

# INHERITING AND BEQUEATHING: THE PLACE OF URBAN WOMEN IN LATE NINETEENTH CENTURY CANADIAN WILLS

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**ABSTRACT:** *This paper compares the changing status of women in male and in female wills in two Canadian cities (Victoria, British Columbia and Hamilton, Ontario) during the era of the Married Women's Property Acts. These acts had a marked impact on the nature of bequests and on facilitating increased access to wealth for many women, but the impact varied across cities. Reasons for the differences are presented. The paper provides benchmark measurements of the extent to which women in these two cities acquired greater control of various types of wealth in late nineteenth century Canada, compares the nature of those assets to those of men, points to a congruence in bequeathment practices of men and women and suggests some of the implications of these findings for the notions of patriarchy and patrilineality.*

## LEGISLATIVE, HISTORIOGRAPHICAL AND LOCAL CONTEXTS

Married Women's Property Laws were passed throughout North America and in England in the second half of the nineteenth century (Basch 1982; Chused 1985; Holcombe 1983; Shamma 1994). The Province of Ontario passed the first acts in Canada in the late 1850s. More significant legislation, patterned after British law, took place in Ontario in 1872 and 1884 and in British Columbia in 1873 and 1887. The 1870s legislation allowed greater ownership of personal property by married women but failed to permit those women to dispose of landed property free from their husband's consent. In both jurisdictions the 1880s legislation remedied that restriction (Backhouse 1988; Baskerville 1999; Chambers 1997; Ingram and Inwood 2000).

Carole Shamma has pointed to the American MWPLs as having the most important positive effect of any legislation on women's rights in the nineteenth century (Khan 1996; Shamma 1994). Canadian historians have been somewhat more cautious, pointing to a conservative judiciary, entrenched patriarchal rights and customs and simply the fact that few women had the opportunity to acquire much wealth in any form (Backhouse 1988; Chambers 1997; Cohen 1988). That cautious view is under revision (Baskerville 1993, 1999; Ingram and Inwood 2000). As Shamma has suggested, the MWPLs probably encouraged men and women to more readily bequeath property to wives and daughters since neither would have to give up ownership on (re)marriage.

While this paper will argue that Shammas is broadly correct, it will also explore the possibility that different local conditions could affect the impact the MWPLs had on actual behaviour. Victoria, British Columbia and Hamilton, Ontario, two urban communities with different economic structures, investment opportunities and demographic characteristics, have been chosen as sites for this study. Founded in the early 1840's, Victoria did not experience significant growth until the 1880s. During that decade, its population increased by 184 per cent, to 16,841, the second highest growth rate of any Canadian city at that time. By 1891 it stood fifth in per capita value of industrial output among the twenty Canadian cities with a population over 10,000. During the 1890s, however, no Canadian city in that population bracket declined in manufacturing production to the degree that Victoria did. By 1901 it ranked in the bottom 20 per cent in per capita value of manufacturing output and while its population had grown to over 20,000, so, too, had the population of its main rival, Vancouver. Moreover the possibilities for local investment were limited in this period. Banks and insurance companies were for the most part owned by outsiders and investors from the east were quickly picking off other potential investment opportunities in manufacturing and shipping (Baskerville 1986; Lutz 1988). Victoria, then, provides an excellent micro-environment for charting the fortunes of women property owners in a context of rapid growth and severe decline.

Situated at the head of Lake Ontario, Hamilton celebrated its seventy-fifth anniversary in 1891. Up to the 1850s it had competed with its larger urban rival, Toronto, for control of a common commercial hinterland. Following the 1870s the city's entrepreneurs began to concentrate more on manufacturing. Commonly known as the "Birmingham of Canada," the city was just short of 49,000 people in 1891 and just under 53,000 in 1901. Along with a focus on metal production, industrial expansion occurred in the area of cotton mills and men's and women's clothing production (Middleton and Walker 1980; Weaver 1983). In 1891 and again in 1901, the city boasted a higher proportion of its workforce in manufacturing than did Montreal and Toronto (McCann 1979, Table 3, p. 62). In contrast to Victoria, Hamilton, then, provides an excellent example of a heartland city which had "made it" as a dominant industrial centre. For those of its residents who could afford to, investment opportunities, relative to those for people in Victoria, were many and varied.

As different as these two cities were economically, they represented an even greater contrast when viewed from a demographic perspective. Throughout the period under review Victoria exhibited a sex ratio commonly associated with 'frontier' communities: a shortage of women of marriageable age (Table One). By contrast Hamilton's sex ratio approximated that of relatively longer 'settled' communities. The impact of these different 'marriage markets' on women's behaviour will be explored in the context of changing MWPLs.

Table 1.

Sex Ratios for Victoria and Hamilton, 1881-1901: Number of Men per 100 Women\*

| Date | Hamilton | Victoria: all men | Victoria:<br>excluding Chinese |
|------|----------|-------------------|--------------------------------|
| 1881 | 90       | 175               | 139                            |
| 1891 | 87       | 221               | 174                            |
| 1901 | 82       | 178               | 144                            |

\* Calculated from data in Canada Census, 1881, vol. 1, Table 1 and vol. 2, Table 8; 1891, vol. 1, table 3 and vol. 2, Table 1; 1901, vol. 1, Table 7 and vol. 4, Table 1. For Victoria in 1881 and 1891 a computer file of the nominal level census, Public History Group, University of Victoria, was used. Only adults 20 and over were included. There were relatively few native people counted by census enumerators as living in the city of Victoria in these years. Victoria's Chinese males rarely married European women so for the purpose of analysis here they are best separated from the concept of a 'marriage market.'

## INHERITING AND BEQUEATHING

Did more women inherit more wealth in the period under review? This is a difficult question to answer with any degree of specificity. In the first place wills should be seen as the last phase of a process of bequeathing that often commenced well before a person died. Testimony from many wills indicates that property had already been given to various family members and as a result other individuals received more in the will. Diaries and some extant correspondence also point to bequeathing before death in order to provide a form of life insurance in old age. Even the data provided by wills and probates are difficult to decipher, assign monetary value, and determine who precisely received what. Given these caveats it is nonetheless possible to establish some trend lines for this period (Di Matteo 1997; Di Matteo and George 1992, 1998; Elliott 1985; Osborne 1980).

We start with a general question: what do bequeathment trends in wills by both men and women indicate re women's empowerment? The evidence presented in Table Two from men's wills suggests a slight trend towards empowerment. Since wives tended to outlive husbands it is perhaps no surprise that women were usually the prime beneficiaries in men's wills. This was the case in both Victoria and Hamilton and was so before and after the passage of the most enabling MWPL. It is interesting to note, however, that in both jurisdictions women were more often prime beneficiaries in the later than the earlier period. A key indicator of empowerment is the degree to which the inheritor controlled the bequeathment. In the early period about two-fifths of women who were prime beneficiaries in both cities were subjected to various controls. Even as more women became prime inheritors, so too in both cities and especially in Hamilton, more women were receiving that inheritance free from controls by the end

Table 2.

Indicators of Women's Status in Male Wills: Victoria and Hamilton, 1880-1900\*

| Category   | 1880-1885: Percent/Number |          | 1897-1900: Percent/Number |          |
|--|---------------------------|----------|---------------------------|----------|
|  | Victoria                  | Hamilton | Victoria                  | Hamilton |
| Sole Women as a percent of prime beneficiaries                 | 65.7/40                   | 66.7/18  | 76.2/64                   | 79.5/31  |
| Women as a percent of other inheritors                         | 40.0/10                   | 55.5/5   | 42.1/16                   | 54.2/13  |
| Percent of women as prime beneficiary subjected to control     | 40.0/16                   | 38.9/7   | 35.9/23                   | 25.8/8   |
| Women as a percent of executors                                | 36.8/21                   | 57.9/11  | 47.4/37                   | 56.7/17  |
| Percent of women as prime beneficiary with protective language | 20.0/8                    | 11.1/2   | 15.6/10                   | 12.9/4   |

\* The total cases for Victoria men are: 1880-85, 61; 1897-1900, 84. The cases and dates for Hamilton men are: 1880-81, 27; 1900, 39. Prime beneficiary denotes a person who received the most wealth. Controls most often took the form of using wealth until death or remarriage. Protective language was used to assure that the bequeathment could not be assumed by other than the individual to whom the goods were granted. It was most often used to protect a daughter's inheritance from an existing or future husband.

of the century. In Victoria somewhat over a third and in Hamilton just over a quarter were subjected to some control in the later period.

Historians have often used the gender of executors as an indicator of women's agency in will making and bequeathments (Grigg 1989, pp. 120-21; Smith 1989, p. 64). In Victoria a higher percent of executors were women in the later than in the earlier period. The fact that percentage was below that for Hamilton can be, at least in part, explained by the demography of the city. There were far fewer women than men in Victoria and this was especially the case when compared to the sex ratio in Hamilton. Finally it would make sense to think that women inheritors would require

less protective language in an increasingly liberal era of MWPLs. That supposition seems to hold true for Victoria, but in the case of Hamilton, where the use of such language was never widespread, there seems to have been little adjustment to legislative changes to property laws.

A more precise picture would emerge were one able to control completely for the presence of wives and children. While information on surviving children is very incomplete, the partial information on marital status confirms the changes suggested by the data in Table Two. As Table Three shows, by the end of the century married men in both cities routinely bequeathed the bulk of their estates to their wives. While it is true that fewer married men saw the need to establish any controls over how their spouse dealt with that estate, the proportion that did remained significant and especially so in Victoria. Some historians have seen the existence and persistence of such controls as evidence of a dominant patriarchal culture. A closer look at the content of these controls is therefore warranted.

Table 3.

Indicators of Wife's Status in Wills of Married Men Only: Victoria and Hamilton, 1880-1900\*

| Category   | 1880-1885: Percent/Number           |                                 | 1897-1900: Percent/Number         |                                 |
|--|-------------------------------------|---------------------------------|-----------------------------------|---------------------------------|
|  | Victoria                            | Hamilton                        | Victoria                          | Hamilton                        |
| Sole Wife as a percent of prime beneficiaries                    | 96.7/29                             | 75.0/15                         | 98.0/50                           | 96.2/25                         |
| Percent with control   | 48.3/14                             | 40.0/6                          | 40.0/20                           | 32.0/8                          |
| Type of Control:<br>A) life<br>B) unmarried<br>C) life/unmarried | A) 35.7/5<br>B) 35.7/5<br>C) 28.6/4 | A)50.0/3<br>B)33.0/2<br>C)0.0/0 | A)65.0/13<br>B)20.0/4<br>C)15.0/3 | A)87.5/7<br>B)12.5/1<br>C)0.0/0 |
| Sole Wife as a percent of executors                              | 46.4/13                             | 43.8/7                          | 50.0/24                           | 63.2/12                         |

\* Known marital status for the early and late period in Hamilton and Victoria respectively is: 75 and 66 percent; 51 and 63 percent.

The most common controls stipulated that the inheritor could use assets for life or for as long as she remained unmarried or a combination of the two. In every case for the types of control listed in Table Three, the husband also listed to whom the assets were to be bequeathed after the wife had died or remarried. Husbands may have had several

motives for denying their wives access to assets after remarriage. Such stipulations may reflect the desire of men to control their wives' bodies and sexuality even from the grave. Such an assumption is certainly consistent with much literature on the attitude of the judiciary to woman and sexuality in the late nineteenth century. In this context women were often seen as chattels.

The imposition of controls by husbands over their wives can also be understood from a more thoroughly economic, if no less a patriarchal, perspective. Before the introduction of the MWPLs husbands would have thought that when their wives remarried the control over the inheritance would be assumed by the new husband and young children from the first marriage might be less of a priority to the step father. Thus the remarriage stipulation made sense as a way to protect that inheritance for his children or other relatives. With the passage of such acts one would, then, expect to see less use of the remarriage condition since married women could legally maintain control of their own property. This assumption is consistent with the data presented in Table Three. In both cities married men resorted to the remarriage control less frequently after the passage of the MWPLs. The drop in the general use of controls in each city is explained by the declining use of the remarriage provision. Widows who remarried were now less of a threat to the deceased husband's patrimony. Life provisions were sufficient to the task. Perhaps not surprisingly, the use of simple life control provisions remained strong and, expressed as a percent of all beneficiaries, actually increased somewhat in both cities. Never the less, in the context of a continuing desire by many men to set limits to their wives' control of bequeathed goods, some women were afforded increased agency over an important part of the rest of their lives.

Historians have found a strong correlation between wealth and the use of male executors (Grigg 1989, p. 121). The evidence from Victoria and Hamilton is mixed: the relationship holds true for Victoria where married men ranked in the top 20 percent of probated wealth were the least likely to assign their wives as sole executrix; in Hamilton there is a tendency towards the opposite.<sup>1</sup> At some level this different pattern might be related to the contrasting economic situations within both cities. Shamma has argued that as the economy became more sophisticated assets came to be held and managed by non family members (trust companies and corporate managers) and in that context allowing a wife to control family assets was less threatening to the patrimony's future. Landed estates became less important to the family's future as assets diversified into financial and corporate investments the management of which could be more easily contracted to specialists outside the family. In other words wives received greater agency only because they were handling assets of the second rank.

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<sup>1</sup> Between 1894 and 1900, 39 percent of married men in Victoria in the top 20 percentile of probated wealth assigned their wives as sole executrix; 74 percent of the rest did. In Hamilton in 1890 and 1900, 63 percent of married men in the top probated wealth quintile appointed their wives sole executrix; only 46 percent of the rest did.

The available data on marital status does not permit a rigorous test of this hypothesis here but, as Table Four suggests, at a more general level the contrast in asset types revealed in the late nineteenth century probates for each city is certainly suggestive. One-half of the assets of men in Victoria consisted of land. That compares to only a quarter for Hamilton's men. Close to half of all assets of Hamilton men were invested in stocks, bonds and mortgages compared to a mere 5 percent for Victoria's men. At a broad level the contrasting investment patterns in each city are consistent with the contrast in the appointment of women and wives as executrix in those cities.

Table 4

Investment Patterns of Men in Victoria and Hamilton, Canada, from Late Nineteenth Century Probate Data

| Investment Category   | Percent of Total Wealth |                 | Percent of Total Investors |                 |
|---|-------------------------|-----------------|----------------------------|-----------------|
|   | Victoria (1898-1900)    | Hamilton (1900) | Victoria (1898-1900)       | Hamilton (1900) |
| Land  | 50.7                    | 25.2            | 52.1                       | 67.2            |
| Financial investments: bank stock, other stocks, bonds, debentures, notes, book debts and mortgages | 5.1                     | 48.3            | 13.7                       | 39.7            |
| Household Goods   | 3.2                     | 3.1             | 62.2                       | 65.5            |
| Total Wealth  | 671,463                 | 619,789         | 671,463                    | 619,789         |
| No Testators  | 73                      | 58              | 73                         | 58              |

It is hard to assign an absolute significance level to the gradual movement towards empowerment of women in men's wills in these two Canadian cities. Putting aside the extent to which the cities are representative, one should note that changes in will-making would be a slow process. Many of the wills of men who died after the passage of the MWPLs had been written before those laws and show no signs of having been revised in light of them. Yet in late nineteenth century Canada women were more than passive recipients of wealth, however controlled, from men. As Table Five shows women were increasingly active as testators as well.

Table 5

Probated Estates Without Wills as a Percent of all Women's Probated Estates: Women, Hamilton and Victoria, 1880-1900

| Date      | Hamilton:<br>Percent/Number | Victoria:<br>Percent/Number |
|-----------|-----------------------------|-----------------------------|
| 1880-1884 | 48.4/31                     | 50.0/13                     |
| 1888-1892 | 35.4/52                     | 38.1/16                     |
| 1898-1900 | 26.8/33                     | 24.3/9                      |

As Table Five indicates, the incidence of will making by women increased in the years following the passage of the MWPLs. Similarly the incidence of probated estates with and without wills increased. Women's probated estates represented 38 percent of all probated estates in Hamilton in 1880-1881. Twenty years later the figure increased somewhat to 43 percent of all probates. Victoria experienced a greater increase, one all the more noteworthy given the skewed sex ratio in that city: in 1881-82 women's probates were 12 percent of all probates and in 1900 they had risen to 36 percent. Finally, as Table Six shows, married women increased their activity in will making, most especially so in Victoria.

Table 6

Married Women as a Percent of all Women with Probates: Hamilton and Victoria, 1880-1900

| Date      | Hamilton:<br>Percent/Number | Victoria:<br>Percent/Number |
|-----------|-----------------------------|-----------------------------|
| 1880-1884 | 27.4/17                     | 33.3/6                      |
| 1888-1892 | 37.1/52                     | 44.7/17                     |
| 1898-1900 | 31.7/38                     | 55.9/19                     |

These sets of statistics suggest that the following was occurring in late nineteenth century urban Canada: more women were writing wills; more women had assets in their own name thus necessitating having their estates probated even if they neglected to write a will; and, more women who left estates that were probated were married. Women were taking advantage of the legal opportunities provided them by the MWPLs. These points lead to three sets of questions that will be pursued here: were



women's wills different from those of men; were women's assets increasing over time and what were they doing with the assets they had under their control; why were more married women leaving probated estates in Victoria than in Hamilton?

Women were less likely than men to grant the bulk of their estates to another woman (see Tables Seven and Two). This might seem like a surprising finding given that much of the literature has stressed the tendency for female legatees to leave more of their estates to women than men did. Although primarily focussed on an earlier period, that literature also finds that women were more apt to give to secondary inheritors than men and that those secondary inheritors were also more often female than male. It is logical to think that the apparent change in bequest behaviour by the women profiled here may reflect the fact that it was now possible for more married women to leave estates and that those married women who did so would usually grant their

Table 7.

Indicators of Women's Status in Women's Wills: Victoria and Hamilton, 1880-1900\*

| Category   | 1880-1885: Percent/Numbe |          | 1897-1900: Percent/Number |          |
|--|--------------------------|----------|---------------------------|----------|
|  | Victoria                 | Hamilton | Victoria                  | Hamilton |
| Sole Women as a percent of prime beneficiaries                 | 25.0/3                   | 61.8/21  | 42.3/11                   | 44.2/38  |
| Women as a percent of other inheritors                         | 50.0/4                   | 38.5/5   | 50.0/7                    | 44.0/22  |
| Percent of women as prime beneficiary subjected to control     | 0.0/0                    | 4.8/1    | 27.3/3                    | 18.4/7   |
| Women as a percent of executors                                | 22.2/2                   | 29.3/12  | 34.8/8                    | 31.9/23  |
| Percent of women as prime beneficiary with protective language | 33.3/1                   | 23.8/5   | 27.3/3                    | 15.8/6   |

\* The total cases for Victoria women are: 1880-85, 12; 1897-1900, 26. The cases for Hamilton women are: 1880-84, 34; 1898-1900, 86. Often women shared the bulk of the estate with another person. Sole women did not share what they were granted.

estates to their surviving husband. These findings fit well with the paradigm of separate spheres: women both interacted with other women and were subordinate to men and their bequests reflected that social behaviour; men concerned themselves more with the protection and promotion of the next generation.

The reality is somewhat more complex and interesting. A close focus on the nature of bequeathments to primary beneficiaries points to a convergence of behaviour and motive between men and women. The separate spheres perspective is an inappropriate paradigm for understanding inheritance patterns in the post MWPL era. It is the case that for both cities and both time periods widows and single women were at least two times more likely than married women to designate a woman as their prime beneficiary. Married women were always more apt to grant their estates primarily to their husband than to any other category of inheritor but only in the early 1880s in Victoria did a majority of married women do so.<sup>2</sup> A minority of women who granted their estate primarily to their husbands did limit control to a life interest and decreed to whom the remaining assets would go.<sup>3</sup> It would seem that these women had their own ideas as to how assets should be transferred to future generations and were not willing to subordinate those ideas to those of their husbands. It may well be that married women took advantage of the fact that their husbands, as wage earners, could look after themselves and in a sense were free riders in the inheritance process. They had, as some studies have noted with regard to bequeathment patterns in the early nineteenth century, “the luxury of granting favours to specific children” (Gunderson 1998, p. 110).

Yet this ‘coddled woman’ interpretation seems less apt for understanding behaviour in the post MWPL era. It is true that most often daughters benefitted from their mother’s will. Married women bequeathed to daughters more often than to sons and in the case of Hamilton in the later period they imposed controls more often on husbands and sons than on their daughters. They also designated daughters the primary heir more often than fathers did throughout the late nineteenth century. Some have explained this behaviour as partly a result of the type of assets bequeathed by women: personal goods that would only be of interest to other women (Gunderson 1998, p. 110). This interpretation fits well with the separate spheres paradigm and may have merit in the pre MWPL era, but in Victoria and Hamilton in the early 1880s and in the late 1890s over 75 percent of primary bequests from married women included cash, bonds and land as well as personal property and the figure was higher for all women

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2 This pattern may well have been affected by whether or not children were of age to inherit and the data collected for this study does not allow a systematic exploration of that possibility.

3 Thirty-three percent of women in Hamilton in the late 1890s who left most of their estate to their husbands did so with life interest qualifications and decreed to whom the estate should pass after their husbands’ death. None had done so in the early period. About one quarter of women in Victoria provided that control in the early 1880s and in the late 1890s.

in both eras. The diversity of bequests suggests that women, including married women, had goods to give that had utility outside the parlour and home. From this perspective it is more difficult to understand women's behaviour as emanating from a culture separate from that of men. Like men, women, too, were interested in the economic impact their bequests could have in setting up households in the next generation.

In fact there seems to be a gradual conversion of bequeathment patterns of men and women in the late nineteenth century. By the late 1890s men had begun to privilege daughters as the prime beneficiary more often than sons. The reverse was the case in the early 1880s.<sup>4</sup> The MWPLs provided legal security for daughters, and fathers, as well as mothers, gradually bequeathed more to daughters in the expectation that after marriage their daughters would retain control of their inheritance. Moreover, men in Hamilton seem to have granted a secondary part of their legacy more often to women than women did. While Victoria men lagged behind women in that regard, they were closing the gap by the end of the century (see Tables Two and Seven).

While the changes discussed above point to increased agency for women, no

Table 8.

Investment Patterns of Women in Victoria and Hamilton, Canada, from Probate Data, 1898-1900\*

| Investment Category   | Percent of Total Wealth |          | Percent of Total Investors |          |
|---|-------------------------|----------|----------------------------|----------|
|   | Victoria                | Hamilton | Victoria                   | Hamilton |
| Land  | 53.8                    | 41.9     | 74.2                       | 57.9     |
| Financial investments: bank stock, Other stocks, bonds, debentures, notes, book debts and mortgages | 15.5                    | 34.5     | 9.7                        | 38.8     |
| Household Goods   | 10.9                    | 4.0      | 80.6                       | 51.2     |
| Total Amount  | 163,147                 | 415,914  | 163,147                    | 415,914  |
| No Testators  | 31                      | 121      | 31                         | 121      |

\* For a discussion of the strengths and weaknesses of these data see, Baskerville, "Women and Investment in Urban Canada," 207-209.

<sup>4</sup> The change was virtually imperceptible in Victoria: 8.2 down to 6.0 percent of prime beneficiaries for sons in Victoria and an increase for daughters from 6.7 percent to 8.3. The change seems more meaningful for Hamilton: 14.8 for sons in the early period to 2.6 in 1900 and 7.4 for daughters in the early 1880s to 12.8 in 1900.

matter their marital status, it nonetheless remains true that such change was slow and irregular. Women, for example, were much less willing than men to appoint a woman as sole executrix (Tables Two and Seven). They were also slower to cast aside protective language even though the MWPLs made such language redundant from a legal perspective. If the content of wills changed slowly and irregularly, the writing of wills by women increased significantly in the short span of twenty years as did the relative number of probated estates. As noted above the rise in probated estates suggests that more women had more goods to bequeath. We have further confirmed that that was the case at a general level in our discussion of types of bequests. A closer look at the material content of women's estates is instructive (Di Matteo and George 1998).<sup>5</sup>

When one compares Tables Four and Eight, several points relevant to this discussion are apparent. Men and women in both cities invested in a comparable fashion. Hamilton women invested more heavily than men in land, but nearly the same proportion of women as men invested in the financial sector, and with nearly the same intensity. The differences within cities in the pattern of investment by gender, however, pale in comparison to the differences across cities. Local economic conditions set the boundaries to investment patterns and in a broad sense the men and women in each city adjusted in a similar fashion to those opportunities and constraints. Within each local economic setting men and women invested in a similar way. In both cities, it is true, women invested more in household goods than men. But the really important point to note in that regard is how small that investment was in the context of women's overall investments and how close it was to the patterns exhibited by men in both cities, and especially in Hamilton. Women who left estates had for sometime left the home in search of remunerative investments. As with much else in the world of late nineteenth century urban wills, convergence rather than separateness best describes the broad investment patterns exhibited by men and women.

Differences did, of course, remain. Put simply, women owned and bequeathed less, much less, than did men in late nineteenth century urban Canada. On average, at the century's close the probated wealth of Hamilton's men exceeded that of the city's women by a factor of three. The difference, while significant, was smaller in Victoria: the average probated wealth of men exceeded that of women by 1.7 times. It is hard to know whether women were closing the gap in wealth as suggested by the probated estates. Probate data in Victoria before 1894 did not include land and in Hamilton land was not included until 1887.

It is possible to comment on wealth accumulation by men and women in these two cities in a different context, that of general ownership of land. In another paper I have analysed assessment data for the two cities and demonstrated that in 1881-2 in

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<sup>5</sup> Canadian studies of wealth have primarily focussed on men.

Hamilton and Victoria respectively, the worth of land owned by men exceeded that owned by women by 11 and 14 times. Twenty years later the ratios had dropped to 4 and 2.5 respectively. The decline in men's share is partly accounted for by the increase in the share of women and by the increase, especially in Hamilton, of corporate land ownership (Baskerville 1999, Table 1, p. 196). One would expect enhanced investment activity following the MWPLs to be more quickly apparent in land ownership than in wills simply because many women who took advantage of the opportunities had not died by the end of the time under study. Given the importance of land in the probated wealth of women in both cities, one might expect that what was visible on the assessment rolls at the end of the nineteenth century would in due course lead to a narrowing of the gap in probated wealth between men and women in the first several decades of the twentieth century. That supposition, of course, assumes that landed wealth would continue to be a prime part of men's assets, an assumption that, in the Canadian context, remains to be proved.

The comparative perspective that has informed much of the analysis in this

Table 9.

Married Women and Some Indices of Wealth Holding, Victoria and Hamilton, 1880-1900\*

| Married Women<br>as a Percent<br>of All Women | Victoria    |        |            |         | Hamilton    |         |            |         |
|---|-------------|--------|------------|---------|-------------|---------|------------|---------|
|   | Early 1880s |        | Late 1890s |         | Early 1880s |         | Late 1890s |         |
|   | Percent     | Number | Percent    | Number  | Percent     | Number  | Percent    | Number  |
| With Wills                                    | 40.0        | 4      | 65.0       | 13      | 18.8        | 6       | 30.0       | 27      |
| With Probated Estates                         | 33.4        | 6      | 55.9       | 19      | 27.4        | 17      | 31.7       | 38      |
| Probate Worth                                 | 45.1        | 34,065 | 65.2       | 107,921 | 17.2        | 25,357  | 25.5       | 105,984 |
| Worth Assessed Land                           | 58.8        | 67,200 | 52.9       | 962,590 | 11.6**      | 218,358 | 10.1       | 289,560 |
| Owning Land                                   | 50.7        | 37     | 69.0       | 372     | 13.5**      | 99      | 11.3       | 116     |
| In City over age 19                           | 69.0        | 875    | 62.9       | 3110    | 57.0        | 8019    | 54.0       | 930     |

\* Data for wills and probates are from 1880-84 and 1898-1900. Data on land for Victoria is from all women on the 1882 and 1901 assessment rolls. Data on land for Hamilton is from all women on the 1891 and 1899 assessment rolls. Information on marital status of women over 19 in each city is for Victoria from 1881 and 1901 census and for Hamilton from the 1891 and 1901 census. The percent of married women figure is in all cases based on women with a known marital status. Unknowns are never more than 20 percent.

\*\* Marital status of women has not been collected for 1881 Hamilton women on the assessment roll so 1891 data is used.

paper can shed light on a further issue. Were women within and across cities affected in differential ways by the liberalization of property laws? At one level, of course, the answer is straightforward: most women in both cities were not affected at all, since they were without property. Yet, while correct, that answer is *too* simple. We have already demonstrated that women in both cities owned a larger share of their communities' land in 1900 than twenty years earlier. Similarly their share of probated estates increased over the same two decades. Interestingly in both cases the gains were greater in Victoria than in Hamilton. Why might that be so? The data in Table Six point to one avenue worthy of exploration: in the early 1880s married women with probates in both cities were nestled in the 30 percent range of all women with probates. Times changed dramatically in the short course of two decades: Hamilton's married women had made little gain vis a vis their widowed and single sisters; by contrast Victoria's married women held 56 percent of all women's probates in the late 1890s.

As the data in Table Nine demonstrates a similar pattern is evident in numbers of wills, probate worth, land ownership and assessed land values. The participation of married women in Victoria in all of these sectors towered over that of their married sisters in Hamilton. Taken as a whole it is hard to conceive of a more dramatic contrast in the pattern of activity of married women in two cities. Social science research only rarely uncovers such startling differences. These contrasts cannot be explained by different marital rates in each city. It is true that more of Victoria's women were married in each decade than in Hamilton, (last row Table Nine) but the differences are too small to account for the degree of contrast in the behaviour of married women in the two cities.

Another possible explanation, one favoured by American feminist historians, is the assumed independent and aggressive spirit bred in so-called frontier areas. This 'Turnerian' perspective argues that the western migration process selected hardy souls who could well fend for themselves. Beyond the fact that this explanation deems those women who for whatever reason did not trek west, it is also very hard to test in a meaningful way. As an assertion it is attractive, but the type of evidence most often used to support it seems not to be in place in the communities under study here. For example, it is oft stated that western laws were more liberal than laws in the East in the United States (Khan 2000, p. 175; Matsuda 1985). As we have seen the relevant legislation here was implemented first in the East and followed several years later by British Columbia. The Property Laws were virtually identical for the period under discussion.

Rather than wrestling with the abstract notion of a frontier induced independent spirit, a more prosaic approach might be to look to certain structural contrasts between the two cities. The most economical explanation for the different behaviour of married women stems from the demographic characteristics of each city as profiled in Table

One. Put simply Victoria's marriage market favoured women; Hamilton's did not (for sex ratios see Guttentag and Secord 1983; South and Trent 1988). Given their relatively small numbers Victoria's women had the opportunity to pick and choose among potential mates. The data presented in Table Nine suggests that, as a group, they were effective bargainers. Interestingly, too, that bargaining potential was used to good effect even before the passage of the most enabling MWPL. The contrasts in activity patterns of married women in Victoria and Hamilton were quite evident in the early 1880s. In most cases following the last MWPL Victoria's married women increased their property acquisitions at a greater rate than did those in Hamilton. That they did so owed much to the demographic context within which they lived (Baskerville 1999).

### CONCLUSIONS

The data examined in this paper suggest that for Canadian urban women the late nineteenth century was a time of positive change. Under the continuing shadow of the patriarchal household head, legislation passed which, no matter the reason for its passage, did enable more women to own more property than had been the case in the pre MWPL era. Certainly factors other than that legislation may also have had a positive impact on the behaviour uncovered here but it is hard to think of any single event or series of events that would be as important to explaining the positive changes depicted in this paper. That being said, it is also clear that the legislation had a variable impact. The MWPLs were filtered through customs, economic structures and demographic regimes at the local level. Much of the historiography on the presumed impact of the MWPLS has focussed on courts, newspapers, and provincial/state units of analysis. These sources tell us what (some) contemporaries thought. As Bernard Bailyn argued two decades ago, routinely generated sources of the type used in this paper allow one to uncover latent trends, processes that contemporaries did not recognize but which were, nonetheless, occurring (Bailyn 1982). Their excavation allows us to see how many women, albeit still a minority, were accessing the tools of capitalism and were quite happy to use those tools in the time-honoured ways pioneered by their male counterparts. In this sense just as the first wave of women's rights advocates were in many ways conservative, so, too, were the less voluble, but perhaps more powerful, late nineteenth century wave of women capitalists.

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