her husband, Edward, died in 1824 leaving behind a tangled estate worth \$23,214, half of which was small real estate plots. The dower committee assigned Mary the mansion house, another dwelling house, and pasture. Unfortunately Edward Cutts died owing more money than his stocks, notes of hand, and other personal goods could cover so the estate was declared insolvent and Mary's real estate dower was reversed. In an undated petition Mary Cutts wrote to the Judge of Probate that:

³²Laws of New Hampshire, Volume 5: 384-386.

by the late unexpected calamity of her husband's decease and insolvency she is rendered destitute of the means of comfortable subsistence & support that from the natural delicacy of her constitution, as well as her present feeble state of health she is incapable of any great personal exertions that the liberal affluence of her early education & mode of life to which she has always been accustomed, make her present calamitous situation equally new and distressing.³³

Mary then asked for an allowance out her husband's personal estate as the "law allows the benevolent hand of the Judge to award to widows in her distressed situation." Judge Daniel Gookin allowed her \$1500 in the personal goods of her choice. Mary submitted a list of her choices which included all the household furniture, silver plate, and books except for "one old gun & one gauging rod." These goods totalled \$701. Next on her list came a mare, two cows, two calves, two pigs, a chaise and harness, a covered sleigh, a horse cart, two saddles, two bridles, hay, barley, straw, corn, two saws, an axe, a stone roller, a lantern, farming tools, eight shares in the New Castle Bridge, and 82 cents cash with a total value of exactly \$1500.³⁴ Clearly, Mary did not lack some means of support or a place to put her

³³RCC Probate Docket 10885.

³⁴Ibid.

furniture and livestock. Of the widows in this study who petitioned the judge, she is the only one to infer her "quality and degree," and correspondingly receives much more than other widows.

Insolvencies occurred in estates of all sizes. George Hill, a joiner was 36 when he died in 1820. His wife, Lovey, declined to administer the estate consisting of a \$500 house on Russell Street and \$89 in furniture and household goods. Claims against the estate totalled \$479 resulting in an insolvency. Three weeks after being granted a license to sell all the real estate including the reversion of the widow's dower the dower committee consisting of Thomas P. Drown, Nathaniel March, Benjamin Akerman, Benjamin Holmes, Jr., assigned the dower, including a designation of rooms and common spaces. What is even more striking is the watercolored scaled map included with the dower. Considering the debts to the estate and the possibility that Lovey Hill may have wanted to sell her dower, it is remarkable that the committee put so much time and effort into creating the map and room divisions. Administration accounts reveal that the dower commission and report cost \$38.11 while

the widow's allowance for "support of life" consisted of \$72 in personal goods.³⁵

Ten widows in this study received an "allowance for life" with the average amount being \$45.50. The figures become more meaningful when contrasted with other expenses, such as the amount charged by guardians to board a child which ranged between fifty cents and one dollar per week. Another important factor is that the allowance was usually in the form of personal goods such as household items--not cash. These goods, unlike real estate, decreased in value over time. Widows with small allowances were forced to find other means of support.

³⁵RCC Probate Docket 10308.

Chapter Three
WIDOWS IN COURT

Sheriff Benjamin Akerman delivered a court summons to Josiah D. Smith on November 12, 1828, demanding his presence before the justices of the Court of Common Pleas the third Tuesday in January 1829. His mother, Anna C. Smith, accused him and his partner Marshall Staples of refusing to pay a \$139.32 debt. Anna claimed that on January 1, 1827 she sold them \$33.45 worth of cooper tools and supplies and that she also rented them her late husband's shop on Fore Street for about \$6 a month. They had not paid for the tools or the last six months of rent according to Anna's records. The sums were to be paid on demand yet Anna stated "though often requested the said Marshall & Josiah have never paid either of said debts but ought to do it."³⁶ Sheriff Akerman inventoried the shop and supplies to the value of \$200 to ensure that Marshall and Josiah were capable of paying the accused debt and therefore did not have to be placed in jail.

³⁶Department of State, Division of Records Management and Archives, Concord, New Hampshire, Inferior Court Records (hereafter ICR) Docket 10335.

The court found in favor of Anna and ordered Marshall and her son Josiah to pay the debt, interest on the debts, damages and court fees. Of her nine appearances in Common Pleas Court, this was to be the only case Anna ever won. Clearly, renting the cooper's shop for \$6 a month did not produce enough income to support Anna and her 11 children, several of whom were still dependent on her in the 1830s, and so, Anna found herself in ongoing financial difficulty. Though she had little means of generating money, the value of the estate allowed her to accumulate debt. For the first decade of her widowhood Anna managed to stay out of debt. As guardian of the children she was permitted to charge the estate for their board and, if necessary, obtain a license to sell parts of the estate.

On September 1, 1832 Anna signed a note promising to pay the traders John and Joseph Ball her account balance of \$92.35. They waited two years for her to pay the debt and then had a court summons issued. Anna lost the case and her house for one and a half years. Since she had no means to pay the debt the court appointed Benjamin Carter, Jacob Sheafe, and Benjamin Akerman to

appraise the rental value of the house and land on Russell Street in which she had a life interest. They concluded that the house would have to be rented for one year and six months to pay the \$92.35 debt, the \$8.20 in damages, and the \$14.66 in court fees. Therefore the appraisers set off to the creditors "the use, occupation, rents, & profits. . . for the term aforesaid" to commence after the completion of a lease made by Anna to her daughter Mary Ann Dudley Smith.³⁷

On August 27, 1834, nine days after the lien was established, Anna lost a similar case filed against her by the merchant Stephen Simes for a note signed January 1, 1834, for \$102.37 which she promised to pay in four months. Another lien was placed against her Russell Street house for one year nine months, which would begin after the first lien expired.³⁸ William Neal, another Portsmouth merchant, probably aware of her financial situation, filed suit against her January 19, 1835, for her account balance of January 1, 1835 for \$40.41. With the expense of interest, damages, and court fees the

³⁷ICR Docket 15068.

³⁸ICR Docket 15070.

amount owed rose quickly to \$69.21 and she lost her house for another year.³⁹ The liens now totalled four and a quarter years.

In August of 1835 the Aetna Insurance Office sued Anna for two promissory notes which were each described as a "Premium on Twenty four hundred dollars."⁴⁰ Presumably this was for the house she was no longer occupying. Anna, overwhelmed by debts, obtained a license to sell real estate to the value of \$4,000. On November 12, 1834, John Hill paid \$2,300 for the Russell Street house and the shop on Fore Street.⁴¹ Records do not reveal if Anna used this money to settle the debts with John and Joseph Ball, Stephen Simes, and William Neal.

Anna avoided new court appearances for four years, but in 1839 Samuel and Allen Treat charged that she had not paid a \$14 bill issued November 14, 1837, for "Two pair Marble grave Stones with Letters on the Same."⁴²

³⁹ICR Docket 115510.

⁴⁰ICR Docket 15834.

⁴¹Rockingham County Land Deeds in the Rockingham County Courthouse (hereafter RCC Deeds) Deed 279-330.

⁴² ICR Docket 18366.

Gravestones were something Anna bought several times in the 1830s. Anna's father, Josiah, had died in 1831; her brother Samuel Dudley died soon after as did his wife, Mary Flint Dudley. Anna was named as administrator of her father's estate and as guardian of her five nieces and nephews. Her father, brother, and sister-in-law lived in Brentwood, New Hampshire and though she had sold the Brentwood property she inherited from her husband she still owned ten acres. At the time of her court case against Samuel Treat, Sheriff Dearborn listed her ten acres in Brentwood as being equivalent to the \$14 debt.

Anna, by 1839, lived in Portsmouth probably in the Russell Street house which her daughter Mary Ann Dudley Smith had purchased. She lost the case against Samuel Treat, and had to pay the \$14 debt plus \$26.92 in interest, damages, and court fees. Seemingly, her only remaining resource was her household furnishings which, as will be discussed later, she mortgaged twice. With furniture as her only capital, Anna continued to accrue debt. Though she made a \$90 payment on her account balance with traders William Simes and Thomas Call on July 15, 1841, she neglected to pay the balance of \$128.43 for four years. The copy of her account

submitted to the court contains household food goods including bread, meat, fish, grains, coffee with several daily entries for each month suggesting that she purchased most, if not all, of her food supplies at this shop.⁴³ Word had probably spread about Anna's tendency to neglect her debts. Anna lost this case and another similar case to Thomas Pickering in 1848.⁴⁴ Though she lived another twenty years she did not appear in Common Pleas Court again.

Until she became a widow, Anna was never called to court. Controlling her husband's estate entailed becoming a landlord over the cooper's shop and a subsequent court case against her son. As a widow, her name appeared on the accounts at the merchants shops and as a guardian she alone had the power to request a license to sell real estate. As the administrator to her father's estate and guardian to her nieces and nephews Anna was often in court presenting accounts and filing for bonds. The money she received from these transactions was minimal--two dollars a day for her time

⁴³ICR Docket 21727.

⁴⁴ICR Docket 23660.

plus expenses for traveling between Portsmouth and Brentwood.

Widows, as administrators and guardians of estates, were responsible for fulfilling the payment of their husbands' debts and collecting debts due to the estate. Of the 26 widows who appeared in the Court of Common Pleas, 10 were there as administrators of their husbands estates. Salome Cate was summoned to court on October 29, 1818 because she refused to turn over a parcel of land her husband had conveyed to Richard Pickering. The court found in favor of Pickering and unless Salome paid the court fee and turned over the land she could have been placed in jail.⁴⁵

Ann Moses also fell victim to her late husband's business transactions. August 14, 1815, John Moses mortgaged his property, including the reversion of the widow's dower for \$500 payable in one year to William Jones. John died the following May at the age of 40 leaving the entire estate to Ann in perpetuity. On December 16, 1816, Samuel Treat assumed the mortgage for \$542 and obtained a court order evicting Ann from the

⁴⁵ICR Docket 45857.

property the following May. On January 2, 1817, Samuel Treat filed suit against Ann Moses stating that he "ought now to be in quiet possession thereof. Yet the said Ann hath since illegally entered into the demanded premises & still hold the plaintiff out." The Sheriff was ordered to "take the body of the said Ann and her commit unto either of our gaols in your precinct." In addition, she had to pay \$23.51 in damages and court costs. The property had been valued in 1818 at \$800. Because the rest of the estate was worth a mere \$400, Ann did not want to lose the land, her greatest potential asset. Her husband, John, probably did not think that he was jeopardizing his wife's future when he mortgaged the land, but Ann appears to have recognized the importance of the land to her livelihood.⁴⁶

Hannah Nute found herself in a rather strange predicament when her husband, Joshua, died on February 12, 1824 in the middle of a court suit brought against him by Rebecca Peirce. Rebecca, a Portsmouth widow, accused Joshua "for breaking & entering my dwelling house & carrying away household goods" worth \$100. In September of 1824 Hannah, as the administrator of

⁴⁶ICR Docket 41890.

Joshua's estate appeared in Common Pleas Court where the referee Edward Cutts, Jr. found in favor of the deceased Joshua Nute and ordered Rebecca Peirce to pay damages and court fees. New Hampshire laws do not indicate what would have happened if the now deceased Joshua had been found guilty.⁴⁷

Margaret Tredick also found herself responsible for unfinished business when her husband Henry died January 1, 1816. Six months earlier he had signed a promissory note with George Kennard in which George promised to pay \$412.50 in four months. Margaret requested the payment of the debt after Henry's death, but was denied. The court found in favor of Margaret but George had no means to pay her or the court costs. It was agreed that Margaret would receive part of George's real estate in a form similar to a dower except that she would have absolute right to the property. Margaret "chose and appointed" Samuel Larkin as an "apprizer on her part" and George named Jonathan Folson as his appraiser, Joseph Akerman, the deputy sheriff overseeing the division, named Benjamin Akerman as the third

⁴⁷ICR Docket 5930.

appraiser. The men set off part of George Kennard's lot on Joshua Street including:

The lower room in the west end of the house with the cellar under & the chamber over the same with the whole of the third or upper story with the privilege of the entry & in common also the privilege of the passageway in front of the House from Joshua Street to the east end of the House in common with the owner of the lot & House--and with all the remainder of the land not set off to John Shortridge to satisfy an Ex[ecution] which he held against said Kennard.⁴⁸

This division was valued at \$350 and George still had to pay \$126.69, but Margaret would retain this property forever. Her husband had only left her one undivided eleventh part of his late father, which was subject to the widow's dower and another undivided eleventh part of a dwelling house on Dock Street. Margaret through her ability to sell, rent, or occupy this new property obtained some measure of economic freedom.

Mary Peirce went to court ten times to receive payment on notes written by her husband ranging in value from \$20-\$766. Settling these debts took her three years and many days spent in court. Conversely, Margaret Cole's inheritance problems centered around familial

⁴⁸ICR Docket 40913.

instead of monetary problems. As discussed earlier, her husband Edward died in 1825 and named Margaret his executrix and left her all of his "real, personal, and mixed estate" for her natural life and then the estate would go to his daughter Moriah. Whether Moriah was his daughter by Margaret or his first wife, Hepzibah, is unclear. Either way, Moriah appears to have had an antagonistic relationship with Margaret for she sued her for a \$30 debt on October 25, 1825--five months after her father's death and one month after his will was filed with the probate office. Moriah stated that Margaret owed her \$30 for "1 Great coat" and \$13 for "6 weeks & 3 days work at 12/ commencing May 30 ending July 14. The work began the day before Edward's death. Margaret, who apparently did not have \$43 in property was arrested by Daniel Drown and bailed with bond to Ezra Young. Daniel Drown also served as arbiter in the case and determined that Margaret owed nothing and Moriah should pay damages and court costs.⁴⁹

One year later, Margaret appeared in court again and accused Henry Benjamin of breaking and entering her dwelling house and "in said said dwelling house two

⁴⁹ICR Docket 7148.

Window sashes, thirty panes of glass, all of the value of sixty dollars. . . broke and destroyed- and there & then with force and [heinous] other wrongs and injuries did contrary to law- against the peace and dignity of the State." Henry Benjamin was arrested and bailed out by Theodore Sheafe. Margaret was found at fault and had to pay \$20.54 in damages and fees. What really happened, if anything, to Margaret's windows, will never be known.⁵⁰

Margaret's arrest over a possible \$45 debt is indicative of widows' precarious economic position. Mary W. Ricker became a widow with the death of her husband, Elijah, who died insolvent in 1826. Mary received 2/5 of a house and lot on Deer Street and \$200 in personal estate. In 1832, she was living in Exeter when a local tradesman, Edward Stevens took her to court over a \$30 debt. A lien was placed against her Portsmouth property for ten dollars for the duration of the suit, which she lost. She paid the debt plus \$7.97 in court costs but did not have to sell her house.⁵¹

⁵⁰ICR Docket 8262. Court transcriptions do not exist for this or any other Common Pleas Court Case to reveal the line of argument or proof offered.

⁵¹ICR Docket 13576.

Elijah Ricker had been a member of the Portsmouth Marine Society and as his widow, Mary received money from them, usually three times a year, for the duration of her 39-year-long widowhood. The disbursements, which came only after being requested, ranged in value from \$5-\$20 and between 1828-1865 totalled \$839.⁵²

Theodosia Lang attempted to create her own income. As discussed earlier, she is the only widow in this study to have rejected her husband's will and chosen her right of dower and power of thirds. Her husband John, a cooper died November 13, 1825. The next day, she went to William Jones' shop and purchased \$30.57 worth of fabrics, ribbons, trimming, gloves and hose. The next day, November 16, she appeared in court to reject the will and request her power of thirds. The personal estate was valued at \$228, but the administration accounts do not reveal what Theodosia received. Theodosia continued to purchase fabrics and ribbons from William Jones until her account balance reached \$60.53 on July 29, 1826. William Jones filed suit against Theodosia April 5, 1827. Sheriff Joseph Akerman attached

⁵²Portsmouth Marine Society Records at the Portsmouth Athenaeum. The author is indebted to Dr. David Goodman for his information and insight regarding benevolence societies in Portsmouth.

the writ to Theodosia's dower estate and her dower goods. Theodosia lost the case and three men were chosen to appraise her goods. Her dower property included part of a house and lot on Atkinson Street. This property was valued as a whole in 1825 at \$800. The appraisers decided that Theodosia's third was worth \$69.15 if rented for four years. In addition, the appraisers inventoried Theodosia's possessions including kitchen utensils, pictures, crockery, a chest and rug--90 items in all, none worth more than one dollar. Their total value was \$14.96. These goods were auctioned off at public auction October 6, 1827. One week earlier Sheriff Akerman verified that William Jones had received "full seizen & possession" of Theodosia's third of her house. The sum of rents and auctioned goods exactly covered the debt and court costs.⁵³

Why Theodosia quickly accrued so much debt, and on non-essential luxury items remains unknown. Regardless, the action by the court seems extreme. What became of the fabric and ribbons is important. On one given day she purchased 35 yards of cloth. Perhaps she intended to make dresses and sell them, or maybe they were for

⁵³ICR Docket 8436.

personal mourning wear, but considering that she only stood to inherit \$76 worth of personal estate at best, accruing a debt of \$60 was unwise, unless she planned to earn money.

Theodosia Lang's story is layered in meaning. Court eviction from dower property for temporary periods suggests that the state was willing to assume the burden of a widow's support, which was far less than the rent paid to a creditor. Just in the way insolvency could cause a reversion of the dower right, a debt could lead to its suspension. When the court forced Anna Smith from her house, she turned to her family in Brentwood and Portsmouth.

Widows robbed of economic options became public wards. The fate of paupers can be gleaned from the letters of the Overseers of the Poor. Though Theodosia Lang apparently did not become a pauper, she testified on the behalf of one, her sister, Elizabeth Welch, in 1834. She stated that her sister was born in York, Maine, about twenty years ago and that she had never owned any real or personal estate and had always lived in Portsmouth. Theodosia continued that her sister "is now very sick and

confined to her bed, and is poor & destitute and has no friends or relations able to assist her she therefore has been under the necessity of applying to the Overseers of this town for assistance and has been assisted by them."⁵⁴ Theodosia signed the letter with a "X." These testimonies, which were a prerequisite for receiving long term support, ensured that the Portsmouth Overseers of the Poor would only support Portsmouth paupers.

Letters from the Overseers contain many biographies concerning residence. When Alice Booker became a widow in 1822, she and her husband, William, had not received Portsmouth residency. William died insolvent, and the Judge granted Alice \$75.50 in personal estate for "support of life." Apparently this was not enough for two years later, still living in Portsmouth, she made an application to the Overseers of the Poor and was given \$3. After questioning her, the Overseers determined that she was a resident of Barrington, New Hampshire. The Overseers wrote to their counterparts in Barrington noting that Alice was:

about thirty two years of age, is the daughter of Mark Ayers who was born in this Town but moved to

⁵⁴ICR Docket 1418.

Barrington before she was born and lived on a farm of Mark Wentworth's. Mr. Ayers died in Barrington when Mrs. Booker was about three years old. Mr. Booker was born in York in the State of Maine but had not gained residence in this Town. She is therefore chargeable for her maintenance to Barrington.⁵⁵

This description contains no information as to where Alice spent the majority of her life or why, after two years, she was not a resident of Portsmouth. Lack of real estate and employment may have been the issue. Barrington Overseers had the option of paying her way to Barrington and supporting her themselves or paying Portsmouth to keep her. Barrington official chose to have her stay in Portsmouth. In 1832 the Portsmouth Overseers wrote to Barrington stating that they were:

still supplying Mrs. Booker with wood and as to the amount which has been sent to you for supplies furnished previously to this winter is unsettled they wish you to give them an immediate answer what you intend to do respecting her care.⁵⁶

Paupers who remained outside the almshouse received wood and basic clothing and food. Widows who received no real estate had more potential to become paupers.

⁵⁵Records of the Overseers of the Poor. (unpaginated bound copy at Portsmouth City Hall) Letter of January 24, 1824.

⁵⁶Ibid., Letter of February 9, 1832.

Comfort Hanscomb's husband Samuel died insolvent in 1818 leaving Comfort with two children under seven to support. The Judge granted her money to pay for the board of the children, but this was soon gone. Comfort moved to Newcastle for a period of time long enough to establish residency, but by 1877, 59 years after her husband's death, she was living in Portsmouth. The Overseers wrote to Newcastle contending that she had residency there and the Portsmouth Overseers would "continue to charge [her] support to your town at the rate of two dollars until you remove [her] or otherwise see [her] provided for."⁵⁷ She was described as poor and unable to care for herself. The Newcastle Overseers were charged \$26 for 13 weeks board and \$3 for supplies. Lack of any real estate left widows, such as Comfort, without any income, and without any residency. Real estate, including dower property, was sold, rented and even used as collateral. Even simple land deeds contain many stories.

⁵⁷ICR 44178.

Chapter Four
TRANSFERS OF PROPERTY

"Know all men by these presents, that I Anna C. Smith of Portsmouth in the county of Rockingham and the State of New Hampshire, widow, for and in consideration of the sum of Four hundred dollars to me in hand. . .do hereby give grant sell and convey unto William Goddard all the household furniture and property named in a schedule written upon this sheet. . ."⁵⁸ William Goddard, Anna's son-in-law, secured this personal property mortgage as a guarantee of payment on two long overdue promissory notes from his wife, Louisa, to her mother. The loans were made before Louisa married William and before Anna entered serious financial difficulty. In 1834, the year of this mortgage, many of Anna C. Smith's creditors demanded payment.

Aware of her declining credit and hopeless court battles, Anna applied for a license to sell \$4,000 worth

⁵⁸Records of Mortgages of Personal Property, June 4, 1832-May 23, 1837, Volume 1, page 132.

of real estate in June of 1834. As discussed earlier, her debts to merchants consisted of money owed for basic food supplies such as rice, cod fish, and molasses--there is no record of frivolous purchases. However, comparing the inventory of her personal estate mortgage of household furnishings with her husband's estate inventory of 1824 reveals one striking difference--Anna acquired a \$115 piano forte, an object ten times more valuable than any other item in her house. Exceptional as it may be, it alone cannot account for Anna's state of indebtedness.

Anna's assets were quite limited. The only remaining resource Anna possessed, besides furniture, was the lifetime right to her husband's house. On August 18, 1834, the court took this right away for 1 year and 6 months to pay her debt to one merchant and the court fees. Nine days later, another lien was attached for one year nine months. The Russell Street property was already leased to Anna's eldest daughter, Mary Ann Dudley Smith; the court attached the liens to the lease and evicted Anna from her home for nearly four years.

During her first decade of widowhood, Anna's responsibilities had increased while her options

declined. In 1830, her father, Josiah Dudley died, naming Anna as administrator of his insolvent estate.⁵⁹ The following year her brother and sister-in-law died leaving Anna with another estate to administer and five young nieces to raise on an estate surplus of \$71.⁶⁰ Her only recorded income during these years was the money she charged the estates, usually one or two dollars a day for going to court. The rent on the cooper's shop was only \$60 a year. Records do not reveal how she paid her bills.

Whatever resources she had drawn upon were gone by 1834. Money demanded by creditors led Anna to sell, at public auction, her Brentwood property on August 2, 1834, and the store, cooper's shop, and dwelling house in Portsmouth on November 12. John Hill, a distiller, purchased the Portsmouth lots for \$2,300 and then eighteen days later, sold them at the same price to Anna's eldest daughter Mary Anne Dudley Smith. Anna continued to reside in the house, and then, in the 1840s two stairways, another entrance, and a wall were added to the house, dividing it into two rental properties. After

⁵⁹RCC Docket 1187.

⁶⁰RCC Docket 1244.

years of renting to strangers, Anna returned in 1864 as a tenant with another widow, Mrs. Lydia Oxford.⁶¹

Anna, though possessing very little collateral, continued to accrue debt and eventually sold all the remaining real estate inherited from Simeon and other relatives. In 1842 she mortgaged her furniture once again, and then disappeared from all legal records, except the street directory, until her death in 1869.

Deeds contain many stories. Widows, as compared to married and single women, often possessed both the legal and economic status necessary for purchases, sales, and mortgages of property. Careful analysis of deeds reveals that widows sold and rented their inheritances, including their dowers, and created incomes through mortgages and indentures. However, widows were often defined in property documents in relation to someone else--usually as an administrator or guardian. Many property transfers by widows were conducted under the auspices of "administrator." Deed records list 47 (out of 136) widows who acted as grantors (a person selling or

⁶¹Portsmouth Street Directories 1827, 1834, 1852-1870. Portsmouth Public Library.

mortgaging property). These widows conducted 111 sales and 15 mortgages between 1816-1863. The average sale was \$773, with a range of \$1-5,000. Mortgages averaged \$449 with a range of \$1-2,000.

As administrators, some widows even had to oversee the sale of their dower. When a man died insolvent, the court decreed that if the sale of his personal estate did not cover his debts, the real estate, including the reversion of the widow's dower, could be sold. A reversion is legally defined as a "future estate created by operation of law to take effect in possession in favor of a lessor or grantor or his heirs or heirs of a testator, after natural termination of a prior particular estate based, granted, or devised."⁶² In simpler terms, a widow's reversionary interest was a suspended ownership. Two thirds of the estate was sold to pay debts, but the widows' third was only "sold" for a period of time. She retained her interest, but did not benefit from it. Another perspective is that "where land, including the widow's dower has been sold under mortgage or trust deed to pay the debt secured thereby,

⁶²Words and Phrases: 1658 to Date. St. Paul: West Publishing Co., 1950. Volume 37a, p.294

the widow becomes *ipso facto* a creditor of the husband's estate to the amount of the value of her dower in the land so sold, her claim being preferred over the claims of unsecured creditors."⁶³

Reversions are similar to the liens placed against property to pay debts and court fees. Of the 33 recorded dowers, 11 were reversionary interests. Reversions are an elusive process in that probate records, dowers, and deeds contain no information regarding their duration. Land transfer deeds can suggest the point at which the widow's dower was returned to her, or in fact, reveal that widows opted to sell their dower instead of retaining a suspended interest. The decision to suspend Salome Cate's dower in her husband's estate on Cross Street was made on October 21, 1818, but the dower committee did not establish the dower until February 17, 1819. Presumably, the dower and other two thirds of the estate were sold that year. The 1821 directory does not list Salome, nor any other Cates, on Cross Street. However, in 1823, the North Church

⁶³William Mack and Donald J. Kiser, Corpus Juris Secundum: A Complete Restatement of the Entire American Law. (Brooklyn: American Law Book Co., 1941), 54.

committee records state that they removed their fellow churchmember, Elizabeth Kennison, from the almshouse and boarded her at Salome Cate's house on Cross Street for one dollar a week. The church committee reported that "the Sisters" of the church would see to Mrs. Kennison's clothing needs and continue to provide her with bread while at the Widow Cate's dwelling. Presumably, her right to her dower was suspended for 2-4 years, and she may have then transformed her home into a boarding house.⁶⁴

Sally Marden experienced a similar sequence of events. Her dower was established four months before the decision to reverse it on November 17, 1817. When she sold the estate at public auction the following spring she noted the "reservation of my right of Dower & power of thirds" but there was no established time limit.⁶⁵ Four years later, in 1821, she was living on Cabot Street, presumably in her dowered section of the brick house. The length of a reversion may have been established by a committee similar to those which

⁶⁴ RCC Probate Docket 9477; North Church Records at the Portsmouth Athenaeum. The author is grateful to Kevin Shupe for bringing this letter to her attention.

⁶⁵ RCC Deed 218-63.

established the length of a lien. Records which detail the time periods have yet to be found.

Dowers were also liquidated. Anna Mudge, Hannah Rand, Nancy Treadwell and Mehitable Souther all sold their reversed dowers. The first three sold their dowers within months of the reversions, probably to the owners of the other two thirds of the house.⁶⁶ Conversely, Mehitable Souther retained her dower for eight years. Her husband had been a baker, and her dower included most of the buildings except the bake house, and though she had privilege to pass through the bake house to the yard, she was not given use of the bake house, and thereby a means of support.⁶⁷ One possible alternative to the case of shared household space is that widows may have rented the other two thirds of the house for their own use, or their children may have purchased the rest of the estate.⁶⁸

Reversions illuminate one very important aspect of dowers--their role as a commodity. Even when dowers

⁶⁶ RCC Deeds 229-381, 236-452, 267-92, 270-14.

⁶⁷ RCC Probate Docket 10766.

⁶⁸ Richard Candee, in several conversations with author, has raised many important questions regarding the use of space in dowered houses, especially concerning the Amazeen house.

were not reversed, widows sold their third interest. Lydia Amazeen, as discussed earlier, used her dower interest, plus her money in the bank and her best furniture as collateral on a mortgage loan of \$600 from Nathaniel Folsom in 1831.⁶⁹ Traders Nathaniel Folsom and Thomas Fernald owned the other "two thirds share" of Lydia's house, which was actually less than half the house. It is possible that Lydia may have rented and occupied the other two thirds of the house or it may have been used as commercial space.

On October 6, 1838, Nathaniel Folsom and Thomas Fernald sold their two thirds interest with the reservation of Lydia Amazeen Pickernail's dower interest to William Isley.⁷⁰ Sometime between 1834 and 1838, Lydia had remarried and become a widow again. On September 19, 1838 she made an indenture with William Isley that allowed him to rent her life interest in the house for "the dear yearly rent of twenty eight Dollars to be paid by equal quarterly payments on the first days of January, April, July, and October."⁷¹ The indenture could only be broken by missed payments. Lydia

⁶⁹ RCC Deed 264-283.

⁷⁰ RCC Deed 290-402,403.

⁷¹ RCC Deed 290-404.

Pickernail appears to have left Portsmouth at that point. Perhaps she moved in with her children in New Castle and used the dower money to help support herself. Though small, her dower allowed her to create a lifetime income.

Other widows such as Lucy Ham, Sarah Titcomb, and Hannah Massey, sold their dower interest for a lump sum of money. Lucy waited eight years to sell hers while Hannah sold hers within a year and Sarah within three years.⁷² Another widow, Mary Jenkins, after her second husband's death, sold her dower in her first husband's estate.⁷³ Dower interests could not be assumed by new husbands. They could benefit from the occupation or rents, but they could not sell their wives lifetime interest.⁷⁴

Not all widows sold real estate as guardians or administrators. Ann Shapley's husband, Rueben, died in 1824. As his administrator she became liable for his

⁷² RCC Deeds 241-311, 243-340, 234-459.

⁷³ RCC 253-310.

⁷⁴ Lifetime interest bear a strong legal resemblance to marriage settlements. Marylynn Salmon's "Women and Property in South Carolina: The Evidence from Marriage Settlements, 1730-1830" in Material Life in America 1600-1860. edited by Robert Blair St. George (Boston: Northeastern University Press, 1988) contains an excellent discussion of the relationship of widows to settlements and property in general.

debts totalling \$8,350. Ann herself, also owed the United States \$1,137 for a bond, "given for duties on goods and merchandise imported, and for about seventy dollars for taxes." In addition, since her husband's death, she had also become, "on her own account indebted to sundry persons," for \$7,145, which she, "by reason of misfortune in trade, is unable to pay in full." Edward Cutts and William Haven, the major creditors of Ann and Rueben Shapley, signed an indenture with Ann on October 3, 1826. In this document, Ann conveyed all the residue of Rueben's estate and "all her own estate of whatever kind excepting her wearing apparel and personal ornament" in trust to be sold to pay the debts. Any surplus would be returned to her, but she also had to agree that these men would become her irrevocable lawyers for life.⁷⁵ The Shapley estate was extensive--including a mansion house on Pitt Street, Shapley's wharf, two brick and five wooden warehouses, and a store. While her husband was alive, she probably enjoyed a comfortable lifestyle, but his death demanded a settlement of accounts. Ann seems to have tried to raise the money through trade but only incurred more debts.

⁷⁵ RCC Deed 248-41, 42, 43, 45.

Olive Trickey was more successful in business. Her husband John died insolvent in 1824 causing her dower to be reversed. She sold all the real estate and her dower for \$160 the following year. Olive began her widowhood with only \$190 in personal estate.⁷⁶ Somehow, she managed to raise enough capital to start a business. By 1834, she was described as a milliner and mantua maker with a store and a separate residence. In 1847, Olive used all the goods in her shop as collateral on a mortgage loan for \$1500 from Smith and Sumner of Boston. She entered similar personal property mortgages five times between 1847 and 1861 to obtain cash, presumably to purchase more goods or guarantee payment to her suppliers. Records of her business appear in the R.G. Dunn ledgers which assess her place in Portsmouth's business community and her credit status. She was described in 1849 by an assessor as a widow over 50 who had been the leader in her business for several years. He believed she charged great prices but "complains that she doesn't make any thing."⁷⁷

⁷⁶ RCC Probate Docket 10826.

⁷⁷ R.G. Dunn Collection, Special Collections, Baker Library, Harvard Business School. Volume 16, page 36.

Olive Trickey was 27 when she became a widow. She died after 42 years of widowhood in 1866. Had she remarried, Olive may have tried to protect her business interests through the creation of a trust. Only one widow in this study, Sarah Pray, signed such a trust agreement. On July 3, 1824, she transferred a lot and dwelling house to John Thurber for \$1. This lot and dwelling on Mill Pond had been purchased six months earlier for \$825.⁷⁸ In the trust agreement, she would retain a life interest in the property and then, after her death, John Thurber would oversee an equal division of the property between her daughter Sarah, her son William, and William Nutter. Church records reveal that she married William Nutter later that year. Sarah effectively kept interest in her property and wrote her own irrevocable will.

Widows also received land through special deed transfers and trusts. Thirty-six widows were deeded property through purchases, mortgages, and indentures. These widows, who acted as grantees (receivers of property), transacted 54 purchases with an average price

⁷⁸ RCC Deeds 241-203, 237-235.

of \$412, and 26 mortgages with an average price of \$1,166.⁷⁹

Widows both sold and purchased their reversed dowers. The sequence of events concerning dowers, reversals, auctions, and purchases can raise many questions, especially in the case of Mary Cutts. Her husband, Edward, the President of the United States Branch Bank, died in 1824, leaving Mary an administrator of a very tangled, debt-ridden estate. Her dower, composed of the mansion house on North Road, was set off and reversed on November 1, 1824. Soon afterward, Mary petitioned the judge for an allowance. Mary's petition, as discussed earlier, claimed that she had been "rendered destitute of the means of comfortable subsistence & support." Due to the "liberal affluence of her early education & the mode of life to which she always been accustomed," she requested an allowance out of the personal estate "as the law allows the benevolent hand of the Judge to award to widows in her distressed situation." Judge Daniel Gookin allowed her \$1500. Mary chose to take all the household furniture, a mare, cows,

⁷⁹ Purchases of property by these widows between 1816-1863 ranged between \$1-2,362. Mortgages held by widows ranged from \$1-6,335. One dollar transfer usually occurred between relatives.

pigs, saddles, carts, hay, straw, corn, and farming implements. Clearly the widow Cutts had a place to store all these goods and livestock.⁸⁰

On December 20, 1825, a little over a year after her dower's reversion, Mary Cutts purchased her dower back from Clement Storer, one of the men on the dower committee, for \$2632.⁸¹ Perhaps her son, Edward Cutts Jr., helped her purchase the mansion house. What emerges from cross listing probate records and deeds is the web of family relations that undoubtedly play a significant role in land transactions. Clement Storer may have been a friend of the family, who promised to buy the estate at auction and then return it to Mary Cutts. It seems highly unlikely that Mary ever thought of moving all her personal estate from the mansion. There appears to be an element of ritual procedure concerning dowers. Even if a widow planned to sell her reversionary interest in the estate, it seems that it was necessary to demarcate her thirds.

⁸⁰ RCC Probate Docket 10885.

⁸¹ RCC Deed 251-72.

In a similar case, Anna Mudge also purchased her reversed dower. Her husband, Samuel, a cordwainer, died in possession of an estate valued at \$2,934 and owing \$3,434. Anna's dower was established and reversed April 11, 1821. As administrator, she sold all the real estate at public auction to Jacob Waldon for \$710. A week later she was granted an allowance of \$200 personal estate, and the following day, on May 9, she purchased the entire estate back from Jacob Walden for \$710. Where she obtained the money for this is unknown. On May 29, she used the property as collateral on a mortgage loan for \$500 from widow Sarah Pray. Three years later Anna paid back the loan to William Nutter and Sarah Pray Nutter "in her own right," and obtained absolute possession of the land.⁸²

The cases of Mary Cutts and Anna Mudge strongly suggest the operation of an elusive kinship network. Apparently, these widows had access to resources other than their inherited estates. In other cases, such as the property transfers involving Lucy M. Foster, the role of family quite clear. Lucy's husband David had been a partner with Gideon Beck in the operation of the printing

⁸² RCC Probate Docket 10021, RCC Deeds 229-382, 241-395, 230-192.

business Beck and Foster which published among other things, the New Hampshire Gazette. In addition to being business partners, David Foster and Gideon Beck shared an undivided house on Washington Street. Though she declined to petition for her dower, Lucy Foster, on December 24, 1823, a month after her husband's death, purchased the other half of the house from Gideon Beck for \$600.⁸³ Perhaps it was considered inappropriate for a 30-year-old widow to share an undivided residence with a similar age man.

Lucy and her three children continued to reside in this house for 16 years, and then, in 1839, Lucy sold her interest in the printing business and petitioned for her dower. Benjamin Foster, Lucy's son, had come of age, necessitating the creation of dower divisions. Lucy was given a life interest in the south lower room, the kitchen and scullery behind it, the chamber above the kitchen, part of the cellar, and use of the front door, back entry, back stairs, and the well. Presumably, Lucy, Benjamin, and the two other minor children, David and Eliza, continued to reside together in the house.⁸⁴

⁸³ RCC Deed 238-461.

⁸⁴ RCC Probate Docket 10724.

Kinship networks played a central role in Mary Rider's property transfers. She became a widow at the age of 50 in 1818. Though she and her husband John had never had children of their own, several of Mary's nieces and nephews from Ireland came to live with her. In his will, John had given Mary absolute control over all his property which included several plots of real estate, a shop, and a large amount of bank stock. On October 7, 1825, Mary sold one of these inherited plots of land to Thatcher Emery. Twelve days earlier he had married Jane Woods, Mary's niece. In 1829 Mary purchased a house and lot on Court Street which she presumably used as rental property for eight years until she sold it to her nephew John Rider.

Mary also held mortgages for relatives. A year after he married into the family, Mary loaned William Rand \$300. She also held two other \$300 mortgages for Samuel Kingsbury and Thomas Dennett. Combined with her rental property, shop revenue, and bank stock interest, Mary enjoyed a very comfortable 45-year-long widowhood.

What emerges is a sense of widows as active, astute business minded individuals. Though eventually unsuccessful, Anna Shapley engaged in large scale foreign trade, while Olive Trickey used her property to create and maintain a small shop. Lydia Amazeen Pickernail transformed her dower into a lifetime income. However, these deeds are also suggestive of family relationships and hint at a distinctly female relationship to property that becomes even more apparent in widows' wills.

Chapter Five

THE END OF LIFE

Of 132 widows, only 17 had their own estates recorded in the probate records. Less than half (8) of these widows left wills. Even though the number is so small, these wills are distinctly different from those written by men. The most striking difference is that almost all the widow's bequests are to other women. The widow's wills are, in general, more specific regarding the bequest of particular items. One of the best examples of this is the will created by Margaret Manning.

Margaret Manning clearly anticipated her death when she wrote her will on May 23, 1829. Margaret Manning, as discussed earlier, benefitted from the dower law, for her dower share in Thomas Manning's personal estate was valued at \$13,896. Her dower included the entire mansion house. However, Margaret Manning had no children of her own; instead, she had three surviving

stepdaughters. These women, as Margaret termed, "the heirs at law of my late husband" received equal shares in a plot of land next to the dwelling house "where she now lives" which she had purchased from Captain Nathaniel Marshall. One of Margaret's stepdaughters was married, two were widows, and the other three shares went to the children of her three deceased stepdaughters.

Margaret also left behind two unmarried sisters, Ann and Sarah. Her sister Ann received all of Margaret's money and stock in the Portsmouth bank, valued at \$4500. Her sister Sarah received the \$2800 Margaret had in the New Hampshire Union Bank. At their deaths, the interest in these accounts was to be divided into sixths among her three living stepdaughters for their natural lives and then to the children of her deceased stepdaughters. In addition to her sixth share in the real estate and bank interest, Margaret left her widowed stepdaughter, Caroline Berry, all her shares in the Rockingham bank, valued at \$850. The "rest residue & remainder of the estate" Margaret left in equal shares to her unmarried sisters, Sarah and Ann, and her married sister, Sarah Gardiner. The three sisters were also named as executrixes of the estate. Margaret Manning's widowhood

lasted for eleven years. Her estate was valued at \$11,663 only \$2230 less than the value of the personal estate she inherited. Aside from property transfers and mortgages, Margaret had also loaned money. Three men were still indebted to her at her death for a total of \$1510. Her household goods only accounted for \$935--less than a tenth of her estate. Her will strongly suggests that Margaret, though wealthy, had a keen understanding of the need for a single woman--whether widow or spinster, to have access to money, and more importantly, the interest income.⁸⁵

Mary Rider died in possession of a similar size estate valued at \$12,108, but she only owned \$262 worth of household goods and lived in a much smaller house than the Manning mansion. Mary Rider had been a widow for 45 years when she died in 1863 at the age of 94. As discussed earlier, Mary's family played a important role in her property transfers, but when she wrote her will, her first consideration was her church. She wrote her will a year before her death and described herself as "being of sound & disposing mind and memory, blessed be Almighty God for the same, but conscious of the certain

⁸⁵ RCC Probate Docket 12030.

termination of this mortal life." Just as Margaret Manning had carefully divided her estate among many heirs Mary Rider divided her money among several branches of the Episcopal Church. She left her money in trust with the interest to be paid annually. Five hundred dollars was given to the fund for the Bishop's salary and the Poor of the Parish fund. The Bible society, the society for "domestic minors," the destitute ministers, the Foreign Mission, and the destitute parishes fund were each given \$100.

Mary's next consideration was her nieces. Mary requested that her house be sold and the money be used to pay \$50 to Caroline Chase, \$112.50 each to Ann Weymouth, Ann Haverford, and Elizabeth Haverford, and another \$112.50 to Mary Ann Gold "provided she shall remain and continue to live with me during my life." The first option to buy the house was given to her nephew James Wood. Her nephew and executor John Rider was given her pew in St. John's church only if he put \$50 in trust for the Poor of the Parish fund for wood and clothing. John also received a lot of land on Jefferson Street without any restrictions. The rest of estate was divided in

equal shares among eighteen relatives in Portsmouth and Devonshire England. Each share was worth \$614.⁸⁶

Like Mary Rider, Eliza W. Haven spent the greater part of her life as a widow. Eliza W. Haven was widowed at the age of 29 and remained a widow for 58 years. Her first consideration in her will were her children, but her bequests were only for her daughters Elizabeth and Charlotte. Eliza created a trust for her daughters, who were both over 60 years old when their mother died. She left them a shared lifetime use of all her estate. Upon the death of the surviving daughter, a committee of three men would then distribute the estate according to Eliza's instructions which were to remain sealed until that time. She also requested that no inventory be taken of the estate until the surviving daughter's death.

In 1897, fourteen years after Eliza's death, the estate inventory total was \$107,550. It is possible that Eliza left a detailed list of bequests, which, considering the estate value, may have been a source of contention among family members. When her husband died intestate in 1826, Eliza's dower consisted of several

⁸⁶ RCC Probate Docket 19193.

plots of valuable land and \$2300 in personal estate. It is difficult to assess how Eliza accumulated such a large estate.⁸⁷

Hannah Massey also left a sealed document containing her specific bequests. She died on January 26, 1852, at the age of 85. After payment of funeral expenses and just debts, Hannah gave three daughters of a her friend William Jones \$10 each. She left her watch to Mrs. Lydia Brown. Her silver was placed in trust with her executor, William Jones, to be distributed among her nieces Mary, Elizabeth, Ellen, and Sarah Lunt "according to a private memorandum in writing which I may leave at my decease or to them whose names I shall leave attached to the articles respectively." Hannah Massey's nieces also received the residue of the estate. Hannah named William Jones, who she described as a friend, as her executor. Her niece's parents Thomas and Mary Lunt, one of which was Hannah's sibling, were left nothing. In addition, Hannah's estate consisted of \$1250 in stocks, bonds and cash, a \$10 watch, \$66 worth of silver, and a "plated silver tea pot." She owned no furniture and no real estate.

⁸⁷ RCC Probate Docket 14249.

The fact that Hannah Massey's inventory includes no real estate is not surprising. Her dower share in her husband George's house and store on High Street would have automatically descended to his heirs had she not sold it in 1822 for \$400. However, she did receive \$100 in personal estate. Therefore Hannah began her widowhood at the age 54 with \$500 and died 31 years later in possession of a \$1425 estate. The estate value difference is not as remarkable as the fact that she owned no household items and her clothes were apparently not worthy of an inventory. Hannah probably living with relatives, perhaps even the Lunts, could have contributed her interest earnings to the household, and retained only her personal valuables until her death.⁸⁸

Margaret Chase received \$400 in personal estate, a lifetime dower interest in a mansion house on Pitt Street, and guardianship of her seven children in 1818 when her husband Joseph died. Though a mariner, Joseph left no will. When Margaret died in 1839, she left a will with very specific bequests. Margaret, describing herself as being, "of sound and disposing mind and

⁸⁸ RCC Probate Docket 16323.

memory, and being desirous of directing what disposition shall be made of my property after my decease." To her daughter Ann she left \$35 in cash, "together with the Bed she sleeps on and the bedding belonging to the frame and the bedstead in the back room adjoining the kitchen. . .to have and hold forever." Her daughter Adeline was given \$50 in cash and the "Bureau in William's sleeping chamber and the Bed and bedding in which I now sleep." To her only surviving son, William, she left "the bed and beddings & curtains in which he now sleeps, the carpet in his chamber, the large silver soup spoon which was his father's together with all the money which may be on hand or due to me at the time of my decease excepting the above legacies. . .together with the chairs tables & looking glasses in his chamber." The rest and residue of the estate Margaret left in equal shares to her daughter Mary Taylor "the Wife of John Taylor" and her other surviving children Ann, Adeline, William and Caroline Chase. Margaret's estate consisted of \$315 in household goods, \$542 in promissory notes, and \$171 in cash. The end of Margaret's dower interest also made the house subject to a division into six parts.

Margaret's allowance of \$400 in personal estate apparently included all the household furnishings and perhaps part of the shop inventory. Joseph's share of the brig Ferdinand, valued at \$350, was probably sold, as were the 715 pounds of chocolate in the shop. Aside from the real estate and the brig, the chocolate, valued at \$130, was the most valuable item in the inventory. Margaret may have continued to run the shop, but by 1839 the shop, described as "old," contained mostly kitchen-items including tin, crockery, earthen, and wooden wares. Considering that Joseph was a mariner, Margaret probably ran the shop alone most of the time. However, with his death, and the sale of the interest in the brig, Margaret lost her direct access to the market.⁸⁹

Clearly, Eliza W. Haven, Hannah Massey, Margaret Chase, Margaret Manning, and Mary Rider are representative of wealthy widows. Only two other widows, Elizabeth Floyd and Ann Harris left wills, but no records of inventories exist. Elizabeth Floyd's husband was a bookbinder, and when he died insolvent in 1817, Elizabeth was granted \$50 in personal estate for "upholding life." Somehow, she managed to exist for 35 years. When she

⁸⁹ RCC Probate Docket 13692.

died in 1852. Elizabeth left her three granddaughters \$25 each and the residue of the estate to her daughter and executor, Elizabeth Hall.⁹⁰

In writing her will, Ann Harris's first consideration was also her grandchildren Nannie and Frank Hatch to whom she left one dollar each. The rest and residue she left to her sister Harriet Pierrepont "to have & hold the same during her life." Any part remaining would go to her two other granddaughters, Annie Miller Hatch and Mary Astor Hatch. She named her son-in-law Albert Hatch as her executor, but left him nothing.⁹¹

The one common theme throughout these wills is that men and boys are very tangential concerns. One exception exists in the case of Nancy Handy. Nancy Handy died after one year of widowhood. Her husband, Samuel, Commander of the Fox, a Private Armed Schooner, died at sea on April 15, 1818 when "In a delirium he jumped overboard and was drowned & buried near Baltimore." In his will, he left Nancy, "all my prize money to which I am or may be entitled, and also all my Estate, Interest,

⁹⁰ RCC Probate Docket 16361.

⁹¹ RCC Probate Docket 11050.

& Property, which I may be possessed of, or which, may be becoming due or belonging to me at the time of my Decease. . . to her heirs and assigns, to her and their only use, Benefit and Behoof forever." Despite the grand language, his estate consisted of clothing, books, and some furniture with a total value of \$221. Nancy died the following May, at the age of 25, in possession of an estate worth \$4,321.

Samuel Handy's will was written soon after his marriage to Nancy in 1813, and consequently there is no mention of their sons William and John. In her will Nancy states that William be given his father's watch and clothing upon his twenty-first birthday. She gives her sister-in-law Mehitable Mumford, "a stone cross," apparently a piece of jewelry. The rest of the estate goes to John N. Handy, who was named after his paternal grandfather. Nancy's father, John Nelson, had died only a few months after her husband. As his only heir, Nancy inherited all his personal estate and all his real estate including a brick dwelling house and shop next to the Portsmouth bank and half of a dwelling house behind it. When Nancy died, the two lots were valued at \$3500.⁹²

⁹² RCC Probate Dockets 9750, 9968.

Nancy's story is rather exceptional. Compared to the other seven widows who left wills, she is the youngest by far and was a widow for a brief time. She had no daughters to provide for, so her estate naturally went to her young sons. Eliza Haven's will gave everything to her daughters for life, and perhaps then, her sealed bequest contained gifts to male relatives. Though Hannah Massey left her son all her money, her daughters were clearly of an equal consideration. Margaret Manning's will does not contain a single male name anywhere. Of Mary Rider's 23 bequests to individuals, 16 were to women. Elizabeth Floyd left everything to her daughter and granddaughter, while the only male to receive money from Ann Harris was given \$1. The experiences of widowhood sensitized these women to the vulnerable place of females in society. Several of these widows left large sums of money which essentially created incomes for their heirs. Bank trust funds could not be taken over by fathers or husbands.

The precarious economic position of widows can best be seen in the lack of evidence concerning their estates. Estate records for widows such as Olive Trickey,

Elizabeth Libbey, Nancy Dennett, Judith Beck, Lucy Damrell, and Dorothy Gerrish contained sketchy documents such as petitions and bonds.⁹³ Sukey Ham's probate records contain only an inventory listing \$81 worth of household goods and a report by the insolvency committee that everything was sold. Abigail Holbrook, who died at the age of 71 after 11 years of widowhood, left an estate valued at \$860--\$820 of which was stock in the New Hampshire bank.

Anna Chase Smith died at the age of 91. Apparently owning no property, her death was not recorded in the probate records. She died while living in one half of the house on Russell Street. Anna began her widowhood as the manager of a substantial estate. Forty-five years later, there was nothing left to pass on to her children. Her daughter, Mary Ann, purchased the house in 1834, but the rest of Simeon Smith's estate was sold to strangers over the years. In 1834, Anna's youngest child, Samuel was only ten, and his cousins, who Anna was also caring for, were even younger. Anna spent the next 35 years living with relatives and conceiving of ways to gain credit and pay off debts.

⁹³ RCC Probate Dockets 11158, 12293, 12849, 12969, and 14940.

Legal records do not explicitly reveal her voice. However, she was a woman who accepted and assumed a great deal of responsibility. She took her role as manager of the estate very seriously, which resulted in her suing her own son for overdue rent. One can only surmise how she felt during the year of 1834 when everyone called in their debts--including her daughter. She seems to have had contradictory roles as an administrator trying to protect an estate, and as a destitute mother, relying on her children's charity.

The lack of information surrounding the end of Anna's life is quite significant. She began her widowhood with a large estate that seemed capable of generating at least a meager income. However, something went wrong. Perhaps her sons died, or declined to remain at home and help support the family, or maybe, she was trying to support too many people. Anna certainly must have experienced moments of desperation, but she seems to have always managed to find a way around her problems. When her house was in jeopardy, she mortgaged it to her daughter. When it was still taken away from her, she obtained a license to sell it, and very possibly designed

the plan for her daughter Mary to buy the house and thereby protect it from her other debts. When she had no real estate to mortgage, Anna mortgaged her furniture. Presumably, the furniture and household goods survived, but when Mary died in 1875, they were valued at \$119.

As Laurel Ulrich has written, the task of the historian, "is not only to discover and utilize a wider range of surviving sources, but also to read them in relation to what has been lost."⁹⁴ Examining the lives of many widows, and the diversity of their experiences and actions, creates a spectrum from which one can infer the very central, integrated, distinct, and important role of women in a community--whether single, married, or widowed. At first glance, they may seem "hidden" in legal records--but they were everywhere; in the home; outside the home; running businesses; engaging in foreign trade; appearing and arguing in court; buying, selling and mortgaging property; and as their wills reveal, they engaged in, and articulated, a distinctly female value system.

⁹⁴ Laurel Ulrich, "Of Pens and Needles: Sources in the History of Early American Women." Journal of American History. 77 (June 1990):200-07.

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