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## 4. Inheritance Bequests



Though Sarah Harrison was “sick” and “weak of body” when she made her will in 1737, she painstakingly outlined plans for the distribution of her modest estate. Harrison was not wealthy by Jamaican standards, but she carefully set aside a white waistcoat and a red striped petticoat for her sister Nanny and the sentimental gift of a silver spoon for each of her great-granddaughters. Harrison also left her “large Mahogany chest with a drawer in it and one small Iron Pott” to one of the girls. She had even acquired enough property to offer a small gold “finger ring set with a stone” to her friend Elizabeth Moore. Most of Harrison’s family members were still enslaved, which indicates that Harrison, who self-identified as a “free negro woman,” had also spent part of her life in captivity. Yet, by 1737, she had achieved the status of a legally free female property holder.<sup>1</sup>

Harrison’s will is an extraordinary document. Only 12 of the 706 female colonists who recorded wills between 1665 and 1761 were identified as being “free negro” or “free mulatto” women. She made her will in the midst of the Maroon War, when free and freed people of African descent were viewed with increasing suspicion by colonial authorities. Although this charged climate might have deterred some property-holding women of color from declaring their racial status, Harrison either chose to categorize herself as a “free negro woman” or someone else who recorded the will did so for her. Whatever the case, her racialized legal categorization and her meager estate relegated Harrison to the lowest echelon of free society, making her will even more rare.

1. Will of Sarah Harrison, 1737, Jamaica Wills, 1661–1771, XXI, Island Record Office (IRO), Spanish Town, Jamaica.

Harrison recorded her will during an era when inheritance, not wage labor, provided people with the most considerable resources they would have in their lifetime. Wills dictated how vital assets would be distributed, making them essential family documents. As Amy Erickson states, wills also “reveal personal intentions,” in contrast with the “impersonal operation of the law.” These records yield glimpses of the plans and desires of people like Harrison, who otherwise leave few traces in the archives.<sup>2</sup>

Local conditions in Jamaica intensified the importance of inheritance. The island’s lethal environment wreaked havoc on its human inhabitants. Still pools of water in towns and on plantations created breeding grounds for the mosquitos that carried malaria and yellow fever. Free and enslaved inhabitants were also plagued by smallpox and dysentery. Virtually incurable with early modern medicine, these viral and bacterial infections caused traumatic and painful deaths. Victims experienced black vomit, organ failure, swollen pustules, and diarrhea. Facing such pestilence, free settlers who moved to the island rarely lived more than thirteen years. Jamaican-born people who were classified as white commonly died before the age of forty. Aware of the terrible odds of survival, colonists understood that their marriages were likely to be short-lived and their children, who were especially susceptible to infection, illness, and disease, would probably not grow up to reach adulthood. In Kingston, white infants only had a 33 percent chance of surviving past age five. At the same time that free islanders struggled with Jamaica’s toxic epidemiological conditions, they also contended with chronic warfare between European rivals, attacks by privateers and pirates, slave revolts, and, until 1739, the Maroon War, which began in 1728 as an outgrowth of previous guerrilla warfare. Additionally, the island was ravaged by natural disasters, including hurricanes and earthquakes.<sup>3</sup>

2. Jamaica Wills, I–XXXII; Amy Louise Erickson, *Women and Property in Early Modern England* (London, 1993), 3, 33. Vincent Brown describes inheritance as one of the strongest “social currents” shaping colonists’ lives. See Brown, *The Reaper’s Garden: Death and Power in the World of Atlantic Slavery* (Cambridge, Mass., 2008), 92, 93.

3. J. R. McNeill, *Mosquito Empires: Ecology and War in the Greater Caribbean, 1620–1914* (New York, 2010), 48–49, 51–52; Richard S. Dunn, *Sugar and Slaves: The Rise and Fall of the Planter Class in the English West Indies, 1624–1713* (Williamsburg, Va., and Chapel Hill, N.C., 1972), 301–303; Brown, *Reaper’s Garden*, 17. Trevor Burnard calculates that the average marriage in the parish of Saint Andrew from 1666 to 1731 lasted between six to eight years. See Burnard, “A Failed Settler Society: Marriage and Demographic Failure in Early Jamaica,” *Journal of Social History*, XXVIII (1994), 67, 69–70; and Burnard, *Mastery, Tyranny, and Desire: Thomas Thistlewood and His Slaves in the Anglo-Jamaican World* (Chapel Hill, N.C., 2004), 16.

The colonial instabilities caused by demographic disaster and chronic warfare had imperial implications. Britain needed a sufficient free population to defend the increasingly important and valuable colony from enslaved inhabitants, the Maroons, and European rivals. The inheritance customs established by ordinary islanders—rather than imperial policies originating in the metropole—proved essential for securing Jamaica under British rule. Confronted with demographic crises, colonists devised inheritance strategies that enabled them to secure family property. By their actions, they aided in upholding Britain's interest in Jamaica. The wills recorded on the island between 1661 and 1761 show how free and freed people accomplished this feat. In spite of the decisive role played by inheritance in the development of Jamaica, colonial wills have received scant attention. Very little is known about inheritance patterns on the island during the seventeenth and eighteenth centuries. The existing scholarship, based on small samples of wills, emphasizes the masculine character of property holding, thereby overlooking the possibilities local conditions generated for free and freed women like Harrison to own property, especially in the form of enslaved people.<sup>4</sup>

Drawing on 1,210 wills held by the Island Record Office (the modern iteration of the Island Secretary's Office, where they were originally recorded), this chapter offers the first comprehensive overview of inheritance patterns in colonial Jamaica. All 706 wills made by female colonists between 1665 and 1761 are examined as well as a sample of the wills left by men who gave legacies to female kin (which show how husbands and fathers distributed resources to women) in one-year sequences for every decade between 1661 and 1770. The scarcity of census records combined with the categories devised by census creators obfuscate, rather than reveal, the numbers of free male and female colonists in Jamaica, making it difficult to determine the ratio of free and freed women who made wills on the island. A 1731 survey of Kings-

4. Based on a study of the wills of a handful of free colonial elites, Vincent Brown, for instance, contends that "white women were rarely recognized as vital participants" in Jamaica (Brown, *Reaper's Garden*, 92, 93, 100). Analyzing the wills made by 183 men in Saint Andrews Parish between 1667 and 1734, Trevor Burnard determines that husbands were reluctant to "assign significant economic authority to their wives" (Burnard, "Inheritance and Independence: Women's Status in Early Colonial Jamaica," *WMQ*, 3d Ser., XLVIII [1991], 106). Lucille Mathurin Mair's older work agrees with my determination about the importance colonists attached to enslaved people as a form of property in bequests to free and freed women. However, she claims that the law of primogeniture limited land transference to most women. She studies a sample of forty wills and eighteen probated inventories. See Mathurin Mair, *A Historical Study of Women in Jamaica, 1655-1844*, ed. Hilary McD. Beckles and Verene A. Shepherd (Kingston, 2006), 132.

ton's population, for example, lumps 504 "masters and mistresses" and 269 free people of African descent together in their respective categories without distinguishing between men and women. Altogether, 773 free and freed people lived in Kingston in 1731. During the five-year period after the census was taken, 25 Kingston women either had their wills recorded or estates probated. These female residents comprised a varied group that included a "free mulatto woman," a "tavern keeper," "spinsters," and several "widows." With estates worth a mean value of £700 and a median value of £300, these women joined Kingston's middling class. Yet their fortunes varied more considerably than these averages suggest: the poorest woman's property was appraised at £31 while the wealthiest was worth £2,361.<sup>5</sup>

Distinctions also emerge between inventories and wills. Inventories include people who died intestate or who possessed very meager resources. Hence, this type of source captures a broader cross section of colonial society. Female will makers, on the other hand, normally referred to "real" and "personal" property, indicating that the majority might have possessed middling to large fortunes. Nevertheless, inventories are standardized documents that lack the richly detailed and personalized descriptions conveyed by wills. Additionally, as legal scholar Lee B. Wilson points out, unlike colonies in mainland British America, such as New York and Pennsylvania, Jamaica did not have an intestacy statute, which meant that colonists followed common law and English statutes when someone died without making a will. The absence of a clear intestacy process and the limited data related to intestacy cases enhances the value of surviving colonial wills.<sup>6</sup>

5. This chapter draws on colonial wills and inventories taken from Jamaica Wills, I-XXXVIII; and Jamaica Inventories, 1674-1784, Jamaica Archives (JA), Spanish Town, Jamaica. Of the 503 wills made by men between 1661-1770 in my sample, 374, or three-quarters, identified themselves as husbands or widowers. The remainder in the group, who did not refer to wives, still left property to female heirs. Chapter 2, above, includes a more detailed study of the gendered and racialized dimensions of the categories in the 1731 census: "Jamaica to His Majesty, Relating to the Unhappy Situation of Affairs of That Island, by the Increase and Success of Their Rebellious Negroes," Feb. 11, 1731, CO 137/19, II, The National Archives (TNA), Kew, U.K. Ten women recorded wills and thirteen different women had their estates probated between 1731-1736 (I have excluded the probated inventories for the five women who also made wills). Since wills were descriptive documents that rarely listed total estate values, I only use the total estate values from inventories here.

6. As Lee B. Wilson notes, the colonial governor in Jamaica had the power to oversee the probate of wills and issue letters of administration—an authority colonists contested. It is not easy to calculate how many property holders in the colony died intestate. Trevor Burnard concludes



Read together, these records capture the views and practices of a variety of free and freed people, including women with modest possessions like Harrison. Although Harrison's racialized and gendered identity renders her appearance in the archive significant, these features had little bearing on her actions. Harrison's inheritance decisions reflected practices in wide use among free and freed Jamaicans by the 1730s. Islanders lived in a rapidly developing region that produced vast riches. Yet high mortality rates stripped families of male heads of household and heirs, making it impractical, if not impossible, to favor male property holders. To cope with dire circumstances, free and freed people modified and adapted British inheritance laws to suit local needs. These alterations benefited female heirs, who were often the only family members to survive to inherit colonial capital. The average free woman owned an estate with a median value of £285 and a mean worth of £803. Women acquired much of this wealth through local inheritance customs. With an estate valued at £28, Harrison was more impoverished than most of the women in this group, but she still adhered to island practice in her handling of property. Harrison, like most female property holders, preferred to transfer her estate to other women. This custom directed family resources, especially in the form of enslaved people, along female lines. In Harrison's case, this local inheritance custom also provided vital support to women who were still enslaved.<sup>7</sup>

Though Harrison was a freed woman who likely spent part of her life in bondage, she was also a slaveholder. In addition to bequeathing familiar feminine goods—clothing, furniture, and jewelry—to her heirs, Harrison also made plans to sell an enslaved woman named Flora when she died. Valued at twenty pounds, Flora represented her most expensive asset. Referencing the

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that intestacy was high in Jamaica. However, as Wilson argues, the estates of people who died intestate were subjected to an escheat process. Wilson has found escheat lists from 1702–1703, 1709, and 1712, but, as she explains, it is difficult to quantify the number of escheats in the colony owing to the absence of data and the lack of clarity as to how the escheat process actually worked there. See Wilson, "A 'Manifest Violation' of the Rights of Englishmen: Rights Talk and the Law of Property in Early Eighteenth-Century Jamaica," *Law and History Review*, XXXIII (2015), 553–556; and Burnard, "Inheritance and Independence," *WMQ*, XLVIII (1991), 95–96.

7. Inventory of Sarah Harrison, 1739, Jamaica Inventories. The median and mean values of the average free woman's estate are based on my analysis of all 915 of the probated inventories of women's estates made between 1674 and 1770 (Jamaica Inventories). For a detailed account of the average value of a woman's probated estate and how her wealth compared to the resources of Britons who lived elsewhere in the empire, see Introduction, above.

"money thereby arising from the sale of my said negro woman slave," Harrison viewed Flora as an exchangeable commodity whose worth might yield enough of a return to purchase the freedom of her own children, who were still enslaved. In her handling of Flora, Harrison expressed the localized definition of slaves as a form of movable goods. Enslaved people commanded a high monetary value in the British Caribbean—the average price of a captive ranged from eighteen to thirty pounds between 1700 and 1750. Eager to liquidate these costly human assets, Jamaica's lawmakers and colonists regularly categorized African-descended captives as movable or personal property rather than defining them as real or landed estates, as they were identified in Barbados. The Jamaica Assembly also diverged from a 1696 statute that classified enslaved people as real property. Instead, both officials and ordinary colonists followed the inheritance customs associated with common law, classifying slaves as chattel that could be sold to repay debts.<sup>8</sup>

The first generation of English settlers in the late seventeenth century equated slaves with furniture, livestock, and plate, and second- and third-generation colonists intensified the trend. A few years after Harrison's death in 1740, the Jamaica Assembly affirmed local practice, passing acts stating

8. Will of Sarah Harrison, 1737, Jamaica Wills, XXI; David Eltis, Frank D. Lewis, and David Richardson, "Slave Prices, the African Slave Trade, and Productivity in the Caribbean, 1674–1807," *Economic History Review*, VIII (2005), 679. Colonial lawmakers and colonists handled enslaved people as fungible assets. Richard Sheridan estimates an average value of thirty pounds per slave (*Sugar and Slavery*, 252–253). Personal property included movable goods such as household furnishings and clothing. Real estate meant land. As Edward B. Rugemer points out, enslaved people were considered real or landed property in Barbados, which protected them from debt collection. This definition made captives a less fungible type of asset and, hence, more difficult to transfer to women. However, he observes that the Jamaica Assembly did away with this distinction in 1684. Additionally, Rugemer finds that the Jamaica Assembly handled slaves as personal property. This conflicting treatment of slaves as real and personal property likely points toward the broader confusion and contests related to property transmission in Jamaica. See Rugemer, "The Development of Mastery and Race in the Comprehensive Slave Codes of the Greater Caribbean during the Seventeenth Century," *WMQ*, 3d Ser., LXX (2013), 429–458. Wilson describes this conflict in relation to escheats. Wilson determines that colonists used escheats to obtain slaves from estates where the decedents died intestate. Referring to "An Act for the Better Order and Government of Slaves" passed by the Jamaica Assembly in 1696, Wilson contends that slaves were defined as real estate on the island. See Wilson, "A 'Manifest Violation' of the Rights of Englishmen," *Law and History Review*, XXXIII (2015), 553–554. Here, however, my findings diverge from Wilson. Colonists' grouping of captives together with other movable goods in their wills indicates that they also handled slaves as personal, rather than real, property.



that enslaved people could be "accounted" for and sold as chattel to pay debts. Colonists took advantage of this definition of slaves as personal property, which made captive Africans easier to use in marketplace transactions. By handling enslaved people as movable goods, islanders made them a fundamental type of currency on the island—one that could easily be passed from one generation to the next. Captives were also distinguished as an especially suitable form of property for female heirs, who traditionally inherited movable goods.<sup>9</sup>

Jamaica's demographic conditions, inheritance practices, and the local handling of slaves as movable property were especially advantageous to free and freed women. Colonists devised pragmatic approaches to transferring assets that overrode gendered legal handicaps, even for married women. In British territories, wives were subjected to the common laws of coverture, which placed a woman's property under her husband's control. Under coverture, married women could not testify for themselves in court, author wills, sign contracts, assume debt, or extend credit in their own names. These kinds of restrictions proved to be unwieldy and unpopular in Jamaica, where families that lacked male heirs—and even families with sons—instead regularly transferred significant holdings to women. Colonists then took legal measures to preserve married women's property, establishing trusts and separate estates. In the first half of the eighteenth century, these family-oriented strategies became widespread, enhancing the capacities of female kin to hold property irrespective of marital status.<sup>10</sup>

9. [Charles Leslie], *A New History of Jamaica: From the Earliest Accounts, to the Taking of Porto Bello by Vice-Admiral Vernon* . . . (London, 1740), 218. Mathurin Mair makes the point that Jamaica lawmakers readily defined slaves as moveable property for the settling of debts and even applied this principle to the widow's dower, which was normally protected from debt collection. See Mathurin Mair, *Historical Study of Women in Jamaica*, ed. Beckles and Shepherd, 154.

10. Marylynn Salmon offers an overview of coverture in colonial America. See Salmon, *Women and the Law of Property in Early America* (Chapel Hill, N.C., 1986), 14–15. For more on women and inheritance in Britain and early America, see also Erickson, *Women and Property*; Linda L. Sturtz, *Within Her Power: Propertied Women in Colonial Virginia* (New York, 2002); and Carole Shammas, Marylynn Salmon, and Michel Dahlin, *Inheritance in America from Colonial Times to the Present* (New Brunswick, [N.J.], 1997). For a discussion of how the common law of coverture treated marriage as an ideal unity of person while giving the husband the legal power to act for the couple, see Joanne Bailey, "Favoured or Oppressed? Married Women, Property, and 'Coverture' in England, 1660–1800," *Continuity and Change*, XVII (2002), 351. Salmon identifies a similar pattern in colonial South Carolina, where high mortality rates also created opportunities for women to receive larger marriage settlements and control more property than they

Unlike the southern colonies in mainland British America, Jamaica did not limit the shares of personal property, which included slaves, that women could receive. Consequently, islanders turned enslaved people into a particularly valuable form of inheritable property for female heirs, who regularly acquired captives from parents and husbands and then bequeathed them to future generations. These familial actions aided in the commodification of slaves as a particular type of property and ensured the commitment of free and freed women to slaveholding as a primary means of amassing material wealth. More than half (452) of the 706 women who made wills between 1665 and 1761 specifically mentioned slaves whom they owned. Given the high saturation of slavery on the island, it is reasonable to conclude that a considerable portion of the women who only referred to "real and personal" estate also possessed enslaved people. Overall, three-quarters of Jamaica's female property holders were likely enslavers.<sup>11</sup>

Slaveholding offered female colonists an unprecedented means of accumulating and transmitting expensive property on a larger scale than would have been possible elsewhere in the empire. The addition of captive people to female-owned estates nearly doubled the value of women's holdings. Though comprehensive studies of women enslavers in other British colonies have yet to be done, Jamaica's primacy in the Atlantic slave trade and the massive size of its enslaved population indicate that free and freed women living on the island profited the most from Atlantic slavery. As colonial wills show, inheritance was a crucial means through which they derived this profit. Once in command of enslaved people, women preferred to bequeath their captives to female heirs, thereby further entwining the interests of all free people—not just men—in slaveholding.

did elsewhere in America or England. See Salmon, "Women and Property in South Carolina: The Evidence from Marriage Settlements, 1730 to 1830," *WMQ*, 3d Ser., XXXIX (1982), 655–685. John McNeill observes that early modern doctors perceived men as being more susceptible than women to yellow fever. McNeill suspects that this was probably owing to women's not being exposed to the disease as much as men (McNeill, *Mosquito Empires*, 35–36). Dunn makes a similar point about women outliving men in the Caribbean (Dunn, *Sugar and Slaves*, 332).

11. Jamaica Wills, I–XXXII. Kirsten E. Wood observes that widowed mothers in Virginia and North Carolina divided personal property equally with children but that widows in South Carolina received one-third irrespective of whether they had children. Furthermore, widows in Virginia and North Carolina only claimed slaves, defined as real estate, for life, whereas those in Georgia and South Carolina received absolute title to enslaved people. See Wood, *Masterful Women: Slaveholding Widows from the American Revolution through the Civil War* (Chapel Hill, N.C., 2004), 16–17.

Localized inheritance customs enabled free families to survive and accumulate riches amid appalling mortality rates, slave insurgencies, and military conflicts. As wives, mothers, grandmothers, and aunts, women played vital roles in familial property transactions, which often involved enslaved people. Their actions aided in securing Jamaica's slave system. By classing captives as movable goods, male and female testators engaged in a subtle yet fundamental act with significant colonial and imperial consequences. The interest in slaveholding originated in the free family. As families grew more reliant on enslaved people as both laborers and assets, they increased demand for more captives to be shipped from Africa to the Caribbean, spurring the rapid growth of the island's enslaved population, which, in turn, made free and freed women even more critical to sustaining Jamaican slavery.

"THE FEMALE ART OF GROWING RICH HERE"

Jamaica's free inhabitants were resourceful, pragmatic, and opportunistic in their usage of metropolitan legal precedents. Both islanders and the colonial court system acted in concert to appropriate British laws designed to regulate movable property and applied the concepts to enslaved people. In addition to defining slaves as a form of movable property—an alteration with specific benefits for free women—locals also used equity measures to override the conservative and punitive handicaps that coverture impinged on married women. Colonists were reluctant to subject family resources to the caprices—and debts—of male in-laws. Equity, an alternative set of procedures to common law custom, provided free people with a means of preserving married women's material wealth. Islanders adopted British equity procedures such as the trust and the separate estate to maintain the holdings of female kin, a large portion of which was comprised of enslaved people. These measures further deepened women's dependency on captive Africans, who were already used as one of the chief means of supporting female heirs.

Equity, or Chancery, courts were established in England in the fourteenth century to provide a remedy to the oppressiveness and inequity of common law customs. Common law required individuals to adhere to a set of precedents when handling property. Equity ceded greater power to the individual. At the end of the sixteenth century, equity courts began to administer separate estates for wives. Also called marriage settlements, separate estates enabled women to maintain control over resources during marriage by holding it in trust. The separate estate circumvented coverture, thereby posing a challenge to the common law definition of marriage as a unity of persons,

with the wife subsumed under her husband's legal identity. As one scholar argues, this legal instrument laid the groundwork for the married women's property acts, which were passed later in the nineteenth century. But advancing women's rights was not the goal for most people in the early eighteenth century. Instead, families established trusts to shield assets from current or future spendthrift husbands.<sup>12</sup>

Jamaica's colonists participated in an Atlantic legal culture that was accessible to anyone who could get a hold of a conveyance manual, but they also innovated, using equity procedures and courts to further commodify enslaved people. The actions of husband and wife Richard and Anna Owen show how islanders devised multigenerational inheritance strategies to keep wealth under family control. The Owens used equity to shield their Jamaica fortune of £11,000 for their married daughter and her children. To accomplish this, Richard Owen transferred half of his property to his wife and the other half to his daughter in his 1730 will. He also returned "all personal estate," which he held under coverture, that his wife "was possessed of or entitled to" when they married. He offered to give back her holdings, which included slaves and £2,222, in "full barr lieu and compensation of her dower." Owen also instructed his executors to sell the family estate and the "profits divide between wife and daughter Judith equally." In addition to half the pro-

12. Common law courts emerged from feudal customs that prevailed during the Saxon and Norman periods of English history and subsequently reformed and improved over time. Common law covered a broad range of legal subjects, from individual rights to criminal law, and tended to follow precedent instead of statute. Generally, common laws limited the legal rights of women, children, and servants. The Court of Chancery, or equity, was a newer system of judicature jointly approved of and established by the crown and the church. Chancellors, rather than juries, decided cases in equity courts, which gained jurisdiction over trusts, land law, fraud, security for moneylending, charities, the administration of estates imperiled by mental illness, and the guardianship of infants. See "Proceedings in the Courts of Equity," in William Blackstone, *Commentaries on the Laws of England* (London, 1765–1769), Book 3, Chapter 27, Lonang Institute, <http://www.lonang.com/exlibris/blackstone/bla-327.htm>. During the Elizabethan era, the popularity of equity grew, and the operation of two competing legal systems created conflict in Britain. Equity and common law were still widely perceived in the eighteenth century as oppositional, with equity acting as an abatement of the "rigor" of the common law, a belief Blackstone sought to dispel in his work. Alison Anna Tait's study of Chancery cases from eighteenth-century Britain reveals the power of the separate estate. It "introduced the idea of divided household sovereignty" and was a "marker of destabilized gender roles" that forwarded women's property rights. See Tait, "The Beginning of the End of Coverture: A Reappraisal of the Married Woman's Separate Estate," *Yale Journal of Law and Feminism*, XXVI (2014), 216.

ceeds from the sale of the property, Judith would receive another £1,400. In contrast, Owen only left his son, who lived in Bristol, £200.<sup>13</sup>

When Anna Owen made her will three years later, she placed all of the "legacies bequeathed to me by my late husband," including five hundred acres of land, thousands of pounds, enslaved people, and the "bonds mortgages debts due to me," into a separate estate for her daughter, belaboring Judith's exclusive right to the trust. The money could only "be paid into her hands . . . for her sole separate and peculiar use benefit and disposal exclusive of her husband," who had no authority to "intermeddle or have any power or control over" it. Captives comprised a considerable portion of this trust. The ten people whom Owen's husband returned to her on his death were placed under Judith's control, and Judith would maintain the legal right afforded her by equity to "dispose, hire employ and enjoy the wages and their future increase" during her lifetime. They would then be passed on to Anna Owen's grandchildren. Although the distinctions between common law and equity might seem arcane, they were of great consequence to colonial families like the Owens. As Richard and Anna Owen understood, slaves substantially altered the value of female-held assets, which intensified the need to preserve married women's resources. Equity offered them the measures to accomplish this.<sup>14</sup>

Equity was designed to shield individual property rights. It is not surprising then that the colonies in British America that invested the most heavily in chattel slavery also established Chancery Courts. Access to equity benefited the free and freed women who lived in these regions. They inherited more resources and commanded greater financial and legal authority than female inhabitants living in colonies without equity courts. Second- and third-generation female islanders displayed an impressive degree of legal competency, and they adeptly established trusts and separate estates to secure married women's property. Marriage patterns on the island necessitated these Jamaican adaptations. Free and freed women married at a younger age than men, whom they also tended to outlive. As a result, female colo-

13. Inventory of Richard Owen, 1731, Jamaica Inventories; Will of Richard Owen, 1730, Jamaica Wills, XVIII; Tait, "Beginning of the End of Coverture," *Yale Journal of Law and Feminism*, XXVI (2014), 172–174. It is possible that Owen gave his son, whom he did not name in his will, an inter vivos (lifetime) gift, which negated the necessity of providing him with a large legacy. But it seems more likely that the two were either estranged or that his son had received money from another relative.

14. Will of Anna Owen, 1734, Jamaica Wills, XIX.

nists often wed more than once and subsequently inherited multiple estates. Sir Nicholas Lawes, governor of Jamaica from 1718 to 1722, wryly observed, "The female art of growing rich here in a short time was comprized in two significant words, 'marry and bury.'" Edmund Morgan's glib description of seventeenth-century Virginia as a "widowarchy" echoes Lawes's characterization of eighteenth-century Jamaica. Although such depictions acknowledge the presence of formidable female property holders throughout the Anglo-Atlantic world, the principle slaveholding colonies on the mainland slowly restricted widows' legacies and limited their access to the executorship of estates. This change did not occur in Jamaica.<sup>15</sup>

15. Equity offered families a means of shielding assets for female heirs. The author would like to thank David Ryden for drawing her attention to this Nicholas Lawes quote in Edward Long, *The History of Jamaica*. . . , 3 vols. (London, 1774; rpt. 1970), II, 286. Edmund S. Morgan has argued that marriage became a "principal means for the concentration of wealth" in Virginia (Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* [New York, 1975], 166). An equity jurisdiction was established in colonies in the West Indies and colonies settled later in the American South from their founding. See B. H. McPherson, "How Equity Reached the Colonies," *Queensland University of Technology Law and Justice Journal*, V (2005), 112–113. See also Salmon, *Women and the Law of Property*; and Lorri Glover, *All Our Relations: Blood Ties and Emotional Bonds among the Early South Carolina Gentry* (Baltimore, 2000). Richard Grassby reaches a similar conclusion from his study of twenty-eight thousand business families in Britain (Grassby, *Kinship and Capitalism: Marriage, Family, and Business in the English-Speaking World, 1580–1740* [Cambridge, 2001]). A handful of scholars have examined the influence of equity in reshaping gender relations. Marylynn Salmon describes equity as "the most significant change in the legal status of women until the advent of the married women's property acts in the nineteenth century" (Salmon, *Women and the Law of Property*, 81). Allison Tait identifies the separate estate, which was handled in Chancery Courts, as providing real practical and economic benefits to women (Tait, "Beginning of the End of Coverture," *Yale Journal of Law and Feminism*, XXVI [2014], 166–215). See also Erickson, *Women and Property in Early Modern England*; Susan Staves, *Married Women's Separate Property in England, 1660–1833* (Cambridge, Mass., 1990); Amy M. Froide, *Never Married: Singlewomen in Early Modern England* (New York, 2005), 117–128; and Sturtz, *Within Her Power*. Lois Green Carr and Lorena Walsh argue that planters' wives in seventeenth-century Maryland received larger shares of their husband's estates because they were widowed at younger ages with more dependent children. See Carr and Walsh, "The Planter's Wife: The Experience of White Women in Seventeenth-Century Maryland," *WMQ*, 3d Ser., XXXIV (1977), 542–71. See also Salmon, *Women and the Law of Property*; and Glover, *All Our Relations*. Though Jamaican marriage settlements have proven difficult to locate, wills refer to their existence. This trend in Jamaica mirrored patterns in mainland America, where widows regularly instigated their own settlements prior to remarriage. See Salmon, *Women and the Law of Property*, 89; and Wood, *Masterful Women*, 17.



Women continued to receive substantial bequests of real and personal property, including enslaved people, well into the eighteenth century. Indeed, the willingness of female islanders to use the courts to protect their claims has led one scholar to characterize them as “spoilt beneficiaries and litigious dependents.” But such portrayals diminish the brittleness of women’s property claims under common law. Female colonists were legally crafty and litigious because English legal precedents drove them to be. They used every weapon in the arsenal of property law to protect claims that were always vulnerable and subject to contestation. Unlike Governor Lawes, Jamaican-born author John O’Kelly recognized the weak legal positions of female colonists vis-à-vis property. In his early eighteenth-century play “The Islanders, or Mad-Orphan,” O’Kelly casts the men — not the women — as fortune hunters. Describing marriage as a form of piracy, one character states that men seek to “plunder the Widdow, and ruin the Orphan.” In Jamaica, widows are viewed as objects themselves, and “a rich widdow is as much gap’d after; as the guardianship of a good sugar work.” Exploiting female islanders to gain control of their estates through coverture is described as the “laudable Custom of the Country.”<sup>16</sup>

As O’Kelly understood, gendered laws made marriage a far riskier proposal for women than it was for men, who married wealthy widows in fact and fiction for their own benefit. The career of Sir Hans Sloane, the celebrated pioneer in natural history, a member of the Royal Society, and a founder of the British Museum, offers one example of a man who acquired his fortune from a Jamaican widow. Sloane traveled to the island as the personal physician of Christopher Monck, second duke of Albemarle, when Monck was appointed lieutenant governor there in 1687. While in Jamaica, Sloane befriended the physician Fulke Rose, who made the bulk of his fortune importing captive Africans and cultivating sugar. Sloane married Rose’s widow in 1695, soon after his friend’s death, and gained control of the substantial inheritance she received from him. A widow’s Jamaica riches, produced from plantation slavery and the slave trade, provided the start-up capi-

16. John O’Kelly, “The Islanders, or Mad Orphan,” [before 1727], Kings MS 301, British Library (BL), London. Lucille Mathurin Mair disparagingly described white women’s legal activities in the following manner: “Having little other means of livelihood than what their menfolk handed out, maiden sisters, aggrieved wives, determined widows were prepared to harass the estate for legacies and allowances.” See Mathurin Mair, *Historical Study of Women in Jamaica* (ed. Beckles and Shepherd, 167.

tal for Sloane’s popular medical practice and the publication of his scientific findings in Britain.<sup>17</sup>

By the eighteenth century, Scottish merchants were following in Hans Sloane’s footsteps. They traveled to Jamaica with the express purpose of marrying local widows and leveraging common law, bypassing “the standard way” to earn fortunes “by attention to business.” Remarriage, however, was not a one-sided act that only benefited men. For some women, remarriage promised greater financial security and an improved social standing. Others showed an acute awareness of the threat posed by remarriage. Widowhood “gave a woman power, a legal identity, and independence.” Unlike spinsters, widows garnered social respect for having once been married; most also gained a separate income after their husbands’ deaths. A large number of men vested wives with absolute control over family wealth. Widows who acted as sole heirs and executors could divvy up property as they chose, which often meant sheltering resources for children.<sup>18</sup>

17. Fulke Rose imported large numbers of Royal African Company slaves to Jamaica during the 1670s. See James Delbourgo, “Slavery in the Cabinet of Curiosities: Hans Sloane’s Atlantic World,” *British Museum*, 2007, <https://www.britishmuseum.org/PDF/Delbourgo%20essay.pdf>. See also Delbourgo, “Sir Hans Sloane’s Milk Chocolate and the Whole History of the Cacao,” *Social Text*, XXIX, no. 1 (106) (Spring 2011), 75; and *Oxford Dictionary of National Biography*, online ed., s.v. “Sloane, Sir Hans, Baronet (1660–1753), Physician and Collector,” by Arthur MacGregor, <https://doi-org.proxy.wm.edu/10.1093/ref:odnb/25730>. The match with a colonial woman proved to be profitable for Sloane. Fulke Rose left his wife, Elizabeth, one-third of the family estate for life and two thousand pounds as well as plate, jewels, and furniture. Given that Elizabeth Rose was also pregnant when Fulke authored his will, he strove to follow the common law of primogeniture, offering his unborn child the majority of the family property if it was a boy. He provided each of his three living daughters with her own plantation together with property in Spanish Town. In addition to inheriting from her late husband, Elizabeth was the coheir of her father’s estate. See Will of Fulke Rose, June 17, 1691, Abstracts of Jamaica Wills, 1625–1792, Add MS 34181, BL.

18. Alan L. Karras, *Sojourners in the Sun: Scottish Migrants in Jamaica and the Chesapeake, 1740–1800* (Ithaca, N.Y., 1992), 158; Grassby, *Kinship and Capitalism*, 150. Amanda Vickery observes that the “spinster and the wife were divided by a chasm of status. Upon marriage a woman renounced her legal personality in common law . . . but acquired significant social credit in compensation . . . . A wife had a prominent position in the fundamental institution of society, the male-headed household family.” See Vickery, *Behind Closed Doors: At Home in Georgian England* (New Haven, Conn., 2009), 193. Spinsters also had the legal right to make wills, but fewer chose to do so. The disparity between widows and spinsters suggest free women were to marry at least once in the colony, leaving fewer spinsters. Or perhaps spinsters’ resources were

Last wills and testaments created a contested terrain where the friction between common law and equity—masculine privilege and colonial reality—played out. If they married, women relinquished their power over property. They also stood to lose control of their children. Only fathers were considered to be legal guardians. This is why Francis Palmer insisted on his wife's sole guardianship of their children in his 1710 will. She alone would assume the "management of whole estate" during their "minority" and could "not be removed from guardianship by any person." Other husbands manipulated their patriarchal privileges to separate mothers from offspring. Joseph Dickson asserted "above all things that the hand of my wife may be totally unconcerned in every thing or anything that concerns her [the daughter Mary] either as to her interest education or otherwise." Dickson granted his wife a £350 annuity, but the money was more of a bribe than a gift. If she rejected the annuity, it would "be void and not effect" the "guardianship and care of my daughter," whom the father placed under the control of two male executors. Dickson's will does not explain why he sought to divide mother and daughter, but his actions expose the raw legal authority husbands exercised over their wives.<sup>19</sup>

Infrequently, men also added punitive clauses to their wills, threatening spouses with the seizure of children and estates to dissuade them from remarrying. Mariner Daniel Cornelius's wife would possess his houses and slaves during her widowhood, but, according to his 1710 will, if "my wife do marry again . . . she shall have only her third part." In other words, her more generous portion would be reduced to the customary dower allotment. Men like Cornelius might have aimed to guard their property and children from the exploits of new husbands. Similarly, the planter John Curle, a contemporary of Cornelius's, made his wife sole executor, giving her five acres of land along with the use of his holdings during her lifetime. If she had a "desire" to remarry, however, Curle required the new husband to agree to a marriage settlement and offer "good and sufficient security" that his estate would not be "wasted or embezzled." She would also be compelled to relin-

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more meager, although the considerable legacies parents gave to daughters does not support such a conclusion. Twenty women identified themselves by their occupations rather than marital status. They worked as tavernkeepers, midwives, planters, schoolmistresses, and seamstresses. Amy Froide also shows that spinsters, or single women, in early modern England received considerable legacies from parents and continued to prosper throughout their lives. They were not pauperized, as has been assumed (Froide, *Never Married*, 118).

19. Will of Francis Palmer, 1710, Jamaica Wills, XIII, Will of Joseph Dickson, 1730, XVIII.

quish the guardianship of their son on remarriage. A little more than a decade later, Daniel Lopez Laguna, a member of the colony's Jewish community, provided his wife with a plot of land and a house "rent free." He then stipulated that if she remarried, "I leave her no house or anything." Likewise, in 1730, tavernkeeper Thomas Webb awarded his wife all of his property for life; her remarriage would reduce the share to her widow's "third," or dower. John Harding adopted a harsher measure, transferring two enslaved girls, a horse, saddle, and an annuity of thirty-seven pounds to his spouse, but, if she wed again, she "was to have nothing to do with the estate nor to have care of my children any longer till they are fit to be put to school either here or in England." Regardless of their motives, husbands' instructions show how they exerted influence over widows from beyond the grave, either reducing or severely restricting women's rights to material resources and children.<sup>20</sup>

The above instances, however, were unusual. Islanders generally sought to shelter, rather than undermine, female property claims. By the 1720s, they used wills to establish trusts and estates for female heirs while expressly denying husbands the "authority" and the "power" they claimed through coverture. Thomas Hals, Jr., created a trust for his "dear and honored" mother to ensure that it would not "be subject to the power control or debts of her said husband or any future husband but to be enjoyed by her and to be disposed of . . . notwithstanding her coverture." Similarly, Barnart Woodstock set up a trust for his "beloved sister" and ordered her trustees to only accept receipts in her handwriting, "notwithstanding her coverture." Barnart wrote that it was his unequivocal "will and meaning" that his sister's spouse could not "receive take or intermeddle" with her income, which was solely for her "separate use and benefit."<sup>21</sup>

Separate estates or trusts were of great consequence for married women. Those who had them acquired an independent source of income as well as the right to devise assets and to appear in Chancery Court as litigants. In an era when obtaining a legal divorce was rare and costly, the trust also provided women who separated from dissolute or violent husbands with a means of supporting themselves. Few colonists who created stipulations or established

20. Will of Daniel Cornelius, 1710, Jamaica Wills, XIII, Will of John Curle, 1710, XIII, Will of Daniel Lopez Laguna, 1722, XVI, Will of Thomas Webb, 1730, XVIII, Will of John Harding, 1740, XXII. An estimated 17 out of the 330 men with living wives placed restrictions on the inheritance of their spouses if they remarried. See Jamaica Wills, I-XXXVIII.

21. Will of Thomas Richard Hals, 1748, Jamaica Wills, XXVII, Will of Barnart Andriess Woodstock, 1753, XXIX.

trusts for kinswomen overtly referred to marital strife as a reason for doing so, but some implied it. When Elizabeth Taylor offered her daughter a £2,536 legacy, she stressed that the money was a "separate estate" from her husband and hence "not subject to his debts." Maynard Clarke was more explicit about the purpose of the £214 he bequeathed to his "dear unhappy and much injured niece." Openly expressing contempt for her husband, whom he described in his 1759 will as his "profligate abandoned nephew," Clarke wanted his niece to use the funds to travel to England and see her children. Clarke recognized that women like his niece who married tyrannical or "profligate" spouses had few legal options for dissolving their marriages. By establishing separate estates, they at least provided female kin with independent income.<sup>22</sup>

Wives who held property in separate estates could act as autonomous economic agents who could extend credit or assume debts. Lady Mary Molesworth, for instance, placed £308 in a trust to pay off the debts of her niece in 1721. She also gave her an annuity of £46, insisting that her niece's husband "shall have no power thereof . . . notwithstanding her coverture." When she made her will eight years later, Priscilla Saunders mentioned "considerable sums of money" that she had paid toward her husband's debts "out of my own separate estate and effects." Married women could also subvert common law and bequeath property that they held in trusts. The widow Elizabeth Hargrave referred to an agreement with her future husband that, "notwithstanding . . . coverture," "empowered" her to write her own will in 1744, which she used to bequeath the substantial sum of £7,142 in a trust for her daughters. Aware of the power of equity, Hargrave also wanted the inheritance for her married daughter to be kept "separate" from her husband and "not subject to his control during her life."<sup>23</sup>

22. Will of Elizabeth Taylor, 1752, Jamaica Wills, XXVIII, Will of Maynard Clarke, 1759, XXXII. Alison Tait discusses the benefits that the separate estate offered to married women in Britain. Married women in Jamaica also enjoyed these advantages. See Tait, "Beginning of the End of Coverture," *Yale Journal of Law and Feminism*, XXVI (2014), 205–208. Divorce could only be granted by an act of Parliament. A couple could seek a judicial separation from an ecclesiastical or a Chancery Court, but Jamaica did not have an ecclesiastical court. Chancery would have been the only option for women to seek legal separation and financial support. For more on Chancery and separation in Britain, see *ibid.*, 184–189.

23. Will of Mary Molesworth, 1721, Jamaica Wills, XV, Will of Priscilla Saunders, 1729, XVIII, Will of Elizabeth Etough [Hargrave], 1744, XXIV (Hargrave remarried). Women circumvented the rules related to real estate by conveying real property to themselves before remarry-

Women like Hargrave who had experienced the limitations of coverture in previous marriages were particularly anxious to shield legacies for female kin. Another widow, Priscilla Guy, employed equity to manipulate her granddaughter's marriage. She placed 780 acres of land in trust jointly for her daughter and her granddaughter "exclusive" of the latter's husband, who would "not have or interfere with it." Additionally, Guy offered to make her granddaughter her sole heir if she agreed not to "cohabit" with her spouse. Perhaps the grandmother was a family meddler, or maybe she dangled the offer of a larger inheritance in front of her granddaughter as a means of persuading her to leave a bad marriage.<sup>24</sup>

Equity also provided colonists with a means of strengthening women's claims to enslaved people as property, which advanced their interest in slaveholding. According to the 1741 will of Martha Hughes, a widowed mantua-maker from Kingston who possessed three "Indian and negro slaves," she had set up a trust that asserted her full ownership of the captives and the right to bequeath them when she remarried. Mothers showed particular concern for daughters' claims to enslaved people. When Margaret Tenticow left ten captives and the rest of her property to her daughter in 1741, she barred her son-in-law "from having any right title or claim" to the legacy, ordering that "he shall have no authority to sell or alienate her inheritance." That same year, the widow Charity Butler also placed ten enslaved people in a trust for her daughter, "for her sole and separate use," stating that it was her "express will" that her son-in-law would have "no power to intermeddle with the said negro slaves and that he do not receive any benefit from them." The trust, in effect, enabled Tenticow and Butler to uphold their daughters' rights as slaveholders.<sup>25</sup>

The overlapping—and often competing—aims of coverture and equity placed wives in ambiguous legal positions. Colonists brought the more serious conflicts that were generated by this uncertainty to the island's Chancery Court. British Chancery Courts drew criticism for lengthy and expensive cases, involving the settlement of numerous accounts, inquiries into debts, and a "hundred little facts to be cleared up" before a decree was issued.

ing. See Tait, "Beginning of the End of Coverture," *Yale Journal of Law and Feminism*, XXVI (2014), 201.

24. Will of Priscilla Guy, 1748, Jamaica Wills, XXVI. If Priscilla's granddaughter remained with her spouse, then her daughter would inherit the property.

25. Will of Martha Hughes, 1741, Jamaica Wills, XXIII, Will of Margaret Tenticow, 1752, XXVIII, Will of Charity Butler, 1744, XXIV.



Jamaica's Chancery Court offered locals the only legal venue for resolving disputes over substantial amounts of real and personal property. Elizabeth Eaton initiated a suit against the friends of her second husband to Chancery in 1739, claiming that they had all conspired to embezzle her estate. Eaton alleged that she was "in good circumstances," having "by her labour and industry saved a considerable sum of money" when she decided to remarry. Attracted to the wealthy widow, her late husband, who was "pleased" with her fortune, "induced her to become his wife" and promised to bequeath land and slaves to her, which the couple agreed to in a marriage settlement.<sup>26</sup>

When her new spouse died, the widow Eaton discovered that the deed devising his property to her had never been proved. She believed that the paperwork error resulted from her husband's "contrivance," their attorney's "negligence," or the connivance of his friends. Eaton's case underscores the influence of common law principles to determine property rights. Though she had carefully designed a marriage settlement, the absence of an official document threatened her claim to her husband's estate. The Eaton suit also illuminates how remarriage sparked a host of thorny conflicts over resources for women as they cycled between the legal independence of widowhood and dependency of wedlock. During the early decades of the eighteenth century, slaveholding augmented the value of family holdings, making the stakes of inheritance even higher.<sup>27</sup>

Remarriage and slaveholding likewise shaped the dispute between William Martin and his mother Elizabeth Bows. When Martin sued his mother in Chancery in 1709, she had been married four times. Bows's first husband bequeathed a large plantation and enslaved people to her. A year later, Bows married William's father, who "seized in right of his wife several parcels of land" that she brought to the marriage. The couple then sold nineteen captives along with the real estate. William's father also devised six of Elizabeth's

26. "Of Proceedings in the Courts of Equity," in Blackstone, *Commentaries on the Laws of England*, Book 3, Chapter 27, Lonang Institute, <http://www.lonang.com/exlibris/blackstone/bla-327.htm>. Access to the Chancery Court records in Jamaica is limited, which makes it difficult to work with these cases and to determine their outcomes. The island's Grand Court handled disputes over smaller sums. When her husband fell ill at their friends' house during a visit, Elizabeth Eaton (Godin) claimed they took advantage of his "weak and infirm" condition to coerce him to change his will and convey the land and slaves to them. See William and Mary Hall v. Elizabeth Goodin, Aug. 24, 1739, Jamaica Chancery Court Records, 1738-1744, JA.

27. See William and Mary Hall v. Elizabeth Goodin, Aug. 24, 1739, Jamaica Chancery Court Records, 1738-1744.

slaves to their son, another right that he claimed by coverture. He then died, and Bows remarried again. Her third husband convinced her to petition for a reconveyance of the land and enslaved people, which they recouped. Bows then conveyed all of the captives to her son. When her third husband died, she remarried yet again, and her fourth husband issued a "writ of judicature" against William to reclaim the slaves she had given him. At this point, William brought the case to Chancery Court.<sup>28</sup>

*Martin v. Bows* exemplifies the disruption and confusion remarriages caused to families. Each time Bows remarried, her new husband proclaimed his right under the law of coverture to sell, convey, and reclaim her holdings. During her second and third marriages, Bows sought to make her son the legal owner of enslaved people. Her fourth time at the altar triggered a challenge to her actions, which was probably instigated by her new husband. Bows and her son ended up in court because her claim to property — as a wife and a mother — was weak. In the absence of a trust, Bows exerted no control over her estate when she remarried. The suit was a struggle between men — her husbands and her son — who made varying demands on holdings she did not command. The outcome of the suit involving Bows is unknown. It is possible that she won it by default because all of her son's witnesses were "dead" or "gone off the island." Regardless of the outcome, the suit highlights the precariousness of married women's property in the absence of equity measures. Caught in the middle of these legal skirmishes, the instability of female holdings disturbed and dislocated enslaved people who, defined as objects, were subjected to multiple moves and transfers of owners.<sup>29</sup>

By investing men in their familial roles as husbands and fathers with the sole authority to devise family property, English common law aimed to uphold a patriarchal social order. As the above cases illustrate, colonial men certainly invoked these gendered laws to gain control of resources held by women. The friction between common law and equity was one symptom of the broader tensions surrounding female authority within and outside of marriage on the island. Free and freed women occupied a contested legal status in Jamaica. Men depended on mothers, wives, and daughters to preserve family resources, to manage households, to oversee family ventures, and to maintain control of enslaved people, but it was an uneasy dependency. Women also relied on men to confer assets on them — and the legal capaci-

28. Suit brought by William Martin, July 18, 1709, Jamaica Chancery Court Records, 1707-1709, III.

29. *Ibid.*

ties related to property ownership. Once widows became sole heirs of family estates, they could allocate resources as they thought best. Female colonists who attained this position proactively directed the flow of material wealth to the next generation of free islanders.

"ALL REAL AND PERSONAL ESTATE"

Although court cases offer up instances of conflicts between men and women over estates, a survey of the wills authored by husbands and widowers indicates that most men desired to improve, rather than diminish, women's holdings. Even as these second- and third-generation islanders were driven by pragmatism, rather than an interest in gender parity, their actions still enlarged the material holdings of female heirs. Nearly half of the 330 men studied here who identified themselves as husbands of living wives left them all of their real and personal estates. Of these, almost three-quarters bequeathed "all real and personal" holdings, including the right to devise property, to spouses in perpetuity. The remainder enabled their wives to maintain possession of family estates during their lifetime.<sup>30</sup>

Men sought to strengthen the material and legal command of their female kin who held the greatest interest in conserving and increasing family holdings, particularly if the couple had children to support. Recognizing that island-born women possessed the indigenous experience, knowledge, and connections necessary for overseeing family businesses, including plantations and mercantile ventures, husbands viewed wives as indispensable estate managers, business partners, property owners, and household heads. If they believed in patriarchal ideology, men's inheritance choices acknowledged the actualities of colonial life, displaying realism rather than dogmatism.

A little more than 80 percent of the 330 husbands who made bequests to their wives further augmented the legal authority of their spouse by nominating them to serve as their executor, and just under 65 percent of those named

30. An estimated 374 of the 503 men whose wills were sampled for this chapter identified themselves as husbands or widowers (the remainder did not refer to wives). Of these, 330 men had wives who were still living. One hundred forty gave the majority of their estates to their wives, while the remainder offered their spouses an assortment of property, including annual annuities, "half" or a "third" of their estates, houses, specific parcels of property, household goods, and enslaved people. Of the 140 men who gave "all real and personal" property to their wives, 102 (73 percent) made the bequests permanent, but the other 38 (27 percent) only granted them their estates for life. See Jamaica Wills, I-XXXVIII.

TABLE 1: *Husbands' Bequests to Wives, 1661-1770*

BEQUESTS	NUMBER	PERCENTAGE
Wives left the majority of their husband's estate	140	42
in perpetuity	102	31
"for life":	38	12
Wives charged with settling their husband's estate	274	83
as co-executors	96	29
as sole executors	178	54

Source: Jamaica Wills, 1661-1771, I-XXXVIII, Island Record Office, Spanish Town, Jamaica.

Note: Of the 503 men whose wills were sampled for this chapter, 330 identified themselves as husbands with living wives. Percentages in this table are based off N=330.

their wife as sole executor (see Table 1). Assuming the role of executor was no small matter. The death of a spouse triggered a myriad of financial and legal transactions that the executor was responsible for handling. A widow tasked with this role had to organize her husband's funeral, distribute the legacies in his will, and settle any lingering debts on the family's estate. Successful executors possessed the skills of attorneys, bookkeepers, and plantation overseers while often caring for young children. Executors "stood at the center of transfers of wealth and, therefore, of status and social continuity" within families, and relatives, friends, and business partners could not interfere with their actions.<sup>31</sup>

Given the manifold responsibilities involved in settling an estate, wives did not necessarily want to serve as executors. Husbands expected, coaxed, and sometimes compelled their spouses to perform the role. In his 1740 will, John Campbell provided handsomely for his wife. He also insisted that she could not "on any pretense whatsoever relinquish or refuse acting as executor until all my debts and greatest part of legacies are paid." Men like Campbell assumed the competency of wives to manage legal and financial affairs. Indeed,

31. Of the 330 men who named wives in wills, 274 appointed them as executrices. Although men normally nominated grown children or male friends to act as executors alongside their wives, 178 designated wives as "sole executrices." See Jamaica Wills, I-XXXVIII; and Brown, *Reaper's Garden*, 102. Grassby observes that, "liquidating a working business in seventeenth-century England demanded skill and knowledge" (Grassby, *Kinship and Capitalism*, 133).

Campbell's reliance on his spouse's capabilities drove him to compel her to undertake the duties of executor, whether she wanted to or not.<sup>32</sup>

The preference for electing wives to manage family property and offering them generous bequests was widespread on the island. Husbands from all walks of life, including doctors and surgeons, mariners, merchants, tavernkeepers, "gentlemen," and "esquires" as well as artisans—such as blacksmiths, bricklayers, carpenters, coopers, cordwainers, millwrights, shoemakers, and tailors—made wives their sole executor and transferred considerable portions of family property to them. When Hugh Perrott, a cooper who lived in St. Jago de la Vega made his will in 1699, he bequeathed "all real and personal" estate to his wife. Perrott made no mention of children; his spouse might have been the only person who survived to inherit. A few decades later, James McDaniel, a Kingston joiner, made provisions for his wife and daughter to share his assets equally.<sup>33</sup>

The practice of transferring entire estates to wives also cut across emergent racial categories. Artisan Goody Jacobson, a Port Royal butcher who identified himself as a "free negro" in his 1724 will, gave his wife, Esther, two enslaved women and "all the rest of my real and personal estate." Two of the Jacobsons' four children were sons, and the butcher could have bequeathed his middling estate, which included nine captives, money, and horses, to his eldest son while offering a smaller legacy to his spouse. Instead, Jacobson chose to allot enslaved people and cash to his children while designating his wife as his primary heir. Jacobson also inveighed her with the legal right to devise the family holdings as she saw fit.<sup>34</sup>

32. Will of John Campbell, 1740, Jamaica Wills, XXII.

33. Will of Hugh Perrott, 1699, Jamaica Wills, IX, Will of James McDaniel, 1722, XVI. Men who identified their occupation as planter comprised only 38 percent of the will makers in my sample. It is possible that some of the eighty men who identified themselves as "esquire" or "gentleman" in my sample of men's wills also owned plantations. Both of these terms had various meanings in the early modern period, which makes it difficult to determine the occupations of these men (who probably applied the titles to themselves). It was used to describe men of "gentle" birth, officers in service of the king, landed proprietors, and those of the higher order of the English gentry. "Gentleman" was equally nebulous, indicating a person of higher rank or one who was a member of a certain society or profession. See *Oxford English Dictionary*, s.v. "esquire" and "gentleman," <http://oed.com>. Gentlemen and esquires accounted for 28 percent of the men whose estates were probated and whose occupations were identified. Artisans made up roughly 17 percent of the men in my sample of wills. See Jamaica Inventories; and Jamaica Wills, I–XXXVIII.

34. Will of Goody Jacobson, 1724, Jamaica Wills, XVI.

Viewing estates as long-term investments, men like Goody Jacobson made their immediate kin responsible for estate management irrespective of gender. Colonial husbands and fathers disavowed patrilineal common law practices such as dower, primogeniture, and entail, which associated property with masculine prerogatives, through their actions. The stingy common law custom of dower entitled a widow to the use of one-third of her family's estate during her lifetime—she had no right to devise the estate under dower. Primogeniture and entail, customs that supported elder sons who inherited entire estates to the disadvantage of their mothers and siblings, were also unpopular. In a place where the deaths of young boys winnowed males from the ranks of inheritors, gender restrictive inheritance laws were impractical, if not impossible, to follow. Jamaica's colonists devised alternative strategies to survive a continual demographic crisis. Husbands defined property as a family resource rather than a masculine prerogative. Some men explicitly rejected dower's limitations, including phrases such as "in lieu of" or "in bar of" dower when describing legacies for spouses. Edith Philips's husband asked her to "discharge in law" her dower—that is, relinquish her right to the third of the property—in his 1700 will. She would then receive a more substantial and permanent right to his land, money, and slaves.<sup>35</sup>

The individualized nature of colonial bequests makes it more difficult to discern a singular gendered pattern in the types of assets offered by fathers

35. Will of Samuel Philips, 1700, Jamaica Wills, IX. Husbands could not convey or sell the protected dower portion of property without obtaining their wife's permission, and courts privately examined wives to ensure that husbands were not coercing them to sell property. See Erickson, *Women and Property in Early Modern England*, 25. The common law customs of primogeniture and entail dictated, respectively, that land and estate would pass to the eldest living son or eldest sons born to future generations. As a result of these practices, widows regularly received far less than they had brought to the marriage, and their incomes were for life. Christer Petley has described primogeniture "as a guiding principle rather than as a rigid rule" in early nineteenth-century Jamaica. He bases this claim on three examples: John Cunningham (who died in 1812), who gave sugar plantations to his sons and ten thousand pounds Jamaica current to each of his daughters; John Coates, who divided his estate equally between six children; and Charles Gordon Gray, who divided his property equally between his wife and children. See Petley, "'Legitimacy' and Social Boundaries: Free People of Colour and the Social Order in Jamaican Slave Society," *Social History*, XXX (2005), 494. My findings differ from Petley's analysis. My study of more than one thousand eighteenth-century wills made by men and women shows that primogeniture was rarely practiced in Jamaica. Out of 330 men who left legacies for their wives, 34 specifically stated that their bequests were in lieu of dower. See Jamaica Wills, I–XXXVIII.



to children than it is to identify patterns in husbands' bequests to wives. Although it would be fruitful to compare wills with probated inventories and land deeds, in many cases estates were only probated when someone died intestate. Analyzing colonial land deeds is beyond the scope of this project. Some general tendencies do emerge from men's wills, however, in relation to the allocation of wealth to children. Overall, men's inheritance bequests exhibit a preference for keeping Jamaican prosperity in local hands, which enabled free families to survive and sometimes prosper in a volatile environment. Male colonists favored island-born female kin over distant male heirs who lived overseas. Parents participated in an Anglo-Atlantic trend by allocating resources more equitably between sons and daughters, but the colony's higher mortality rates and rapidly growing enslaved population amplified this development. As suggested by both men's and women's wills, daughters were also more likely than sons to survive to adulthood, and families appear to have had more daughters than sons; hence girls received larger legacies in families that had only daughters to provide for. Of the 387 bequests made by men to their children, 44 percent (170) referred to sons, and 56 percent (217) named daughters. Women's wills show identical gender ratios between siblings (Table 2). Of the 425 women who devised legacies to children, 44 percent (185) referred to sons, and 56 percent (240) to daughters.<sup>36</sup>

Contending with colonial circumstances, fathers strove to support all of their children. Instead of adhering to a single inheritance practice such as primogeniture, men tailored children's legacies to meet the specific demands of their families. Overall, the majority of fathers (61 percent) who had both daughters and sons chose to divide family resources equally among siblings regardless of gender or age. When parceling out his estate in his 1710 will, the self-titled "gentleman" James Parker, who lived with his family in Half-

36. Jamaica Wills, I-XXXVIII. Amy Froide points out that the "focus on primogeniture" has led to the assumption that men inherited real estate over women in Britain. Although the aristocracy tended to employ primogeniture and entail, the majority of British families sought to provide sons and daughters with equal portions in the form of land and moveable goods. See Froide, *Never Married*, 124; Vickery, *Behind Closed Doors*, 130; and Erickson, *Women and Property*, 68–71. Michael J. Jarvis has shown that in eighteenth-century Bermuda fathers regularly provided their daughters with generous allotments of land and slaves (Jarvis, *In the Eye of All Trade: Bermuda, Bermudians, and the Maritime Atlantic World, 1680–1783* [Williamsburg, Va., and Chapel Hill, N.C., 2010], 265–266). For more on parents' inheritance practices in early America, see Glover, *All Our Relations*; and Jean Butenhoff Lee, "Land and Labor: Parental Bequest Practices in Charles County, Maryland, 1732–1783," in Lois Green Carr, Philip D. Morgan, and Jean B. Russo, eds., *Colonial Chesapeake Society* (Chapel Hill, N.C., 1988), 306–341.

TABLE 2: *Parental Bequests to Children by Gender, 1661–1771*

BEQUESTS	FATHERS		MOTHERS	
	NUMBER	PERCENTAGE	NUMBER	PERCENTAGE
To sons	170	44	185	44
To daughters	217	56	240	56
Total	387	100	425	100

Source: Jamaica Wills, 1661–1771, I-XXXVIII, Island Record Office, Spanish Town, Jamaica.

Note: Of the 503 men who made wills from 1679 to 1770 sampled for this chapter, 387 left property to children. Of all 741 women who made wills between 1665 and 1761, 321 left property to children. I have separated bequests to children of different sexes who were named in the same will. The nearly identical proportions of the bequests made by mothers and fathers to sons and daughters show that parents were in agreement about how to distribute family property between sons and daughters. Although it is possible that some fathers offered sons *intro vivos* gifts and did not mention them in their wills, this practice was not popular on the island.

way Tree on the outskirts of the newly built town of Kingston, provided for all of his heirs on both sides of the Atlantic. But whereas he might have been expected to privilege his sons, then living in England, he did the opposite, favoring his wife and daughter who resided in Jamaica as the most suitable heirs to his colonial holdings. Although his sons stood to inherit the family house in England, Parker gave his daughter £210 and an enslaved boy. She would also receive all of the family holdings on the island when her mother died. Furthermore, Parker expected his daughter to handle the estate's financial dealings with her brothers, instructing her to send them £140 to discharge the mortgage, likely on the Jamaica property, which they held. In distributing his colonial and metropolitan holdings evenly, or possibly offering more to his daughter, Parker ensured that his children would take over the management of the family property on both sides of the Atlantic. This type of family arrangement was increasingly common. Even if sons and daughters often received different types of resources, the majority of men distributed roughly equal portions among their children, regardless of gender.<sup>37</sup>

By the 1730s and 1740s, second- and third-generation colonists from all

37. Will of James Parker, 1710, Jamaica Wills, XIII; Sarah M. S. Pearsall, *Atlantic Families: Lives and Letters in the Later Eighteenth Century* (New York, 2008); Daniel Livesay, *Children of Uncertain Fortune: Mixed-Race Jamaicans in Britain and the Atlantic Family, 1733–1833* (Williamsburg, Va., and Chapel Hill, N.C., 2018).

walks of life had larger fortunes to offer children. The practice of divvying up assets more equitably between sons and daughters was widespread. John Jones, a blacksmith by trade, gave his "stock, mares, horses, a negro boy," and household goods to his daughter. Jones also referred to four enslaved people his wife had set aside for her son, indicating that she maintained the captives in a separate estate during the marriage. In addition to receiving enslaved people from his mother, Jones's son would share the family land equally with his sister. Though planter Robert Cole operated in a more elite echelon of colonial society, he also allotted equal portions of his estate to both his son and daughter.<sup>38</sup>

Sometimes fathers favored daughters over sons outright. Harding Goodin, a planter in Westmoreland, appointed his widowed daughter as his executor in 1740. He showered her with a generous inheritance of £370, furniture, bonds, cash, and the profits from his plantation. He also released her from all debts she owed him and made her the sole executor of his estate. In stark contrast, Harding only left fifteen pence to his two sons and did not invite either of them to act as his executors. The father's exclusion of his sons seems acrimonious and likely hints at family conflict.<sup>39</sup>

Although the majority of Jamaica's fathers might have intended for daughters to marry, they still furnished female heirs with the financial means to live independently. Women who received land, cash, and enslaved persons were less pressured by economic need to enter wedlock when they came of age. Overall, the remaining 39 percent of the men who left bequests to both sons and daughters reserved the majority of their property for sons while also providing handsomely for their daughters. Few fathers made references to marriage in their bequests to their daughters. However, "Gentleman" Caleb Dickson's restrictive actions toward his daughters offers a notable exception to the island norm. Dickson promised each of his two girls a fortune of five thousand pounds when they turned twenty-one or married. But they would only receive their inheritance if his executors approved of their future suitors. Dickson further attached another string to his daughter Mary's legacy, offering her an additional one thousand pounds if she accepted the "proposal of marriage" from one of his executors, a merchant from Bristol who was most likely Dickson's business partner.<sup>40</sup>

38. Will of John Jones, 1730, Jamaica Wills, XVIII, Will of Robert Cole, 1748, XXVII.

39. Will of Harding Goodin, 1740, Jamaica Wills, XXII.

40. Will of Caleb Dickson, 1730, Jamaica Wills, XVIII. In Jamaica, parents set different ages as the age of maturity in wills: some allowed children to inherit at sixteen and some at twenty-

In contrast with Dickson, most fathers did not place restrictions on the property they reserved for girls. Men who gave family estates to sons still left daughters money, annuities, and enslaved people. In 1710, planter Thomas Waite set aside £370 and a "negro girl" for his daughter while reserving the family estate for his son. George Raastead, another planter who made his will in 1710, also endowed his daughter with personal goods—a feather bed, two slaves, and thirty heifers—and left the land to his son. Planter Philemon Dunn adopted a similar strategy, willing his daughter cash, chattel, and slaves, which he lumped together. She would receive £140, a cow, a calf, six "able" captive adults, and an enslaved girl named Mimbo. Dunn also wanted his daughter to be "maintained" and "educated according to her quality."<sup>41</sup>

Charles Price, the owner of Rose Hall, a plantation that exists today as a resort, provided handsomely for his daughter Sarah in his 1730 will. She would inherit land and eight slaves, including two "Indian" captives named Dobake and Maria. Her brothers, who were to receive the rest of his property, would have to pay her thirty-three hundred pounds out of the profits from Rose Hall and another plantation. Colonial fathers like Price created situations where sons might end up land rich and cash poor; plantations were expensive and often required years of investment before producing a profit. Daughters like Sarah, on the other hand, gained readily disposable income in the form of cash. They also received enslaved people, who further enriched female holdings as salable assets.<sup>42</sup>

When fathers transferred captives to their daughters, they ensured the commitment of the next generation of female islanders to chattel slavery, a trend mothers also followed. Between 1665 and 1761, the majority of the 706 women who made wills were widowed mothers. Nearly half of the 101 mothers who had sons and daughters to provide for divided family estates equitably among them. For example, the widow Elizabeth Dodd, who established a ferry service in Port Royal, equally divided her wealth, the bulk of which constituted twenty-seven enslaved individuals between her sons and daughters.<sup>43</sup>

one. Gender generally did not play a role in determining the age of maturity. Amy Froide describes personal property as a more "flexible and practical inheritance." See Froide, *Never Married*, 128–129.

41. Will of Thomas Waite, 1710, Jamaica Wills, XIII, Will of George Raastead, 1710, XIII, Will of Philemon Dunn, 1710, XIII.

42. Will of Charles Price, 1730, Jamaica Wills, XVIII.

43. Will of Elizabeth Dodd, 1728, Jamaica Wills, XVII. Dodd's enslaved people likely

Strikingly, only one-quarter of the widowed mothers who made wills favored male heirs. Women might have transferred larger shares to female heirs as a means of offsetting the inter vivos or lifetime gifts offered by men to male heirs. If this was the case, then mother's bequests offer an incomplete picture of the size of family holdings. Trevor Burnard finds that gifts made inter vivos, however, were not popular in Jamaica. Furthermore, even mothers who preferred their sons still offered daughters personal items in the form of movable property, specifically captive Africans, just as fathers did. Mary Tuckey furnished her daughter with an enslaved girl named Halfpenny in 1705; her son inherited the rest of the estate. Similarly, Ann Hansis offered her daughter a "mulatto girl"; the rest of the family holdings went to her son. Some of the mothers in this category might have bequeathed the majority of their fortunes to sons because daughters were already married. Perhaps this is why Elizabeth Price transferred enslaved people together with livestock, "money," and "jewels" to her sons in 1692 while only giving her daughter seven pounds. The daughter was married to Peter Beckford—a member of the prominent Beckford family—and probably stood to inherit a substantial bequest from her husband.<sup>44</sup>

Acrimony between mothers and sons might have also motivated the inheritance choices of certain women. Elizabeth Scott only left "the sum of one hundred shilling and three pence" to her son in 1714 "because of his undutyfullness to me"; she conveyed the bulk of the family holdings to her daughter. Another woman, Judith Pestana, for her part, with an estate valued at seventy-three pounds, was poor by colony standards, but she still reserved the majority of her wealth for her daughters while only offering her son five shillings. Perhaps mother-son hostilities led Ann Peschaire to take a similar

worked as mariners and operated the "new great boat or wherry" that she had "built" in her widowhood. Sixty percent of female will makers were mothers. Census records do not provide enough detail about the free population to show whether widows made up the majority of the single women on the island, but they conclusively comprised the majority of female will makers. Forty-six of the mothers with children of both sexes distributed estates equally between sons and daughters. See Jamaica Wills, I-XXXII.

44. Will of Mary Tuckey, 1705, Jamaica Wills, XI, Will of Ann Hansis, 1720, XVI, Will of Elizabeth Price, VII, 1692. Burnard also determines that inter vivos gifts were unpopular in colonial Maryland, where testators showed a disinclination to transfer property, even to adult male heirs, during their lifetimes, which would effectively make them dependent on their children. See Burnard, "Inheritance and Independence," *WMQ*, 3d Ser., XLVIII (1991), 96. According to Charles Leslie, when Peter Beckford died in 1710, he was the wealthiest landholder in Jamaica, and perhaps the entire empire. See Leslie, *A New History of Jamaica*, 267.

action: she also allotted her son five shillings while her daughter stood to inherit two enslaved women together with the rest of her possessions. Likewise, Mary George only left a mourning ring for her son; her daughter received all of her property. In command of family estates, Scott, Pestana, and Peschaire had the legal power to omit sons from their wills if they chose, yet parents rarely went to such extreme lengths to exclude daughters from their wills.<sup>45</sup>

Sons, it seems, created more intense conflicts within colonial families headed by widowed mothers. Girls might disobey parents when it came to choosing marriage partners. Boys, on the other hand, could test the veracity of female authority in more potent ways. Conscious of inheritance traditions that benefited male heirs, they might have begrudged sharing legacies with sisters and resented the control exercised by their mothers over family resources. Knowledge of these gendered dynamics within families might have led Dorothy Williams, a free woman of African descent who lived in Saint Catherine, to be concerned about her son's behavior after her death. Worried that he would defy her intention to offer a more substantial legacy to her daughter, Williams attempted to thwart her son's actions in her 1731 will by offering him seventy-four pounds in gold and silver, a bequest that would be voided "if he ever" attempted to "disturb or molest" her daughter "in her goods chattels or estate." By tendering cash to her son, Williams strove to shield her daughter from his future meddling. As Williams's will suggests, she was conscious of the masculine prerogative claimed by all male colonists, which could be used to challenge the claims of female property holders.<sup>46</sup>

If rancor motivated a few women to limit the legacies they offered sons, pragmatism likely inspired the majority of Jamaica's property-holding mothers to choose daughters. One-quarter of the women who had sons and daughters still elected daughters to be their primary heirs. For instance, the widow Rebecca Sutton of Kingston devised four slaves, ten mules, and £560 to her son, but she transferred the "rest and residue" of her holdings to her daughter. Mary Elding left only £36 to her son "in full barr of any claim" to her £492 estate; her granddaughters inherited the remainder. By supporting younger, female, and single children, these women adhered to British standards. Giving more generously to daughters and granddaughters balanced out the legacies that male heirs received from fathers and other rela-

45. Will of Elizabeth Scott, 1726, Jamaica Wills, XIV, Will of Judith Pestana, 1726, XVII; Inventory of Judith Pestana, 1727, Jamaica Inventories; Will of Ann Peschaire, 1747, Jamaica Wills, XXVI, Will of Mary George, 1749, XXVII.

46. Will of Dorothy Williams, 1731, Jamaica Wills, XVIII.



tives. Free and freed women carefully transferred resources along homosocial lines, using their property to support several generations of female heirs.<sup>47</sup>

Elderly widows also made gendered inheritance choices that benefitted female heirs: 69 percent transferred the bulk of their estates to nieces and granddaughters, in particular. In 1721, Joan Ennoome, a widow in Spanish Town, favored her granddaughter over her grandson, offering her £3,077. He would receive nothing unless his sister died. Mary Fox left her entire fortune to her granddaughter. Women who did not have any children or grandchildren to support explicitly preferred female heirs, offering them financial protection and patronage. Mary Bradshaw transferred her assets to her mother in 1700 and ordered that it be passed on to another "female kinswoman" when she died. A few decades later, Alice Anderson and Susannah Tilton allotted their property to sisters. Mary Crawford, identified as a "spinster," also singled out female relatives, giving all of her "household furniture, apparel, rings" to her niece. Her sister would receive half of the estate for life and then it, too, would pass on to her niece. These extranatal relationships forged between female colonists counteracted the havoc wreaked by the island's high mortality rates.<sup>48</sup>

47. Will of Rebeca Sutton, 1730, Jamaica Wills, XVIII, Will of Mary Elding, 1748, XXVI; Inventory of Mary Elding, 1749, Jamaica Inventories. Forty-six of the mothers with children of both sexes distributed estates equally between sons and daughters; twenty-nine gave the majority to sons; twenty-six gave the majority to daughters. See Jamaica Wills, I-XXXII. One of the purposes of women's wills was to "lessen the unequal effects of primogeniture" on a family's other children. See Froide, *Never Married*, 119.

48. Will of Joan Ennoome, Apr. 12, 1721, Abstracts of Jamaica Wills, 1625-1792, Add MS 34181; Will of Mary Fox, 1748, Jamaica Wills, XVI, Will of Mary Bradshaw, 1700, IX, Will of Alice Anderson, 1739, XXII, Will of Susannah Tilton, 1739, XXII, Will of Mary Hutchinson, 1739, XXII, Will of Mary Crawford, 1749, XXVII. One-third of Jamaica's female will makers made no mention of children. Of course, some of the women who fell into this category never started families, either within or outside of wedlock. They were the exception, though. The majority of women identified themselves as widows. Of the 706 female will makers, 241 did not refer to children in their wills. I include women who only referred to grandchildren in the group of childless women because I have no evidence that their children were still alive. One hundred three women who fell into the childless category made bequests to close relatives (grandchildren, nieces, nephews, siblings, parents, spouses). Sixty-seven gave the majority of their estates to female kin, and 36 gave the majority to male kin. Most were widows. Of the 103 women who made bequests to relatives but not children, 25 identified themselves as spinsters by occupation or as a "free negro woman" or "free mulatto woman." See Jamaica Wills, I-XXXII.

Women favored female heirs whom they shared closer bonds with. Boys were raised to be independent. They spent more time away from home than girls. Lower and middling sons were apprenticed to artisans or professionals (merchants, attorneys, physicians). When they came of age, they could provide for themselves. Wealthier families sent their sons across the Atlantic to be educated in Britain. The life options of free and freed women, in contrast, were far more restricted, and most remained on the island. However, growing up in the colony also afforded new opportunities to daughters. They developed local knowledge, contacts, and experience with family businesses, ranging from shopkeeping and tavernkeeping to planting and trading. Colonial expertise enhanced the prestige of female members within free families. Just as husbands considered their wives to be the most suitable managers and, often, owners, of family estates, parents identified island-based daughters as the most capable kin to oversee island-based enterprises.

Thousands of inheritance decisions made by spouses and parents were designed to protect colonial estates and increase the fortunes and legal independence of female heirs. Though free and freed women never amassed the resources held by men, high mortality rates, the vast riches produced by slave labor on the island, and the value of enslaved people themselves resulted in material gains for female colonists. Regularly widowed at young ages, women then assumed legal authority over substantial fortunes. In command of both financial and legal power, widows and women who never married then transferred property, which often included slaves, along female lines.

#### "FOUR BEST NEGRO GIRLS . . . FROM MY WHOLE PARCEL"

Free islanders treated enslaved people as malleable possessions and multifaceted laborers, especially when it pertained to enhancing the property of female heirs. An enslaved person's usefulness changed depending on the life phase and marital status of the woman who commanded them. Captives acted as companions and servants for free girls, but, once those young women came of age, the enslaved people in their possession became a means of attracting suitors as a costly form of property. Some families also placed slaves in separate estates to provide material assets for daughters who married. The bequests made by the first three generations of colonists turned enslaved people into a key currency—one that became the primary means of supporting free and freed women. Building on precedents established in the late seventeenth century, locals defined slaves as gendered, moveable goods.

TABLE 3: *Bequests Specifically Designating Enslaved People to Heirs, 1661-1771*

BEQUESTS	NUMBER	PERCENTAGE	
		N	%
Husbands to wives	96	330	29
Fathers to daughters	120	217	55
Fathers to sons	24	170	14
Mothers to daughters	167	240	69
Mothers to sons	68	185	37

Source: Jamaica Wills, 1661-1771, I-XXXVIII, Island Record Office, Spanish Town, Jamaica.

Note: The flow of enslaved men, women, and children into female hands via inheritance was considerable. It is difficult to quantify nondescript bequests of "all estate," "all real and personal estate," or "half" of an estate, but the majority probably included enslaved people. Hence, the numbers of people inheriting slaves from spouses and parents was in all likelihood significantly higher.

Equated with furniture, livestock, and plate, captives were deemed to be particularly suitable for women, who traditionally received these types of movable items via inheritance.<sup>49</sup>

The flow of enslaved people into female hands through men's inheritance bequests was considerable. One-third of the 330 husbands studied here specifically reserved captives for wives (Table 3). Some men, like carpenter Henry Lamb, who gave his "whole estate, chattels, slaves" to his wife to share with their daughter "in lieu of her dower," explicitly referred to "slaves" in the one-sentence descriptions of their estates. It is also reasonable to conclude that the majority of the nondescript bequests of "all real and personal estate" made by husbands included slaves. Altogether, an estimated three-quarters of married men transferred enslaved people to spouses.<sup>50</sup>

49. Michael Jarvis observes a pattern of families bequeathing enslaved people to daughters in Bermuda. His findings, together with my own, hint at a broader Anglo-Atlantic inheritance trend wherein slaves were a favored means of supporting female heirs. Jarvis also observes that the relationships between white mistresses and their captives often outlasted their marriages, suggesting that enslaved people were considered to be women's property during and after marriage. See Jarvis, *In the Eye of All Trade*, 265-266.

50. Will of Henry Lamb, 1700, Jamaica Wills, IX. In making this claim, I disagree with Lucille Mathurin Mair, who concluded that in comparison with women in North America the property rights of free women in the Caribbean were "narrowed" and the "marriage noose tight-

In 1700, planter Richard Turpin offered "all negroes and other slaves and personal estate" to his wife, explicitly identifying them as a form of "personal" property. Turpin's view of slaves as "personal estate" was widely shared among inhabitants from diverse backgrounds. When mariner John Bevis wrote his will in 1722, he also conveyed "all personal estate, house, lands, negro slaves male and female, and plate" to his wife. Decades later, Joseph Bennet bequeathed "all land slaves outstanding debts furniture and all real and personal [property]" to his wife, while carpenter George Bishop left his wife "all real and personal, plate, negroes forever."<sup>51</sup>

Husbands like Turpin, Bevis, Bennet, and Bishop used African captives as a source of income that would protect wives from future dependency or destitution. When bricklayer John Frazier left slaves to his spouse in 1748, he instructed her to hire them out to maintain the couple's children. Frazier not only expected his wife to become a slaveholder, he also assumed that she would participate in the slave trade, instructing her to sell land to buy more captives from Africa. Enslaved people, of course, commanded a higher monetary worth in the marketplace than other forms of moveable goods customarily bequeathed to women while also providing female legatees with labor and enhancing their social status and legal authority.<sup>52</sup>

In the early eighteenth century, captive Africans comprised a significant portion of the resources devised to all female heirs, not just wives. More than half (120) of the fathers whose families included daughters also provided them with slaves. This estimate does not account for the enslaved people who were included in less descriptive bequests of "real and personal estates." Realistically, three-quarters of all the legacies fathers conferred to daughters included captives. Prudence Gale's father was one of these men. When her father, who worked as a carpenter in Port Royal, made his will in 1699, he left Prudence eight hundred pounds, a house, and four enslaved people. That same year, when a surgeon named Edward Smith bequeathed his holdings to

ened." See Mathurin Mair, *Historical Study of Women in Jamaica*, ed. Beckles and Shepherd, 155-156. Chancery Court, in her estimation, was inefficient, but this chapter details the numerous other ways that colonists modified common law customs. Of the 330 husbands, 101 referred specifically to slaves as part of the property they bequeathed to wives; 235 either referred specifically to slaves as part of their bequests to their wives or gave their wives their entire estates. See Jamaica Wills, I-XXXVIII.

51. Will of Richard Turpin, 1700, Jamaica Wills, IX, Will of John Bevis, 1722, XVI, Will of Joseph Bennet, 1740, XXII, Will of George Bishop, 1750, XXVII.

52. Will of John Frazier, 1748, Jamaica Wills, XXVII.

his wife, he forbade her from selling the family's captives, whom he reserved for the couple's daughters. In contrast, only twenty-four fathers specified slaves in bequests to male heirs.<sup>53</sup>

By 1730, Kingston tavernkeeper Samuel Hinton held nine men, two women, and seven children in bondage. His daughter would inherit them all. Ten years later, Hugh Williams, a merchant in Kingston, bequeathed eighteen hundred pounds to his daughter and instructed his wife to select "four best negro girls . . . from my whole parcel" for her. Planter Job Williams left the majority of his assets to his son, but he offered his daughter two three-hundred-acre plots of land and made provisions for her to capitalize on the slave trade by purchasing eight "new negroes" from slave ships.<sup>54</sup>

Mothers, who had likely received enslaved people from their parents and husbands, displayed an even stronger preference for bequeathing captives to daughters. Nearly 70 percent of the women who gave property to daughters specifically referred to enslaved people. Including mothers who only described "real and personal estate" increases this number to 85 percent. Female slaveholders identified captives as an especially gendered movable asset. Only 21 percent of the 321 women who made bequests to children and grandchildren reserved enslaved people for male heirs. Female enslavers exhibited a strong partiality for providing captives to girls irrespective of their wealth, legal status, or race. Even the poorest free and freed women conveyed slaves to daughters and granddaughters. When Esther Tacey made her will in 1742, her meager holdings were comprised of fourteen sheep and two enslaved people. Her daughter received the sheep, and the slaves went to her granddaughter. Ten years later, Sarah Gregory of Kingston divided five enslaved people among her daughter and her "spinster" granddaughters, who also each inherited one mare. She passed the remainder of her modest estate to her daughter. Just like men, poorer women like Tacey and Gregory identified captives as movable chattels, which they grouped with livestock and designated for female heirs.<sup>55</sup>

53. Will of John Gale, 1699, Jamaica Wills, IX, Will of Edward Smith, 1699, VI. Of the 217 men who left legacies for their daughters, 120 men specifically identified slaves as part of such legacies. Out of the 266 men who made bequests to children, 24 men mentioned slaves for sons. Men's bequests were generally less descriptive than women's though, and the number of male heirs who inherited slaves was likely larger, including boys who received "the rest" of estates or entire estates. See Jamaica Wills, I-XXXVIII.

54. Will of Samuel Hinton, 1730, Jamaica Wills, XVIII, Will of Hugh Williams, 1740, XXII, Will of Job Williams, 1748, XXVII.

55. Will of Esther Tacey, 1742, Jamaica Wills, XXIII, Will of Sarah Gregory, 1752, XXVIII.

TABLE 4: *Female Slave Ownership by Decade, 1675-1769*

						AVERAGE
	NUMBER	TOTAL		TOTAL		NUMBER
	OF	ESTATE	NUMBER	VALUE	PERCENTAGE	OF
DATE	ESTATES	VALUE	OF	OF	OF TEV HELD	SLAVES
RANGE	PROBATED	(TEV)	SLAVES	SLAVES	IN SLAVES	PER
1675-1689	15	7,659	208	2,954	39	14
1690-1699	17	14,892	309	4,741	32	18
1700-1709	22	13,313	393	6,554	49	18
1710-1719	52	39,474	970	18,718	47	19
1720-1729	85	83,839	1,344	32,244	38	16
1730-1739	83	67,076	939	24,118	36	11
1740-1749	165	186,856	2,387	78,738	42	14
1750-1759	110	131,014	1,658	61,107	47	15
1760-1769	236	377,582	4,007	186,574	49	17
Total	785	921,705	12,215	415,748		

Source: Jamaica Inventories, Jamaica Archives, 1674-1784, Spanish Town, Jamaica.

Note: Although the majority of the book focuses on the period 1665 to 1765, I have expanded the date range for my study of probated inventories to show the dramatic increase between 1760 and 1769 in both the number of free women and the number of enslaved people whom they owned.

Women property holders transferred resources, including enslaved people, along female lines, while also capitalizing on their wealth to acquire more captives. Second- and third-generation women benefited from these developments. Between 1665 and 1765, an estimated three-quarters of all the women who made wills controlled slaves. The probated inventories of women's estates that were made between 1675 and 1769 suggest that the total was closer to 80 percent. As the number of estates held by women increased, their investment in slavery deepened. Between 1690 and 1699, a total of seventeen female-owned estates were inventoried. Altogether, the women commanded 309 captives (Table 4). Seventy years later, the number

Of the 241 women who made bequests to daughters, 167 specifically referred to slaves. Of the 321 women who mentioned children in their wills, only 68 made provisions for sons to receive slaves. It is possible that more mothers explicitly referred to specific captives in bequests to sons than fathers because enslaved people comprised a higher portion of women's estates. See Jamaica Wills, I-XXXII.



of female-owned estates had increased more than tenfold — so, too, had the number of enslaved people whom they possessed.<sup>56</sup>

The bequests made by spouses and parents created a new form of female dependency on unfree labor. As the flow of enslaved people into free families increased in the early eighteenth century, colonial women gained unprecedented access to a new and substantial form of property to offer female heirs. Women might have favored daughters to balance out the bequests made by fathers to sons. African-descended captives provided them with a novel means of accomplishing this. By 1720, Mercy Bars could offer five slaves to her son while transferring several families of enslaved people to her daughter. Eight years later, when Catherine Byndloss received her husband's consent to write her own will, she conveyed enslaved people, whom she held in a separate estate in her "own right," to her children. Like Bars, Byndloss offered fewer slaves to her son, who received one man. In contrast, she devised a woman named Betty, Betty's three daughters, and another woman named Quasheba to one daughter. Her other daughter received an enslaved mother and child.<sup>57</sup>

The inheritance choices made by free and freed women normalized female slaveholding, ensuring that future generations of female colonists would be deeply invested in Jamaica's unfree labor regime. Mary Penlerick's 1716 will exposes this familial process. Penlerick's ancestor James Pennelerick, among the first group of English settlers in Jamaica, bequeathed slaves as well as money for purchasing more African captives to his wife. When Mary Penlerick offered seventeen pounds for a "negro young woman" "to be bought" for her granddaughter "after marriage," she was following a well-established family precedent, one that ensured the investment of her granddaughter's generation in slavery.<sup>58</sup>

In Jamaica, parents and grandparents recognized emotional connections to heirs by giving them specific slaves. Colonists carefully distinguished the captives whom they intended for female recipients. James Leller gave the bulk of his property to his sons in 1700, but he spilled far more ink detail-

56. Nearly 80 percent of the estates owned by women that were probated between 1674 and 1765 contained slaves. Of the 825 female-held estates that were probated between 1674 and 1765, 648 also included slaves. See *Jamaica Inventories*. These figures support my estimates of men giving three-quarters of all wives and daughters slaves as legacies and suggest that inheritance transactions undergirded women's investments in slavery.

57. Will of Mercy Bars, 1720, *Jamaica Wills*, XV, Will of Catherine Byndloss, 1728, XVII.

58. Will of James Pennelerick, 1668, *Jamaica Wills*, I, Will of Mary Penlerick, 1716, XIV.

ing the movable items his daughter would receive, including £560, a silver tankard and sugar box, her mother's wedding ring, and "one negroe girl Savannah by name." Leller handled Savannah like a talisman — viewed as a sentimental object, she served a similar purpose to his deceased wife's wedding ring. Both the ring and Savannah signified his bond with his daughter. Similarly, when Mary Walker disbursed her £223 estate, she grouped Hannah and her daughters, Flora, Bella, and Gibba, together with a silver tankard, "porringers" (the small bowls that were used to feed infants), and silverware for her daughter. Leller and Walker equated enslaved people with feminized moveable goods that they imbued with personal meanings.<sup>59</sup>

Naming enslaved people and recognizing their family connections exposed the limitations of defining human beings as property. Mariner James Neal, for example, carefully listed "Dover, Tower Hill Kent Tour Deal Celia Mimbo Venus" as legacies for his wife and daughter in 1722. James Haughton "esquire" offered moveable goods, including "all plate, chariot and horses," to his wife. She also received eleven slaves, including "Imoundao and son, Nanny and children Elsy and Flora, Hercules, mulatto Quaco, Marlborough, Dorinda, and her child Betty and Mary a washerwoman." Perhaps Haughton recognized these parental ties in an effort to keep enslaved families intact. That same year "gentleman" John Gourlaw singled out a "negro woman Dafne" from the cattle, horses, household goods, money, and outstanding debts he awarded to his wife. Likewise, William Hunt lumped together a "negro woman Jane" with a "bald face horse" that he intended for his wife.<sup>60</sup>

When thousands of colonists defined and bequeathed people as assets, they did more to protect and further chattel slavery than Jamaica's slave codes or imperial policies could accomplish. On one hand, owners individualized slaves by naming them "Dafne" and "Jane" and distinguished them from other forms of personal property. On the other hand, colonists also participated in quotidian yet insidious acts of cultural and social destruction by equating "Dafne" and "Jane" with animals and giving them English names. If the women were African, the naming practices captured in colonial wills erased their African identities while enforcing their commodification. Inheri-

59. Will of James Leller, 1700, *Jamaica Wills*, I, Will of Mary Walker, 1718, XV.

60. Will of James Neal, 1722, *Jamaica Wills*, XVI, Will of James Haughton, 1722, XXII, Will of John Gourlaw, 1710, XIII, Will of William Hunt, 1710, XIII. For more on the implicit violence of the creolization process, which included giving captives English names, see Jennifer L. Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (Philadelphia, 2004), chap. 4.

tance transactions like the ones made by Neal, Gourlaw, Haughton, and Hunt continually reiterated and reinscribed object status onto enslaved people. In a colony where inheritance was the most instrumental means of allocating material possessions, these processes mattered. Collectively, bequests turned abstract legal definitions into lived realities for tens of thousands of captives.

#### HE TOOK HER SLAVES

Though wills strove to transform enslaved people into objects, these efforts were never fully successful. Legal conflicts over the possession of slaves highlight the manifest challenges involved in holding a large number of people in bondage. Owners, and captives themselves, readily contested each other's rights to claim people as slaves. People who engaged in legal disagreements over claims to a few enslaved people appeared in Grand Court in Spanish Town. Here, islanders sued each other for the act of detaining or "taking" slaves. Suits involving detainment were civil, not criminal, cases; litigants did not accuse defendants of harboring runaways, stealing enslaved people, or transporting them off the island, which were all serious and even felonious offenses. Instead, court scribes used words like "took" or "detained" to describe colonists' actions as the cases discussed here show. When locals invoked the English legal concepts of detainment and distraint, they displayed a sophisticated knowledge of property law.<sup>61</sup>

61. Anyone who kept someone else's slave for more than ten days faced a stiff fine of twenty pounds. Transporting a stolen slave off the island was a felony and carried the death penalty without the benefit of clergy. See "An Act for the Better Ordering of Slaves," in *The Laws of Jamaica, Passed by the Assembly and Confirmed by His Majesty in Council, April 17, 1684* . . . (London, 1684), 142–143. Detainment referred to the esoteric English legal actions of "trover" and "conversion." According to Sir William Blackstone, the eighteenth-century's preeminent legal scholar, a person who "found another's goods, and refused to deliver them on demand, but converted them to his own use" committed trover and conversion. Blackstone describes the actions of trover and conversion and the issues surrounding these actions as follows: "The injury lies in the conversion: for any man may take the goods of another into possession, if he finds them; but no finder is allowed to acquire a property therein, unless the owner be for ever unknown: and therefore he must not convert them to his own use, which the law presumes him to do, if he refuses to restore them to the owner; for which reason such refusal alone is, *prima facie*, sufficient evidence of a conversion. The fact of the finding, or *trover*, is therefore now totally immaterial: for the plaintiff needs only to suggest (as words of form) that he lost such goods, and that the defendant found them; and, if he proves that the goods are *his* property, and that the defendant had them in his possession, it is sufficient. But a conversion must be fully proved: and then in this action the

Conducting a comprehensive survey of the island's early court records is not feasible. Most of the materials are deemed too fragile for handling. The only cases available for viewing are from the 1680s, 1743, and 1761. These previously unstudied instances of slave detainment bring a varied group of free and enslaved people into the foreground. Jamaica's high mortality rates aggravated conflicts over slaveholding. Deeds, schedules of slaves, bills of sale, or mortgages could all be lost or forged. People died or moved away, leaving their captives behind. Detainment created opportunities for subterfuge. The bar was low for initiating detainment suits—anyone who paid a nominal court fee could accuse another person of unlawfully withholding his or her slaves. The looseness of the law meant that colonists could take a gamble that might have a large payoff. Accordingly, most of the plaintiffs and defendants who appeared in these suits were professionals or artisans—not elites. They often knew each other and quarreled over a few captives—not hundreds. Familiarity, and sometimes kinship ties, added a personal edge to disputes while also hinting at the ambiguously intimate relationships between enslavers and slaves, who had their own motives for influencing and even instigating conflicts between owners.<sup>62</sup>

The claims of female slaveholders whose property rights varied depending on their marital status, were especially unstable. Elizabeth Prothers, the wife of a bricklayer, pursued another married couple for "holding" eight captives whom she believed she was entitled to from a previous marriage. Perhaps the couple took advantage of Prothers's limited authority once she remarried and fell under coverture again. The result of Prothers's suit is unknown. At the time the case's verdict was recorded, free and freed women were as likely as men to win their suits. Though men dominated the upper echelons of colonial society—and ran the island's legal institutions—they preferred to uphold the property rights of slaveholders over enforcing the prerogatives of white men. Mary Phillips, a widow living in Kingston, sued her neighbor, the carpenter John Turner, in 1743 because he allegedly "took her slaves" from her at the courthouse. Phillips asserted that she was the rightful owner

plaintiff shall recover damages, equal to the value of the thing converted, but not the thing itself; which nothing will recover but an action of *detinue* or *replevin*." See "Of Injuries to Personal Property," in Blackstone, *Commentaries on the Laws of England*, Book III, Chapter 9, Lonang Institute, <https://lonang.com/library/reference/blackstone-commentaries-law-england/bla-309/>.

62. "Of Injuries to Personal Property," in Blackstone, *Commentaries on the Laws of England*, Book III, Chapter 9, Lonang Institute, <https://lonang.com/library/reference/blackstone-commentaries-law-england/bla-309/>.

of a woman named Clara, Clara's child, and a girl, Jenny, whom she valued at £140. The court found Turner guilty and ordered him to return the captives to Phillips.<sup>63</sup>

As minors who lacked legal rights and parental protection, orphans were also vulnerable to challenges to their claims. An orphan named Christian Fea and her guardian, a butcher from Kingston, for instance, brought a suit against the town's deputy marshal in 1743, arguing that he "took a negro woman slave of her" named Venus and "detains her." The deputy marshal probably held Venus, who was valued at sixty pounds, as a means of collecting on debts owed by the orphan's estate. When he failed to appear in court, Fea's suit remained outstanding. As Fea's case shows, free women began defending their claims to enslaved people early in life. The same year that Fea sued the deputy marshal, another orphaned minor, Anna Mary Booth, was indicted by three of her male kin — Peter, Thomas, and Henry Booth — who were also parentless youths, for taking an adult enslaved man named Abraham from them. Booth probably held Abraham as a form of debt collection for cattle the Booths' father had purchased from her on credit. He died before paying his debt to the young woman, and she took Abraham to recoup the loss. By protecting her claim to Abraham, Anna Mary Booth engaged in an act of distraint.<sup>64</sup>

In England, distraint was typically considered to be a feminine practice through which women asserted their responsibility to protect their households. The majority of distraint suits there involved women who resisted or

63. James and Susanna Wellin v. Thomas and Elizabeth Prothers, Jamaica Grand Court Records, 1743, XLI, JA, John Turner v. Mary Phillips, Jamaica Grand Court Records, 1743, XLI. My assessment is based on a handful of court records that are accessible to the public. Limited access to the sources makes it difficult to conduct a more comprehensive study comparing male and female appearances in court.

64. Christina Fea and Daniel Stinger (guardian) v. William Lamb, Jamaica Grand Court Records, 1743, XLI, JA, Anna Mary Booth v. Peter Graves Booth, Thomas Henry Booth, and Henry Booth, Jamaica Grand Court Records, 1743, XLI. It is possible that the deputy marshal had mistreated Venus while she was in his custody and wanted to avoid the forty pound penalty he might be liable for if he appeared in court. The *Laws of Jamaica* required the provost marshal to pay forty pounds to the owner of any slaves that he employed or failed to provide adequate food and water to while under his custody. The penalty was probably high because it aimed to deter colonial officials from abusing their offices. See "An Act for the Better Ordering of Slaves," in *Laws of Jamaica* . . . (1684), 141. Christian could be a female name in Jamaica, and the usage of "her" in Christian Fea's case indicates that Fea was a female. Women named Christian made wills and had their estates probated.

illegally repossessed movable goods or livestock that had been seized to settle debts. In Jamaica, Booth won her case. The court supported her behavior, lending institutional power to colonial practices that expanded the category of movable goods to include captives like Abraham. Booth's suit also yields clues about enslaved people's experiences. The deceased man who owed money to the orphaned woman was a millwright. He probably trained Abraham in the profession, which significantly enhanced the captive's monetary value. If he was hired out to work as a millwright, Abraham would have enjoyed a degree of independence and possibly earned a modest income. Though Booth, as a free woman, wielded more authority than Abraham on paper, he might have used his *de facto* influence as an older man to instigate the dispute. Perhaps he conspired with, or even directed Booth, to challenge the claim of her young relatives to his person. Maybe he negotiated higher wages, more time off, or even manumission from Booth in exchange for remaining with her.<sup>65</sup>

Although these are, of course, conjectures, the appearance of other female colonists in similar suits hint at equally complicated social dynamics that were influenced by competing axes of power, including legal status, marital status, age, gender, and race. In 1743, five family members, including a widow, a "spinster," a baker, and a blacksmith, accused Jane Sedgewick, another Kingston widow, of taking two captives, Cato and Rachel, from them at the Wherry Bridge in town. Sedgewick did not appear in court to defend herself, and the case remained against her. In another suit that same year, Dr. John Brook charged two sisters, Mary and Ruth Grey, with taking an enslaved man named Cubah from him when Cubah was walking in Kingston's town square.<sup>66</sup>

Similar to the Booth case, both suits involved women who stood accused of detaining other adults. Additionally, Sedgewick and the Grey sisters supposedly abducted these men and women in public and highly visible locations, indicating that other residents did not perceive foul play. Perhaps they even viewed Cato, Rachel, and Cubah as belonging to the enslavers who stood accused of taking them. The public nature of these acts both complicates and elucidates the relationships forged between enslaved people and

65. The act of distraint was called "forcible rescue." See Garthine Walker, *Crime, Gender, and Social Order in Early Modern England* (New York, 2003), 89–90.

66. Jane Sedgewick v. John Standish, Martha Standish, Caleb Standish, Jane Miller, Robert Standish, 1743, Jamaica Grand Court Records, XLI, JA, Mary and Ruth Grey v. John Brook, 1743, Jamaica Grand Court Records, XLI. The sisters in the latter case were found guilty.



their purported captors. The Grey sisters who were faulted for taking the enslaved man Cubah on the town square, for instance, must have known him. The widow Sedgewick, who supposedly held Cato and Rachel from the Standish family, was likewise on familiar terms with the enslaved people in question. Detainment and distraint were not furtive acts of abduction. On the contrary, participants claimed possession of captives at courthouses, bridges, and town squares. The widow Elizabeth Sharpe charged two men with illegally withholding her slaves, one of whom was taken in a churchyard. The court found both men guilty. Two adolescent sisters, Mary and Elizabeth Jarum, also accused a man with taking three captives from them at a church.<sup>67</sup>

Enslaved people were not necessarily passive victims in such transactions. Adults who were allegedly seized, particularly those who were acquired by younger women, likely agreed to the exchanges. Otherwise, it would have been difficult for defendants in these scenarios to physically coerce adults, especially men, without attracting attention. Though the Grey sisters might have threatened Cubah, Cato, and Rachel with punishments if they did not comply, it is equally plausible that the captives also shaped these encounters. The small-scale slaveowners who normally appear in distraint suits shared close quarters with enslaved people, who would have been privy to personal information about the financial and legal positions of their owners. Cubah, Cato, and Rachel might have used the legal ambiguities surrounding slave ownership to their advantage. If one can imagine Sedgewick or the Grey sisters whispering threats into the ears of the people they wanted to claim, one should also envision Cubah, Cato, and Rachel strategically sharing family secrets and persuading colonists to capitalize on the deaths or debts of neighbors and friends. Free and enslaved people probably conspired to enact seizures in public locations where they could easily slip away together.

Such actions are not equivalent to earning legal freedom, but they are still suggestive of the varied tactics used by enslaved people to exercise a small degree of influence and shape the contours of their captivity. Moving to different owners might have afforded some people with better treatment, protection from abuse, and proximity to loved ones. Distraint suits might even reveal acts of maroonage. The laws called for harsh punishments of runaways, specifically repeat offenders. Yet slaves and servants were not considered to be runaways until they had been absent for several months or

67. John Hammon v. Elizabeth Sharpe, 1743, Jamaica Grand Court Records, XLI, JA, John Wilson v. Mary and Elizabeth Jarum, 1743, Grand Court Records, XLI.

if their owners identified them as "rebellious" or thieves. Cases of distraint suggest that slaveholders accepted captives' temporary hiatuses on occasion or preferred to identify certain actions as property transgressions rather than criminal activities.<sup>68</sup>

On a more basic level, distraint suits show that free and enslaved people considered women enslavers to be ordinary figures in colonial society. If bequests of slaves enriched the coffers of female islanders, inheritance practices also made slaveholding a commonplace activity for them, so much so that nobody deemed it unusual for an adult woman of European or Euro-African descent to appear alongside two enslaved adult men on the street. If bequests contributed to the construction of the slave as a specific form of legal estate, thereby supporting colonial laws, then distraint cases disclose the latitude between law and practice. As their wills show, colonists were certainly invested in exploiting the material value of enslaved people. The Jamaica Assembly devised some of the most brutal slave codes in the Anglo-Atlantic world, but islanders did not necessarily choose to enforce them. They were intently concerned with property, not necessarily with the type of policing that the laws aimed to encourage. Occasionally, free and unfree people colluded with each other, using this maneuverability to their advantage.

Despite the catastrophic conditions endured by islanders, Jamaica was not a failed settler society. By the 1740s and 1750s, free people had constructed the most important colony in the British Empire. They accomplished this by adapting to Jamaican circumstances. In the face of demographic volatility, colonists modified aspects of British inheritance customs that upheld masculine privilege, preferring to support local kin irrespective of gender rather than distant male heirs. Displaying an impressive legal savvy and a keen awareness of the gendered disabilities experienced by wives, free people used equity to shield married women's property. Equity enabled wives to maintain ownership of assets, making them less dependent on husbands. Acting in their capacities as executors, household heads, and enslavers, legally independent widows and unmarried women wielded forms of authority traditionally correlated with masculine privilege.

During the first half of the eighteenth century, colonists turned captive Africans into an essential resource for female heirs. By treating enslaved

68. Later in the eighteenth century, deserters were defined as "incorrigible runaways" after a six-month period and tried in slave courts. See Diana Paton, "Punishment, Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica," *Journal of Social History*, XXXIV (2001), 930.

people as fungible assets, they created a form of wealth that was flexible, easily saleable, and suitable for any free person on the island. Islanders used these measures to more fully commodify and exploit slaves, providing additional material support to all of the members in their kin group. Free and freed women were often the beneficiaries of this trend. The influx of captives into colonial families augmented the size and value of the portions female heirs received. Once women assumed control of estates, which normally included enslaved people, they showed a marked interest in transferring their holdings to other women. By the early eighteenth century, these practices were so pervasive that even women like Sarah Harrison, who likely spent part of her own life in bondage, also inherited and sold enslaved people.

Colonial circumstances made free and freed women instrumental to the accumulation and transmission of material wealth on the island. Though familial needs might have driven islanders to develop their own inheritance customs, their actions had much broader consequences for the British Empire. Wives, daughters, and granddaughters sustained fragile kinship networks that were ravaged by disease and death and kept family resources intact across multiple generations. In doing so, they ensured the stability and continuity of British control over an increasingly valuable Caribbean territory. As free and freed women became more reliant on enslaved people to serve as a vital form of property, they furthered the demand for more African captives to be exiled to Jamaica and deepened the empire's commitment to Atlantic slavery.

## 5. Nonmarital Intimacies



In 1752, Mary Barrow, a "mulatto woman," and her "white" partner, Lawrence Reid, brought their eight-month-old daughter, Anne Reid, to be baptized at the main church in Kingston, Jamaica. Through this action, the couple publicly recognized their child—and their relationship, though they were not married—before the largest congregation in Britain's wealthiest colony. Anne Reid's baptism served spiritual, social, and legal purposes. By giving his surname to the infant, Lawrence Reid asserted his paternity, bringing Anne into the fold of the Reid kin group and establishing her membership in the island's free Christian community. At the same time, he muted his daughter's African ancestry, distanced her from a past marked by enslavement, and weakened her connection to her mother. Mary Barrow's own baptism twenty-seven years earlier had served similarly complicated objectives. She was the daughter of an enslaved woman named Sarah and a free man, Thomas Barrow.<sup>1</sup>

Colonial inhabitants like Barrow and Reid, and her parents before them, laid the groundwork for the development of a sexual culture and modes of family formation that diverged sharply from the legal and social trends reshaping reproduction and marriage in other parts of the Anglo-Atlantic world. With the passage of the Hardwick Marriage Act in 1753, Britain sought to uphold a more rigid, restricted, and legalistic definition of marriage, one that marginalized illegitimate children and their unwed mothers.

1. Baptism of Anne Reid, June 1752, Kingston Parish Register, Baptisms, I, 1722-1792, Jamaica Copy Registers, 1669-1761, Island Record Office (IRO), Spanish Town, Jamaica, Baptism of Mary Barrow, 1725, Kingston Parish Register, I.