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“In a newe plantation it is not knowen whether man or woman be more necessary”: Gender Relations in Seventeenth-Century Virginia

An Honors Thesis
Presented to
The Faculty of the Department of History
Bates College
in partial fulfillment of the requirements for the
Degree of Bachelor of Arts
by

Caylin Carbonell
Lewiston, Maine

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Abstract

The historical narrative of colonial Virginia has traditionally been that of a testosterone-fueled society of aggressive men competing to make a profit from tobacco. Accounts of seventeenth-century Virginia rarely include references to female settlers, and those that do merely mention the skewed gender ratio during the first century. However, a female presence was critical to Virginia's transition from economic outpost to settlement. Although their numbers were limited, women played essential roles in the social fabric of early Virginia society. Men on both sides of the Atlantic believed that there was a direct correlation between women's behavior and the future stability of the colony. In their efforts to establish patriarchal order within the colony, men strictly regulated women's actions. In an environment that lacked many of the traditional English social, religious and political structures, gender roles appeared surprisingly analogous to those in England. However, differences in Virginia's institutional development such as the system of indentured servitude and the high mortality rates influenced the emergence of new patterns of gendered interactions. This thesis explores the question of Virginian exceptionalism by looking at gender in an attempt to understand the extent to which a distinctive environment in Virginia led to similarly distinct gender norms. Using court records and early legislation, I examine women in their conventional positions as servants, wives, and widows and highlight the ways that women violated these norms.

Introduction

On August 31, 1643, the Northampton County courtroom witnessed a stir of excitement. The commander, Argoll Yardley, and the four other commissioners were regularly forced to sit through a dull caseload concerning tobacco debts and inheritance rights. In a young colony, property and tobacco were the name of the game, and Yardley and the others held the authority to settle these disputes. Community squabbles were far more interesting than economic disputes, however, and presented the greatest source of animation in the courtroom. On that late summer day, a number of Northampton residents came forward with a fascinating story of a fight that had recently taken place between Robert Woolterton and Rebecca Jackson.

The fight, which occurred at George Smith's house, began with bickering and eventually escalated into a full-on physical fight. Nicholas Hall, the first deponent to come forward with the story, related a detailed account of the affair. His tale of the drama began when Robert Woolterton attempted to put his hand on Rebecca Jackson's placket[1] and sneered, "here is a base thing." Rebecca retorted, "It is a better than thou didst carry over the bay." Robert responded, "tis better then thine" to which Rebecca accused, "That is a lie for that is a pockyfyed one."[2] With this, Rebecca struck Robert across the face and the two began fighting. James Jackson, Rebecca's husband, saw Robert strike his wife and quickly came to her rescue, joining in on the fight. The deponent, Nicholas Hall, tried along with others to stop the three, but they were incapable of stopping the fight in time, and all parties ended up fairly battered. During the fight, Rebecca had bit Robert Woolterton's butt and lip, and George Smith, the homeowner, described Woolterton's condition as "in a most pittyfull manner all Blood, And his lipp almost bitten off.

[1] A placket was a garment worn under a woman's gown.
[2] Pockefyed, as used here, most likely refers to syphilis.

And did hang by a little peece." George's wife, Anne, was also present, and she recounted a similar story, explaining that she had yelled for help, calling "for Gods sake, helpe the woman they are togeather by the ears." Another deponent, John Cooper, also claimed to have witnessed the commotion but he recounted a slightly different story with a few added details. In his version of events, Robert and Rebecca had quarreled over carrying rags to King's Creek before they had begun physically fighting. Cooper recounted Rebecca's incendiary tone, "by god if thou art a man goe out with mee if thou darest," to which Robert replied, "I will not I have nothing to say to you." Rebecca's husband, James, was in the next room where he apparently "swore Gods wounds hee Ravisheth my wife presently."[3]

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This story, like many others that appear in the court records for Accomack-Northampton County, resurrects the voices of the past and brings to life stories that would be otherwise forgotten. Throughout the historiography of colonial Virginia, women's stories are largely discarded and their voices are seldom heard. Traditionally, colonial Virginia has been portrayed as a testosterone-fueled society of power-hungry white men competing to make profits from tobacco. Early histories of Virginia paint pictures of lazy men who struggled and starved during early attempts at colonization in a highly chaotic and largely disordered environment. Women like Rebecca Jackson are never considered as agents in these histories. In fact, apart from references to Pocahontas or to the highly skewed gender ratio, women are frequently left out of the picture. Historians rarely depict domestic life, and the few English women who did come to Virginia are presumed to have been gracious gentlewomen, submissive to their male

[3] Susie M. Ames, ed., *County Court Records of Accomack-Northampton Virginia 1640-1645* (Charlottesville, The University Press of Virginia, 1973), 298-300. (cited in text as CCR II)

counterparts.[4] In contrast to this traditional paradigm, Rebecca Jackson proves herself an aggressive and tenacious female, far from the model of docile gentility that women were presumed to follow. This incongruity invites the question: what were women's lives really like in early Virginia and what roles did they play during Virginia's early development?

The significance of Rebecca Jackson's story lies beyond its obvious value as a vestige of women's voices emerging from the past. Jackson's story presents a great starting point for an analysis of social interactions in seventeenth-century Virginia. The narrative presents two major themes for further analysis: the significance of gender in regulating early Virginian social relations, and the ways that sexuality, reputation and power were intimately linked in an unstable, developing society. With respect to gender, this story clearly testifies to the fact that women were historical agents in colonial Virginia. Women were more than simply pawns; they did not always adhere to patriarchal assumptions, and, as this story indicates, they could be downright feisty. Power divisions were not as simple as husband ruling over wife, especially in situations where women like Rebecca Jackson were beating up men like Robert Woolterton.

The Jackson-Woolterton affair demonstrates that even though these power dynamics were often complicated, they remained dependent on divisions based on gender. This incident points to a reliance on gender classification, evident in the way that John Cooper recounts the conversation between Rebecca and Robert. In Cooper's account, Rebecca questions Robert's masculinity as a means of provoking him when she demands, "if thou art a man." This choice of language reflects a reliance on gender divisions as well as an assignment of "proper" roles and

[4] For examples of this trend, see Edmund Morgan, *American Freedom, American Freedom* (New York & London: W.W. Norton & Company, 1975); Alan Kulikoff, *Tobacco and Slaves: The Development of Southern Cultures, 1680-1800*. (Chapel Hill and London: University of North Carolina Press, 1986).

characteristics befitting men and women. Virginia was a setting where social status and hierarchy were largely disordered and it was in this distinct setting that gender served as a mechanism for providing order and assigning roles to colonists.

In Nicholas Hall's account of the events, the conversation between Robert and Rebecca that preceded the fight points to the importance of sexual honor and the power of speech for the English colonists in Virginia. This conversation between Robert and Rebecca involved a number of accusations that hint at one or both of the parties having contracted syphilis. The two were quick to defame each other's reputations and they choose to do so by criticizing each other's sexual honor. In seventeenth-century Virginia, concepts of honor were crucial to reputation and social status in the community. Honor conferred credibility, and a person's reputation in society was based upon their behavior and integrity. In an environment where social mobility was great, words harnessed the ability to sway public opinion and to damage a colonist's status in the community. English colonists were highly aware of the injury that words might inflict, and they sometimes used words with the malicious intent of harming others. The truth was of the utmost importance because the legitimacy of such malicious accusations could affect social relations. Language was a powerful tool in navigating the social hierarchy in the colonial world. In this setting, the court played a major role in determining the truth of events.

Stories like Woolterton's and Jackson's initially attracted me to the study of colonial Virginian women. I was surprised at how rarely women were mentioned in secondary accounts of the early colony, and yet how women's stories appeared on almost every page of early Virginian court records. Drawing from these inconsistencies, I began my research with questions of who these women were and why they were not included in these histories. Throughout my research, I have discovered that gender relations in Virginia were particularly

fascinating during the early seventeenth-century in light of the skewed sex ratio and the chaotic development of societal institutions. In this unique environment, women sometimes found themselves with increased opportunities, and at other times they encountered less freedom. The object of this study is to show what English women's lives were like in Virginia and to highlight these instances when women experienced greater or lesser freedom as a result of their position in the New World.

In this thesis, I investigate the lives of early Virginian women and the gender-specific relationships that developed among colonists. I hope to describe the realities of female experiences and show how their lives differed after their Atlantic crossing. This study endeavors to answer the question: did English women encounter different gender norms in seventeenth-century Virginia as a consequence of the unique social, economic, and political environment? In order to explore this question, I compare gender norms and behaviors in early modern England with those that developed in colonial Virginia.

Although I aim to discuss gender with regards to relationships between men and women, the unique female experience is central to my study. Women are frequently left out of the narrative, and it is not only necessary to write them back in, but also to reassess historical arguments by including women. While men's roles remained somewhat stable after crossing the Atlantic, women's experiences changed dramatically in Virginia. For these reasons, this study is limited to the experience of white English women in Virginia. While the colony was also home to Native American and African women, this thesis is confined to an examination of white womanhood because of a limited source base, as well as personal restrictions of space and time. While I do not hope to diminish the importance of Native American and African women, I believe that gender dynamics among English colonists were distinct in seventeenth-century

Virginia and merit a thorough discussion. Additionally, I have chosen to limit this study to the seventeenth-century, specifically the first sixty or so years. Although Virginia certainly witnessed dramatic changes from the early century (1607-1620s) moving toward the mid-century (1630s-1660s), I think that this entire period can be characterized as a phase of disorder and development, whereas the later seventeenth century witnessed increasing stabilization and striking social transformations (Bacon's rebellion and social unrest, as well as the emergence of racial slavery on a greater scale).

It is necessary to think about definitions of gender and how gender can be used as a means of re-analyzing historical narratives. In this thesis, I aim to take a gendered perspective on the question of continuity between England and Virginia. In 1986, Joan Scott published a seminal article on women's history, "Gender: A Useful Category for Historical Analysis." In this work, Scott defines gender with a two-part definition: "gender is a constitutive element of social relationships based on perceived differences between the sexes, and gender is a primary way of signifying relationships of power."[5] I employ Scott's definition of gender, using the term to signify socially constructed definitions of "masculine" and "feminine" behaviors. Within this thesis, gender operates on both of the levels to which Scott refers, which, although different, are integrally related. I essentially argue that gender played an integral role in social relationships in early Virginia because gender was so important in determining relationships of power.

Patriarchy is a central concept in understanding gender in early modern England and in Virginia. Patriarchy, as I use it here, refers to the system of social organization by which fathers rule over households and derive authority through the subordination of women and children. A

[5] Joan W. Scott, "A Useful Category of Historical Analysis," *The American Historical Review* 91, no 5. (1986): 1067.

patriarchal system relies on the passage of property through the male lineage. Patriarchy appears in a number of different contexts and does not reveal a unified system; the realities of patriarchy often expose much more complex circumstances, deviating from the ideal scheme and revealing societies in which men and women often challenge patriarchy in both direct and indirect ways.

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In order to place my argument among the existing scholarship on the subject of gender in colonial Virginia, it is important to first highlight some of the major trends in historiography. While several historians have explored topics of gender and others have looked at the question of continuity between old world and new societies, no study has comprehensively combined these two subjects. This thesis aims to expand upon some of this research and to fill gaps in the existing scholarship.

Over the past several decades, many historians have shifted the focus of colonial histories from North America to the greater Atlantic world. Bernard Bailyn, a prominent colonialist, was instrumental in fashioning this shift. Along with Philip D. Morgan and other contributing historians, Bailyn authored a 1995 book, *Strangers within the Realm*, which surveys imperial history and underscores the influence of the transatlantic world on imperial expansion. In his more recent 2005 book, *Atlantic History: Concept and Contours*, Bailyn explores the notion of Atlantic history as a subject for historical analysis. This trend has greatly influenced recent scholarship, as historians have begun to look at the influence of European or African cultures on the development of colonial societies.[6]

[6] Bernard Bailyn, ed., *Strangers Within the Realm*: *Cultural Margins of the First British Empire* (Chapel Hill and London: The University of North Carolina Press, 1991); Bernard Bailyn, *Atlantic History: Concepts and Contours* (Cambridge, Massachusetts: Harvard University Press, 2005).

To engage with this concept of Atlantic history, historians often consider the extent to which North American societies exhibit continuity with Old World customs or break from these to develop anew. In this analysis of continuity, historians of colonial North America frequently examine the colonial world from the perspective of regions, rather than treating the entire Atlantic seaboard as a homogenous unit. For example, New England, which developed as a society of families, has been traditionally viewed as a microcosm of English society, a renewed England. On the other hand, historians often cite the Chesapeake colonies for the disorder and chaos that characterize the early years of colonization. This view solicits the idea that the Chesapeake colonies developed apart from English tradition. This concept is sometimes referred to as exceptionalism, the belief that regions like the Chesapeake developed independently from English society. Several historians present this exceptionalist view that the Chesapeake developed independent of English tradition because of the unique circumstances that characterized the colonial Chesapeake environment.[7]

In 1994, James Horn took issue with this trend in his book, *Adapting to a New World*, where he argues that the Chesapeake region developed consistent with traditional English social norms and customs. In *Adapting to a New World*, Horn provides a comprehensive study of the social origins of the Chesapeake region, concluding that, "the Chesapeake colonies were extensions of Old World society in the New."[8] Horn believes that a greater emphasis should be placed on continuity than discontinuity, although he also concedes that adaptation was required in many circumstances in order to accommodate development in a new environment. He challenges the exceptionalist historiography and emphasizes the importance of understanding

[7] In his introduction, James Horn explores the historiography of this debate over continuity and change, citing several studies that polarize the North and the South. James Horn, *Adapting to a New World* (Chapel Hill: The University of North Carolina Press, 1994), 8-9 and note 14.
[8] Horn, *Adapting to a New World*, viii.

early Modern England in order to better analyze the origins of colonial British America. Horn is not alone in this view, and other histories, such as David Hackett Fischer's *Albion's Seed: Four British Folkways in America,* support this belief in transatlantic continuity.[9]

Horn's study, albeit meticulously researched and comprehensive, does not go into depth regarding all facets of social life in the colonial Chesapeake. Gender is one area to which Horn gives little attention, regardless of the great import of gender on the social development of the Chesapeake. Horn dedicates a chapter to "The Social Web: Family, Kinship and Community," but this section offers only limited content specific to family organization and marriage, and it does not acknowledge gender as an important category for analysis. While other historians have recently begun to focus on the topic of gender in the colonial Chesapeake, no study seeks to explicitly address the concept of continuity with regards to gender.

Kathleen Brown perhaps gets closest to this analysis in her book *Good Wives, Nasty Wenches & Anxious Patriarchs,* in which she explores concepts of gender, race and power in colonial Virginia. Brown's book aims to demonstrate the ways that gender was an important factor in the creation of racial slavery. To explore this theory, Brown begins with an examination of gender frontiers, starting with gender in England, and then exploring gender in Native societies and in seventeenth century Virginia. She uses this discussion to set up her later argument for the interconnection of race and gender that led to racial slavery. In this first part of her book, Brown's research certainly contributes to the debate over the continuity of gender roles in early Virginia. Brown's analysis seems to suggest that she would side with the

[9] Horn, *Adapting to a New World*; David Hackett Fischer, *Albion's Seed: Four British Folkways in America* (New York and Oxford: Oxford University Press, 1989).

"exceptionalist" camp of historians who believe that Virginia's distinct environment allowed for the divergent development of early society.

Although Brown's book can certainly be seen as part of the debate over continuity, her primary intent is to respond to an earlier work by Edmund Morgan, *American Slavery, American Freedom* (1975). Morgan's book endeavored to explain the origins of racial slavery and the growth of racism in Virginia, emphasizing the importance of Bacon's Rebellion and class conflict in pushing men toward a system of racial slavery. Although Morgan does not address gender as a significant category for analysis, he does describe the lack of women in Virginian society and the impact that these unusual demographic conditions had on the development of patriarchy and social order. In *Good Wives,* Brown hopes to complicate Morgan's argument by incorporating the centrality of gender and its relationship with race as integral to the origins of racial slavery. Therefore, although Brown offers valuable insight concerning the question of continuity, her book never explicitly addresses this debate.

In this thesis, I aim to answer the question raised by Horn and many others concerning the extent to which the New World displayed continuity with Old World norms and traditions. I evaluate this question by utilizing gender as the vehicle for analysis. I look at the social history of seventeenth-century Virginia and the gender norms that developed there as a means of understanding whether or not these gender relations were exceptional or consistent with the Old World. I look at much of the same material that Brown introduces in her first section of *Good Wives,* yet I guide my research with the question that James Horn is asking. While James Horn argues for continuity and Kathleen Brown seems to argue for exceptionality, I stand somewhere in between. In this thesis, I argue that colonists carried previous conceptions of patriarchy and gender ideals from England with them across the Atlantic, yet circumstances in Virginia required

that English colonists renegotiate many of their previous conceptions of gender relations. Demographic and economic circumstances in Virginia, particularly the skewed sex ratio, high mortality rate and system of indentured servitude, prevented the transference of traditional notions of gender roles and allowed for women to serve very different roles in the New World.

While I dedicate significant discussion to previous scholarly work on gender in the colonial world, I also rely greatly on records of colonial laws as well as court documents. Only a limited number of documents survive, and these records are at times scant. Regrettably, an immense number of court records were lost in fires during the Civil War.[10] For these reasons, the availability of primary documentation concerning seventeenth-century Virginia is fairly limited. Fortunately, Virginia's Eastern Shore, the counties of Accomack and Northampton, retains the oldest continuous county court records in the United States.[11] While Accomack-Northampton Counties represent a considerably isolated community, many studies have focused upon this setting, likely owing to the accessibility of such documentation.[12] Notably, T.H. Breen and Stephen Innes authored a 1980 book titled *"Myne Own Ground"*, within which they give voices to the free and land-holding blacks of seventeenth-century Accomack and Northampton Counties. In 1990, James R. Perry contributed to the region's history with *The Formation of a Society on Virginia's Eastern Shore, 1615-1655*, a history which centers around the question of what held the local colonial Virginia society together. The introduction to the 1632 records

[10] Library of Virginia, "Burned Record Counties (VA-NOTES)." http://www.lva.virginia.gov/public/guides/va22_burnedco.htm (accessed March 5th, 2012).

[11] In 1954, Susie M. Ames edited the records from the years 1632-1640 as a part of the American Legal Records collection, and later in 1973, she edited the records from 1640-1645.

[12] As Ames notes in her introduction, the counties represented in this work consisted of only 50 square miles in 1632, and 150 square miles by 1640. The corresponding population was somewhere around 396 in 1634 and 1000 by 1650. Susie M. Ames, *The County Court Records of Accomack-Northampton Counties 1632-1640* (Washington, D.C.: The American Historical Association, 1954), xvii. (cited in text as CCR I)

states, "To a great extent, early Virginia is epitomized in Accomack-Northampton."[13] As this statement suggests, although the Eastern Shore was secluded, the formation of societies in these counties mimicked the development of society elsewhere in Virginia and can thus be used as a reliable measure of Virginian norms.[14]

There are, of course, certain disadvantages to working primarily with documentation from a thirteen-year period in a setting divided from the rest of Virginia by the Chesapeake Bay. The monthly court records can only provide so much information about society, and it is difficult to draw distinct conclusions. At times, I reinforce my analyses and conclusions with evidence from other counties or similar time periods. There is a wonderful compilation of court records from the general court of Virginia that was edited by H.R. McIlwaine in 1924, *The Minutes of the Council and General Court of Colonial Virginia 1622-1632, 1670-1676.*[15] While the *Minutes* primarily refer to courts held at James City, these documents are very similar to those from Accomack-Northampton counties with regards to gender and thus only serve to strengthen analysis of gender on the Lower Eastern Shore.[16]

In addition to these court records, a large collection of laws exists from seventeenth-century Virginia. In 1823, William Waller Hening published *The Statutes at Large Being A Collection Of All Of the Laws of Virginia From the First Session of the Legislature in the Year 1619.* The front of this collection includes a particularly relevant excerpt from Joseph Priestley's Lecture on History Vol. 1 pg. 149: "The Laws of a country are necessarily connected with every

[13] Ames, ed., CCR I, xviii.
[14] T.H. Breen and Stephen Innes, *"Myne Owne Ground": Race and Freedom on Virginia's Eastern Shore, 1640-1676* (New York and Oxford: Oxford University Press, 1980); James R. Perry, *The Formation of a Society on Virginia's Eastern Shore, 1615-1655* (Chapel Hill and London: the University of North Carolina Press, 1990).
[15] Mr. Conway Robinson, one of the founders of the Virginia Historical Society, edited these records during the mid-nineteenth century, but they were never published.
[16] H.R. McIlwaine, ed., *Minutes of the Council and General Court of Colonial Virginia, 1622-1632,1670-1676*. (Richmond, Virginia: The Colonial Press, Everett Waddey Co.,1924).

thing belonging to the people of it; so that a thorough knowledge of *them*, and of their progress, would inform us of every thing that was most useful to be known about them; and one of the greatest imperfections of historians in general, is owing to their ignorance of law."[17] As these lines explain, laws can be extremely helpful in an examination of the social history of a given place. These laws, which are well documented and span the century, provide a helpful means of understanding what colonial legislatures deemed acceptable and unacceptable and how they suggested punishing offenders. These laws are particularly insightful when read in conjunction with court records, an exercise that emphasizes areas of consistency and inconsistency. This method of reading allows for an analysis of what colonial legislatures and colonial justices valued as important and which situations merited a departure from the law.

There are several limitations to working with somewhat incomplete colonial court records. To begin with, these records have suffered from aging; as Ames notes in the introduction, many of the pages are torn or faded and sections are illegible.[18] A second limitation imposed by these records is the relative lack of standardization concerning the legal process. The records are rather informal and both court procedure and sentencing were generally under the discretion of the commissioners. Also, because many of the records are incomplete, many cases are left without verdicts. Those that did have verdicts varied with regards to sentencing. Thus, the quality of these court records imposes limitations on this study and adds layers of difficulty to drawing definite conclusions concerning the lives of colonists.

As my methods suggest, this thesis relies significantly on legal history as a means of interpreting social history. In her article, "Turning Points and the Relevance of Colonial Legal

[17]William Waller Hening, *The Statutes at Large Being a Collection of all of the Laws of Virginia from the First Session of the Legislature in the year 1619* (New York: Bartow, 1823), title page.
[18] Ames, ed., CCR I, lxvii.

History," Cornelia Hughes Dayton addresses the existing scholarship on colonial legal history as well as the areas in which growth is needed. Dayton illuminates three trends developing within scholarship of this field, all of which are relevant to the purposes of this thesis. The three trends described are a variation of legal culture by region, an assessment of the role of minorities (women, Indians and blacks) as treated by law, and a greater attention to legal change prior to 1776.[19] Pertaining to the second trend, which forms the basis for my thesis, Dayton explains that one of the challenges that must be addressed by legal historians is the tendency towards separating the study of inheritance and property rights and the study of gender in civil and criminal law rather than acknowledging the interrelated nature of these two studies.[20] This thesis aims to combine the two rather than separate them, because as the court records of Accomack and Northampton Counties demonstrate, property and inheritance are intimately tied to litigation, especially as they pertain to gender.

As Dayton explains, legal histories of the colonial world are somewhat limited. It has only been within the past twenty years that historians have begun to address law in the colonial Chesapeake, as witnessed by the recent work of Kathleen Brown (*Good Wives, Nasty Wenches & Anxious Patriarchs*, 1996), Mary Beth Norton (*Founding Mothers and Fathers*, 1996), Linda Sturtz (*Within Her Power*, 2002) and Terri Snyder (*Brabbling Women*, 2003).

As I previously mentioned, Brown's history deals with the intersection of gender and race in colonial Virginia. Brown relies on somewhat diverse sources, but legal materials certainly provide critical contributions to her analysis. Mary Beth Norton's book of the same year, *Founding Mothers and Fathers*, offers a comparative glance at the New England and

[19] Cornelia Hughes Dayton, "Turning Points and the Relevance of Colonial Legal History," *The William and Mary Quarterly*, 50, no.1 (1993): 7-9.
[20] Ibid., 17.

Chesapeake colonies, evaluating gendered power in the family, the community and the state. Norton makes extensive use of court records, basing her analysis on the stories that these records tell. Norton frames her book on the notion that the New England colonies developed as a Filmerian society whereas the Chesapeake colonies were proto-Lockean, a division that highlights the differences between gendered power in New England and the Chesapeake.[21] Norton draws many excellent conclusions from her research, and many of her ideas shape the way I conceive of power relationships, particularly within the family.[22]

Sturtz writes about property law in colonial Virginia, focusing on the complex relationship between men, women and property and the circumstances that allowed women increased opportunities as well as increased hardships. While Sturtz's work is very valuable for any study of gender in colonial Virginia, her book spans two centuries, drawing on sources from the eighteenth century more than the seventeenth. Her work on widowhood and inheritance during the seventeenth century is relevant and insightful, yet her conclusions on women's economic opportunities are almost exclusively based on the eighteenth century or the late seventeenth century. Snyder's book, *Brabbling Wives* has similar limitations. In *Brabbling Wives,* Snyder examines slander and disorderly speech in the early colony. However, like Sturtz, Snyder's work represents an extended time frame, once again relying heavily on the latter part of the seventeenth century and the beginning of the eighteenth.[23]

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[21] Norton explains that the Filmerian system advocated a dichotomous theory of power, in which family authority was separate from public authority. In contrast, a Lockean society provided a schema in which men's interactions occur in the public sphere, outside of the household and women's roles were located within the family. Mary Beth Norton, *Founding Mothers and Fathers*: *Gendered Power and The Forming of American Society* (New York: Alfred A. Knopf, Inc., 1996), 11.

[22] Norton, *Founding Mothers and Fathers*.

[23] Linda L. Sturtz, *Within Her Power: Propertied Women in Colonial Virginia* (New York and London: Routledge, 2002); Terri L. Snyder, *Brabbling Women: Disorderly Speech and the Law in Early Virginia* (Ithaca and London: Cornell University Press, 2003).

Until the past thirty years, scholarship on gender in the colonial Chesapeake has been extremely limited. In 1938, Julia Cherry Spruill completed extensive research on the women of the southern colonies and published her pioneering book, *Women's Life and Work In the Southern Colonies*. Her research began with the aim to find anything and everything about women's lives and status in the colonial South. For these reasons, this study is extremely widespread, focusing on five different colonies over two centuries and an incredible amount of primary sources. As an early source of information on colonial women, this history is extremely comprehensive; however, Spruill's work is largely descriptive, and leaves much room for analysis from the historical community.[24]

It was not until 1977 that historians followed up on Spruill's work with any attempt at analyzing the colonial southern world. In 1977, Lois Green Carr and Lorena S. Walsh published "The Planter's Wife: The Experience of White Women in Seventeenth-Century Maryland." In their article, Carr and Walsh endeavor to answer some of the mystifying questions about the female experience in early Maryland, notably analyzing the degree to which women transcended traditional gender norm. Carr and Walsh argue that women in colonial Maryland experienced a greater amount of power in the Chesapeake than those in New England and England. This opinion speaks to the exceptional demographic circumstances in Maryland and the degree to which these circumstances impacted the lives of Maryland women. While Maryland certainly differed from Virginia, much of their argument can be applied to circumstances in Virginia, and thus presents validation for the exceptionality of the Chesapeake region.[25]

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[24] Julia Cherry Spruill, *Women's Life and Work In the Southern Colonies* (Chapel Hill: The University of North Carolina Press, 1938).
[25] Lois Green Carr and Lorena S. Walsh, "The Planter's Wife: The Experience of White Women in Seventeenth-Century Maryland," *The William and Mary Quarterly* 34, no 4 (1977).

In order to pursue this study, I have divided this thesis into four chapters. In the first section, I provide a brief overview of gender in early modern England and the laws and norms that regulated gender as well as the ways in which English men and women defied these norms. This section relies heavily on secondary scholarship, particularly works about gender in early modern England. Crossing the Atlantic, the second chapter investigates the early Virginia colony and the diverse demographic, political and economic circumstances that shaped Virginia's unusual beginnings. This chapter will provide a background for understanding the exceptional environment in seventeenth-century Virginia. In the third chapter, I examine gender norms in Virginia and the ways that gender-specified roles developed, particularly with regards to the system of indentured servitude and the constant restructuring of families. Looking to colonial laws as well as court records, I reconstruct the lives of women during this period, emphasizing the opportunities that the New World afforded them. Finally, the fourth chapter looks at the deviations from the norms, or the times when colonists appeared in court for opposing traditionally accepted notions of position and status. Within these four chapters, I aim to chart the changes and developments in gender relations and the ways that the New World setting impacted the lives of women for better and for worse.

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A Note on Dates and Spelling

For the purpose of this study, I have kept the old-style dates from the Julian calendar, rather than the Gregorian calendar that was implemented in 1752. Additionally, in instances where I have quoted from primary sources, I have stayed loyal to the original spellings.

Chapter One: Gender in Early Modern England

"England is the paradise of women, the purgatory of men, and the hell of horses."[26] The origins of this common English proverb are uncertain, and its claims are likely false, but its words remain pertinent in their reflection of the importance of gender during the sixteenth and seventeenth centuries. Contemporary English writings frequently raised questions about gender, and a number of pamphlets, ballads, books, and plays articulated concerns over men and women's essential nature, their respective qualities, and their roles within the social order. Writers often disagreed over interpretations of sexual differences and their uncertainty in explaining women's bodies incited further debate concerning women's nature.[27] Classifying women's bodies as inferior allowed men to label women as "the weaker vessel," a designation that helped to justify a system of female subordination. Social order in early modern England relied on the perpetuation of a patriarchal system where women maintained their intended place in the social hierarchy as inferior to their husbands and fathers.

Patriarchy was a central organizing principle around which English society operated. In cases where women failed to conform to social norms, their actions were perceived as a threat to community stability. In Shakespearean plays like *The Taming of the Shrew* (1592) and stories such as Samuel Rowlands' *Tis Merrie When Gossips Meet* (1602), popular literature echoed male fears of the threat women posed in their potential to upend the patriarchal hierarchy. Laws and customs, particularly property law, also reflected a commitment to patriarchy and an attempt to punish those women who defied gender norms. Thus, women's lives in early modern England

[26] Robert Andrews, *Famous Lines: The Columbia Dictionary of Familiar Quotations* (New York: Columbia University Press, 1997), 145.
[27] Brown, *Good Wives,* 13.

were largely shaped by the discourse of female subordination. However, subordination was not an absolute reality, and some women found means of transcending these traditional boundaries of gender separation. The proverb referenced earlier speaks to the public's opinion that women in England were particularly fortunate, in spite of the many limitations placed upon them. To what extent this was a reality remains unclear, yet it is evident that gender relations were complex and patriarchal ideals were not the sole measure of a woman's life experience.

This chapter aims to explore women's lives in England and the ways that their experiences were shaped by patriarchy as well as by defiance of it. Although the historical records of ordinary English women's lives are somewhat limited due to the relative lack of female writers, the court records are full of women's stories. The written works of the period are another source of insight into women's lives as they often contained a discourse on gender. It is worth noting, however, that the voices within these works were primarily male. Over the past few decades, historians have worked to reconstruct the female experience in early modern Europe and to better understand the complex gender relations that characterized the period. Drawing on these sources, as well as many contemporary works, I aim to illustrate the complexity of gender relations in England as a means of understanding how colonists might have regarded gender before coming to the New World. In order to best evaluate gender relations among English colonists in seventeenth-century Virginia, it is important to first look to the society from which they hailed and the impact of social, economic and political institutions in England. The period from the mid-sixteenth through the late seventeenth century was one in which social relations were in flux. The English society from which colonists ventured was not simply a static backdrop; fluidity, adaptation and contestation were already part of the English

experience. An analysis of this era provides keen insight into the complexity of these changing ideals in England.

The Origins of Patriarchal Attitudes

As Gerda Lerner contends in *The Creation of Patriarchy*, patriarchy is a historical system with distinct origins in the past. This belief invites the question, what are the origins of patriarchy? Lerner outlines two trends that characterize scholarly explanations for the origins of patriarchy. The first, or what Lerner terms "the traditionalist answer" relies on the belief that male dominance is universal and has natural origins. This theory relies on notions of sexual difference and the idea that inequality is derived from physical differences between men and women. Some traditionalists argue this by asserting that women's bodies are created for reproduction. Others cite men's physical strength, arguing that men were required to take on responsibility as providers.[28] However, feminist anthropologists have proven many of these suppositions false by citing cultures that defy these models. Their "maternalist theory" offers an alternative explanation for the origins of patriarchy and accepts sexual difference as the basis for equality or even female superiority. Not all maternalist theorists interest themselves with the origins of patriarchy, but those that do believe that there was a system of social organization that existed prior to patriarchy. Many believe that this system was a matriarchy, a conviction that is supported by many religious genesis stories, like those that begin with Mother-Goddesses.[29]

In her own attempts at explaining the origins of a patriarchal system, Lerner begins with a historical analysis of male and female existence from the time that hominids evolved from primates. She charts the evolution of patriarchy, explaining that societies were not always

[28] Gerda Lerner, *The Creation of Patriarchy* (New York: Oxford University Press, 1986), 16-17.
[29] Ibid., 28.

patriarchal, and that men and women were both producers in the earliest societies. Lerner applies the argument of anthropologist Claude Levi-Strauss, who believes that the turning point for female subordination was the beginnings of a system of exchange of women. The exchange of women influenced the notion of women as commodities or resources, which determined their subordination.[30] Lerner attempts to answer the question of how the exchange of women developed as a practice. While she concedes that there are many hypotheses that might explain this change, Lerner's basic contention is that modes of subsistence changed (for example, agricultural enterprises expanded) and required a greater source of labor, so women became an exchangeable resource because of their capacity to reproduce. Therefore, the exchange of women marks the origins of a system in which females were themselves property. One of Lerner's substantial conclusions is that patriarchy preceded class organization, and thus, class organization has always been constructed in part by gender. She points out that class hierarchies are and always have been determined by who controls the means of production.[31] As Lerner's research shows, a patriarchal system was engrained within English society long before the early modern period and was intimately tied to economic production and the division of labor.

For early modern Europeans, an understanding of patriarchy would likely begin with the Book of Genesis in the Bible. In this explanation of creation, Judeo-Christian tradition defines the respective positions of men and women in society. However, the Book of Genesis actually begins with a story of God creating men and women simultaneously: "So, God created man in his own image, in the image of God he created him; male and female he created them."[32] In the next part of Genesis, the story is presented differently. In this version of events, God has already

[30] Lerner, *Creation of Patriarchy*, 46-47.
[31] Lerner, *Creation of Patriarchy*, 213.
[32] Genesis, 1:26.

created Adam, and God fashions Eve in an attempt to provide Adam with a partner. The story reads, "So the Lord God caused a deep sleep to fall upon the man, and while he slept took one of his ribs and closed up its place with flesh; and the rib which the Lord God had taken from the man he made into a woman and brought her to the man."[33] This telling of the story emphasizes the fact that women are taken from men, a detail that is used to justify women's inferiority.

The subsequent account of the Fall of Eve was traditionally understood as a divine sanction of male superiority. In the story, the serpent tempts Eve into eating the apple against God's counsel, and she is forever cursed for this original sin. As punishment for this sin, the Lord God rebukes Eve: "I will make your pains in childbearing very severe; with painful labor you will give birth to children. Your desire will be for your husband, and he will rule over you."[34] In contrast, God tells Adam, "cursed is the ground because of you; in toil you shall eat of it all the days of your life; thorns and thistles it shall bring forth to you; and you shall eat the plants of the field. In the sweat of your face you shall eat bread till you return to the ground, for out of it you were taken; you are dust, and to dust you shall return."[35] In these two very different punishments, God sets up the division of labor between men and women, defining women as reproductive and men as tillers of the land. Thus, Genesis sets up the dichotomy between men's work and women's work and places men with the responsibility of controlling production. Additionally, when God reprimands Eve, he explicitly defines her position as subordinate to the rule of her husband. In these fateful lines, the book of Genesis laid the foundation for patriarchy in authorizing male rule over women. Eve's original sin was symbolic of women's weakness and inferiority; this is fitting with the common belief that women were unable to control their

[33] Ibid., 3:21-22.
[34] Ibid., 3:16.
[35] Ibid., 3:17-19.

corporeal instincts because they could only think with their bodies rather than with rational minds.

As the second Genesis story outlines, men and women were defined as separate and distinct beings. In this story, Eve's body was fashioned from Adam's rib, which suggests similarities in structure, but as the story explains, Eve held the unique capacity for reproduction. Sexual differences between men and women provided a justification for patriarchy and the inequality of this system. However, early modern Europeans struggled with the concept of sexual difference as their understanding of men and women's bodies changed over time. While most Europeans regarded men and women as fundamentally dissimilar, political, intellectual and medical explanations of sexual differences varied as they evolved throughout the early modern period. Medical descriptions of male and female bodies and anatomical differences were fairly uniform prior to the sixteenth century, at which point different theories arose and doctors and writers came to better understand sexual anatomy. Until the sixteenth century, most people supported a "one-sex" model of bodies. This was a theory proposed by Galen of Pergamon that explained man and woman to be of the same structure, yet women retained male structures within their bodies due to a lack of sufficient heat. This model held that female ovaries were testicles, the cervix and vagina was a penis, and the uterus was a scrotum.[36] While this theory was the dominant method of explaining sexual difference for many centuries, new medical knowledge led to alternate models of sexual differences in the sixteenth century. Gabriele Falloppio discovered the clitoris in 1561, which challenged Galen's earlier notion of a female inverted penis. This discovery led to an understanding of women and men as sexually

[36] Anthony Fletcher, *Gender, Sex and Subordination in England 1500-1800* (New Haven and London: Yale University Press, 1995), 34.

dissimilar.[37] In developing this train of thought, doctors came to seeing men and women as having individualized sexual functions, which were both necessary for reproduction.[38] This idea became fairly mainstream and was supported in large part, yet it failed to answer the question, "are women an imperfect sex?" Debate over women's inherent qualities and perfection continued well into the seventeenth century as men tried to justify female exclusion by explaining women's inferior nature.

Throughout the early modern period, women were commonly referred to as "the weaker vessel." This phrase was adapted from William Tyndale's 1526 translation of the New Testament and was subsequently found in many literary works, including Shakespearean plays such as *Love's Labours Lost*.[39] In some ways, women's sexuality contributed to their perceived weakness. Many writers defined a woman's weakness as a consequence of menstruation.[40] They cited a woman's physical body and her sexuality for her inferior nature. "The weaker vessel" ideology relied upon the earlier interpretations of women as the opposite of men and of having specific qualities in opposition. For example, based on the humoral theory, women were understood to be cold and moist as opposed to men who were hot and dry.[41] Women were also considered to be passive, and this passivity was interpreted as further justification for female inferiority.[42] Men invoked a similar rationale in condemning the evil or immoral nature of women. They often referenced Eve and the fall as well as women's physical bodies as evidence

[37] Fletcher, *Gender*, 36.
[38] Ian Maclean, *The Renaissance Notion of Woman* (Cambridge: Cambridge University Press, 1980), 33.
[39] Fletcher, *Gender*, 44.
[40] Patricia Crawford and Sara Mendelson, *Women in Early Modern England 1550-1720* (Oxford: Clarendon Press, 1998), 62.
[41] Maclean, *Renaissance Notion of Woman*, 30, 42, 61, as cited in Crawford and Mendelson, *Women in Early Modern England 1550-1720*, 19.
[42] Fletcher, *Gender*, 61-62, 67.

of women's wickedness. In this way, women's physical inferiority, defined in both religious and medical terms, provided crucial justification for patriarchy.[43]

Patriarchal Attitudes and English Institutions

Why were men so insistent on defining women as weak and inferior? It is important to note that patriarchy was not solely a misogynistic scheme; from the male point of view, patriarchy was a means of consolidating and maintaining power. As Keith Wrightson argues in *English Society 1580-1680*, Englishmen were exceedingly concerned with social order and hierarchy, and patriarchy provided just that. In early modern England, power and status were determined by wealth, and the primary indicator of wealth was property ownership. In fact, there were laws in England that only allowed property owners to participate in parliamentary elections. Thus, property actually conferred political power. [44] The system of patriarchy established an ordered hierarchy through which men were the primary beneficiaries of property. Patriarchy was important to men because it protected both their property and their power.

Englishmen believed in the Aristotelian notion of the great chain of being starting at God and descending all the way down to foundational elements. As Wrightson argues, this chain of being represented the "scheme of values" that shaped how English people thought society should function.[45] A man ruled over his wife, his children and his servants as master of the household. Aristotle compared the father's power over his household to a king's rule over a state. He claimed, "The authority of the statesman is exercised over men who are naturally free; that of the master over men who are [naturally] slaves; and again the authority generally exercised over a

[43] Fletcher, *Gender*, 76-77.
[44] Keith Wrightson, *English Society 1580-1680* (New Brunswick, New Jersey: Rutgers University Press,1982), 31.
[45] Ibid., 18-19.

household by its head is that of a monarch for all households are monarchically governed."[46] In comparing fathers to monarchs, patriarchal theory justified the supreme rule of fathers, as ordained by God. Families were authoritarian and the male patriarch was given complete power over his subordinates.[47]

As Wrightson and many other historians point out, patriarchy represented a "scheme of values," or an ideal, rather than reflecting the reality of everyday life. Patriarchal attitudes certainly shaped the way people thought about power and authority, but the reality often diverged from the strict system of patriarchal rule. As Bernard Capp argued, "England in this period was 'patriarchal' in the loose sense that its political, social, economic, religious, and cultural life was dominated by men. […] There was no patriarchal *system*, rather an interlocking set of beliefs, assumptions, traditions, and practices and the largely informal character of patriarchy enabled each generation to adapt it to changing circumstances."[48] Thus, patriarchy heavily influenced men's and women's lives, yet was not a rigid system of absolute male superiority.

Patriarchal attitudes were commonly represented in popular literature and rhetoric during the early modern period. Shakespeare's *The Taming of the Shrew* provides a salient example of the patriarchal norms that pervaded social relationships. The main character, Kate, a powerful and assertive woman, known to others as a dangerous shrew, is tamed and eventually submits to patriarchal authority. Her final words read: "Thy husband is thy lord, thy life, thy keeper / Thy

[46]Aristole, *The Politics*, I, I, 2, ed. and trans. Sir Ernest Barker (Oxford, 1948), p. 1. Brackets in Barker's text. as cited in Gordon J. Schochet, *Patriarchalism in Political Thought* (New York: Basic Books, Inc., Publishers, 1975), 22.
[47] Schochet, *Patriarchalism*, 65.
[48] Bernard Capp, *When Gossips Meet*: *Women, Family and Neighbourhood in Early Modern England* (Oxford, Oxford University Press, 2003), 1.

head, thy sovereign."[49] Such attitudes found in plays, ballads and stories were reminiscent of God's assertion in Genesis of the husband's right to rule over his wife, an affirmation of patriarchal authority.

When women deviated from their traditional roles, they challenged patriarchy and thus challenged their husbands' authority. Men were particularly fearful of women's abilities to undermine their power and threaten social order. To ensure that women maintained their proper place in society, men established guidelines that defined orderly and disorderly womanhood. Women were defined with regards to their relationships with men: as daughters, wives, mothers, and widows.[50] Women who fulfilled the proper roles were called goodwives, or orderly women. Contemporary literature often provided guidelines for how a woman might act within such roles. For example, Gervase Markham published *The English Housewife* (1615), which endorsed the image of goodwife and offered advice for how women should live their lives. In his book, Markham describes the ideal English housewife as a woman possessing: "chaste thought, stout courage, patient, untired, watchful, diligent, witty, pleasant…"[51] He also discusses a woman's role in the domestic sphere as "the mother and mistress of the family and hath her most general employments within the house."[52] Thus, patriarchy defined women's roles as belonging to the domestic and private sphere rather than the public.

In early modern England, proper women fell into three categories that mimicked the trajectory of a woman's life: servants, wives and widows. In fact, as Amy Louise Erickson explains, the divisions between women as maids, wives and widows were actually legally

[49] D. E Underdown, "The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England" in *Order and Disorder in Early Modern England*, ed. Anthony Fletcher and John Stevenson (Cambridge: Cambridge University Press, 1985), 117.
[50] Crawford and Mendelson, *Women in Early Modern England 1550-1720*, 33.
[51] Gervase Markham, *The English Housewife* (Kingston: McGill-Queen's University Press, 1986), 8.
[52] Ibid., 5.

defining in English society, which meant that each of these groups of women maintained different legal statuses and corresponding rights and regulations.[53] While this model is not inclusive, omitting spinsters, it still serves as a general guideline of the three roles that women typically occupied.[54] Within each of these distinctive roles, women were allowed different rights and opportunities, although all were affected by patriarchy. While masters and husbands directly ruled over servants and wives, widows were in a unique position outside of the social hierarchy. Patriarchy continued to shape these widows' lives, though, as they were often regarded negatively and their reputations were slighted due to their atypical position outside of the traditional hierarchy. Thus, women's lives and identities were largely fashioned in relation to the men with whom they interacted.

Maids

In English society, virgin women were generally called maids.[55] However, this term can be misleading because not all maids worked as maidservants. The term was used rather loosely, often to describe unmarried women regardless of their age or sexual status. Many of these unmarried women served as maidservants at the houses of neighbors or friends, during which they earned petty wages. Servant labor was not restricted to wealthy families; many middling and even some poor families hired one or two servants to help with household duties. Servitude provided a useful employment to fill the years between childhood and marriage. It also provided women with skill sets that they would later need in marriage. Emphasis was placed on teaching young maids housewifery, while young men were taught husbandry. In *The English Housewife*,

[53] Amy Louise Erickson, *Women and Property in Early Modern England* (London and New York: Routledge, 1993), 4.
[54] Crawford and Mendelson, *Women in Early Modern England*, 76.
[55] Erickson, *Women and Property in Early Modern England*, 47.

Gervase Markham presented the skill sets required of housewives: "As her skill in physick, chirurgery, cookery, extration of oyls, banqueting stuff … ordering of wool, hemp, flax; making cloath and dying; the knowledge of dairies: office of malting; of oats, their excellent uses in families: of brewing, baking, and all other things belonging to an household."[56] Maids also worked in agriculture and dairying, while others worked at more domestic pursuits such as textiles.[57] Stereotypes existed concerning gender-specified labor, but these distinctions were not always maintained in practice, and women servants sometimes transgressed traditional gender boundaries. At times, maidservants might perform masculine jobs such as helping with the harvest.[58] In addition to learning valuable skills, servitude proffered women the opportunity to make small wages, which would become a part of a woman's marriage portion.[59]

One of the greatest problems for maidservants was the sexual abuse that many suffered by their masters, members of the master's family, or male servants. Female servants were placed in a vulnerable position, unmarried and without the protection of their own families. Men took advantage of these circumstances and accusations of sexual abuse were frequent. As William Gouge warned in his treatise, *On Domesticall Duties*, "'the maid so defiled is oft disabled to doe her service well; nay many times the charge of the childe lieth upon the master. Thus the shame and dishonour, griefe and vexation, losse and damage all meet together, the more to gall & pierce him to the very heart.'"[60] Gouge illuminates some of the problems associated with servant rape; pregnancies complicated work arrangements and damaged the reputation of masters. Despite these deterrents, maidservants continued to suffer from sexual abuse during their service. This

[56] Title page of the 9th edn (1683) quoted in Erickson, *Women and Property in Early Modern England*, 54.
[57] Crawford and Mendelson, *Women in Early Modern England*, 92-94.
[58] Ibid., 101.
[59] Erickson, *Women and Property in Early Modern England*, 85.
[60] W. Gouge, *Of Domesticall Duties* (1622), 630, quoted in Crawford and Mendelson, *Women in Early Modern England*, 107.

was just one of many dangers faced by unmarried women; in a society where marriage was expected, women without husbands were left vulnerable and unprotected.

Young women were not the only populations to work as servants; in fact, the 1563 Statute of Artificers required that unmarried women aged 12-40 work "for such wages and in such reasonable sort and manner as they shall think meet."[61] This statute was a male endeavor to keep women under the rule of men; in cases where they remained single, women were required to become servants under a master's rule. This legal maneuver was a means by which men hoped to combat the relative independence of unmarried women, particularly those who were older and were no longer controlled by their fathers.

Unmarried women held a different legal status than married women and were thus afforded different protections and rights. Marriage was the norm, and as *The Lawes Resolution of Women's Rights* stated, women "are understood either married or to bee married and their desire [are] subject unto their husbands. [sic]"[62] Under the legal doctrine of couverture, a woman's status, as connected to a man, was enshrined in the law. Essentially, this meant that women did not have a legal identity outside of their fathers or husbands. A woman was legally covered by her husband; she lost her power to contract, to sue, or to be sued.[63] In some respects, this legal dependence was not unequivocal; women were generally held accountable for their own crimes, and they could, under some circumstances, bring their complaints to the court.[64] However, with regards to property, women forfeited their possessions to their husband upon marriage. Property was the key to power in early modern England, and unmarried women retained rights to hold property while married women did not. Unmarried women were labeled

[61] 'Statute of Artificers' (1563), quoted in Crawford and Mendelson, *Women in Early Modern England*, 96.
[62] *Lawes Resolution*, p.6, quoted in Erickson, *Women and Property in Early Modern England*, 47.
[63] Erickson, *Women and Property*, 24.
[64] Capp, *When Gossips Meet*, 29-30.

feme sole, which gave them relative legal independence, including the ability to own property. However, women rarely exercised these rights because they spent the majority of their life under the protection of fathers or husbands; widows, who became feme sole upon their husbands' deaths, were truly the only women to own property and express legal independence.

Property law was actually quite complex in England. While most historians focus on common law, there were four other bodies of law that regulated property ownership: equity law, ecclesiastical law, manorial (or borough) law, and parliamentary statutes.[65] Nonetheless, common law doctrines such as couverture and primogeniture largely shaped the regulations on real property. Primogeniture was the legal system that governed most inheritances. In most cases, primogeniture meant that land was passed down to the oldest son. However, men could also establish a partible estate through which all the sons shared the inheritance. In cases where a married couple bore no sons, inheritance was to be divided equally among the daughters.[66] Thus, outside of marriage, women retained the potential to inherit land, but only under unique circumstances.

In theory, unmarried women held positions of relative power in their ability to act as legal independents; however, theory rarely mimicked the reality of a world where women's rights were often restricted by custom.[67] Only in rare circumstances could women participate in politics, and they were not really allowed a civic identity. As Sara Mendelson and Patricia Crawford explain, women were excluded from civic engagement for three reasons, two of which applied to unmarried women as well as married: feminine defect, legal dependency, and sexual

[65] Erickson, *Women and Property in Early Modern England*, 5.
[66] Ibid., 26-27.
[67] Crawford and Mendelson, *Women in Early Modern England*, 37.

dishonor.[68] Despite their feme sole status, unmarried women were still regarded as inferior citizens by the laws and practices of early modern England.

Wives

Wifehood was expected to occupy the greater portion of a woman's life. Marriage was the expected norm by which society operated, and spinsters and widows were regarded as antithetical to this conception of society as a community of families. Through marriage, women enjoyed greater security and enhanced opportunities. However, once a woman married, she forfeited her independent legal identity and became her husband's responsibility. A wife's relationship to property consisted of her reproductive role in providing male heirs so that property could be transmitted down the family line.[69] Through marriage, women also lost legal rights over their own bodies. Laws allowed men to administer "lawful and reasonable correction" if their wives misbehaved.[70] As Sara Mendelson and Patricia Crawford observe, a wife was in a comparable legal position to children, wards, lunatics, idiots and outlaws.[71]

Despite the loss of legal independence that most women suffered through marriage, English women still strove to find suitable marriage partners. Marriage was a recognized rite in a woman's life, and family was the basic unit of society, so most women hoped to become wives. As Keith Wrightson argues, there were four ends to marriage: procreation, perpetuation of the church, restraint for sexual desire and mutual support.[72] Regulations were fairly informal when it came to solemnizing the union. A couple was not required to marry in church, although many did. There was an official process through which couples would announce banns or procure a

[68] Crawford and Mendelson, *Women in Early Modern England* , 54.
[69] Ibid., 40.
[70] Ibid., 37-38.
[71] Ibid., 37.
[72] Wrightson, *English Society*, 67.

marriage license prior to marrying within the church, but this system was not strictly upheld. Another option by which a couple might choose to marry was to verbally promise to marry in the present tense in front of witnesses. Similarly, a couple could make a promise to marry in the future tense and then consummate the sacrament with a sexual union. Both of these promises to marry were legally binding for couples who chose not to marry in an ecclesiastic setting.[73]

In authorizing their role in the public sphere, male patriarchs consigned women to the household domain. As Patrick Hannay illustrates in his preface to *The Happy Husband*, men desired that women remain strictly within the house: "To keep him good, his wife must be / Obedient, mild, her huswifery / Within doors she must tend; her charge / Is that at home; his that at large;"[74] Goodwives were those who completed their domestic duties and did not stray from the private sphere. However, as Bernard Capp argues, this ideal model did not represent the realities of women's work. Household economies often required that both men and women work in paying jobs. Thus, women often contributed by earning income to support their households; these women either aided their husbands or engaged in their own employments.[75] These women left their homes and gained relative independence as providers; their autonomy demonstrates the complexity and flexibility of the patriarchal system in early modern England.

Marriage represented a nearly unbreakable bond for English men and women prior to the nineteenth century. Divorce did not exist by law until 1857. Despite this limitation, men and women often found recourse to "end" their marriages prior to this date. One means by which a man or woman could separate from their spouse was desertion. In one case of this, in 1592, a man named Thomas Grimsford was called to court because he did not live with his wife. He

[73] Wrightson, *English Society* , 67.
[74] Hannah, *The Happy Husband*, p. 679 quoted in Margaret J. M. Ezell, *The Patriarch's Wife*: *Literary Evidence and the History of the Family* (Chapel Hill and London: The Univeristy of North Carolina Press, 1987), 37.
[75] Capp, *When Gossips Meet*, 28.

appeared in court and pleaded that "his wife hath plaied the naughtie packe and dyd roune awaie with another man and is banished out of Newton and that shee hath putt hym in feare of his liefe." He was thereby ordered "to live with his wife or to show just cause why he should not in future treat her as wife."[76] Evidently, in certain cases, men and women were given the opportunity to plead their cases for separation. In these circumstances, a man or woman might be responsible for the financial care of their spouse upon separation.[77] Thus, even a legal separation was not impossible, and in many situations, men and women managed to live their lives apart for several years. Society limited the frequency of these separations, however, due to the great importance placed upon the institution of marriage. Marital separations disrupted social structure and conflicted with the patriarchal ordering of society. Separations also made it difficult for women to function independently of men, as they possessed restricted rights outside of marriage (particularly when they remained legally married and under the rule of *couverture*).

Widows

In a society where marriage bonds were strong, widowhood was one of the only circumstances through which women were allowed a degree of independence. Widows once again assumed the status of feme sole and were thus granted a greater degree of autonomy and power, particularly in their ability to inherit land. Widows' potential position as land-holding women stood against the central function of patriarchy, to keep property and power in the hands of men. Widows were also permitted to run their own households without a male influence. For these reasons, men deemed widows a considerable threat to the patriarchal system. However, not all widows were empowered and wealthy; quite to the contrary, many widows struggled

[76] Paul Hair., ed. *Before the Bawdy Court* (U.S.A.: Harper and Row Publishers, 1972), 40.
[77] Tim Stretton, "Marriage, separation and the common law in England, 1540-1660" in *The Family in Early Modern England* ed., Helen Berry and Elizabeth Foyer, (Cambridge; Cambridge University Press, 2007), 26-27.

financially and were regarded negatively within their communities. *The Lawes Resolutions of Women's Rights* demonstrate the difficulties faced by widows: "But alas, when she hath lost her husband, her head Is cut off, her intellectual part is gone, the verie faculties of her soule are, I will not say, cleane taken away, but they are all benummed, dimmed and dazzled, so that she cannot thinke or remember when to take rest or refection for her weake body."[78] A widow's wellbeing was dependent on her inheritance from her first husband or her ability to remarry.

Male anxieties over widows manifested themselves in the way that they characterized them in books and plays. In popular literature, widows were portrayed in comedic ways, as overly sexual women anxiously searching for new husbands. Men did not show sympathy for these women or regret for their losses; rather, they attempted to ridicule the widow's situation.[79] In most of these stories, widows married with haste. For example, in *The Taming of the Shrew*, Hortensio claims, "I shall be married to a widow were three days pass."[80] With similar conviction, a popular proverb went: "a widow's sorrow for her husband is like a pain in the elbow – sharp and short."[81] These stereotypes depicted widows as anxious to remarry with little concern for the disrespect this cast upon their deceased spouse or to the society at large.

In reality, remarriage occurred much less frequently than it did in these stories and those who did remarry certainly did not do so without waiting a respectable amount of time. In fact, a widow was required to wait until her husband's estate had been inventoried, a process that

[78] *The Lawes Resolutions of Women's Rights* (1632: 232) quoted in Erickson, *Women and Property in Early Modern England*, 153.
[79] Barbara J. Todd, "The remarrying widow: a stereotype reconsidered," In *Women in English Society 1500-1800*, ed. Mary Prior (London and New York: Methuen, 1985), 54-55.
[80] Act IV, scene 2 quoted in Charles Carlton, "The Widow's Tale: Male Myths and Female Reality in 16th and 17th Century England," *Albion: A Quarterly Journal Concerned with British Studies* 10, no. 2 (1978), 120.
[81] Thomas Fuller, *Gnomologiea* (orig. 1732: 1816 ed.), No. 4231 quoted in Charles Carlton, "The Widow's Tale," 120.

usually took over a year to complete.[82] Other widows chose to remain single, enjoying the newly realized freedoms of widowhood. Therefore, the trend to fictionalize widows as sexually driven and anxious to remarry was merely a reflection of male anxieties over the power of widows.

Widows did gain considerable power in their ability to inherit land upon their husband's death. Primogeniture and couverture both severely limited women's abilities to own property while married. Under the system of primogeniture, women could only inherit property if they did not have brothers, in which case they would share the inheritance with their sisters.[83] However, as widows, women inherited at the very least one third of their husband's property, their "dower rights." In reality, women often inherited much more than this amount. In fact, men often appointed their wives as the executrices of their wills, a title which gave women control over their husbands' estates. Executrices were given great responsibility to manage and control their husbands' estates.[84] In light of their fears over powerful widows, men placed a surprising amount of trust in these women to manage their estates. One of the strongest motivations for this trend was that men hoped to pass property down to their children, and their wife was often responsible for protecting this exchange and allowing children to receive their just share. In their unique positions as landowners, widows arguably had more authority than any other women in early modern England. This power was particularly threatening to male patriarchs as women with property and households of their own were a direct threat to the patriarchal order.

[82] Charles Carlton, "The Widow's Tale," 120, 123.
[83] Erickson, *Women and Property in Early Modern England*, 3.
[84] Ibid., 161.

Disorderly Women

During the sixteenth and seventeenth centuries, England experienced dramatic economic, demographic and political transformation. There was significant population growth, inflation, land shortage, poverty and vagrancy, all factors that impacted the stability of England's institutions.[85] The unstable environment troubled English citizens who feared instability and valued order. D.E. Underdown argues that the patriarchal family was the linchpin of order in early modern English society. This period witnessed a "crisis of order" which was highlighted by the increased concern over women's behavior.[86] In popular literature, particularly ballads and plays, women were characterized as powerful and disobedient.[87] Disorderly women threatened the patriarchal authority of males and were thus regarded as detrimental to society and often found guilty in courts. In particular, whores, scolds, and witches were three categories of women that presented the greatest threat to men. As Mendelson and Crawford explain: "Each [whores, scolds and witches] built on specific fears: the scold, of the power of women's tongues; the whore, of unbridled sexuality; the witch, a mirror reversal of all that patriarchy deemed good in a

[85] D.E. Underdown, "The Taming of the Scold," 116. In *Order and Disorder in Early Modern England*, ed. Fletcher and Stevenson.

[86] D. E. Underdown uses this phrase in her article "The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England" to describe the obsession with order during the sixty years preceding the Civil War in early modern England. However, Martin Ingram challenges this phrase in his article, "'Scolding women cucked or washed': a crisis in gender relations in early modern England?" He suggests that scolding cases should not be viewed as a "crisis of gender" because men were commonly found guilty of scolding as well. However, he continues: "Scolding women did, however, represent a significant undercurrent of disorder, especially in towns." I conclude that this term, while perhaps not entirely accurate, can be a useful means of viewing early modern England's preoccupation with order and disorder, particularly that which pertained to women. Martin Ingram, "Scolding women cucked or washed": a crisis in gender relations in early modern England?" in *Women, Crime and the Courts in Early Modern England*, ed., Jenniefer Kermode and Garthine Walker, 71.

[87] Joy Wiltenburg, *Disorderly Women and Female Power in the Street Literature of Early Modern England and Germany* (Charlottesville and London: University Press of Virginia, 1992), 7.

woman."[88] These three caricatures of disorderly women represent the growing anxieties among the English regarding the vulnerability of patriarchal authority.

The Whore

Sexual transgressions were frequently tried in courts during the sixteenth and seventeenth centuries. These offenses were considered particularly troubling because they directly defied the patriarchal family. When men and women engaged in sexual relationships outside of marriage, they threatened to upset the hierarchy because they disrupted the sacred union of marriage and they raised the chance of an illegitimate pregnancy. Although both men and women were guilty of sexual offenses, women were more often regarded as the perpetrators. Men traditionally considered women to be dangerous and immoral because of their sexuality. In this vein, William Tyndale, author of *The Obedience of Christian Men* (1528) wrote "God, which created woman, knoweth that is in that weak vessel (as Peter calleth her) and hath therefore put her under the obedience of her husband to rule her lusts and wanton appetite."[89] As Tyndale's comment illustrates, men were particularly fearful of women's highly sexualized nature, reading female sexuality as a threat to patriarchal authority. This was particularly apparent in ballads and street literature, which often portrayed women as adulterous, predatory, and overtly sexual. For example, in the ballad *Cuckold's Haven, Or, The marry'd man's miserie* (1638), a man describes his wife's adulterous ways:

> My wife hath learn'd to kisse, / and thinkes 'tis not amisse: Shee oftentimes doth me deride, and tells me I am hornify'd. / What euer I doe say, shee will haue her owne way;

[88] Crawford and Mendelson, *Women in Early Modern England*, 69.
[89] W. Tyndale, *The Obedience of a Christian Man* (London, 1868, edn), p.1 quoted in Fletcher, *Gender*, 74.

> Shee scorneth to obey; Shee'll take time while she may; / And if I beate her backe and side, In spight I shall be hornify'd. [sic][90]

Ballads such as this one advanced the image of the powerful, adulterous wife and her powerless husband, an ironic reversal of the patriarchal hierarchy.

A woman's infidelity complicated matters beyond the mere fact that it represented an affront to her husband's authority. The social order, relationships of power, and the transmission of property relied on the concept of the patriarchal family. Infidelity threatened to complicate and defy this system. Specifically, when women gave birth to illegitimate children, they complicated economic and social relations by bringing children into a society that did not tolerate nonconformance to the traditional family structure. Additionally, and perhaps more importantly, bastard children interrupted a system where property was passed down from father to son. Illegitimacy interrupted property inheritance patterns and led to a variety of other economic and social problems while also reflecting poorly upon the public perceptions of a couple's honor. As Susan Dwyer Amussen describes, societies found illegitimate births particularly disconcerting because of the inability to place bastard children within the social structure. She explained: "Women who bore bastards posed an implicit challenge to social and familial order by creating a 'family' without a head: such families were not included in household manuals."[91] Women who engaged in sexual relationships outside of marriage threatened the social order, which relied on monogamous relationships between men and women.[92]

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[90] Wiltenburg, *Disorderly Women and Female Power,* 153.
[91] Susan Dwyer Amussen, *An Ordered Society: Gender and Class in Early Modern England* (New York: Basil Blackwell, 1988), 117.
[92] Fletcher, *Gender,* 83.

English society punished sexual crimes in a variety of ways. Sexual offenders were most commonly brought in front of church courts. In 1286, a statute ruled that charges for adultery and fornication were the responsibility of the "spiritual powers."[93] Ministers made presentments of adulterers in church courts, yet convictions were limited because infidelity was difficult to prove. This did not stop local communities of neighbors from taking matters into their own hands, as sexual offenses were often regulated by the admonition of friends and neighbors. This was based on the rationale that the adulterers disturbed community hierarchies and household order. Thus, neighbors and families often watched over one another, acting as regulators of sexual reputations.[94] The term "whore" was often used to criticize a woman's sexual dishonesty. A woman who strayed from her husband reflected badly on his authority as patriarch and left an indelible mark on her household's reputation.[95] Men were held equally accountable for their wives' behavior because they also had a responsibility to maintain the patriarchal order. Men with adulterous wives were labeled "cuckolds" and were mocked by their communities for their clear loss of power. At times, popular customs such as "rough music" and "cuckolding" were used to ridicule men as punishment for their spouse's crimes. During such ceremonies, townspeople would create rough music by beating pots and pans and mocking cuckolds with horns.[96] It was also common for writers to publish satires about cuckolds and adulterers.[97] These popular stories and plays echoed society's discontent with defiant women and their husbands' inability to control their actions.

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[93] 13 Edw. 1 (*Circumspecte agatis)* quoted in Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge: Cambridge University Press, 1987), 150.
[94] Amussen, *An Ordered Society*, 98.
[95] Laura Gowing, "Language, Power and the Law: women's slander litigation in early modern London", In *Women, Crime and the Courts in Early Modern England,* ed. Jennifer Kermode and Garthine Walker (Chapel Hill: The University of North Carolina Press, 1994), 29-30.
[96] D. E. Underdown, "The Taming of the Scold," In Fletcher and Stevenson, *Order and Disorder in Early Modern England*, 129.
[97] Ingram, *Church Courts, Sex and Marriage in England*, 164.

In the case of pregnancy, public chastisement for adultery intensified. Illegitimate children reflected poorly on extended families and severely upset order within the community. Thus, men often tried to hide their paternity, either by accusing others or leaving the community. Family members who were concerned for their reputations often aided the father or mother in covering up the offense so as to avoid implication. For example, in 1605, Elizabeth Reve conceived a child with her minister, Mr. Poynter. Subsequently, he advised her to seduce another man so as to shift the accusations toward another and away from himself.[98] This was the typical response by men who had a chance of escaping the allegation. However, women who bore children were unable to hide the evidence of their crime and were often held culpable for their sexual infidelity. Once this occurred, the woman's reputation was ruined, her family was torn apart, and she was left to care for a bastard child. Even though women were not the sole wrongdoers, they were the ones who bore illegitimate children and thus presented the most direct affront to patriarchal authority.

The Scold

As adultery cases demonstrate, community policing was a dominant form of regulation in early modern English society. However, the line between policing social order and scolding, was blurred, and when women policed community morality in a way that upset others, it was considered scolding. Scolds were those who publicly accused others, generally neighbors or community members, of wrongdoing.[99] These accusations played off of the same societal fears of sexual misbehavior and illegitimacy. In a highly stratified and localized society, it was

[98] RAY/262, 1605, Examination of Elizabeth Reve, as cited in Amussen, *An Ordered Society*, 112. Amussen notes, "the curate of Wiveton tried to arrange a marriage with William Sayers, but he would only marry her with the consent of the town."
[99] D. E. Underdown, "The Taming of the Scold," 119 in Fletcher and Stevenson, *Order and Disorder in Early Modern England.*

important to maintain an honest reputation in the community. When scolds made accusations, they aimed to destroy reputations by questioning the honesty of others. In an environment where there was such a significant emphasis on controlling sexuality, scolds aimed to disparage others' sexual honesty.

The term scold had negative connotations, indicating the disruption that women's words created within society.[100] Men complained that women possessed uncontrollable tongues and were wont to gossip about and defame both men and women. As one court record noted in 1621, scolds were "sowers of discord," convicted for upsetting local order.[101]. Thus, laws cautioned against scolding, recognizing the power that words might have in upsetting, rather than enforcing, community relationships.

Precisely because the act of scolding had two divergent consequences, it could be both damaging and empowering for women. Through their powers of speech, women gained agency in determining social norms and regulating the behavior of neighbors. Women acquired power through language, supplanting male authority to police community morality. As Laura Gowing explains, "Insulting other women in the street, they made themselves responsible for the honesty of the whole neighborhood."[102] However, while they maintained authority in their ability to accuse other women, females were often the targets of similar abuse.[103] Slander was not only damaging for the woman who was the target of the abuse; since a man was responsible for his wife's actions, her wrongdoings reflected poorly on him as well. Thus, slander could be harmful to a woman's entire family and their reputation within the community.

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[100] Ingram, "Scolding women cucked or washed": a crisis in gender relations in early modern England?" 48, in *Women, Crime and the Courts in Early Modern England*, ed. Kermode and Walker.
[101] Hair ed., *Before the Bawdy Court*, 72.
[102] Gowing, *Language, Power and the Law: Women's Slander Litigation In Early Modern London*, 30 In *Women, Crime and the Courts in Early Modern England*, ed. Kermode and Walker.
[103] Ibid., 31.

Due to the powerful and damaging effect of words, slander cases were commonly brought to courts during the sixteenth and seventeenth centuries. Courts provided an opportunity through which men and women might defend their damaged reputation, accusing the slanderer for false accusations and occasionally restoring their honor within the community.[104] However, in many cases, scolds denied culpability. For example, Anna Wrigglesworth of Islip, Oxfordshire, was accused of singing a rhyme that dealt with the honor of her neighbors. The rhyme went:

> If I had as faire a face as John Williams his daughter Elisabeth hass then wold I were [wear] a taudrie lace [necklace] as Goodman Boltes daughter Marie dosse, And if I had as mutche money in my pursse as Cadman's daughter Margaret hasse, then wold I have a bastard lesse then Butlers myade Helen hasse.[105]

Wrigglesworth denied playing a role in writing this rhyme. She instead displaced the blame, claiming that she had last heard the rhyme from a man named Robert Nevell. The court dismissed her with a warning.[106] Wrigglesworth's story is indicative of the difficulty that courts had in convicting for slander. Slander cases generally involved several witnesses for both sides as women tried desperately to prove their innocence and save their reputations. This further highlights the extent to which communal policing lay within the community rather than in the courts.

Females comprised the majority of offenders who were prosecuted for scolding, yet as Martin Ingram demonstrates in his essay on scolding, the accusation was not limited to women. He argues that scolding was often associated with females because women did not participate in

[104] Laura Gowing, *Language, Power and the Law*, 27.
[105] Hair ed. *Before the Bawdy Court*, 74.
[106] Ibid., 74.

other means of aggression such as violence or legal manipulation.[107] Regardless of the actual predominance of male scolding, the practice was primarily associated with women and the scold became a popular caricature of the disorderly woman.

Specific punishments that intended to publicly shame women became associated with female crimes like scolding. Punishments were particularly harsh so as to keep women from crossing the line between policing social order and scolding. Ducking (sometimes known as cucking) was one of these punishments, a process by which women were strapped into a chair on a seesaw-like contraption (the ducking stool) and repeatedly ducked into a body of water. While ducking had originally been used on both men and women, it eventually became a gender-specific punishment, used to humiliate unruly women.[108] Another punishment for women, specifically designed for scolds, was the scold's bridle. In her article, "Brides and Bridling Scolds: Taming the Woman's Unruly Member," Lynda E. Boose describes this tortuous device which was literally used to tame a woman's tongue. She explains that the scold's bridle was not legal, and therefore was rarely listed in court records. However, she points out that limited records in England and Scotland state its use, as well as references within stories and plays.[109] For example, in 1655, a woman named Dorothy Waugh published an account of being punished with a scold's bridle. She described the experience,

> …whereby they tare my clothes to put on their bridle as they called it, which was a stone weight of iron by the relation of their own generation, and three bars of iron to come over my face, and a piece of it was put in my mouth, which was so unreasonable big a thing for that place as cannot be well related, which was locked to my head, and so I stood there time with my hands bound behind me with the stone weight of iron upon my head,

[107] Martin Ingram, "'Scolding women cucked or washed': a crisis in gender relations in early Modern England?" 52. In *Women, Crime and the Courts in Early Modern England*, ed. Jennifer Kermode and Garthine Walker.
[108] D. E. Underdown, "The Taming of the Scold," 123 in *Order and Disorder in Early Modern England*, ed. Fletcher and Stevenson.
[109] Lynda E. Boose, "Scolding Brides and Bridling Scolds: Taming the Woman's Unruly Member," *Shakespeare Quarterly*, 42 no 2 (1991), 196-197.

> and the bit in my mouth to keep me from speaking. And the mayor said he would make me an example to all that should ever come in that name.[110]

This account alone is sufficient to convey the brutality of the scold's bridle and its symbolism of men's desires to silence women's tongues in a torturous and shameful manner.

The Witch

Witches were arguably the most feared individuals within English society. They were remarkably powerful women who were known to perform magical spells and bring about disorder. For instance, in 1575, a woman named Allison Welles was convicted of witchcraft under allegations that she "can forspeak [bewitch] thinges as horse, cow, milk, drinke, etc."[111] Witches were accused of *maleficium*, causing harm to people or property with their powers.[112] In particular, they were feared for their ability to invert society's hierarchal order. As Kathleen Brown explains, "The substitution of foul for fair, black for white, female for male, and subjection for authority was often interpreted as the work of witches eager to reverse traditional social hierarchies."[113] Witches were seen as the devil's agents and had the ability to bring great harm to society. Therefore, witchcraft was illegal and women were often convicted of it in courts. Even though some men were convicted, the vast majority (an estimated 93%) of accused witches were women.[114] The witch was another common female villain, often depicted in plays and stories and feared by men and women alike.

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[110] Hilary Hinds, *God's Englishwomen: seventeenth-century radical sectarian writing and feminist criticism* (Manchester: Manchester University Press, 1996), 227.
[111] Hair, ed., *Before the Bawdy Court*, 74 brackets added.
[112] Brown, *Good Wives*, 30.
[113] Brown, *Good Wives*, 30.
[114] Mendelson and Crawford, *Women in Early Modern England, 20*, 45.

The Virgin Queen

A female monarch was entirely incompatible with a society that depicted many women as whores, scolds, and witches. It is shocking that a society somewhat obsessed with gender and with restricting women's power was placed under female rule for nearly fifty years. Ruling for much longer than her sister, Mary, Queen Elizabeth's reign gave rise to questions concerning her legitimacy as a female ruler. In order to reconcile the incongruity between patriarchy and a queen's rule, Elizabeth constructed her image as a chaste Virgin Queen, announcing her marriage to the English state. She addressed the populace: "I have long since made choice of a husband, the kingdom of England …charge me not with the want of children, forasmuch as everyone of you, and every Englishman besides, are my children and relations…"[115] She used her virginity, along with other qualities, to fashion her image as a unique woman, different from others within her gender.[116] Elizabeth represented only the virtuous qualities of women, associating her role with those of the nurturing mother and the loyal wife. Elizabeth's reign remained anomalous with patriarchal ideals; yet the English regarded her in different terms than they did ordinary English women. As Kathleen Brown concludes, "Ruling through a unique authority constructed from the male right of kings, a female personification of the realm, and the virtue of chaste wife and mother to the commonwealth, Elizabeth claimed divine sanction for her potentially subversive role."[117] Therefore, the English were able to rally behind their queen without fully altering their beliefs about a woman's place.

[115] *The Public Speaking of Elizabeth I: Selections from her Official Addresses*, ed. George P. Rice Jr. (New York: Columbia University Press, 1951), p. 117 quoted in Philippa Berry, *Of Chastity and Power*: *Elizabethan Literature and the Unmarried Queen* (London and New York: Routledge, 1989), 66.
[116] Berry, *Of Chastity and Power*, 61.
[117] Brown, *Good Wives*, 22.

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To some degree, Elizabeth's rule forced her subjects to reconsider female inferiority. During her reign, discussion of gender intensified and a great number of pamphlets were written that either criticized or defended women.[118] This on-going debate reflected male insecurities concerning the preservation of power. Men were particularly uncomfortable with strong women like Elizabeth I who threatened the established hierarchy. Elizabeth I posed a threat to men similar to the one posed by widows, whores, scolds and witches: each of these women challenged patriarchal assumptions and testified to women's strength and abilities. These women's unique positions of power demonstrate the fact that customary gender divisions were not always upheld and women's lives did not always match up with male visions of an ideal patriarchal society. This was troubling for many reasons, perhaps most significantly because of the ways that these powerful women disrupted the ordered system in which men controlled property and power. In a world with female monarchs and propertied widows, men lost their exclusive control of status, wealth, and power in English society. Looking ahead towards Virginia, gender would remain an important part of the discourse of imperialism, as well as a crucial category in defining the experience of men and women in a new colony overseas. In a society with a much smaller proportion of women, and a general lack of stability and structure, women would fill atypical positions and it would become much more difficult to establish and maintain an ordered hierarchy.

[118] Ibid,, 20-21.

Chapter Two: A New World in Virginia

"I saw young men, panting, seize hand or arm and strive to pull toward them some reluctant fair; others snatched kisses, or fell to their knees and began speeches out of Euphues; others commenced an inventory of their possessions – acres, tobacco, servants, household plenishing. All was hubhub, protestation, frightened cries, and hysterical laughter."[119]

In this fictional account from a century ago, Mary Johnston depicts the sort of "wife market" that took place in Virginia upon the arrival of fifty-seven English maids in 1621. These women, diverse in origins, shared one common trait: they were all unmarried, a virtual anomaly in early modern England. These fifty-seven women, some young and some old, came to Virginia with the express purpose of marrying. Two years earlier, one of the Virginia Company members had proposed a plan to send women to the colony to make wives for the planters.[120] While this venture was somewhat unusual, it was not altogether mystifying given the centrality of the patriarchal family in early modern England. It does, however, suggest that wives were of particular importance to the formation of a colony in Virginia.

The ultimate reason behind the 1619 arrangement to send maids to the colony and the ensuing wife-market was the lack of women in the developing colony. Although there remains significant historiographic debate pertaining to the conditions and demographics of early Virginian society[121], one fact is indisputable: there were limited numbers of women present

[119] Mary Johnston, *To Have and To Hold* (Boston and New York: Houghton, Mifflin and Company, 1900).
[120] David Ransome, "Wives for Virginia, 1621," *William and Mary Quarterly* 48, no. 1 (1991): 3-4.
[121] In her article: "'Men, Women and Children' at Jamestown: Population and Gender in Early Virginia, 1607-1610," Virginia Bernhard takes issue with the population statistics provided in early accounts of the "starving time" in Virginia. She points out that many of these sources do not even mention the presence of women, and that there is significant room for reinterpretation of the conditions of this time period. Thomas M. Camfield published a response to Bernhard's article: "A Can or Two of Worms: Virginia Bernhard and the Historiography of Early Virginia, 1607-1610" in which he agrees that there are significant problems with the historiography, but he argues that Bernhard's study is limited and he adds to this discussion by looking at some of the errors in colonial period textbooks and histories. Virginia Bernhard, "Men, Women and Children at Jamestown: Population and Gender in Early Virginia, 1607-1610" *The Journal of Southern History* 58, no.4, 1992; Thomas M. Camfield, "A Can or Two

during early colonization. Seventeenth-century Virginia suffered slow beginnings; the population grew slowly because of the lack of women, as well as the frequency of disease and early death. Virginia's institutional structures reveal restricted growth throughout the seventeenth-century because of the small population, lack of resources, and inefficient political organization. The colonists had little in common with one another, save for a general interest in making a profit, and most envisioned returning to their lives in England after a short stay overseas. The colony's most attractive quality was the abundance of land, which settlers deemed vacant despite the Native Americans who inhabited these lands. In light of its scarcity in England, it was this access to land, above all else, that attracted men to travel to Virginia despite the frightfully high risk of mortality. As the century progressed, populations grew and communities developed, but conditions remained in a state of flux.

Early Virginia was certainly a world far removed from the community-based, highly structured English state. The maids who travelled to Virginia encountered a society quite unlike their own. The new surroundings required adaptation and change, which influenced the way that gender was enacted in daily life and the relationships that developed between the colonists. As the proceedings of the Virginia Assembly in 1619 note, "In a newe plantation it is not knowen whether man or woman be more necessary." This statement, made in reference to a petition requesting that planters' wives be allowed to inherit land, addresses two important points. First, it suggests an answer to the question of why women were essential to colonization. Women, as children-bearing agents, were vital to the origins of family life, and consequently, the transfer of property. Additionally, women offered a useful labor source in a colony that was struggling

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of Worms: Virginia Bernhard and the Historiography of Early Virginia, 1607-1610." *The Journal of Southern History* 60, no.4 (1994):649-662.

economically, and the Virginia Assembly officials gave consideration to women's potential value as laborers. Second, this statement demonstrates an open willingness for change. Order in early modern England was contingent on notions of patriarchy and accumulation of power among male heirs. The mere fact that this fundamental principle was under reconsideration in Virginia demonstrates that colonists maintained flexible attitudes regarding change, recognizing the necessity of adaptation in a new environment.

In this chapter, I describe the historical background of settlement in seventeenth-century Virginia and the distinct demographic and environmental changes that affected development patterns. To do so, I draw upon many secondary works as well as some primary accounts of settlement, including those from John Smith and George Percy. Although early documents leave many questions unanswered, they can be revealing as a means of understanding how Virginian colonists perceived their new surroundings. Virginia's early history was central to shaping the kinds of opportunities and challenges that colonial women would later face as colonial life began to stabilize. Perhaps the most drastic changes were the unbalanced gender ratio and the system of indentured servitude, two factors that greatly affected the tenor of social relationships in Virginia. I aim to illuminate these unique conditions of seventeenth-century Virginian society in order to set up a comparison of gender norms in Virginia and England. In their quest for stability, Virginians sought to retain familiar patriarchal structures; however, Virginia provided a unique context that often tested the patriarchal system and urged a reconsideration of gender norms.

Atlantic Voyages

Who were the early settlers and why did they come to Virginia? Were they brave explorers with visions of conquest and gold? Were they naïve young boys, sent to the colony on

behalf of their fathers? Did they travel alone, or with families and friends? While some of these questions cannot be answered given the limits of the historical record, they remain vital for understanding how early settlement emerged in Virginia. Colonization efforts, at least on an administrative and political level, began in England, where in 1606, King James issued the charter for Virginia's founding. The first charter established its purposes: "We would vouchsafe unto them our License, to make Habitation, Plantation, and to deduce a Colony of sundry of our People into that Part of America, commonly called VIRGINIA."[122] This charter declared its primary goal: to move a diverse group of people overseas so that they could start a colony. A year later, in 1607, the London Company successfully sent adventurers overseas and they established the Jamestown colony.

The *Susan Constant*, the *Godspeed* and the *Discovery* were the first three ships that arrived in Virginia in 1607.[123] There were 105 men among this first group of travelers[124]; women were conspicuously missing from the equation. This group certainly did not represent the "sundry of our People" that the 1606 charter had referenced. Although the charter referred to making habitation and plantation, in reality, men embarked on early explorations of Virginia with aspirations for adventure and the hope of starting up a profitable enterprise. They did not initially envision permanent habitation, and consequently they rarely traveled with families. Carr and Walsh account for the want of women, explaining: "fewer [women] wished to leave family and community to venture into a wilderness."[125] Women found little incentive to leave their

[122] Hening, *The Statutes at Large,* 57.

[123] Wesley Craven, *The Virginia Company of London, 1606-1624* (Charlottesville: The University Press of Virginia, 1957), 12.
[124] Philip L. Barbour, ed., *The Complete Works of Captain John Smith (1580-1631) in Three Volumes*, Vol 1. (Chapel Hill: University of North Carolina Press, 1986), 209.
[125] Carr and Walsh, "The Planter's Wife: The Experience of White Women in Seventeenth-Century Maryland," 546.

homes and children to travel overseas, especially at a time when little was known about the land across the Atlantic.

In 1608, the colony welcomed its first two women, Mistress Forest and her maid, Anne Burrows. These women were members of the second supply, arriving with Mistress Forest's husband, Thomas Forest, a member of the gentry. In John Smith's *Proceedings of the English Colony*, he notes their arrival and then describes a wedding, the first to occur in the colony, that occurred shortly after between Anne Burrows and John Laydon.[126] Apart from these two pioneering women, a female presence remained limited throughout most of the seventeenth century. Men sporadically brought their wives overseas, but a highly disproportionate sex ratio remained in the colony, slowing the development of family or kinship networks during these early years.[127]

First Failures: Disease, Famine and Death

As Carr and Walsh describe, the reason for the lack of English women was that travelling to Virginia was a move to "the wilderness."[128] Early Virginian settlement was characterized by constant hunger, disease, and death. In addition, Virginia's men were described as lazy and apathetic, incapable of carrying out their jobs. Karen Kupperman attributes this withdrawal to the psychological factors of isolation and despair that likely troubled settlers.[129] This portrait of early society is fairly consistent with the scenes described in early accounts from Captain John Smith. In particular, Smith mentioned a dearth of food and supplies that worsened conditions for

[126] John Smith, *Proceedings of the English Colony*, 161 in *Narratives Of Early Virginia 1606-1625* ed., Lyon Gardiner Tyler (New York: Charles Scribner's Sons, 1907).
[127] For example, Kathleen Brown cites a sex ratio of more than 4:1 in 1625. Brown, *Good Wives,* 82.
[128] Carr and Walsh, "The Planter's Wife: The Experience of White women in Seventeenth-Century Maryland*,"* 546.
[129] Karen Ordahl Kupperman, "Apathy and Death in Early Jamestown," *The Journal of American History* 55, no. 1 (1979), 24.

the disgruntled early settlers.[130] He described the miserable condition of the early settlement: "As at this time were most of our chiefest men either sicke or discontented, the rest being in such dispaire, as they would rather starve and rot with idlenes, then be perswaded to do anything for their owne reliefe without constraint…"[131] As evident in Smith's testimony, early settlement in Virginia was extremely unstable and was not a suitable environment to raise a family. Very few settlers survived the early years, and daily life was taxing for those who did. The first year was the hardest, with only 38 settlers remaining at year's end.[132]

Famine was one of the leading reasons for the difficulties faced by settlers in early Virginia. The period from 1609 to 1610 was referred to as "Starving Time" in Captain Smith's compilations. A story circulated that after Smith left Virginia, the remaining sixty settlers were so hungry that they turned to cannibalism: "Nay, so great was our famine, that a Salvage we slew and buried, the poorer sort tooke him up againe and eat him; and so did divers one another boyled and stewed with roots and herbs…"[133] Regardless of whether or not colonists engaged in cannibalism, the food shortage clearly preoccupied many settlers during the early years and contributed to idleness and eventually death. George Percy described the intense distress in Virginia, citing famine as the foremost reason for early death: "Our men were destroyed with cruell diseases as Swellings, Fluxes, Burning Fevers, and by warres, and some departed suddenly, but for the most part they died of meere famine."[134] As Percy's account demonstrates,

[130] J. Franklin Jameson ed., *Narratives of Early Virginia, 1606-1625* (New York: Charles Scribner's Sons, 1907).
[131] Barbour ed., *The Complete Works*, 174.
[132] Carville V. Earle, "Environment, Disease, and Mortality in Early Virginia," 97 in *The Chesapeake in the Seventeenth Century: Essays on Anglo-American Society*, eds. Thad W. Tate and David L. Ammerman (New York: W.W. Norton & Company, 1979).
[133] Warren M. Billings, ed., *The Old Dominion in the Seventeenth Century: A Documentary History of Virginia, 1606-1689* (Chapel Hill: University of North Carolina Press, 1975), 28.
[134] George Percy, "Observations gathered out of a Discourse of the Plantation of the Southerne Colonie in Virginia by the English, 1606." Virtual Jamestown Project. http://etext.lib.virginia.edu/etcbin/jamestown-browse?id=J1002 (accessed October 2011).

the colony's workforce was diminished as settlers fell ill, a trend that further hindered development.[135]

Disease presented a second significant explanation for the high mortality rates in early Virginia. The location at Jamestown was particularly disease-ridden.[136] In a study of the extraordinarily high mortality rates suffered by early Jamestown settlers, Carville Earle argues that disease was the greatest cause of death, far outweighing starvation and other causes. He shows that typhoid fever, dysentery, and salt poisoning accounted for the majority of deaths. Additionally, he explains that a contaminated water supply in Jamestown allowed for the rapid spread of these diseases.[137] The frequency of sickness made life more difficult because fewer colonists were able to work.

As these stories indicate, early settlement was harsh, and settlers faced significant delays in trying to build a stable society. In addition to these environmental challenges, the English settlers endured prolonged conflict with the Native inhabitants of Virginia, the Powhatans. The relationship between settlers and the Powhatan Confederacy was tenuous from the start; Smith and the other original settlers believed that they had a divine right to the Natives' land, which prompted constant conflict between the two groups. The climax of these troubles occurred in March of 1622, when the Powhatans launched a surprise attack on the Jamestown settlement, killing 347 of Jamestown's men, women and children.[138] At the time, relations had been relatively peaceful and the attack came as a surprise to the settlers. Robert Beverly recorded the attack in *The History and Present State of Virginia*, describing the deceit:

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[135] Karen Ordahl Kupperman, "Apathy and Death in Early Jamestown," 25.
[136] Earle, "Environment, Disease, and Mortality in Early Virginia," 96 in *The Chesapeake in the Seventeenth Century: Essays on Anglo American Society*, eds. Ammerman and Tate.
[137] Earle, "Environment, Disease, and Mortality in Early Virginia," 96-101 in *The Chesapeake in the Seventeenth Century: Essays on Anglo American Society*, eds. Ammerman and Tate.
[138] Edmund Morgan, *American Slavery, American Freedom*, 99.

> The very morning of the massacre they came freely and unarmed among them, eating with them and behaving themselves with the same freedom and friend-ship as formerly till the very minute they were to put their plot in execution. Then they fell to work all at once everywhere, knock-ing the English unawares on the head, some with their hatchets, which they call tomahawks, others with the hoes and axes of the English themselves, shooting at those who escaped the reach of their hands, sparing neither age nor sex but destroying man, woman, and child according to their cruel way of leaving none behind to bear resentment.[139]

This massacre had a sizeable impact on the settlers at Jamestown, killing many and leaving the survivors in fear of future attacks. Of the survivors, many more met their deaths during the following winter owing to the miserable conditions within the colony.[140]

High mortality rates were not limited to the early years; in fact, settlers continued to struggle for survival throughout the seventeenth century. The gender ratio was not balanced until the eighteenth century, and until then, the primary source of population replenishment were shipments of emigrants.[141] Additionally, the high mortality rates made it difficult for the early settlers to develop kinship networks and local communities. Success with tobacco cultivation appeared promising as a means to solve the colony's population problems. Tobacco growth prompted a great surge of migration as English men and women travelled to the new world to stake their claim in what they hoped would be an economic success.

Tobacco on the Rise

From the early years of settlement, John Rolfe had experimented with the cultivation of tobacco. His experiments proved a success, and by 1618 the colony was exporting forty-one

[139] Robert Beverley, *The History and Present State of Virginia: A Selection* (Indianapolis & New York: The Bobbs-Merrill Company, Inc, 1971), 21-22.
[140] David R. Ransome, "Wives for Virginia, 1621," 17.
[141] Earle, "Environment, Disease, and Mortality in Early Virginia," 96 in *The Chesapeake in the Seventeenth Century: Essays on Anglo American Society* eds. Ammerman and Tate; Kupperman, "Apathy and Death in Early Jamestown," 24

thousand pounds of tobacco.[142] By the early 1620s, Virginia had become entirely obsessed with the crop and settlers began to center their lives on its cultivation. The swift transition to a tobacco economy had a powerful effect on social and economic life in Virginia. Tobacco cultivation largely influenced the culture of Virginia's early settlers and the relationships that emerged among them. It also played a significant role in migration, attracting enterprising English men and women, and many more servants overseas. Tobacco farming required intensive labor and compelled colonists of different backgrounds into the fields to support the growth of this new enterprise. Also, tobacco required great expanses of land. The more that a planter wished to grow, the more land he needed to possess, and this ratio rapidly drove geographic expansion.[143] The rise of tobacco thus influenced the dispersion of settlements as well as the growth of indentured servant populations.

Indentured servitude was established during the Virginia Company's early colonization efforts as a measure to make overseas travel possible for individuals that lacked the means to do so.[144] This system allowed English men and women to travel to Virginia where they would work for a contracted amount of time (usually seven years) before regaining their free status. Indentures were not limited to men; many women also took advantage of these opportunities. Generally, the women that came over were young, between the ages of 15 and 24, and entered servitude before the marrying age.[145] This trend would later have social consequences, including a later marrying age for women, since women often could not marry until after completing their indentures.

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[142] Perry, *The Formation of a Society on Virginia's Eastern* Shore, 17.
[143] Kulikoff, *Tobacco and Slaves,* 46.
[144] James Curtis Ballagh, *White Servitude in the Colony of Virginia* (New York: Burt Franklin, 1969), 34.
[145] James Horn, "Servant Emigration to the Chesapeake in the Seventeenth Century," 65 in *The Chesapeake in the Seventeenth Century* eds. Ammerman and Tate.

With the rise of tobacco, most planters searched for additional labor sources to increase production. The small population and low rates of childbirth limited the size of the labor force. In response, planters began looking toward England for greater populations of Englishmen to serve out indentures, enticing these young men with the opportunity to capitalize on tobacco as soon as their indentures were completed.[146] The English were eager at the prospect of future wealth, particularly because of the increasingly destitute circumstances that burdened England.[147] To encourage migration, the Virginia Company enacted a system of headrights, through which they agreed to give fifty acres of land to anyone who paid for the passage of another to the colony.[148] The Virginia Company promoted this system as a means of increasing the overall population and boosting the colony's labor force. This started an era of tobacco and of servitude during which a large part of the Virginian population was comprised of servants, therefore influencing the character of Virginia's institutions.

The system of indentured servitude significantly impacted the social structure and hierarchy in Virginian society. Planters maintained an elevated status above servants, but servants were not altogether incapable of gaining wealth and status. The indenture system freed servants after their contracts were up, which allowed mobility. The status hierarchy was not rigid in an environment where property holding dictated status and land was widely available. William Burdett, one of the commissioners for the county court in Accomack-Northampton, provides a salient example of this trend toward social mobility. Burdett moved to Virginia as a servant, but later served as a vestryman, a burgess and a legal commissioner, as well as a large

[146] Kulikoff, *Tobacco and Slaves*, 33.
[147] Suzanne Lebsock, *A Share of Honour: Virginian Women, 1600-1945* (Richmond: Virginia Women's Cultural History Project, 1984), 19.
[148] Morgan, *American Slavery, American Freedom*, 94.

landowner[149]. Men like Burdett upset planters within the established gentry as well as newcomers who wished to preserve family access to land.[150] For these reasons, men hoped to install a patriarchal system to better establish a societal hierarchy and to control the transmission of property and power.

The Search for Women

While the cultivation of tobacco and the system of indentured servitude brought many settlers to Virginia, the majority of these colonists were male. Thus, women were still in high demand. The colonists realized that bringing families to Virginia would be critical to establishing permanent settlement. As Carl Bridenbaugh remarks, "The quality of life at Jamestown in the first two decades was severely limited by the absence of women and children, who, as the Earl of Southampton and other worthy gentlemen of the London Company acknowledged, were essential in forming a colony."[151] Women were the missing component that would allow for the organization of patriarchal families in Virginia. Patriarchy would determine an ordered system for the ownership and passage of property. This would provide structure and stability to society, and would encourage permanent habitation.

The Virginia Company formulated a plan in 1619 to send maids to the colony in order to establish families and promote stability.[152] The records of the Virginia Company include the details of this initiative and note the motive to transform Virginia into a place of habitation rather than simply an economic enterprise. This transformation would make Virginia more livable so that survival rates might increase and planters could make greater profits. They explained:

[149] Ames, ed., CCR I, xxvi-xxviii.
[150] Kulikoff, *Tobacco and Slaves*, 35.
[151] Carl Bridenbaugh, *Jamestown, 1544-1699* (New York & Oxford: Oxford University Press, 1980), 125.
[152] Brown, *Good Wives*, 80.

> most of them esteeminge Virginia not as a place of Habitacon but onley of a short sojourninge have applied themselves and their labours wholly to the raisinge of present proffitt and utterly neglected not only staple Comodities but even the verie necessities of mans life, in regard whereof and to prevent so great an inconvenience hereafter whereby the Planters minde may be the faster tyed to Virginia by the bond of Wyves and Children…[153]

The initial plan that Sir Edwin Sandys conceived involved sending a group of 100 women to become wives for the Virginia colonists. The records stipulate that the women were to be married to "the most honest and industrious Planters."[154] These planters were charged with the duty of providing for the maids' fares between England and Virginia. In return, they were given a wife and also promised the first pick of servants. A letter sent along with the maids provided: "and you may assure such men as marry those weomen that the first servants sent over by the Company shalbe consigned to them; it being our intent to preserve families, and to prefer married men before single persons."[155] As this letter acknowledges, the Company was intent on bringing families to Virginia and was willing to offer favor to those men who accepted the maids.

The Virginia Company was not content sending just any women to Virginia; instead, the officials in London stipulated that the women should be "young, handsome and honestly educated Maides."[156] Conditions such as these shed light on the social implications of such a venture. The Virginia Company wanted to ensure that the women they were sending over were of the most virtuous character so as to guarantee the future stability of the colony. Virtuous women were those who would adhere to social norms and accept their role in the patriarchal

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[153] Susan Myra Kingsbury ed., *Virginia Company Records I*. (Washington DC: Government Printing Office, 1906), 566.
[154] Susan Myra Kingsbury ed., *Virginia Company Records I* , 566.
[155] VC 493-4 as cited in Mrs. Henry Lowell Cook, "Maids for Wives" *The Virginia Magazine of History and Biography* 50, no. 4 (1942), 313.
[156] David R. Ransome, "Wives for Virginia, 1621," 7.

order. Stability relied upon women accepting this hierarchy and submitting to their husband's will. In his thorough examination of the initiative, David R. Ransome looked at the profiles of the women who were sent over and discovered that they generally met these qualifications. He describes the women as "from a noticeably different level of society, daughters of the gentry or of artisans and tradesmen, who were recommended by the prosperous and well placed for their virtues and skills." [157] These refined women would become wives for the planters and aid in the creation of an English society in a new world. These plans proved futile, however, when the Company was unable to encourage large numbers of women to migrate to the colony.

Despite the Virginia Company's best efforts, the maids who reached Virginia did little to reduce the gender disparity. Between 1620 and 1622 a total of 147 women had travelled to Virginia as a part of Sandys' plan.[158] However, of this number, only a small portion survived. Those who beat the odds did not live the lives that they had envisioned. Stories about life in Virginia often diverged from reality. Promotional tracts and accounts spread propaganda throughout England concerning the quality of life in Virginia. Officials circulated promotional literature that enhanced Virginia's image to induce greater populations to come to Virginia. These accounts often consisted of attempts by Company officials to refute earlier negative accounts, such as those by John Smith, which spoke of the difficulties faced by the colony.[159] In an effort to bring more women to the colony, promotional literature often portrayed Virginia as an isle of domesticity, where women could continue to live their lives as British gentlewomen.

[157] Ibid., 18.
[158] Brown, *Good Wives*, 82.
[159] Hugh T. Lefler, "Promotional Literature of the Southern Colonies", *The Joural of Southern* History 33, no.1, 1967: 4-7.

Colony promoters wanted to obscure the realities of women's work and so they attempted to depict Virginia as a place for housewifery and traditional "woman's work."

The promotional pamphlet written by John Hammond, *Leah and Rachel*; *or, The Two Fruitfull Sisters,* declared that stories of women performing field labor were false and presented a more agreeable picture of Virginian women: "The women are not (as is reported) put into the ground to work, but occupy such domestic employments and housewifery as in England, that is dressing victuals, right up the house, milking, employed about dairies, washing, sewing, &c."[160] As witnessed in Hammond's description of women in the colony, a major icon that appeared was the "goodwife." Goodwives were virtuous women who submitted to their husbands' authority and filled their rightful place within the home. In England, goodwives were those who spent their days fulfilling household duties or relaxing in leisurely activities. Promoters relied upon these stories of housewifery and goodwives in hopes of reproducing these traditional English gender norms in Virginia. Maintenance of the social order relied heavily upon the virtue of these goodwives just as it had for Sandys and the men of the Virginia Company.

Unfortunately for most women, the image that promoters painted was far from the reality of life in Virginia. Even as the colony began to develop socially and families formed, life was quite difficult and colonists struggled economically to make a living in a rough environment. In Virginia, women were rarely just housewives as they had been in England; rather, women were often forced to work alongside men, sometimes even in the fields.[161] Jamestown experienced a decisive transformation between 1614 and 1620 as tobacco became a new source of wealth and a major preoccupation for the colonists. This economic shift required a greater labor force,

[160] John Hammond, *Leah and Rachel; or, The Two Fruitfull Sisters*. (London: T. Mabb, 1656), 9.
[161] Brown, *Good Wives*, 82-3.

drawing women out of the house and into the fields. News of women forced to perform field labor spread to England and contributed to the lack of interest among English women to travel to the new world.

Servant Life in Virginia

Even though servants enjoyed opportunities for success after their indentures, life as a servant did not present many luxuries. Males outnumbered females because their physical labor was in higher demand, but both sexes were generally required to work in the fields. In England, maidservants occasionally helped with hoeing or plowing, but these activities were not the norm, and women were instead known to work as housewives or in other feminine occupations like textiles. For females who were new to field labor, servitude presented a very different lifestyle. A popular ballad at the time, "The Trappan'd Maiden" illustrates the difficulties of the servile lifestyle for the women of Virginia. The ballad went: "Five years Served I, under Master Guy/ In the land of Virginny-o / which made me to sorrow, grief and woe,/ When that I was weary, weary, weary-o."[162] Although some women served apprenticeships as maidservants in England, the labor-intensive lifestyle of an indentured servant in Virginia was far different, and English women often suffered while adjusting to their new conditions. Many female servants were required to do strenuous work like the dreaded task of beating at the mortar. For example, in the County Court Records of Accomack-Northampton, a man named Francis Martyn testified in court about his and his wife's labor:

> This Deponent sayeth that about twoe yeares since Roger Fyrebraes Did worke in and about Cleeringe ground for Elias Taylor eight dayes or theraboutes and strooke some

[162]Rosayln Baxandall and Linda Gordon, *American's working women: a documentary history, 1600 to the present*. (New York: W.W. Norton & Co, 1995), 23.

> tobaccoe for him the said Taylor, And that the said Rogers wife did Beate at the Morter and usually did anie thinge else whatsoever belonginge to the house.[163]

In addition, female servants were sometimes forced to perform labor outside of the house, an unfamiliar domain for many English women. While labor was mentally and physically arduous for both sexes, it seemed to take a greater toll on women who were burdened by new jobs outside of the house as well as demanding housekeeping tasks.

Beyond the impositions of physical labor, the condition of servitude provided further hardships, as servants were legally bound and had to adhere to certain laws and restrictions. Servants in Virginia enjoyed some legal privileges similar to freemen but were increasingly denied others as the century progressed. The control of servants was an important authoritative exercise in the attempt to develop order among colonists. For example, an act in 1619 required that servants receive permission from their masters in order to marry.[164] Many later laws also regulated servant marriage, particularly cautioning against secret marriages between servants. Indentured servants, both men and women, were subordinates to their masters and mistresses and their behaviors were regulated by their masters' desires. Moreover, the Virginia legislature passed laws governing the length of indentures, and the individual rights of servants, such as the rights to food, clothing and other basic provisions.[165] Laws such as these were prime examples of the tendency of the colonial government to limit the rights of subordinate groups as a mechanism for gaining authoritative control over the colony.

[163] Ames, ed., CCR II. 8.
[164] Crandall Shifflett, "Proceedings of the Virginia Assembly, 1619," Virtual Jamestown, http://etext.lib.virginia.edu/ etcbin/jamestown-browse?id=Jm1036 (accessed September 28th, 2011).
[165] Ballagh, *White Servitude in the Colony of Virginia*, 49-65.

Political Institutions

Politically, Virginia changed hands dramatically during the first thirty years of its existence. As a possession of the Virginia Company of London, a resident council and a president initially managed the colony. Over time, this system was replaced by a governor and a council, and eventually grew to include an assembly.[166] During these very early years, from 1611-1618, Virginia was governed by a strict legal code, *The Lawes Divine, Morall, and Martial*, established by the deputy governor Sir Thomas Dale and commonly referred to as "Dale's Code." Dale's Code greatly diverged from English common law, consisting of extremely harsh laws that governed the moral behaviors of colonists. For example, one of Dale's laws declared that colonists must attend church services, warning that a third offense would result in death:

> every man and woman shall repaire in the morning to the divine service, and Sermons preached upon the Saboth day, and in the afternoon to divine service, and Catechising, upon paine for the first fault to lose their provision, and allowance for the whole weeke following, for the second to lose the said allowance, and also to be whipt, and for the third to suffer death.[167]

In such an unstable early society, laws like this one were a mechanism for establishing control and order by threatening unruly colonists with unusually cruel punishments.[168]

Dale's Codes did not survive past 1618, when the colony developed a more lenient set of laws. These laws relied on common law but were also modified to fit the particular circumstances in Virginia, such as the system of servitude. Informally, courts upheld these laws starting in 1619, but a formal court system was not established until the 1630s. This change

[166] Billings ed. *The Old Dominion*, 39-40.
[167] Teaching American History, "Articles, Laws and Orders, Divine, Politic and Martial for the Colony of Virginia 1610-1611." http://teachingamericanhistory.org/library/index.asp? document=2318 (accessed February 2012)
[168] David Thomas Konig, "'Dale's Laws' and the Non-Common Law Origins of Criminal Justice in Virginia," *The American Journal of Legal History* 26 no.4 (1982), 354-5, 364.

came after a larger political shift in 1624, when the Virginia Company lost its charter and the colony was thrust under the crown's jurisdiction. A commission took over the colony until 1625 at which time it became an official "royal colony" run by royal appointees. From this point on, a governor and general assembly held authority in Virginia.[169] They developed the county court system in order to further separate the powers in the colony. From this point on, the county court became the central point of authority for most colonists.[170]

While the court served many roles, one of its most important functions was as a social venue for mediation, where colonists came to resolve disputes and to re-affirm order. Looking toward the 1630's and 1640's, Virginia started to more firmly resemble a society of families, yet the social order remained largely undetermined. The courts were a place to adjudicate on such matters, to affirm patriarchy and to create structure for the developing society. Even as the colony witnessed marked development, many of the colony's early troubles, specifically the high mortality rates and the skewed sex ratio, continued to affect everyday life in Virginia.

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Mortality, tobacco, and servitude were among several important themes that defined the New World experience for early Virginian men and women. These factors account for what Carol Berkin calls "the historically particular institutional environment in which colonial white southern women operated about the social world in which they functioned."[171] These environmental conditions greatly shaped the ways that colonists formed relationships and the ways that their society developed. Their lives were defined in part by the traditional values and

[169] Billings ed. *The Old Dominion*, 39-4040-41.
[170] Ibid., 69.
[171] Catherine Clinton and Michele Gillespie, *The Devil's Lane: Sex and Race in the Early South* (Oxford and New York: Oxford University Press, 1997), 17.

cultural systems that they brought with them overseas. At the same time, they were shaped by the very specific demands of the new world setting. Early Virginia witnessed large-scale attempts to incorporate a patriarchal system in spite of significant obstacles such as the scarcity of women and high mortality rates. Additionally, indentured servitude and the need for women's labor disrupted the patriarchal system and required that women fill non-traditional roles in Virginia. These peculiarities in Virginia's development set the scene for the difficulties that colonists would encounter in establishing a patriarchal order, a challenging endeavor that the next chapter will explore.

Chapter Three: Gender Norms in Virginia

On November 7, 1639, a deposition was heard in court concerning a conversation that had taken a place a year earlier between Thomas Hunt and his servant Elizabeth Starkie. Two other community members, John Major and Captain William Roper[172], had been at Hunt's house and they had joined in on a discussion with Hunt and Starkie regarding her indenture and marriage prospects. They recounted the story for the court:

> Thomas Hunt called [to him his] mayde Elizabeth and tould her that now shee w[as] a Fine women and did demand of her ho[w longe she] was contented to serve him soe that she mi[ght have his] man Edward in marriage or to that effect she answered three yeeres provided that [the said man] Edward and Elizabeth might be marr[ied] promecment [?] of the sayd Huntt.[173]

In this account, Hunt asserts his intent to arrange a marriage between his servant Elizabeth and his man Edward, presumably another servant. After this initial conversation, the men discussed this arrangement and Captain Roper reminded Hunt that he had heard talk concerning Starkie's other love interests across the bay. Hunt said that he had already inquired, and that there was no such man. Roper also reminded Hunt that in three years, Elizabeth and Edward might have children and that this would cause problems with the parish, to which Hunt replied he would be bound to the parish.

The court heard several other depositions that day concerning the details of Starkie's indenture to Hunt. A man named John Harloe came forward, claiming that he heard Captain Roper telling Starkie that he could clear her of her three-year service if she came to him. Following this, the court heard a deposition from William Berriman, a church vestryman,

[172] It should be noted that Captain William Roper presided as one of the commissioners in court that day, despite his role in this case.
[173] Ames, ed., CCR I, 154.

presumably charged with the duty of overseeing contracts and indentures. Berriman affirmed that Hunt had read Starkie the conditions of her indenture two or three times and that she had accepted the arrangement. None of these testimonies were truly conclusive, so the court decided to examine William Berriman more directly. They asked Berriman about the details of the contract between Starkie and Hunt and whether or not Starkie agreed with full consent. Berriman claimed that Starkie was willing to sign the indenture with full consent, and that it was an absolute bargain, with no other terms. Following this, the court ordered that Starkie would be acquitted from her service to Hunt in consideration that she had been absent from Hunt while working for Thomas Jones for a known time. Jones was to pay Hunt three hundred pounds of tobacco for Starkie's services.[174]

This story allows us to step into the Accomack-Northampton courtroom where we witness the efforts of Virginian colonists to maintain order in society by settling disputes and administering justice. This case demonstrates that the justice system was an important means of regulating relationships between colonists during a time when these relationships were often ambiguous and required mediation. For English men and women, indentured servitude was a new institution, unique to New World colonization; for this reason, colonists in Virginia had to evaluate the structure of their relationships in this new context.

The circumstances of this court case are not entirely clear, particularly because there is no mention of Thomas Jones prior to the court's order that Starkie had been working for him rather than for Hunt. Overall, the details of this incident are somewhat limited and the fragments of testimony prove more confusing than instructive. For these reasons, the Starkie-Hunt case does not shed light on how indentures typically worked or how the courts made their decisions.

[174] Ames, ed., CCR I, 154-155.

However, this story does have value in its assessment of colonial relationships and the factors that complicated arrangements of marriage, servitude and power. This case would not have appeared in an English court, and for this reason, it offers a critical view of how Virginian colonists dealt with some of the problems that presented themselves in a new setting. Additionally, this story highlights the importance of regulating marriages in a society where men desired to set up a patriarchal community of families but continually failed to do so because there were not enough women, and those women that did come to Virginia were often servants, who were not immediately eligible for marriage.

The Starkie-Hunt story is just one example among many narratives within the Accomack-Northampton court records that recount the efforts of early Virginian colonists to establish an ordered society. To do so, colonists relied upon traditional notions of order that were engrained in the English societies from which they came. In England, the primary means of maintaining order and regulating relationships was the patriarchal system, in which men ruled over their wives and families and controlled property and power. In Virginia, there were many visible attempts on the part of English colonists, primarily through the creation of laws, to set up a patriarchal system to order a highly disordered colony. However, these attempts were complicated by the severe challenges created by the shortage of women, large servant population, and high death rate, which lead to the fracturing of families. In this case, Hunt tried to arrange a marriage between two of his servants; however, his efforts were complicated by Elizabeth's servile status and conflicts over her indenture. As this case demonstrates, men in Virginia continually worked to regulate women's positions and behaviors as a means of fostering a patriarchal system. However, these efforts were continually challenged by societal constraints. As a result of these dynamics, colonial women lived atypical lives in Virginia, at times

encountering increased opportunities and at other times dealing with greater hardships than they might have encountered in England.

Traditionally, men defined women within two categories, as maids or as wives. Those who were unmarried generally came to Virginia as maidservants and served indentures under the authority of masters. Most others were married and became the legal property of their husbands through the laws of coverture. In Virginia, a third group emerged, to a much greater extent than it had in England: widows. With high mortality rates, women were more frequently widowed in Virginia than they had been in England. In his analysis of Virginia's development, Edmund Morgan even goes so far as to label Virginia an "economic matriarchy" or "widowarchy,"[175] where widows maintained positions of relative power.

This chapter explores the ways that men regulated women's behaviors in their roles as wives, widows and servants. In an environment characterized by disorder and a large gender disparity, men saw it as essential that the limited female population follow social norms and conform to the developing hierarchy. However, they also faced greater challenges in maintaining order and establishing a hierarchy. Early legislation provides evidence of this, most clearly in the laws pertaining to marriage, morality, and conduct. By examining many of the Virginia laws from 1619-1662 as well as various court records, I aim to show how early Virginian colonists controlled gender relations by defining women's roles and rights. I will also outline how the particular conditions of early Virginia made such regulation difficult to achieve.

[175] Morgan, *American Slavery, American Freedom*, 166.

The Gender Question

In 1642, Arthur Rayman appeared in the county court to share his account of an incident that had occurred three years prior. Rayman told the court that when he was a servant under Francis Burdett, the wife of William Burdett,[176] she entered the quartering house one day and demanded of him, "Art thou a true Man?" Rayman replied in the affirmative, which provoked a violent response from Mrs. Burdett, who took the pestle from him and started beating him with it.[177] This episode was not an isolated event; rather it is part of a collection of depositions regarding Mrs. Burdett's behavior toward her servants and a larger incident involving a stolen hog. This deposition points quite visibly to servant abuse within the colony; however, its content also has wider implications concerning colonial attitudes about gender. Mistress Burdett's derisive inquiry "Art thou a true Man?" underscores the importance of gender for the colonists and their reliance upon a polarized system of relations in which men and women behaved and were treated differently. Masculinity and femininity were concepts of great social importance and they influenced the ways that colonists interacted with one another.

Early Virginians worked hard to define distinct boundaries between men and women. A famous case about a man named Thomas Hall, who presented himself as both a man and a woman, highlights the anxieties that colonists felt about keeping the two genders separate. In 1629, the court records reveal this controversy in discussing the examination of Thomas Hall, during which he claimed, "*I goe in weomans aparell to gett a bitt for my Catt*."[178] The records also indicate that Hall lay with greate Besse, a maidservant under Richard Bennetts. Hall's

[176] The Mrs. William Burdett referred to here is Francis Burdett, the first wife of William Burdett. After Francis' death, Anne Travellor married William Burdett and assumed the title Mrs. Burdett.
[177] Ames, ed., CCR II, 204.

[178] McIlwaine ed., *Minutes*, 194.

sexual encounters play a key role in defining his gender in the eyes of other colonists. The essential problem, for which the court records extend more than a page, concerned societal confusion around Hall's association with both genders. If community members were unaware of Hall's "proper" sex, how were they to determine which of his sexual relationships were appropriate?

The records indicate several instances during which Hall was questioned, or even physically examined, for evidence of his biological sex. The proceedings conclude,

> It is thereupon at this court ordered that it shall bee published in the plantacon where the said Hall lyveth that hee is a man and a woeman, that all the Inhabitants there may take notice thereof and that hee shall goe Clothed in mans apparel, only his head to bee attired in a Coyse and Croscloth with an Apron before him.[179]

In this order, the court surprisingly accepted Hall's ability to identify as both man and woman. However, they declared that he must dress in such a way that mimicked this double identity, so that he could not physically conceal his gender identity from the community.

Hall's case and the Burdett-Rayman case highlight the desire among colonists to regulate gender, even if regulation simply meant defining someone as both male and female. In a disordered society, colonists feared the ambiguity of Hall's gender. The court rendered Hall's gender less ambiguous by strictly defining him as both man and woman and regulating his ability to appear as such. In Mary Beth Norton's extensive analysis of this case, she defines six conclusions that historians might draw: an association between sexual characteristics and gender identity, the importance of clothing, the absence of personal privacy within court proceedings, the involvement of the community in determining sexual identity, the relationship among sex, gender and sexuality and lastly the court's decision to accept Hall's definition of his double-

[179] Ibid., 195.

gender.[180] These are all significant deductions that are pertinent to understanding how colonists viewed gender during this period. It was important to define men and women as separate because the political, economic and social systems were entirely dependent on the maintenance of these distinctions. However, as Hall's case and the Burdett-Rayman case reveal, it was not always as simple as the division between males and females; even within these groups, differentiations in status determined social and economic rights and regulations.

Servants

Indentured servitude was a defining feature of Virginian society that distinguished Virginia from England, particularly with regards to social relationships and class formation. Since there was not a pre-existing English body of laws pertaining to indentured servitude,[181] colonial lawmakers had to create the laws and provisions that regulated this system. Indentured servitude affected the age at which colonists married and the rate at which they gained property, significantly influencing the tenor of social interactions in the colony. Within the social hierarchy that governed relationships, patriarchy presented itself in two different forms. Fathers held authority over their wives and children in the same way that masters maintained control over the servants within their household. The planter's livelihood was dependent on his ability to control his servants, and disorderly servants threatened to damage the system. Masters were particularly harsh with their female servants because a woman's sexual deviance could injure the reputation of her entire household. Men had a responsibility for the women under their control, and a female servant's misbehavior would reflect badly on her master's ability to control her actions. At the same time, servitude was a partially reciprocal relationship and masters and

[180] Norton, *Founding Mothers and Fathers,*188-194.
[181] There were English laws regarding servitude and apprenticeships, but these labor contracts were far different from indentured servitude and the laws governing these practices did not apply to the situation in Virginia.

mistresses upheld a responsibility to provide for their servants and to treat them respectfully. In order to avoid problems with servants, lawmakers produced legislation that aimed to define the rights of servants, particularly with regard to servant marriages and behavior.

Between 1619 and 1642, the Virginian government passed limited legislation concerning servants. However, from 1642 onward, they enacted many laws that adjudicated on matters related to servants' rights, marriages, pregnancies and abuse. Servant marriages presented a clear problem early on when masters realized that a servant marriage could disrupt a servant's indenture. In the case that servants married, they created complications in that they served two households. Additionally, a female servant might become pregnant, rendering her incapable of providing labor. Servant pregnancies presented the greatest threat to the system of indentured servitude; pregnancy interrupted a woman's indenture indefinitely because the process of giving birth and raising children took a woman away from her service. For this reason, courts punished servants harshly for fornication or pregnancy. The goal of punishment was to provide redress to the master or mistress who was losing their labor force as well as to deter other servants from repeating this offense.

In one case, in 1641, a woman named Grace Browne, servant unto John Rosier, was tried in front of court for having been "gotten with Child, and brought to bedd long since."[182] Browne confessed that the father of the child was George Acland, who had since passed away. The court stated that Mr. Rosier was now in possession of Acland's goods and that he should keep these goods "in part towards his hinderance Charges and damages sustained by the said base Child and for the present mainteance thereof."[183] In this case, the court made its decision with regard to the

[182] Ames, ed., CCR II, 120.
[183] Ibid., 120.

loss of Browne's labor and Acland's responsibility, even after death, to compensate Browne's master. As the charge indicates, bastard children were not treated well and often referred to in a derogatory manner, as in this case where the bastard is referred to as "the base child." Bastard children complicated social affairs because the mother was responsible for caring for her child without the financial support or advice of a man. Bastards challenged traditional family norms and complicated fiscal relations. The question of paternity was sometimes unclear and men and women encountered difficulties in negotiating provisions such as who would provide for the child. In a case like Browne's, where the father was deceased, her master was presumably burdened to an even greater extent because his servant now had to care for and raise a child alone.

The 1619 Proceedings included a provision for the protection of marriage, requiring servants to receive permission from their masters before marrying. Later on, in 1642 and 1657, the Virginia legislature passed further acts that added to these protections by restricting servants from engaging in secret marriages. The 1642 act stated the purpose:

> Whereas many great abuses & much detriment have been found to arise both against the law of God and likewise to the service of manye masters of families in the collony occasioned through secret marriages of servants, their masters and mistresses being not any ways made privy thereto, as also by committing of fornication, for preventing like abuses herafter…"[184]

The act went on to declare that all male servants that had secretly married since January 1640 or did so in the future would be required to serve an extra year under their masters or mistresses. The act defined a secret marriage as, "with any mayd or woman servant without the consent of her master or mistres if she be a widow."[185] The act further stipulated that any female maid or servant engaging in a secret marriage would be required to serve double the time of her service.

[184] Hening, *The Statues at Large*, 252-253.
[185] Ibid., 253

Lastly, the act provided that any freeman who engaged in a secret marriage with a servant would be required to satisfy the master or mistress by doubling the value of the service and to pay a fine of tobacco to the parish.[186] This act presents a particularly instructive example because it assigns different punishments for men and women servants engaging in secret marriages.

Curiously, the 1657 act concerning secret marriages did not follow suit. While the act was almost the exact same as the 1642 act, the punishment for women was no longer as severe. The 1657 act required that women serve out an extra year after their indenture, the same punishment provided for male servants. This is particularly perplexing considering that regulations for servants dramatically increased during this period. My interpretation of the lawmakers' motivation for this change was their acknowledgement that the earlier law was unnecessarily severe. Regardless of their intentions, this change represents a significant development in the court's equanimity.

While lawmakers did their best to regulate marriage, conflicts still often arose. On June 3rd, 1640, the petition of a servant woman named Elizabeth Williams was brought to the attention of the general court of Virginia. A man named William Chittwood had purchased Elizabeth's labor from her original owner with the intention of marrying her as well. After the couple published marriage banns three times, Elizabeth learned that Chittwood no longer intended to marry her but had instead schemed to increase the length of her indenture. The court ruled in her favor, explaining the decision, "the court taking into consideration as a matter solely violating the faith and honesty of the said Chittwood and likewise tending to the much damage of the said Elizabeth…" The court ordered that Chittwood choose to either marry Elizabeth or free her (on

[186] Ibid.

the condition that she paid him 500 lbs. of tobacco in exchange for freedom).[187] Since Chittwood's failure to follow the established marital policies and to keep to his word would have undermined the system, authorities intervened in order to ensure the balance and continuity of master-servant contracts and of marriage practices.

As marriage and pregnancy cases reveal, servant-master relationships were remarkably complex. In some circumstances, servants became members of the family and community, and in others they often quarreled with their masters and mistresses. The relationship between master and servant was not entirely slanted, and masters were required by law to care for their servants. This sheds light on the necessity of maintaining order in the colony and the insistence upon maintaining fair and reasonable relationships to which both parties had to comply. To this end, the colonial legislature did its best to protect the individual rights of servants. For example, a 1662 law declared:

> every master shall provide for his servants component dyett, clothing and lodging, and that he shall not exceed the bounds of moderation in correcting them beyond the meritt of their offences; and that it shalbe lawfull for any servant giving notice to their masters (haveing just cause of complaint against them) for harsh and bad usage, or else for want of dyett or convenient necessaries to repaire to the next commissioner to make his or their complaint…[188]

Servants certainly took advantage of their ability to bring complaints to the court, commonly appearing with petitions of abuse, lack of sufficient food, and illegally increased indentures.[189] This reveals the flexibility of a system that insisted upon regulating servants' behaviors yet allowed them distinct rights and followed through in protecting these rights in court.

[187] McIlwaine, ed., *Minutes*, 475.
[188] Hening, *The Statutes at Large*, 118.
[189] Snyder, *Brabbling Women*, 90.

On some occasions, masters extended their authority too far, abusing their servants physically or sexually. Women were the primary targets of abuse, often appearing in court after suffering extreme abuses from both their male and female superiors. Surprisingly, women were also quite commonly the perpetrators of abuse in the household, using their role as mistress to assert control, often by harsh means. While Virginia laws did not specifically prohibit servant abuse, the court often ruled in the favor of servants. In fact, servant abuse was the most frequently prosecuted crime in the Chesapeake.[190] Once again, this demonstrates the importance of maintaining order and regulating relationships between colonists; masters and mistresses who abused their servants violated the rules of the system and were accordingly convicted in courts.

A woman from the lower eastern shore, Alice Travellor, appeared several times in the court records in the 1640s, first while she was married to George Travellor and later when she was married to George Burdett. Her story provides an interesting case to examine the deterioration of servant-master relationships. In 1643 Alice Travellor appeared in court not long after her first husband's death and her marriage to Burdett. This time she was accused of abusing her servant, Elizabeth Bibby. The records reveal that Alice had

> whiped Elizabeth Bibby tooke the said Byby and hoysted her upp by a Tackle which they use to hang deare with all And that the sayde Alice hath throwne the sayde Bibby soe farr into the Creeke that she could very hardly crawle out And that shee hath shooke the said Bibby over the fyre threatening that shee would burne her.[191]

Several depositions indicate that this was not a first-time offense. The records specify: "And often tymes her husband and shee had some words concerning her abuseing and beating the said Child, and then the said Alice would runn in a fury to her and beate her and whipp her."[192] Additional stories like these expose Alice's wild temper and regular abuse of Elizabeth Bibby.

[190] Norton, *Founding Mothers and Fathers*, 115.
[191] Ames, ed., CCR II, 271.
[192] Ibid.

Alice's story speaks to the fact that not all colonial abusers were male. In fact, in Alice's case, she was the primary offender and her husband apparently disagreed with her behavior. While females were often victimized in colonial Virginia, they were not singularly blameless as a gendered group. In cases such as this one, female mistresses assumed authoritative roles and took advantage of their superior position in the servant-master hierarchy. While this experience may not have been universal, it certainly was not limited to Alice Travellor; many women in the colony deviated from the traditional notion of a woman's submissive place in society. As Travellor's story shows, some wives derived significant authority in the positions they filled in the colony, roles that proved far different from the archetypal "patriarch's wife."

Wives

While women in England served as wives for the better part of their lifetimes, this was not always the case in Virginia. Many women came to the colony as servants and were not allowed to marry until after their indentures were complete. This contributed to the reason that men were in such desperate need of marriageable women, the dilemma that initially spurred the 1619 initiative to bring maids to the colony. One of the obstacles associated with this plan was the question of how to regulate marriages and decide which men could marry the limited number of maids that arrived. With an unbalanced gender ratio of nearly four to one, men were in strong competition to find wives.[193] As the Virginia Company stated, "Though we are desirous that marriage be free according to the law of nature…yet would we not have these maids deceived and married to servants, but only to freemen or tenants as have means to maintain them."[194] In order to regulate marriage patterns, men drafted laws that aimed to define a proper marriage by

[193] Brown, *Good Wives*, 82.
[194] McIlwaine, "Maids," *Reviewer, I (1920), 190; Ransome, 'Wives for Virginia*, WMG, 3rd ser, xlviii (1991), 9-10 quoted in Kathleen Brown, Good Wives, 81.

demanding that couples receive permission to marry. These laws added many layers of protection to marriage by ensuring that it was a decision permitted by the colony and not just by the parties involved. This provided a legal maneuver by which public and private officials could determine who was fit to marry based on status within the colony.

English laws regarding marriage were particularly complex, and offered several different routes by which a couple might marry. Marriage procedures were generally informal in England and couples were not always required to seek public approval for their engagement. To standardize this system and to ensure that marriage was strictly regulated, the Virginian legislature saw fit to establish regulations and procedures for procuring a marriage in the developing colony.[195] Appearing first in 1619, many acts set out to define the constraints of marriage. For example, the 1619 proceedings of the Virginia Assembly declared,

> No maide or woman servant, either now resident in the Colonie or hereafter to come, shall contract herselfe in marriage without either the consente of her parents, or her Mr or Mris, or of the magistrate and minister of the place both together. And whatsoever minister shall marry or contracte any suche persons without some of the foresaid consentes shalbe subjecte to the severe censure of the Governor and Counsell of Estate.[196]

This law was fairly typical in that it created layers of difficulty for young women wishing to marry. Women, like Elizabeth Starkie in the story at the beginning of this chapter, demonstrate the consequences of laws like this one. This law gave masters, like Thomas Hunt, the authority to arrange and regulate the marriage of their servants. The purpose of laws such as this was to

[195] Virginian laws largely followed the established English legal tradition of Common Law. However, in many situations Common Law was not clear enough or did not adjudicate on matters specific to a developing colony. In these vacuums of English law, the Virginian government was given authority to establish their own laws. However, as the fourth charter of the Virginia Company in 1621 stipulated, it was necessary that the quarter court of the Virginia Company in England approve and seal all laws and ordinances before they could be ratified in Virginia. Thus, while they remained under the strict regulation of Virginia Company officials, Virginian legislators also maintained the power to define specific laws that were pertinent to the developing society. Hening, *The Statutes at Large*, 1112; Norton, *Founding Mothers and Fathers*, 62.

[196] Virtual Jamestown, "Proceedings of the Virginia Assembly, 1619," http://etext.lib.virginia.edu/etcbin/jamestown-browse?id=J1036 (accessed October 2012).

allow both private and public officials a means of regulating marriage and determining whether a proposed marriage was appropriate. Perhaps most significantly, these laws gave fathers and masters authority to rule over the decisions of their daughters and maids. As Mary Beth Norton argues, "Colonial marriage legislation therefore underscored the significance to colonial society of orderly households dominated by male family governors, households from which dependents could depart only with the approval of their superiors."[197] Norton shows that colonists must have considered the regulation of marriages very significant in colonial society in order to break so drastically from the traditional English marriage laws, which were relatively informal and did not require parental consent.

Later laws specified explicit guidelines that limited who might marry and how a couple might do so. For example, in the records for February 1631-2, Act III ordered ministers and church-wardens to register marriages yearly, Act VI defined the process by which a couple might enter into a marriage, and Act XIII restricted marriages to being performed in the church. The process described in Act VI was extensive and required couples to gain a license from the governor and to publish banns three Sundays or holidays during church. Also, the act ordered that ministers could only marry couples between 8 and 12 in the afternoon. Regulations such as these set out to ensure that marriages were limited to the public church setting so that community members could prevent both secret and inappropriate marriages. Over the years, some of these laws were restated, and occasionally altered. For example, in 1646 a law was enacted that demanded a fine of 1,000 lbs. of tobacco if any minister conducted an unlawful marriage.[198] Thus, there were even laws created to police authority figures to ensure that marriage was indeed

[197] Norton, *Founding Mothers and Fathers,* 65.
[198] Hening, *The Statutes at Large,* 332.

strictly regulated. These laws demonstrate the seriousness of marriage rites and the government's desire to regulate these practices in a society with a significantly skewed gender ratio.

In colonial Virginia, as in England, the man was the master of the household. Men served over women as fathers, husbands, and masters. A policy of obedience was actually written into the law, and in 1623, 1631 and 1632, laws appeared that stated: "That no person within this colony upon the rumor of supposed charge and alteration, presume to be disobedient to the present government, nor servants to their private officers, masters or overseers at their uttermost perills."[199] These laws were part of efforts to maintain order in the colony by imposing a strict hierarchy in which obedience to superiors was mandated by law. Other laws acknowledged the presence of heads of families, such as a 1644 law that placed heads of families in charge of collecting taxes for other family members.[200] In this case, the father served as the head of household in advocating for his family in the public sphere. Laws like this one set out to structure society by placing heads of families, almost always men, in positions of authority within the household and outside of it.

While men were often the dominant figures in the household, this was not to say that women did not play a role in family government. As parents, men and women were both held responsible for providing instruction to their children. As a 1631 law indicated, "all Fathers, mothers, maysters and mistrisses shall cause their children, servants or apprentizes which have not learned the catechisme to come to church at the tyme appointed, obedientlie to heare, and to be ordered by the minister until they have learned the same."[201] Even though women were

[199] Hening, *The Statutes at Large*, 128.
[200] Ibid., 286.
[201] Ibid., 157.

subordinate to their husbands, they still maintained authority over their children and servants and held a responsibility as parents. English law fashioned husband and wife as one unit. As the *Laws Resolutions of Womens Rights* stated in 1632, "It is true that man and wife are one person; but understand in what manner.[…] A woman as soon as she is married, is called *covert*…clouded and overshadowed; she hath lost her stream."[202] As this statement suggests, women were legally tied to their husbands in unity, but they almost always occupied a subordinate position.

In Virginia, setting up a system of coverture similar to England was key to establishing patriarchy and controlling social relationships. Colonists were successful in this regard, legally establishing the principle that married women were "covered" by their husband under the law of coverture. As in England, a married woman, or a *feme covert,* forfeited her right to hold property, to file suits and to make contracts.[203] For instance, if a woman was charged in court, her husband might be responsible for paying her fines. This is another reason that men were so concerned with female behavior: a woman's disobedience reflected poorly on a male's authority and threatened his status in the community as well as his patriarchal authority within the household. In Virginia, owing to the greater number of unmarried women, notably widows, more women gained the feme sole status and were afforded greater legal rights in courts and with property.

[202] *The Lawes Resolution of Women's Rights*; *or, The Laws Provision for Women*…(London, 1632), reprinted in *New World, New Roles: A Documentary History of Women in Pre-Industrial America*, ed. Sylvia R. Frey and Marian J. Morton (New York: Greenwood, 1986), 92-94. Quoted in Linda L. Sturtz, *Within Her Power*, 20.
[203] Synder, *Brabbling Women*,16-17.

Widows

Widows were anomalous to patriarchal society; no longer dependent on men, widows gained the authority to make their own decisions and manage their legal affairs. In the economic and legal spheres, widows transcended gender boundaries and threatened the patriarchal power structure. For these reasons, widows were traditionally viewed as dangerous and blamed for social ills. This premise appeared in the print media of early modern England, where plays and stories frequently depicted iniquitous widows as the antagonizing villains.[204] In reality, widows were not particularly common in England, where life expectancy was much longer. The opposite was true in Virginia, where widowhood became a common reality due to the high mortality rates, particularly among male colonists.[205] With regards to property and inheritance laws and the frequency of remarriage, widows occupied a relatively comfortable position in seventeenth century Virginia.

As in England, widows in Virginia were remarkably privileged when it came to inheritance laws. Dower rights dictated that men in Virginia had to bequeath one third of their personal and real property to their widows. In the case that the couple had no children, the husband was required to leave his widow with one half of the personal and real property.[206] In most cases, men provided generously for their widows, sometimes leaving them with much more than the required third or half. They also frequently appointed their widows as sole executrix of their estate. In fact, James Horn calculated that 60-80% of Virginia widows were appointed sole executrix between 1640 and 1710.[207] This points to a desire to keep affairs within the family as

[204] Refer to chapter one for a more in-depth discussion of widows in early modern popular culture.
[205] Morgan, *American Slavery, American Freedom*, 158, 162.
[206] Snyder, *Brabbling Women*, 122.
[207] Horn, *Adapting to a New World*, 227.

well as a trusting relationship between man and wife. Widows in Virginia received the same dower rights as widows in England, but, as Edmund Morgan argues, the annual usufruct of an estate was generally of greater value in Virginia than England.[208] This fact, coupled with the higher frequency with which Virginian women were widowed, amounted to a considerable transfer of power into the hands of Virginian widows. It is for these reasons that Edmund Morgan suggests the argument for Virginia as a widowarchy or economic matriarchy.[209] While this argument is an exaggeration of sorts, it also reflects the significant power that widows gained in seventeenth-century Virginia. As Carol Berkin explains, if wills are to be considered a symbol of the transference of authority, Virginian women were quite empowered as widows.[210]

The authority that men entrusted in their widows is evidenced by the will of Sir William Berkeley, the Governor of Virginia from 1642 to 1650 and then again from 1660 to 1677. His will stated, "First, I make my most virtuous wife, the Lady Frances Berkeley, my full and whole executrix of all the goods God has blessed me with in this world."[211] This declaration underscores men's customary insistence upon women's virtue. Men entrusted their virtuous wives with their estates because a virtuous woman knew her place in the social order and was trustworthy in ensuring that land would remain within the family. This declaration clearly shows that Berkeley, a powerful figure in Virginian society, trusted his wife with the entirety of his estate. He praised her and specified that he was entrusting her with his most cherished property. Men like Berkeley often desired to preserve their household beyond their own deaths; by giving his wife control of his estate Berkeley guaranteed that his family would be well accounted for.[212] Men trusted their wives to pass along fair portions of the estate to their children. In most cases,

[208] Horn, *Adapting to a New World*, 165.
[209] Morgan, *American Slavery, American Freedom*, 166.
[210] Carol Berkin, *First Generations* (New York: Hill and Wang, 1996), 17.
[211] McIlwaine, ed., *Minutes,* 535.
[212] Berkin, *First Generations,* 17.

men wrote provisions that regulated how property would be divided among heirs after their wife's passing.[213] Berkeley indicated in his will that his wife and her heirs would forever retain rights to their property. He wrote, "Next, with my goods, I give to her all my lands, houses and tenements, whatsoever; and not only to her, but to avoid all cavil, to her and her heires forever."[214] In this statement, Berkeley ensured that his estate would remain in his family forever rather than being transferred and dispersed in the case of his wife remarrying. When women remarried, they became femes coverts once again, and their husbands assumed authority over their property. For this reason, women often arranged prenuptial agreements that allowed them to retain property rights even throughout a remarriage.[215]

Berkeley's will is particularly intriguing because he offered inheritance only to the women in his life, and not to any male relatives or friends. Beyond his wife, Berkeley also gave his sister, Mrs. Jane Davies, one hundred pounds sterling, his friend, Mrs. Sarah Kirkman, ten pounds to buy a ring and his cousin, Francilia, ten pounds to buy wedding clothes. When describing Mrs. Sarah Kirkman he once again emphasized her feminine virtue: "in contemplation of the friendship and kindness of Mrs. Sarah Kirkman, that I may be remembered so virtuous a good woman…"[216] In his will Berkeley stressed the close relationships that he had with the many women in his life. This is not surprising, in light of the tight-knit friendships with friends and neighbors that were common for early Virginians. These friendships stemmed from the limited development of kinship networks due to the high mortality rates and skewed demographics. In

[213] Carr and Walsh, "The Planter's Wife," 556; Sturtz, *Within Her Power*, 22, 27.
[214] McIlwaine, ed., *Minutes*, 535.
[215] Sturtz, *Within Her Power*, 21; Carr and Walsh, "The Planter's Wife," 557.
[216] McIlwaine, ed., *Minutes*, 535.

many cases, men were more apt to leave belongings to their friends rather than to extended family.[217] The final lines of Berkeley's will explain his reasoning for his bequests. He declared,

> And I doe further make this declaration, that if God had blest me with a far greater estate, I would have given it all to my Most Dearly beloved wife; for my brother, the lord Berkeley's children, have noe want of that little I can dispose of; and to the rest of my kindred (all but my dear sister Davies) I am farr from having any obligations to.

As Berkeley explained, he did not believe that his other relatives had any need for his possessions, nor did he feel obligated to give them anything. However, as a husband, it was his duty to provide for his wife and family. Berkeley presumably felt some level of obligation to these four women. Whether it was because they were unable to care for themselves or simply because they had been such close friends, Berkeley went out of his way to provide for the women in his life. Through his will, Berkeley chose to transfer his power onto these women. By these means, widows in the colony retained the ability to acquire great economic power. As this demonstrates, widows held significant power in the economic sphere through their abilities to acquire capital and in the social sphere in their value to men as potential property-owning wives.[218]

While Berkeley's will is fairly representative of the impulse to provide for one's wife and family after death, his level of affluence was uncommon.[219] Oftentimes, men had incurred debts over their lifetime, and their widows were left destitute and forced to repay these debts. At times, poor widows pleaded with the courts to provide them with poor relief or to protect their property. For instance, in 1642, Elizabeth Beaman petitioned the court: "That whereas shee being a very poore Widdow woman that if in case the state of the said Richard Beaman should not extend soe farr as to satisfy all engagements belonging there unto, That the Court out of their

[217] Horn, *Adapting to a New World*, 231-232.
[218] Morgan, *American Slavery, American Freedom*, 166.
[219] Ibid., 165-166.

Wonted Clemency would bee pleased to graunt Order that noe execution should issue out against her bedd and all things thereunto belonging with her weareing apparel." In this case, the court ordered in Widow Beaman's favor, allowing her to keep her bed and clothing, and protecting these possessions from being taken in the future.[220]

Upon the death of their husbands, widows regained their legal identity in addition to obtaining new economic powers. As femes coverts, married women gave up their rights to make contracts or file suits. In becoming widowed, women became femmes soles and were, once again, legally independent. Court records demonstrate that widows often exercised their new rights to try cases in court, particularly in property or monetary disputes that cropped up after the deaths of their husbands. For example, a widow named Susan Helline appears several times in the Accomack-Northampton county court records with complaints against neighbors for not receiving proper payment for debts and services. In 1633, the court ordered Walter Scott to pay her 10 lbs. of tobacco and three bushels of corn within five days. Then, in 1634, Helline filed a suit against John Major demanding payment for helping his wife give birth. With the support of a witness, Agnis Williams, the court ordered in Helline's favor, requiring that John Major pay her 18 hens during that month and more hens later in time.[221] Helline appeared back in court three years later with another complaint, this time against John Curtis. Again, the court ordered in Widow Helline's favor, supporting her claim that Curtis should pay her "a barell of eares the which appearing to be a just debt."[222] All of these accounts shed light on Susan Helline's rights as a widow to file suits in court, as well as her economic success and her ability to win the court's favor in order to collect payments in the business of midwifery.

[220] Ames, ed., CCR II, 202.
[221] Ames, ed., CCR I, 15.
[222] Ibid., 88.

Although some Virginian widows remained single like Susan Helline, many more remarried, sometimes even more than once. In England, remarriage for widows was considered improper, particularly when women did not observe the appropriate waiting period before remarrying. In Virginia, similar courtesies carried over but were not strictly followed because widows were in such high demand. This was in part because the number of women remained limited but was also due to the wealth and property many of them carried over from their prior marriage(s) that made them attractive potential partners.[223] For these reasons, remarriage was extremely common in the colony.

In 1623, a woman named Cicely Jordan was placed in the precarious position of receiving a proposal too soon after her husband's death. Although many widows remarried, it was considered proper to wait a while before proposing to a widow, and Jordan was left with a challenging dilemma. Only a few days after her loss, the Reverend Greville Pooley made an early plea for Jordan's hand in marriage. Rather than approach her himself, Pooley had his friend Captain Isaac Madison mention the idea to the newly widowed Jordan. Jordan responded that the match pleased her just as much as any other might; yet she considered the proposal far too early and somewhat improper in its haste. Pooley took this as a positive sign and he proceeded to approach Jordan himself and ask for her hand in marriage. Jordan agreed under the provision that he keep the engagement secret until she felt the time to be proper. Pooley, however, imprudently broke his end of the bargain and told others. Marrying a widow offered men success in a society where widows maintained property, and Pooley likely hoped to share news of his triumph.[224] Jordan promptly revoked the arrangement in response to his having reneged on his word. Pooley did not take her rejection softly, though, and took it upon himself

[223] Morgan, *American Slavery, American Freedom*, 164, 166.
[224] Ibid.,166-168.

to sue Jordan for breech of promise. The court was unsympathetic to Pooley's cause, however, and he lost the case. He was told that he could not marry Jordan and was also enjoined to pay her bond, although the residing governor did issue a warning to Jordan against the recurrence of her actions.[225]

This incident underscores several recurrent themes in Virginian society. For one, the colony's gender imbalance greatly impacted social interactions. Women were of limited supply and men were quick to snatch them up if they became widowed. Women had to be cautious of men's true intentions but they also had to pay particular attention to their own status in society. They were presented with difficult decisions in which they had to choose whom they might marry and at what point it would be considered proper, as well as giving consideration to their property and children from first marriages. Despite the impending loss of legal independence, women desired to remarry because marriage offered them a level of security. In the cases that women did not inherit much from their husbands, widows struggled to survive as economic independents and preferred remarriage. Given their relative autonomy in making these decisions, widowhood was rather empowering for women of the time. The Pooley-Jordan case sheds light on the power that women gained as a result of the gender imbalance. Women held a coveted position in society and therefore, to a certain degree, men were at the mercy of a woman's will. As Edmund Morgan argues, "In Virginia the death rate produced such a rapid turnover of husbands and wives that widowhood became a principal means for the concentration of

[225] Philip Alexander Bruce, *Social Life of Virginia*, pp. 224-26 as cited in Spruill, *Women's Life and Work in the Southern Colonies*, 151.

wealth."[226] Therefore, due to these unique circumstances in Virginia, where women were few and mortality rates high, women's voices could, at times, overcome those of the male multitude.

When widows remarried, they extended their family ties and created extended families, which complicated matters of inheritance, another factor worth considering when widows like Cicely Jordan received marriage proposals. In many cases, women were reluctant because remarriage meant that they would once again lose their economic independence, and it also created problems regarding the transfer of inheritance within a family. In order to protect family property and inheritance, widows often made prenuptial arrangements where they specified that their children would continue to inherit the property left behind by their father. This was a means by which women could separate the two estates, and allow the original family to pass on property, both real and personal.[227] Linda Sturtz uses the label "ghost family" to describe the idea of an older family within a newer family in which property continues to be passed down through the original family.[228] These reconstituted families became fairly commonplace within the colony as the large interconnected family network replaced traditional nuclear family structures. This phenomenon occurred on varying levels throughout the colony, where families were sometimes comprised of nearby neighbors, servants or other nontraditional communions of colonists.

Following Alice Travellor, a Virginia colonist from 1642 to 1643, provides an excellent case study for examining widowhood in colonial Virginia and the concept of a ghost family. Alice appears in the Accomack-Northampton court records numerous times, originally as Alice Travellor and later as Alice Burdett. The wills of her two husbands, George Travellor and

[226] Morgan, *American Slavery, American Freedom*, 166.
[227] Sturtz, *In Her Power*, 19-21.
[228] Ibid., 19.

William Burdett, provide valuable insight into the concept of a ghost family and the maintenance of property through a bloodline. On February third of 1642, George Travellor recorded his last will and testament. Within his will, Travellor left a significant part of his estate to his son George and daughter Elizabeth, bequeathing personal property as well as land to both children. He gave the rest of his estate to his wife Alice, with the provision that she "makes good all the Former Legacies bequeathed to my deare Children."[229] He also included very specific instructions for Alice on the future care of their children:

> Item I doe hereby ordayne and desire my deare and Loveing wife Alice Travellor to have an Especiall care of the good Education of my tender Children That they may bee well brought upp and in the Feare of god. And if in case my sayde wife should marry and That my Children should suffer in their Estates or good Edicature, that the overseers of this my will shall hereby have full power and Authority to take my sayde Children to their or one or More of their Custody and care and to putt in good security for their Edicature as aforesaid. As alsoe with them to Receive their Portions into their possession for use of them. As to put in good security to be Answerable therefore. As Alsoe if my sayde wife should Marry That her husband put in sufficient security to my overseers for the full and Reall performance of all the promses.[230]

As this will indicates, Travellor was primarily concerned with his children's future care and education, hoping to protect their rights to their inheritance. Additionally, Travellor mentions the possibility of his wife's remarriage and makes stipulations for the possibility of this occurrence. This highlights the fact that remarriage was so common in the colony that husbands provided specific details to manage its occurrence.

Alice did end up remarrying shortly after George's death to a man named William Burdett. However, he also ended up passing away in July of 1643. His will indicates that he followed through on the provisions of George Travellor's will, allowing that Alice's property returned to her children upon his death. Burdett's will reads:

[229]Ames, ed., CCR II, 247.
[230] Ames, ed., CCR II, 247.

> Item Notwithstanding out of the aforesaid Estate I give and bequeath to my deare and Loveing wife Alice Burdett All that estate which shee my said wife brought unto mee according as it is sett downe and mentioned in the Will of her former husband, George Tavellor Compleate and intire As alsoe the Third of all my other goods Cattell and Chattells Land only excepted.[231]

Burdett also included a provision to allow for Alice to continue living on his land and to ask that she take charge of his son Thomas Burdett (from a previous marriage to Francis Burdett). In this way the "ghost family," comprised of Alice and her children from her first marriage, George (Jr.) and Elizabeth, retained the property bequeathed upon them by the deceased George Travellor (Sr.). At the same time, Alice and her children became members of a larger family and Alice was instructed to act as a mother to Burdett's son, Thomas. The number of widows mentioned among the court records indicates that Alice's story was not unique. Women in seventeenth-century Virginia were frequently becoming widowed and remarrying. These changes in the colony's societal dynamics created complicated and interwoven familial relationships. These extended families were, yet again, an example of divergence from the English nuclear family, a structure essential to patriarchy. Thus, in more ways than one, the many widows in Virginia challenged the patriarchal structure and influenced the unique dynamics of social relationships in the colony.

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Regulating gender was a priority for the colonists in their pursuit of protecting the social order in the developing colony. As Kathleen Brown explains, "Plagued by unruly settlers and a lack of supporting institutions, Virginia's elite planters may have had the best hope of constructing a legitimate authority in the colony in their capacity as adjudicators of gender

[231] Ibid., 294.

relations."[232] As Brown describes, Virginian men concentrated their efforts on regulating women's behaviors in order to create a patriarchal system to structure wealth and power. However, the frequency of death, the skewed gender ratio, and the system of indentured servitude complicated and challenged these efforts. Patriarchal ambitions pervade the laws and court records of the period, yet atypical circumstances in Virginia forced colonists to cope with a social structure that was far less ordered and that often allowed women greater opportunities and powers. Widows best exemplified the power conferred by Virginia's unique demography, gaining legal independence and property-rights through widowhood. However, not all women waited for their husbands' deaths to gain power. Chapter four examines the disorderly women who directly defied the patriarchal order, acquiring power through their words and actions.

[232] Brown, *Good Wives*, 91.

Chapter Four: Gender Violations in Virginia

In September of 1641, the court at Accomack ordered that Elizabeth Storkley receive twenty stripes upon her bare shoulders for "Comitting the Act of Fornication and Adultery, As also for absenting her selfe and Running away from her Masters service without his privitye and Consent."[233] Stories like this were surprisingly commonplace in the seventeenth-century courtroom. Year after year, the law books cautioned colonists against committing moral offenses such as fornication, adultery, drinking, and profaning the Lord. In spite of these laws, colonists were brought to court every month for repeatedly committing these offenses. Aside from frequent property disputes, cases of moral misdoings dominated the courtroom scene in early Virginia.

Moral offenses carried significant weight for colonists beyond the mere implication of profaning church custom or colonial law. Colonists were highly aware of the developing social order and these violations represented a threat to the colony's social stability. As discussed in chapter three, Virginian men aspired to replicate the traditional English patriarchal structure to bring order to Virginia and they did so by regulating inter-community relationships and legally defining men's and women's separate roles and behaviors. When colonists violated these terms, they threatened the stability of this emergent social order. Men were particularly concerned with female virtue and they strictly punished those who deviated from the norms. Women were expected to stay within the private sphere, and to maintain proper conduct in their public interactions within the community. Women who defied these norms, whores and scolds in particular, wielded power in atypical ways and threatened the traditional patriarchal power

[233] Ames, ed., CCR II, 117.

structure. Women in these positions were feared for their ability to disrupt social dynamics, particularly because they maintained the power to damage men's reputations through their sexual relationships and their unbridled words.[234]

Guidelines for morality were not exclusively reserved for females. Both men and women were held to high standards of behavior, and men's indiscretions were frequently punished in colonial courts. Maintaining order required that all community members, regardless of gender, uphold standards of behavior and adhere to their assigned roles. Sentencing was rarely standardized within the developing court system, and colonists were often assigned different punishments dependent on the threat that they posed to colonial order.[235] Accordingly, a close analysis of sentencing patterns in Virginia reveals that women were sometimes held to stricter standards, particularly in cases that involved sexual honesty, because of the perceived threat that pregnancy imposed.

Even though punishments for female slander were particularly restrictive, women also found empowerment through slander. A slanderer was powerful in the threat that he or she posed to the reputations of others. Court disputes often involved conflicts between neighbors or friends who challenged one another's public reputations. Additionally, when a slanderer insulted a neighbor, he or she gained the authority to define sexual integrity. Matters of private intimacy became a means to gain power in the public sphere, particularly for women who were otherwise left out of the public domain. Slander was the primary vehicle through which colonists brought these topics into public discussion, as women and men frequently appeared in court with complaints against those who had defamed their name or reputation. The seventeenth-century

[234] Brown, *Good Wives*, 95.
[235] Ames, ed., CCR 1, xi.

courtroom scene was a hotbed for gossip and a setting that demonstrated both the complexity and fragility of relationships in these small communities.

In chapter three, I examined the many prescribed roles for women in the early Virginia colony. In this chapter, I aim to explore instances where these guidelines unraveled and women defied convention. This most commonly occurred in the case of whores and scolds. The mere number of cases in which men and women accused others of being adulterers or slanderers evidences the threat that women posed in these roles. Similar to England, disorderly women in the New World were particularly powerful in a non-traditional sense because of the threat that they posed to the patriarchal system of authority. Disorderly women posed a potentially greater threat for the early colony of Virginia where the social hierarchy was not yet solidly entrenched and reputation was an important asset in the drive for upward mobility.

Premarital Relations

Virginia courts treated sexual deviance and extramarital sex unsympathetically because of the injury that these relations imposed upon the sanctity of marriage and on church guidelines for public morality. Sexual transgressions also had grander implications for colonists. The developing colony represented a system in flux and the acquisition of power, property, and status were foremost in the minds of colonists. Sexual relations between non-married couples threatened to undermine this system; thus, officials took careful precautions to try and prevent their occurrence. Women were regarded as temptresses in these affairs and were thus considered the primary offenders, often labeled with derogatory terms such as "whores" or "wenches." Women received these labels when they diverted from the ideal male-generated image of submissive womanhood. Dangerous women were those who refused to accept their role within

the patriarchal order and thus threatened societal harmony. As Kathleen Brown explains, traditional folkloric accounts often incorporated "the good wife's antithesis- the witch, whore, or scold."[236] Women in Virginia were likely familiar with such folktales and developed similar reproach for these figures. Virginia colonists were conditioned to fear disorderly women and blame them for society's evils.

Premarital sex was forbidden in colonial Virginia for a multitude of reasons. Fornication was a sin within the Anglican Church and was thus proscribed in the colony. Premarital sex was particularly threatening because unmarried women might initiate relations with unsuitable men. For example, women might engage with male servants or men of lowly reputations, which proffered these men greater social mobility. In Virginia, there were many regulations placed on the convention of marriage in order to ensure that women married properly; premarital relations could likely upset the system. There was also the very significant risk that women might become pregnant and give birth to children outside of the traditional guidelines of marriage. Bastard children did not fit into the established hierarchy and presented conflicts over who was responsible for their care. These children were not born into an established family, which complicated fiscal matters and inheritance patterns. For these reasons, fornication was commonly looked down upon, and women were often found guilty of fornication in courts.

The Accomack-Northampton court presided over several cases of fornication, many without any clear evidence of wrongdoing. For example, in the year 1639, a number of verdicts concerning fornication reveal a lack of sufficient evidence and a large range of sentencing procedures. The decisions were usually based on presentments from ministers, with little concrete evidence pointing to the crime. Offenders in these cases were punished with whippings,

[236] Brown, *Good Wives*, 27.

penance in church, or contributing labor or money to public works projects. Corporal punishment was a common penalty for these crimes, used as a measure to deter future offenders.[237] For example, one of these verdicts read: "It is ordered that John Pope and Elise Kotton shall have fourty lashes for living in the sin of fornication."[238] In the same year, the court collectively presented a number of fornication cases, ordering public chastisement as a sentence for all of the offenders: "It is ordered that these persons viz. Francis Martin and Ellinor his wife, John Foster and Bridgett his wife, Robert West and Elizabeth his wife, Thomas Newton and Mary his wife for the sin of fornication before marriage shall stand in the church three several Sundays doing penance according to the cannons of the church."[239] This public punishment reinforced the notion that fornication was a profane act that must be punished before God as well as in front of the community. This punishment was publicly embarrassing as well and a clear reminder to the community that these individuals were disorderly, and thus harmful to social stability. Also, these couples received a lighter sentence, likely because they were married, and posed a lesser threat to social order.

Men and women were not always treated equally when it came to sentencing. For example, in 1638, the churchwarden Phillipp Chapman testified against John Holloway for fornication with Catherine Jones. The court ordered that Holloway publicly acknowledge his sin the next Sabbath day and pay 200 pounds in tobacco toward public uses. Catherine, on the other hand, was ordered to be whipped with thirty lashes on her back.[240] In this case, Holloway was given a sentence that likely imposed an economic burden but that was not physically scarring in the same way that corporal punishment would be. By contrast, Catherine was given a physical

[237] Ames, ed., CCR I, xi.
[238] Ibid., 151.
[239] Ibid.
[240] Ames, ed., CCR I, 128.

reminder of her wrongdoing. There are two possible reasons for this discrepancy: first, since women did not hold wealth, it would have been difficult to charge them with a monetary fine. Second, men feared the potential impact of female pregnancies on their control of land and labor and thus set out to ensure that harsher punishments for females would deter future fornication.

Adultery

Although premarital sex was highly scorned, adultery was considered an even greater evil because it directly challenged marriage and family structure. Adulterers committed a foul offense and damaged their own reputations as well as those of their family members. Early Virginian laws demonstrated the seriousness of adultery as compared to pre-marital fornication. When Sir Dale's Code was in place from 1610-11, laws established that adultery was punishable by death while fornication would result in whipping.[241] During these early years, the colony was very unstable and these harsh laws were established in attempts to construct order. However, as the colony developed and became more ordered, sentencing was reduced in severity, and adultery was grouped with other moral offenses. The threat of adultery still remained, but it was not necessary to establish such stringent laws.

While English citizens certainly expressed concern about the threat of adultery, colonists in Virginia seemed to possess a heightened awareness of the social consequences of adultery in their newly developing and highly unstable community. In England, adultery was often policed informally by neighbors rather than in the courtroom setting. Adultery seemed to possess a more viable threat in Virginia because of the limited number of women and the frequency with which

[241] Julia Cherry Spruill, *Women's Life and Work in the Southern Colonies*, 314; Teaching American History, "Articles, Laws and Orders, Divine, Politic and Martial for the Colony of Virginia 1610-1611." http://teachingamericanhistory.org/library/index.asp? document=2318 (accessed February 2012).

men travelled away from their homes.[242] For these reasons, litigation concerning adultery was expansive in Virginia throughout the seventeenth-century. Comparatively, adultery laws were fairly straightforward in Virginia after the early years of Sir Dale's code. In 1642, an act required churchwardens to make presentments of misdemeanors including "swearing, profaning God's name, and his holy Sabboths, abuseing his holy word and commandments, contemning his holy sacraments or any thing belonging to his service or worship."[243] Adultery was categorized as a moral and religious offense that abused God's holy word and commandments. Thus, without explicitly stating it, laws like this one demonstrate the clear legal remonstration against a moral offense like adultery.

The obvious problem with disciplining adultery was that it was quite difficult to obtain evidence. In this pursuit, a 1645 law requiring that churchwardens present misdemeanors included a provision that allowed them to present cases where they received their information from others. This law allowed that neighborly testimony might suffice to place blame on a woman or couple, a phenomenon that lent itself to increased gossip and defamation in the colony. Another act from this same year declared that churchwardens must make presentments for adultery and other sexual violations:

> That if any person or persons of what degree or condition soever should abuse themselves with the high and fowle offences of adultery, whoredom or fornication or with the loathsome sinne of drunkenness in the abuse of God's creatures, that of those and every one of those the said church-wardens should make a true presentment."[244]

As this law established, churchwardens were responsible for policing these intolerable offenses.

[242] Brown, *Good Wives*, 86.
[243] Hening, 241.
[244] Ibid., 310.

Adultery cases generally presented difficulties for arbitration due to the lack of evidence. However, in certain situations, neighbors, friends or family members caught adulterers in the act and brought these stories to court. Men and women often gossiped, and it only took one mention to an outside party for a story of a sexual encounter to spread throughout the community.[245] For instance, in 1643, Susanna Kennett and John Tully came to court with their rather explicit story of witnessing Mary West engage in an adulterous relationship. Tully and Kennett shared this story with the court, explaining that they had heard a snoring sound and had gone to investigate, assuming that Mary West was having a fit. Hiding behind a hogshead of tobacco in the entry, Tully and Kennett witnessed Richard Jones and Mary West lying on a bed together in a provocative position. Kennett began laughing at the sight and the two quickly hurried away so as to avoid getting caught. Later, they once again caught Mary lying down upon the bed "with her cloathes upp about her eares and the said Richard Jones Laye downe upon her and was betwixt her Leggs." They claimed that Mary's son George came into the room for water and cried "comee off my Mother Lichett Ile tell my father."[246] The end of this story, when Mary's son enters the room and mentions his father, highlights the complexity of situations like this one. Adultery was more than simply a wrong unto God and to one's marriage partner; adultery had far-reaching consequences, upsetting family structures and community dynamics.

Also significant to this case is the fact that John Tully and Sussanna Kennet independently relayed this very detailed and personal story to the court, both using very similar descriptions. These parallel testimonies were apparently sufficient evidence for the court. The records of this incident specify: "Whereas it appeareth unto this Cort by the Affidavitts of John Tully and Susanna Kennett That Richard Jones Committed Adultery with Mary the wife of

[245] Norton, *Founding Mothers*, 261-263.
[246] Ames, ed., CCR I, 290-291.

Robert West."[247] Richard did not appear in court that day and the sentencing was suspended until the next county court. The records of this case stop there, and fail to detail the sentencing procedure. Regardless of the punishment, it is clear that the court found the couple guilty, stating, "the punishment That shalbe inflicted upon the said Richard and Mary for their said Offence shalbe suspended until the next County Court."[248] In this situation, the testimony of two community members was sufficient evidence in court to prove adultery. As this demonstrates, words could have a powerful effect in early Virginian society, particularly within the legal system. Although many of the colonists' testimonies were likely true, the relative trust that the court placed in their word reflects how easy it was to create or modify stories about the sexual honesty of other community members.

One of the reasons for the great number of adultery cases in seventeenth century Virginia was that men frequently travelled and left their wives at home. During their husbands' prolonged absences, women sometimes engaged in extramarital affairs.[249] A story of this nature appeared in the court records in 1634. While this story is unclear in parts, it emphasizes the frequency of adultery, particularly in cases where husbands left their wives alone in Virginia. In this account, Lewes Whyt told the court that William Payne laid with Edward Drew's wife while Drew was at the Duck.[250] Whyt indicates that Drew's wife slept with William Payne six of seven times, almost every night that winter.[251] However, the story becomes more complex, as Whyt explains that Payne was only one potential suitor. Whyt also refers to a relationship between a younger man named Powell and Drew's wife. Once again, this sheds light on the skewed gender ratio in

[247] Ames, ed., CCR I, 292.
[248] Ibid., 290-291.
[249] Brown, *Good Wives*, 96.
[250] The original manuscript was illegible through parts of this record, and Ames uses brackets to show this: "That while Edward Drew was at the Duck [ ] william Payne layd with his wife and had the [ ] six of seventh tymes all most every night that winter she told him." Ames, CCR 1, 25.
[251] Refer to the above-noted.

colonial Virginia and the impact that this demographic peculiarity had on social relations. With such a limited number of women, men like Powell and Payne were eager to take the opportunity to engage a relationship, even if the woman was married. In fact, the language within this record exemplifies this attitude. It reads: "Alsoe he sayd he would not have had any thing to doe with her, but he saw young Powell use her and to put out him he thought to make use of her himselfe."[252] This phrasing clearly reinforces the notion that men looked for every opportunity to find available women. At the same time, this does not necessarily mean that Drew's wife was blameless; situations like this were clearly complex, and relied on hearsay, thus, it was difficult to piece together the truth.

To make things more complicated, Drew's wife was apparently pregnant with Payne's child and attempted what appears to have been infanticide. The account reads: "Alsoe she told him she was with Chyld by him and they knew not what to doe but Edward drew coming [ ] knocked it in the head…"[253] While documentary silence leaves many questions unanswered, this account clearly points to the consequences of adultery and the possibility of an unwanted pregnancy.

Unwanted Children: Infanticide and Midwives

While it is not clear in this particular case whether "knocked it in the head" was an attempt at infanticide, women like Mary Drew sometimes resorted to such cruel measures out of desperation and fear. Women hid these crimes by claiming that they had miscarried the baby. In these cases, midwives were called upon to help determine infanticide. In 1629, a man named George Unwin suspected that his maid Dorcas Howard had killed her baby. When Unwin

[252] Ames, CCR I, 25.
[253] Ibid., 25.

originally questioned Howard about her illness, she denied his suggestion that pregnancy was the source of her pain. However, when Unwin threatened the maid the following day, she admitted to the pregnancy and announced that Robert Gage was the father. The very next day, Howard told Unwin that she had miscarried. Unwin called a midwife, Elizabeth Moorecock, to come and investigate the situation, but she was unable to decide whether or not Howard had miscarried. Moorecock was called to court and recounted how she had found the baby's head bruised but was still unable to provide any definitive proof of infanticide. The court records stop here, with a command that Howard appear in court at a future date.[254] Since the records are incomplete, we can only guess about Howard's fate. It is possible that Howard was put to death, as many women were in cases of infanticide. However, lack of certitude was fairly common and in many cases women may have been unjustly convicted.[255]

This case also demonstrates the power vested in midwives to arbitrate in such uncertain cases. Midwives were powerful because of their ability to communicate intimately with other women and because of their value to the men who relied on their aid in court. Midwives also played a crucial role in providing proof of paternity after births. Midwives befriended women on a very intimate level and they made it difficult for women to conceal the identity of the father. In cases of uncertainty, midwives would request this secretive information at a woman's most painful moment when it was believed that she was most willing to be truthful. For these reasons, at least one midwife was usually assigned to a bastardy case.[256] Midwives present an interesting case study because they were of vital importance to both men and women. By providing proof of infanticide or paternity, midwives were pawns in the male-dominated system of patriarchy.

[254] McIlwaine, ed., *Minutes*, 194.
[255] Spruill, *Women's Life and Work*, 325.
[256] Brown, *Good Wives*, 273.

Midwives' testimonies in court aided men in their mission to control women. On the other hand, midwives gained power in their ability to act as intermediaries between men and women.

Slander

Language was a powerful tool in early modern England as well as in the New World. In an unstable environment like seventeenth-century Virginia, gossip had tremendous power to complicate relationships between colonists. In England, reputations were built on long-lasting relationships and years of interaction and experience. The social class structure was much more stratified, and status was passed down through family lines. In Virginia, no such hierarchy imposed itself, and social mobility was very fluid. Since status and reputation were actually quite fragile, words retained great powers to damage colonists' positions within society. In particular, colonists recognized the threat that slander posed to raise suspicions and sway public opinion over issues of personal honor.

In the early years of the Virginia settlement, Company officials were particularly worried about the threat that language might pose to the colonial government's authority. This is clear in Dale's Code of 1611, which included several provisions that regulate language. Primarily, these laws forbade colonists from speaking "impiously or maliciously" against God, the holy trinity or the Christian faith, "upon paine of death." There were also laws that prohibited using the Lord's name in vain, taking unlawful oaths, or cursing. Offenders of such crimes would be punished severely. For example, second time offenders were punished with a bodkin[257] thrust through the tongue, as a physical symbol of their impiety. This punishment was in the tradition of "an eye for an eye," as a bodkin through the tongue was a means of physically piercing through an

[257] A bodkin was a sharp needle that was used to make holes in cloth.

offender's tongue in the same way his or her tongue had uttered harmful words. The laws also forbade men and women from using "traitorous words" against the King of England or any royal authority, with death as the punishment for these offences. They also declared that colonists could not slander or "utter unseemly, and unfitting speeches" against the King's council for Virginia, nor the assistants to that council, nor anyone or anything else involved in the "Christian Plantation" in Virginia.[258] These laws were considerably more severe than future colonial laws regarding speech. Even in their extremity, Dale's laws offer evidence of a preoccupation with the power of language and a deep fear of colonists' ability to slander, particularly during the colony's early and most disordered years.

During the middle of the seventeenth-century, there was limited legislation in Virginia concerning slander, yet a preponderance of slander cases appeared in courts during this time period. Colonial attitudes toward slander are apparent in the ways that colonists referred to these cases in court. For example, slanderers were accused of "abusing his household," "scandalizing," "taxing," "injuring" and doing "manifest wrong" unto their neighbors and friends.[259] These descriptions reveal the damaging consequence of slander and the perceived ill that words could cause a community. Slander had long-lasting effects because it was difficult to change public opinion after the words were already out. For these reasons, colonists continually brought cases of slander to the court in order to try and clear their names and place blame on the offender.

The most common cases of slander concerned neighbors calling each other whores and rogues. While both men and women were found guilty of these crimes, slander was commonly

[258] Teaching American History, "Articles, Laws and Orders, Divine, Politic and Martial for the Colony of Virginia 1610-1611." http://teachingamericanhistory.org/library/index.asp? document=2318 (accessed February 2012).
[259] Ames, ed., CCR I, 20, 85, 117, 132, 146.

considered a female vice. Men feared female speech because it represented a domain in which women could potentially gain power. As Terri Snyder concludes, "Ungoverned tongues challenged assumptions that undergirded traditional politics and domestic authority, and, in particular, emergent ideas of mastery in the seventeenth century."[260] Women were frequently the perpetrators as well as the victims of slander.

The records of slander cases demonstrate a variety of different insults that were thrown between community members. However, the most common insult was the use of the label "whore," which was an attempt to question a woman's sexual honesty. Women were called "whore," "slut," "dirty face," "common whore," "common as the milking pail," "common carted whore," "dishonest woman," and other similar terms. Women were often wrongly accused of adultery, and while many of these stories were largely unfounded, some accusers even went so far as to fabricate details of the affair. In making these accusations, slanderers often placed emphasis on their ability to prove that the woman in question was indeed a whore. For example, in 1642, John Little was accused of slandering Elizabeth Bacon. A deponent cited Little as saying, "you are a whore and I will prove you a whore."[261] Several other deponents supported this claim, testifying that John Little had called Elizabeth Bacon a whore, a common whore, and as common as the milking pail.[262] This case demonstrates the varied language of insult as well as the common tendency among slanderers to declare the situation verifiable. Furthermore, there were five deponents in this case, all of whom testified to very similar stories about the event. This was another trend among slander cases; since all slander stories were somewhat delicate in

[260] Snyder, *Brabbling Women*, 3.
[261] Ames, ed., CCR II, 189.
[262] Ibid., 190.

that they were difficult to prove, it was often necessary to bring several witnesses to court in order to support the strength of the case.

Men were also victims of slander in Virginia. While "whore" was the most common insult for women, "rogue" was certainly the most common for men, a term which did not have a sexualized meaning as whore did. Men were frequently called "rogue," "perjured rogue," or "foresworn fellow," all terms that aimed to question a man's honesty in the business world or to deride his masculinity.[263] As Edmund Morgan explains, factors like mortality and the shifting value of property prevented any secure means of accumulating wealth and opened up opportunities for cheating and embezzlement.[264] Morgan claims, "every business transaction was a high-risk adventure delicately balanced against the perishability of both the property and the participants involved."[265] Thus, honest business practices were important to a man's reputation in society, and consequently targeted by slanderers.

A case in 1637 provides an interesting example of slander that was directed at men as well as women. In this account, Anne Stephens abused Grace Waltham by slandering her husband, John Waltham. The record reads:

> Anne Stephens, the wife of Christopher Stephens came to the cowpen and there did in a jeering manner abuse Grace Waltham saying that John Waltham, husband of the said Grace had his monthly courses as women have, and that the said Anne Stephens should say that John Waltham was not able to get a child.[266]

The record for this case indicates that Stephens "did in a jeering manner abuse Grace Waltham," implying that Grace was the victim of abuse, even though the insult was directed at her husband. The likely reason for this is that an insult of this nature disparaged both husband and wife. Even

[263] Brown, *Good Wives*, 99.
[264] Morgan, *American Slavery, American Freedom*, 171-177.
[265] Ibid., 177.
[266] Ames, ed., CCR I, 85.

though the slander was more directly aimed at John, insulting his masculinity and comparing him to a menstruating woman, Stephens also insults the couple's joint capacity to have a baby. The nature of these insults once again underscores colonial anxieties over gender and the proper roles of men and women. In this case, the two women responsible for the slander, Anne Stephens and another woman, Anne Williamson, were both sentenced to be ducked and to ask for forgiveness from John and Grace Waltham. These punishments ensured a confession as well as a means of clearing the Walthams' names in a public community setting.

As Stephens' and Williamson's sentencing indicates, most punishments for slander aimed to coerce public confession.[267] Since slander was in many ways a "public" crime, it was only fitting that slanderers would be punished by declaring their guilt in a public setting. While public apology was commonly included in sentencing, there was no distinct method for punishing slander within the colony. Similar to adultery, there were several different sentences that might be assigned to slanderers, generally dependent upon the severity of the case and the gender of the accused. One particular penalty, ducking, was a punishment designed solely for the colony's women. In fact, a 1662 law that was designed to curb the frequency of slander cases read: "Women causing scandalous suites to be ducked".[268] The women cited in this law were referred to as "brabbling women," which meant that they were quarrelsome and vexing.[269] The creation of this strict law reflects the degree to which women's voices threatened male superiority.

The punishment that this law mandated, ducking, was a process by which women were strapped to a chair or seesaw-like contraption and continually ducked into a body of water until

[267] Clara Ann Bowler, "Carted Whores and White Shrouded Apologies," *The Virginia Magazine of History and Biography* 85:4 (1977), 425.
[268]Snyder, *Brabbling Women*, 2.
[269] Ibid., 2.

they would confess.[270] Occasionally, the village of the accused did not even have the appropriate tools to enforce the sentencing. This was the reason for the 1662 provision that demanded that each county acquire a pillory, stocks, a whipping post and a ducking stool.[271] Ducking had been used for disorderly women in England as well and colonists were familiar with their effectiveness in forcing a confession. In 1634, Thomas Hartley, a member of Hungar's Parish in Virginia, describes in a letter the terror of ducking: "Betsey had a stout stomach, and would not yield until she had allowed herself to be ducked 5 severall times. At length she cried piteously Let me Go Let me go, by gods help I'll sin no more. They then drew back ye machine, untied ye Ropes and let her walk home in her wetted clothes a hopefully penitent woman."[272] Coerced confessions like this one contributed to the common belief that unruly women were the source of all evils within the colony.

Sitting in the stocks was a similar punishment to ducking but was used for both male and female correction. Slanderers might be ordered to sit in the stocks for a certain amount of time, generally three Sundays during church services. The stocks were a means of publicly humiliating offenders so that they might not repeat the offence. Additionally, since most slanderers aimed at harming the reputations of others, this punishment was fitting in that it could be harmful to the reputation of the accused as an announcement of their wrongdoing. In a 1634 case, Henry Charelton was accused of slandering Mr. Cotton, saying, "if he had had mr. Cotton without the Church yeard he would have kickt him over the Pallyzados caling of him black cotted raskoll." In his sentencing, the court ordered that Charelton "build a pare of Stocks and sett in them three severall sabouth days in the time of divine servis and their aske mr. Cotton

[270] Ibid., 27.
[271] Spruill, *Women's Life and Work,* 330-1.
[272] Alice Morse Earle, *Colonial Dames and Goodwives* cited in Spruill. *Women's Life and Work*, 331-2.

forgiveness."[273] In a similar vein, other punishments required that colonists provide money or labor toward projects for public use. This was a productive approach as it utilized the accused to support community affairs. In slandering others, the accused had hurt the community as a whole; penalties of this nature were a means by which a slanderer could repay the community.

One of the most common penalties for slander was public apology. It was important that a slanderer confess the injury that they had inflicted and redeem the name and reputation of the accused. Punishments were therefore aimed at offering reparation to the victims of slander by forcing the accused to publicly confess and apologize in a public court or church meeting. In a notable case in September of 1634, two women were both brought to court for slandering each other. First, Edward Drew filed a suit against Joane Butler for slandering his wife, Mary. As punishment, the court ordered Butler to be "drawn over the kings Creeke at the starne of a boate or Canew from on [one] Cowpen to the other." Peculiarly, the court also gave her a second option, declaring that she would be drawn over the creek,

> or else the next saboth day in the tyme of devyne servis betwixt the first and second lesson present her selfe before the minister and say the followeth. I Joane Butler doe acknowledge to have called Marie drew hoare and thereby I confesse I have done her manefest wronge, wherefor I desire befor this congregation, that ye syd Marie Drew will forgive me, and alsoe that this congregation, will joyne, and praye with me, that God may forgive me.[274]

Interestingly enough, soon after this incident, Thomas Butler accused Mary Drew of slandering Joane and calling her a carted whore. Mary was given an identical punishment to Joane, ordered to stand before the church and make an almost verbatim confession. This story is demonstrative of the complex social relationships in early Virginia and the lack of deterrence that most punishments provided. In many cases, the same women and men were continually brought back

[273] Ames, ed., CCR I, 28.
[274] Ames, ed., CCR I, 20.

to court for slander, regardless of the severity of their earlier punishments. This case is also interesting because the records reveal the exact speech that the women were required to give in front of the church congregation. This speech is a great example of the kind of language used to describe slander in the colony. Slander was a "manifest wrong" that required public apology and repentance to both the victim and the community.

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As demonstrated by the many stories in this chapter, the colonial courtroom was a venue of neighborly dispute. Even within the courtroom setting, community members generally played the greatest role in policing one another. There were an enormous number of cases that were centered on the notion of personal honesty and public reputation. From a modern-day perspective, many of these cases would appear to be unbefitting to a judicial setting. However, during a time period of great uncertainty, it was important to settle disputes with neighbors and friends in a public setting so as to legally establish the truth of a given situation and place blame on the wrongdoers.

The countless stories of adultery, slander, and other moral offenses evidence the fact that patriarchy was frequently contested in early Virginia. In England, many of these same threats were present, but they rarely had the same consequences, particularly because patriarchal structure was engrained within English society and the hierarchy was well established; under these circumstances, it was harder to disrupt such a secure system. Conversely, due to the instability of the Virginian social structure, whores and scolds presented a much greater threat to social order and to the colonists' efforts to establish and maintain a system of patriarchy.

Conclusion

When students in grade school study American history, they often learn about the first Thanksgiving, Paul Revere's famous ride, and the American War of Independence. Similarly, when curious readers glance at the "this day in history" column in newspapers, they read about important events or the birthdates of notable historical figures. Outside of academe, there remains a tendency to classify history as a chain of big events or a collection of important scenes in a larger narrative. Related to this trend is the familiar expression, "the victor writes history," a statement that sheds light on the telling of history as the study of big players, of the important people, the kind of figures who would make a fascinating biographical study. While these trends are not by any means incorrect, and can actually provide a valuable understanding of America's historical past, but they also leave quite a bit untold.

If history was just the recording of big events and important people, we might be misled to believe that minority groups like Native Americans, African Americans, and women did not play an active role in the American past. Looking to the seventeenth century, we might summarize the female experience with our understanding of Pocahontas, Anne Hutchinson, or the Salem Witch Trials. This would not paint a full picture, and it certainly would not represent the experience of ordinary women, who are repeatedly left out of the history of the colonial world. In this thesis, I look to the moments in between these larger events, the "connective tissue" of history that allows us to understand why these big events occur. It would be nearly impossible to study important institutions and incidents like slavery or the American Revolution in a vacuum and without attention to the people, ideas and events that preceded them. Social history urges a study of the ordinary folk, those whose stories are important, yet rarely preserved.

Seventeenth-century court records invite present-day readers into the world of the past. While it is easy to dismiss court records as "exceptional," noting that only criminals end up in court, this certainly was not the case on the lower eastern shore during the early seventeenth-century. While most people were brought to court because they broke a rule or violated a norm, the stories that were told in this venue were often of quotidian events and neighborly exchanges. Reading these records is like watching a soap opera; the colonists frequently shared intimate details in court, and readers witness the characters' lives unfurled. I initially began my research on this topic for my final research paper in a seminar course, "Colonies and Empires" and I only discovered these records while I was nearing the end of my research. Thus, my initial forays into the Virginia court records were simply ancillary, providing useful anecdotes to supplement my synthesis of previous scholarly work, I found myself compelled by these stories, and never turned back. The Accomack-Northampton court records are located at the core of my analysis; my understanding of gender dynamics in seventeenth-century Virginia has been largely shaped by the stories provided in these records. While they are in no way comprehensive, these accounts provide a glimpse of seventeenth-century Virginian society and a window into the lives of the few English women who were living in Virginia during this time. For these reasons, the Accomack-Northampton court records present a constructive springboard for my analysis of gender in seventeenth-century Virginian society.

The Virginia court records revolved primarily around property, sometimes in unexpected ways. A prefatory note to the 1632-1640 Accomack-Northampton records explains, "The prominence in its pages of tobacco, corn, cattle, boats, Indians, and beaver, of master and servant relations, problems of sex, defamation, and breaches of the peace will be immediately impressed

upon a reader."[275] All of these topics relate in some way to property or concerns and conflicts focused around property. Even Powhatans were part of disputes over property because English settlers made plantations from their lands. In early modern England, as in Virginia, questions of property were intimately linked to understandings of gender through the system of patriarchy. To compare gender in the new and old worlds, patriarchy is the most useful measure for analysis. Gender relations in early modern England were tied to the system of patriarchy, which relied on an understanding of women's subordination under men as essential to regulating the transfer of property and nurturing an ordered society.

As Kathleen Brown explains, colonists in Virginia set about "negotiating a new set of colonial meanings for social distinctions."[276] With regards to gender, English colonists did not move to the new world with the intention of inventing new opportunities for women or alternate understandings of gender distinctions. Instead, conditions in Virginia compelled reconsideration of traditional gender norms. Early modern England and colonial Virginia were worlds apart, separated geographically by the Atlantic, but separated also by demographic and epidemiological conditions that altered the development of society in Virginia. The unique setting in Virginia provides an obvious reason for why historians like Kathleen Brown and Edmund Morgan have painted a picture of gender relations in Virginia as widely disparate from England. However, assertions of Virginian exceptionalism oversimplify the story and fail to account for the remarkable similarities that align understandings and enactments of gender in both early modern England and the Virginia colony.

[275] Ames, *CCR I*, vii.
[276] Brown, *Good Wives*, 79.

Crucial to this comparison is the notion of patriarchy and an understanding of why gender was so important to English citizens and colonists in the seventeenth century. In England, patriarchy was the basis for constructing the social order. Order relied upon a social hierarchy that was built upon status and reputation in society. Status was measured by wealth and property holdings. Patriarchy provided structure to this system, regulating the flow of power and property within society. In a patriarchal system, men held power and authority over women and controlled property and wealth. Women retained a reproductive role and gave birth to heirs so that property could be passed down through family lines. This system could only function properly if all parties respected their roles in the hierarchy. Therefore, patriarchy was contingent on the subordination of women. To understand gender in the English context, it is necessary to understand that men regulated gender-specific behaviors and roles as a means of perpetuating the patriarchal structure of English societal organization.

As chapter two explored, Virginia was a setting very different from England, and circumstances distinct to Virginia influenced the evolving social relations in the colony. Virginia differed most markedly with respect to land and demography. Land was extremely limited in England and the population was profuse, so citizens vied for property and wealth. It was difficult to accumulate land, and even more difficult to attain high status in society, since status was passed down through generations. Social hierarchy was deeply rooted within English communities and dictated the way that English citizens interacted with one another.

Virginia was almost the virtual opposite. Land was plentiful but colonists were limited in number, particularly women. It was easy to acquire land, and social mobility was within reach, even for servants. However, there were also epidemiological concerns in Virginia, and a high mortality rate resulted from the many diseases that colonists encountered. Since colonists were

dying so rapidly, and population numbers were limited from the beginning, it was difficult to consolidate wealth and maintain a secure standing in society. With limited numbers of women, patriarchal families formed less frequently and women were more often widowed. Thus, family relationships were extended and fractured, and the colonists could not replicate the structure of nuclear patriarchal families that composed English society. All of these factors amounted to significant disorder in the colony, and a great amount of flexibility with regards to social relationships.

The variation in environment did not preclude colonists from attempts to replicate patriarchy. In fact, the disorder that characterized early Virginian society motivated colonists to search for structure. The laws and court records from seventeenth-century Virginia indicate the desire among male colonists to apply a patriarchal system of power relations. Laws evidence attempts to regulate gender, particularly efforts to control female behaviors. Women in Virginia were legally defined as servants, as wives, and as widows, and each of these positions allowed women different opportunities. In Virginia, women sometimes encountered enhanced opportunities, such as the power wielded by mistresses or the property-holding abilities of widows. However, at other times women found their rights restricted to a greater extent than they had been in England, particularly in instances when colonial authorities hoped to use control to implement a patriarchal system. For example, colonial marriage laws were much stricter and more formal in Virginia than they had been in England, which demonstrates the greater attention to regulating social relationships in a disordered colony. As the third chapter outlined, there were significant ways that patriarchy presented itself in the colony and additional instances in which the conditions in Virginia prevented the replication of this institution.

In the fourth chapter, I described some of the ways in which colonists, particularly women, directly resisted the establishment of patriarchy in Virginia. Adultery and slander were the two most common ways that colonists contested the patriarchal structure. Through their actions and their words, colonial women disrupted the developing social order. While these offenses were not unique to Virginia, they were more disruptive in an environment where status and reputation were built on shaky foundations. Courts provided harsh sentences for offenders, which underscore the insistence on gender regulation and the gravity of the threat imposed by women's words and actions.

As court stories demonstrate, gender relations were particularly complex in Virginia where society was highly disordered and, as a consequence, women sometimes played unusual roles or filled atypical positions in society. However, these findings do not wholly dismiss James Horn's argument that Virginian society developed consistent with traditional English norms. Colonial officials regulated gender in attempts to set up a traditionally English patriarchal system and Virginian women were held to many of the same restrictions as English women. For these reasons, I believe that it is impractical to choose only one side of the debate over continuity. The truth lies somewhere in the middle, and reveals a picture of a society that developed anew but that also very clearly resembled the Old World that colonists left behind. It is more important to understand the underlying structures of Virginian society and the ways that colonial society developed, which were not always consistent with English norms.

It is also necessary to remember that Virginian society was rapidly changing as the colony continued to grow and develop throughout the century. As circumstances changed, men's and women's roles in society also transformed. Looking toward the eighteenth century, the colony became much more structured as populations stabilized and communities developed

ordered institutions and structures. By then a more secure system of patriarchy ordered colonists' relationships and insisted upon the subordination of women. The eighteenth century was dominated by men like the well-known William Byrd, a planter whose diaries reveal very explicit patriarchal views concerning male dominance over women. Byrd's diaries also illustrate parallel attitudes concerning male dominance over African slaves.[277] As Anthony Parent argues in *Foul Means,* the ideology of patriarchalism[278] was crucial to the growth of a system of racial slavery. As Parent insists, the great planter class fashioned their authority around patriarchal confirmations of male rule. They first established authority over women, and increasingly used patriarchy to validate master-slave relationships.[279] Kathleen Brown also argues that gender was integrally linked to race and vital to understanding the creation of racial slavery. In *Good Wives,* Brown proposes that understandings of sexual difference and patriarchy easily translated to notions of racial difference and slavery.[280] Brown and Parent's conclusions underscore the importance of studying gender in seventeenth century Virginia. Understanding conceptions of gender and the creation of a patriarchal system allow a clearer understanding of the development of racial slavery. As Brown concludes, "Without a more organic view of the relationships between gender, race, and power, we cannot begin to grapple with the legacy of colonial Virginia for the new nation, the antebellum South, and our own time."[281] Although it might seem insignificant to study the lives of ordinary men and women like Alice and William Burdett, Thomas Hunt, Elizabeth Starkie, Thomas Hall, and others, their stories serve as important as confirmations of the developing gender dynamics in Virginia. In a society that somewhat

[277] Marion Tinlin and Louis B. Wright eds., The *Secret Diary of William Byrd of Westover, 1709-1712* (Richmond, Va.: Dietz Press, 1941).
[278] Parent defines patriarchalism as "an organizational belief system in which society is structured around the supremacy of the patriarch, or father." Anthony Parent, *Foul Means: The Formation of a Slave Society in Virginia 1660-1740* (Chapel Hill and London: The University of North Carolina Press, 2003), 199.
[279] Parent, *Foul Means*, 216, 234.
[280] Brown, *Good Wives,* 2.
[281] Ibid., 373.

quickly established a cruel system of racial slavery, it is important to examine these stories to better understand the role that gender played in the colonists' struggles for power, status and wealth.

Understanding the continuity of gender relations in seventeenth-century Virginia also provides insight into the formation of identity in the new world, and the transformation through which English colonists became Virginian residents. The question of continuity with old world norms invites an examination of ties between the old and new worlds, and a better understanding of how colonists fashioned their new identities in the Virginian setting. Looking toward the eighteenth century and the formation of a more distinct and separate "American" identity, it is helpful to look at the way colonists regarded their relationship with the Old World and how their development initiated the origins of a separate and unique identity as Virginian residents. Thus, the question that James Horn asks concerning continuity in the colonial Chesapeake provides revealing insight into the larger picture of the development of New World societies.

Stories about women calling other women whores or adulterous men and women defying societal norms might appear to have only entertainment value, but they can actually be quite instructive for historians in developing a more comprehensive view of how societies worked on a day-to-day community level. While women have been largely silenced throughout history, these court records resurrect their voices and grant historians a more accurate picture of the society in which they lived. There has been significant research concerning eighteenth-century Virginian society, but it might prove advantageous to incorporate a more detailed picture of seventeenth-century Virginia into an understanding of many of these histories. Significant historical works like Kathleen Brown's book have already made great efforts to reach toward the beginnings of settlement as a means of better clarifying other developments such as the system of racial

slavery. My hope is that other historians might follow in Brown's footsteps in incorporating an analysis of early Virginian society as crucial to understanding how later dynamics developed. As the Virginia Assembly declared in 1619, "In a newe plantation is not knowen whether man or women be more necessary." This statement reveals the importance of gender to the structuring of society and the significance of a reanalysis of women's stories as central to understanding the formations of Virginian society.

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