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PREVIEW

**Bensington Manor and Ultimogeniture: A Study of the Influence of Family Dynamics on
Manorial Inheritance Practices in Early Modern England**

by

Shawndra L. Holderby

A DISSERTATION

**Presented to the Faculty of
The Graduate College at the University of Nebraska
In Partial Fulfillment of Requirements
For the Degree of Doctor of Philosophy**

Major: History

Under the Supervision of Professor Carole Levin

Lincoln, Nebraska

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DISSERTATION TITLE

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Dynamics on Manorial Inheritance Practices in

Early Modern England

BY

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GRADUATE COLLEGE
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Bensington Manor and Ultimogeniture: A Study of the
Importance of Family Dynamics on Manorial Inheritance
Practices in Early Modern England

Shawndra L. Holderby, Ph.D.

University of Nebraska, 2001

Adviser: Carole Levin

In the fairy tale tradition of England the youngest son is often the hero of the tale. During the medieval and early modern period, when these tales were circulating, the practice of primogeniture, inheritance by the eldest son, was the dominant form of inheritance in England. But alongside the more popular primogeniture other older forms of inheritance such as ultimogeniture, inheritance by the youngest son, continued to survive throughout the medieval and early modern period. Evidence for this survival can be found in manorial records, such as those for the manor of Bensington in Oxfordshire. The practice of ultimogeniture set up a distinct family dynamic with the youngest son inheriting the bulk of the family's land holdings. The manorial documents of Bensington also reveal close ties among immediate family members. Instead of discovering a family of indifferent members, as earlier studies suggest, the evidence reveals brothers providing financial support for unmarried

sisters, and family members caring for mentally and physically disabled siblings.

The manorial documents of Bensington only allow for a glimpse into the world of its tenants. In order to complete the picture it is necessary to supplement with another source, the fairy tales of England. The fairy tales allow for a more intimate study of the concerns of peasants in the early modern period. By analyzing the tales alongside the more traditional manorial documents of Bensington Manor it is possible to gain insight into the specific family dynamics set up by the continuing practice of ultimogeniture.

PREVIEW

Acknowledgments

I count myself in nothing else so happy
As in a soul rememb'ring my good friends
Richard II
II.iii.

Many people contributed to the completion of this project. To all who served on my ever-evolving committee - Carole Levin, Esther Cope, Jessica Coope, Amy Burnett, Stephen Buhler, Ann Kleimola, and Dane Kennedy - thank you for your advice, time and guidance. I must offer special thanks to two members of my committee. Carole Levin, who as my adviser, has shared her immense knowledge of early modern England with me. The final form of this project would not exist without her. It was she who suggested the addition of fairy tales to the project. That suggestion has made all the difference. Jessica Coope has graciously read more versions of this project than any one person should ever have been asked to read. She never complained and always offered criticism which was both useful and insightful. Thank you also for your guidance on more personal matters. I hope to see things as clearly as you do one day. I would also like to thank Cliff and Shirley Mason for allowing me to use the Bensington Manor courtbook.

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Introduction

Now he sings of Jacky Horner
Sitting in the Chimney-corner
Eating of a Christmas-Pie,
Putting in his Thumb, Oh fie!
Putting in, Oh fie! his Thumb
Pulling out, Oh, Strange! a
Plum.¹

This rhyme which first appeared in 1725 is quite similar to the nursery rhyme readers are familiar with today, but few appreciate its historical significance in relation to the development of manorial history under Henry VIII. Before the English Reformation, lands including manors were often held by religious houses. After the break with Rome, Henry VIII dissolved the religious houses and their lands were sold to Henry's supporters. The traditional story states that the last Abbot of Glastonbury, Sir Richard Whiting, in hopes of preserving the Abbey, sent a Christmas gift to Henry VIII. The gift, encased in a Christmas pie, consisted of twelve title-deeds to manors that were owned by Glastonbury in the county of Somerset. The gift was taken to London by the Abbot's steward, Jack Horner. On the way to London, Jack opened the pie and took for himself the title-deed for the manor of Mells.²

¹Henry Casey, *Namby Pamby*, 1725, in *The Oxford Dictionary of Nursery Rhymes*, ed. Iona and Peter Opie, new edition (Oxford and New York: Oxford University Press, 1997), 278.

²Katherine M. Briggs, *A Dictionary of British Folk-Tales in the*

While the Horner family, who still owns Mells, claim that the rhyme has nothing to do with their ancestors, Jack³ and Thomas Horner, we do know that the Horners were deeply involved in the politics surrounding the dissolution of Glastonbury Abbey. Thomas sat on the jury which condemned the Abbot of Glastonbury to death and he or his brother Jack bought Abbey lands, including the manor of Mells, for over £1,830⁴. While it is true that there is no printed version of the legend surrounding the Horners until the nineteenth century, Katherine Briggs points out that the rhyme and the legend most likely existed in an oral form from the sixteenth century. Local inhabitants knew that the Abbot of Glastonbury was in the habit of sending Christmas gifts, including pies, and developed the story to illustrate the Horners' advantageous acquisition of the manor, the plum described in the rhyme.⁵ A local folk-rhyme even names the Horners along with four other families who gained property and set up family estates after the Abbot was removed from

English Language, F.J. Norton Collection, Part B, Vol. 1, *Folk Legends* (Bloomington, Indiana: Indiana University Press, 1971), 90-91.

³There is some disagreement about whether Jack Horner existed at all. Katherine Briggs states that there were two brothers, Jack and Thomas, involved in the business of acquiring the Abbey. *A Dictionary of British Folk-Tales in the English Language*, F.J. Norton Collection, Part B, Vol. 1, *Folk Legends*, 90-91. Although Iona and Peter Opie do not mention a brother named Jack, they get around this problem by pointing out that the nickname Jack was often given to those believed guilty of trickery. Henry Casey, *Namby Pamby*, 1725, in *The Oxford Dictionary of Nursery Rhymes*, ed. Iona and Peter Opie, new edition, 278.

⁴Henry Casey, *Namby Pamby*, 1725, in *The Oxford Dictionary of Nursery Rhymes*, ed. Iona and Peter Opie, new edition, 278.

⁵Briggs, *A Dictionary of British Folk Tales*, F.J. Norton Collection, Part B, Vol. 1, *Folk Legends*, 91.

the abbey. "Wyndam, Horner, Popham, and Thynne, When the Abbott went out they came in!"⁶

In the medieval and early modern period, nursery rhymes and fairy tales often reflected the political issues of the day. Jack Horner's acquisition of the manor of Mells is one example. Just as the tales indicate political concerns, they can also reveal a much more personal side of life. Fairy tales offer the modern reader a glimpse into the beliefs, concerns, and even fears of peasants in the medieval and early modern period.

Fairy tales themselves often possess a timeless quality, which can be observed through the opening lines: once upon a time, long before the time of King Arthur, or once upon a time, though not in my time, or your time. These beginnings allow for the fantastic and magical parts of the story to emerge. They help allow us to accept that a wicked witch could cast a spell over an apple and leave Snow White in a deep sleep, that a talking wolf could trick and eat Little Red Riding Hood, and that a fairy godmother could turn Cinderella into a princess for an evening. While the witch, the wolf, and the fairy godmother are the exciting elements that most modern readers remember, they often overshadow the elements of the stories based in reality.

⁶Briggs, *A Dictionary of British Folk Tales*, F.J. Norton Collection Briggs, Part B, Vol. 1, *Folk Legends*, 90.

In fact, fairy tales offer the reader a glimpse into the peasant society of the medieval and early modern period. The stories which were originally told in an oral format, having only been collected and written down in the nineteenth century, reflect the concerns of those who listened to the stories. The back drop to the stories often contains the real fears and concerns of peasants who possessed very little power over the conditions of their own lives. Common fears such as hunger, homelessness, and even death are the elements which compel the characters to seek their fortunes or battle evil forces in the outside world. By looking behind the fantastical elements of the tales, the real concerns of the peasants are revealed.

While fairy tales allow for a glimpse into the more personal aspect of the illiterate peasant's world, documents such as those associated with the manorial system of England in the early modern period allow for a closer study of one of the legal institutions under which the peasants existed. In this study the court book of Bensington Manor, along with the wills left by the tenants from the late seventeenth to the mid-eighteenth century, will allow for a study of the inheritance system in place on the manor. The surviving manorial documents of Bensington Manor reveal the inheritance practices of its tenants from a legal standpoint. By using only these types of documents it is impossible to determine

the tenants' motivations in inheritance practices. So in order to gain a deeper understanding of the motivations of Bensington's tenants this study will supplement the legal sources available with English fairy tales from the early modern period.

Traditional documents, such as those generated by the operation of a manor, when complemented with fairy tales often allow for a more thorough and intimate examination of past lives. Traditional documents, especially those of a legal nature, can tell a historian how and when an event took place, but folk tales, by exposing the belief structure of a culture, can help the reader to understand why an event took place.

Chapter 1

The Manor and the Fairy Tale: The Importance of the Fairy Tale in Uncovering the Hidden History of Bensington Manor

The manor of Bensington offers the historian a unique opportunity to study manorial inheritance practices in the early modern period. Unlike the majority of other manors of the period, where the eldest son inherited the largest portion of the family land, the inheritance custom of Bensington left the family land to the youngest son in the family. Inheritance by the youngest son is a much older Anglo-Saxon practice which survived in a few areas in Britain. Since inheritance by the youngest son is relatively rare in Britain during the early modern period very little research has been done on the topic. The practice, if mentioned at all, is generally mentioned in a footnote to a discussion of primogeniture as an alternate form of inheritance. While a number of studies have investigated the family dynamics that result from the eldest son's inheriting, few have focused on the dynamics which result when the youngest son inherits the family property. Bensington's custom also presents a unique opportunity to study how inheritance practices affected widows living on the manor. Inheritance by the youngest son should ensure that a widow more frequently is in control of land as a guardian for the

youngest son. The surviving courtbooks of Bensington Manor along with other documents from the manor will allow us to examine this important inheritance system in relationship to the tenant families living and working on Bensington in the early modern period.

The purpose of this dissertation is to investigate how sources such as a manor courtbook can be used to uncover the familial relationships of the tenants living on a manor. The only two surviving courtbooks from Bensington Manor contain descriptions of the transfer of copyhold land on the part of the manor known as Warborough. While it is impossible to rule out the possibility of other courtbooks held privately, the manor registry in London, England lists no other surviving courtbooks for the manor of Bensington. The wills and administrations which describe the distribution of the tenants' personal property are held in the Principal Probate registry at Somerset house in London, the Oxford District Probate registry, and in microfilmed form in Salt Lake City. The wills, which are sorted by the first letter of the surname and date, are available on 14 rolls of microfilm, FHL British 173642-FHL British 173654. The index to the wills from 1550-1858 is located on FHL British 95109. I reviewed the wills in the Family History Library at Salt Lake City. I have supplemented my discussion of the tenants experiences with that of the Stapleton family, who gained control of the manor in 1726. There are Stapleton papers held at the record

offices in Oxfordshire and Berkshire. A number of Stapleton papers, including a number of Catherina's papers are held at the John Ryland Library in Manchester, England. A large number of the papers in Manchester deal with the Leeward Islands. Some of the papers, especially those in Berkshire, are in particularly bad shape. Many of the papers were damaged and even lost while in the possession of the last Lord Stapleton to control the manor of Bensington.

Bensington Manor, which was part of the hundred of Ewelme, was located in the southern part of Oxfordshire county, separated from Berkshire by the Thames River and extending from the parishes of Warborough and Shillingford in the North across the Chilterns to Henley on Thames.⁷ A reference to the manor of Bensington first appears in 571 when the West Saxons defeated the British at Bedford. Bensington is listed as one of the four areas that the West Saxons took as a reward for their victory. Two hundred years later, Bensington had become a chief military post on the frontier separating Mercia and Wessex. Its position on the Thames proved to have strategic value and both Wessex and Mercia fought to gain control over it. In the Domesday Book, Bensington, or Benson as it is often called, is identified as

⁷James Bond and Luke Over, *Oxfordshire and Berkshire: Ordinance Survey Historical Guides* (London: George Philip Ordinance survey), 101. A map of Bensington Manor is located in Appendix A.

terra Regis, land belonging to the new Norman king, William I.⁸

By the mid-thirteenth century the manor became included in the property which was held by the Earl of Cornwall as *demesne*⁹ from the king. The manor was under the control of Piers Gaveston after Edward II appointed him to the Earldom of Cornwall in the early fourteenth century. The manors of Shillingford and Warborough were added under Mary Tudor. Before their addition to Bensington, Shillingford and Warborough were under the control of Godstowe Nunnery and the monastery of Dorchester, suggesting that Warborough and Shillingford became part of Bensington Manor following the dissolution of religious lands by Parliamentary Act in 1539, during the reign of Henry VIII. After Charles I granted the manor to London land speculators in the early seventeenth

⁸M.T. Pearman, *A History of the Manor of Bensington: A Manor of Ancient Demesne* (London: Elliot Stock, Paternoster Row, 1896), 1-7. Pearman's work is the only published work written about the manor of Bensington. The work is a narrative of the development of the manor from 571 until 1628, when King Charles I granted the manor to London land speculators. Although Pearman's book is based upon records, it is often difficult to follow his narrative. Reverend Pearman, who was not a professional historian, included seemingly extraneous material, especially for the earlier periods. Another problem with Pearman's text stems from the complexity of the English land system itself. Pearman is not careful when using terms such as manor, and this can lead to some confusion as to what property actually belonged to Bensington. Although it is important to keep these shortcomings in Pearman's book in mind, the work is still useful in uncovering the history of the manor of Bensington.

⁹The term *demesne* always refers to land under the direct control of the landlord. It is most often used to indicate the land on a manor which in the medieval period the tenants worked, but from which the lord received all the crops and profits. The term is also used to identify land that is not held under any kind of military tenure, but from which the landlord draws direct financial profit. P.D.A. Harvey, *Manorial Records* (London: British Records Association, 1984), 3-4.

century, the Paule family of Braywick in Berkshire, a gentry family with marriage ties to the earls of Westmoreland, acquired the manor in 1693. The manor became part of the Stapleton family holdings when Catherina Paule married William Stapleton in 1726 and remained under the control of the Stapleton family until the mid-twentieth century.¹⁰ The Stapleton family rose to the ranks of the gentry through royal favor. The family can be traced from Sir John Stapleton, Knt., who received confiscated Irish lands from King John. The Stapleton family in later years became strong supporters of the Stuarts. William's grandfather followed Charles II into exile and after the restoration was rewarded with the appointment to the post of General and Governor-in-Chief of the Leeward Islands.¹¹ He was also created a baronet in 1679.¹² William Stapleton and his son Thomas both served as Tory Members of Parliament for Oxfordshire, 1727 to 1740 and 1759 to 1769 respectively. Both William and Thomas continued their support of the Stuart dynasty during the early years of the Hanoverian rule.¹³ Their Jacobite

¹⁰In the final paragraph of his text, Pearman briefly traces the ownership of the manor of Bensington from Christopher Clitherow in 1638 through the Paules and then the Stapletons. This last paragraph is just a list and contains no discussion of how each family gained possession of the manor.

¹¹H.E. Chatwynd-Staplyton, *Stapletons of Yorkshire: Being the History of an English Family From Very Early Times* (London: Longmans, Green and Company, 1897), 306.

¹²The gentry title of baronet was created in 1611. The crown used the title to raise funds by selling the title or as reward for service to the crown.

¹³In his study of Jacobitism, Daniel Szechi has explained that the High Toryism that developed among the country Tories did not support the

sympathies seem to have been well known. William is reported to have hosted a dinner party in 1725 where the Duke of Wharton publicly drank to the Pretender's health and talked of the possibility of a restoration with the help of the French.¹⁴ Thomas Stapleton's Jacobite leanings were so well known that in September, 1745, his name appeared on a list of people who should be watched in case he should support the young pretender, who in 1745 was already at Holyrood.¹⁵ Although there is no evidence indicating that Thomas Stapleton aided Bonnie Prince Charlie in 1745, his relative Brigadier Stapleton did fight on the Scottish side in support of the young Stuart pretender.¹⁶

Since both the Paules and Stapletons had other holdings, neither family ever used Bensington as their main residence. The Paules resided in Braywick and the Stapletons lived in Rotherfield Greys. Both families entrusted the running of the manor, including overseeing the manor court, to a series of stewards. The only two surviving courtbooks deal with the parishes of Warborough and Shillingford in the northern part

Catholicism of the Stuarts, but instead held to beliefs of strict Anglicanism, fear of foreign influence and an idealization of the early Stuart dynasty. The ideals of High Toryism made it impossible for many country M.P.s to support the foreign Hanoverian dynasty. Daniel Szechi, *The Jacobites: Britain and Europe 1688-1788* (Manchester and New York: Manchester University Press, 1994), 64-65.

¹⁴Romney Sedgwick, *The History of Parliament: The House of Commons, 1715-1754*, vol. II (Oxford and New York: Oxford University Press, 1970), 441.

¹⁵R.J. Robson, *The Oxfordshire Election of 1754: A Study in the Interplay of City, County and University Politics* (London: Oxford University Press, 1949), 11.

¹⁶H.E. Chetwynd-Staplyton, *Stapletons of Yorkshire*, 304.

of the manor. The courtbooks are held privately in Lincoln, Nebraska, by Cliff and Shirley Mason. The books deal with the inheritance and other transfer of land on the manor among tenants who held their land by copyhold, a practice discussed fully below. The copyhold transfers are recorded in the two volumes which begin in 1601 and end in the mid-nineteenth century. Since the courtbooks have no page numbers, I will refer to the courts by their dates throughout this study. The manor courtbooks of Warborough and Shillingford add to our knowledge of the tenants since no birth records for the tenants in this study have survived. In some cases the manor book is the only way to trace family relationships on the manor.

Manor courtbooks could include information other than simply the transfer of land, including complaints made by tenants of both a civil and criminal nature and complaints by the lord concerning the actions of the tenants. The Bensington Manor courtbooks for Warborough and Shillingford only record the transfer of land. Deaths of land-holding tenants are inadvertently recorded, since land was transferred as a result of the death and the heir owed the lord a fee in order to inherit the land.

For the most part the records contained in the courtbook seem to be complete. Since the lord of the manor received a quarter of one year's rent every time land was transferred on the manor, it was to the lord's advantage for all transfers

to be recorded in the courtbook. The manor held court twice a year, usually in October and April. Special sessions of the court were unusual, but could be called if a large landowner died unexpectedly in order to settle the question of inheritance and resolve the land transfer quickly. There are two instances in the courtbook where the records are out of order or incomplete. The first occurred when Thomas Stevens, steward from 1693 to 1720, died. His successor, Francis Blandy, explained in the courtbook that three courts immediately prior to Stevens' death were missing. Stevens had not recorded them in the courtbook and Blandy has been unable to locate any record of them. Later, Blandy included the three courts with a note explaining why they were out of chronological order. The second is a five-year gap between courts, which was never addressed by the steward and no record of the courts showed up later in either of the books.

The entries in the books are formulaic. The wording is almost the same for each transaction regardless of which steward copied the court notes into the book. The entries are in Latin from 1693 until the law required them to be written in English beginning in 1733. The standardized format of the entries seemed to help the stewards who had poor Latin skills. Whenever anything besides the usual transfer of land occurred, the steward reverted back to English. The steward might use just one word of English among the Latin or an entire section of English might be

needed to explain the unusual events. All transfer of copyhold land had to take place in the manor court. In some cases the parties actually appeared in the court and in others the land transfer was merely reported to the court. As mentioned earlier, land transfer on Bensington followed the custom of inheritance by the youngest son. The majority of all land transferred within the court is between men, most often father to son. This may explain why one steward continually had to cross out the word "his" when he meant to write the word "her," whenever one of the participants in the transfer was a woman. There is also a difference in the way tenants are identified in the courtbooks. Men are always identified by their name, place of residence, and occupation. Women, on the other hand, are always identified by their name, place of residence, and marital status. In the entries from 1693 until the end of this study in 1780, no woman was ever identified as having any kind of occupation. Yet a number of the women on the manor during this period did in fact have occupations, such as brewers and victuallers. When the women wrote their wills, they often identified themselves by their names and occupations only, leaving out their marital status.

While the manor court book and tenants' wills are one way to understand the workings of the manor, surveys of the manor and its occupants are another way.