

In the Name of the Father
Compulsion, Tradition, and Law in the Lost History of Women's Surnames

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Abstract

Although surnames are ubiquitous in American society, their origins and development in English history are not well known. Women often held individualized surnames reflecting specific traits, occupations, statuses, or parentage (e.g. Fairwife, Silkwoman, Widow, Robertdaughter), and some passed those names on to their children as well. But women's names have been overridden as a result of changes in naming practices that arose over time; women have largely been written out of history as a result. This paper explores the development of women's surnames as far back as they first appeared in eleventh century Britain. The staunchly gendered contemporary status quo of women's name changes at marriage is a relatively recent historical phenomenon. My research suggests that principles of coverture and female legal impotence in some ways actually became *more* rigid and restrictive over time, rather than less, and that what we consider to be "traditional" when it comes to naming practices was historically nowhere near as unyielding and male-oriented as it later became. These findings shed new light on the ways in which patriarchy becomes enshrined into cultural and legal systems, as well as modern liberal theory coalescing around concepts of liberty and rights which sprouted precisely during the time in which women's freedoms were becoming most vigorously suppressed.

I. Introduction

Surnames are ubiquitous in American society and have existed in Anglo-Saxon culture for about a thousand years. Yet their origins in tradition and law, and their development over time in English history, are not well understood. Even less recognized are the ways in which that development played out for women, who have been essentially written out of history and their names erased as a result of the naming practices that arose over time.

Despite the relative lack of understanding of the institution of surnames, they matter, and they matter plenty. Names are instrumental in the construction and assertion of legal

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and personal identity. They have been used as a mechanism of political and social power, and have been both sought after and forcefully imposed as such. They are integral to the legal conventions of property, ownership, and inheritance. Their use has supported the large-scale erasure of women from history: when their names are gone, so is their historical existence as well as their legacy. Names are a representation of a person's individuality, lineage, family beliefs, religion, and community.

Yet for all of their importance, there has been little critical examination of how and why contemporary surname practices came to exist. Indeed, one would be hard pressed to think of an institution so universal in application and traditional in approach, and yet so critically unexamined, as that of surnames. They are simply taken for granted and mentioned only as a given in the context of other more important issues. However, given both the significance of names and their universal adoption in our society, an investigation into the development of surname usage will reveal a great deal about us, including elements of our history, our culture, our legal system, and how and why we came to be where we are today. Expanding far beyond the use of surnames themselves, it may open our eyes to the foundations of some of our most common practices and ideas, and call those practices into question.

And what of the women? The scholarly work that exists focuses on surnames generally as applied to men, who, after all, are the progenitors, bearers, and harbingers of names and lineage, past and future. While women in British and American culture today generally enjoy *formal* (legal) equality—including the ability to own property, inherit, will an estate, earn wages, and independently determine the course of their lives—older sex-based naming conventions still persist. Why are the surnames of women so much more transient than those of men? When and why did women begin adopting the surnames of their husbands? What effect did that have, and what does that suggest for the contemporary application of that practice? Did alternative surname practices exist at any point for women? I will attempt to begin answering these questions here.

What we consider to be “traditional” when it comes to naming practices was not nearly so consistent or unyielding historically; in fact, the contemporary status quo is a relatively recent phenomenon and is not actually “traditional” at all. What’s more, my research suggests that this same status quo does not seem to represent a steady linear progression of ever-increasing rights for women, but rather evinces some significant tumbles backwards at certain historical periods; principles of coverture and female legal impotence may have in some ways actually become *more* rigid and restrictive, rather than less, through the years. This retrenchment resulted in increasingly limiting property ownership rules for women—and surname practices and expectations followed suit¹—as

¹ I do not necessarily mean to suggest that surname changes for women took place as a result of new restrictions on property ownership. In fact, it is difficult to conclusively determine a causal relationship

a mechanism by which gender hierarchy was both reflected and reinforced. The underpinnings of these developments, including the processes by which women's names and identities were erased, along with the legal and theoretical implications of such a wholesale erasure, will be examined. Such an investigation will expose the hierarchical principles still implicit in contemporary marital naming traditions and will reveal ways in which patriarchy is enshrined into practice as both tradition and law.

The framework for this project is one of external legal history, whereby relevant legal concepts are examined in a broader context than the doctrinal developments themselves, in an attempt to develop a picture of the development of surname usage. The practices under investigation here appear to be both socially and legally constructed, such that the history of the law in practice, and the ways in which legal institutions operate in society are relevant, but must be considered in conjunction with other social influences of the time. Statutes focusing on surnames are minimal; case law is virtually nonexistent. Thus, the history must be reconstructed in a more indirect manner, extrapolating data from case law on other topics, marriage statutes, parish records, and family histories. There is much more to be done on this topic, both in terms of research and analysis, so this paper represents the starting rather than the ending point of the inquiry.

II. Origination of Surnames

With rare exception,² both law and custom regarding surnames in the United States originates from England. As such, an investigation into the historical development of surname convention and usage requires an inquiry into English history, and this paper will focus on English history during the mid to late Medieval period, or about 1000 A.D. to 1600 A.D.

While the use of first names has been a universal practice throughout recorded history,³ what are now known as "surnames" are a more recent phenomenon.⁴ Their first use in England can be traced to the time before the Norman Conquest in 1066,⁵ but the

between the two happenings. What is apparent, however, is that they both took place over a period of several centuries at around the same time.

² The legal system of Louisiana has French and Spanish roots, rather than English, and largely derives from the Napoleonic Civil Code rather than the common law system of the other states. The state adopted a version of the code shortly before its admission to the Union in 1812. See Vernon Valentine Palmer, *The French Connection and The Spanish Perception: Historical Debates and Contemporary Evaluation of French Influence on Louisiana Civil Law*, 63 LOUISIANA LAW REVIEW 1067 (2003). Indeed, Louisiana law on surnames differs from what is customary in the other states; it is alone in providing that marriage does not change the name of either spouse. LA. CIV. CODE ANN. ART. 100 (2009).

³ Cynthia Blevins Doll, *Harmonizing Filial and Parental Rights in Names: Progress, Pitfalls, and Constitutional Problems*, 35 HOW. L.J. 227, 228 (1992).

⁴ William Dodgson Bowman, *THE STORY OF SURNAMES* 13 (1932); L. G. Pine, *THE STORY OF SURNAMES* 11-12 (3d ed. 1970).

⁵ PH. Reaney and R.M. Wilson, *A DICTIONARY OF ENGLISH SURNAMES* xii (3d ed. 1997).

Normans are generally credited with popularizing and greatly expanding both their use and the types of surnames that existed.⁶ The Saxon traditions, including those of names, that were previously in place were replaced by Norman ones,⁷ and the conventions, laws, and customs surrounding their use have changed considerably since that time. Today surnames are also called family names, second names, or last names, but they were not known as “surnames” at all, or any variation thereof, when they first appeared or for centuries thereafter. Instead, they were called “byname,” which functioned as nicknames or second names but were individualized descriptors and were not hereditary.⁸ A more detailed discussion of the etymology of the word “surname” and what it suggests about the transformation of women’s status is presented below. Despite historical variations in usage and subtle distinctions in meaning, in this paper I will use the terms “surname” and “byname” interchangeably, and do not intend to limit the meaning of “surname” to “family name,” as it is commonly used today.

Originally surnames were functional and served a number of specific purposes. They operated as a way to align and associate oneself with an estate, and were thus used primarily by aristocracy, knights and gentry in the earlier years⁹. Over the centuries, the use of surnames spread to the lower social classes, until eventually even peasants used them regularly.¹⁰ As populations increased and cities began to swell in size, the number of first names in use was still limited. With the increasing involvement of government in the affairs of the state and its citizenry, there arose a pressing need for a more definitive means of identifying and distinguishing individuals. Surnames therefore became common in Thirteenth and Fourteenth Century England.¹¹ However, in addition to their function in helping to identify, monitor, and regulate citizens, surnames also served to organize and influence people’s lives. They carried weight, meaning, and power, and were approached intentionally and purposefully.

Just as they were the first to use surnames, the landed classes were also the first to pass down those names in a hereditary way, given that their surnames often reflected their landowner status and associated them with the estate in a way that enabled them to inherit and benefit from it.¹² Their surnames, therefore, ordinarily developed as an indication of that status. The surname of a baron or count would certainly not be Baker, for example, but would represent the location of their estate.¹³ William de Lonceastre

⁶ Pine, *supra* note 2, at 19.

⁷ Bowman, *supra* note 2, at 30-31.

⁸ Talan Gwynek & Arval Benicoeur, *A Brief Introduction to Medieval Bynames* (1999), <http://www.s-gabriel.org/names/arval/bynames/> (last visited March 3, 2015).

⁹ Bowman, *supra* note 2, at 8, 9.

¹⁰ *Id.* at 8.

¹¹ Pine, *supra* note 2, at 11; Lisa Kelly, *Divining the Deep and Inscrutable: Toward a Gender-Neutral, Child-Centered Approach to Child Name Change Proceedings*, 99 W. VA. L. REV. 1, 10 (1996).

¹² Reaney and Wilson, *supra* note 3, at xlvi, xlix.

¹³ *See id.* at xlvi.

(William of Lancaster)¹⁴ and Richard de Hamelton' (Richard of Hamilton),¹⁵ for example, would have ancestors who would eventually be known simply as Lancaster and Hamilton respectively.

For the lower classes, names were chosen either by the bearer himself, or her or his acquaintances as a matter of common use, and rarely, according to local laws.¹⁶ A 1465 law issued by King Edward IV, for example, dictated that every Irishman living within specified districts should “take to him an English surname of one town, as Sutton, Chester, Trynn, Skryne, Corke, Kinsall; or colour, as white, black brown; or arte or science, as smith or carpenter; or office as cooke, butler.”¹⁷ The intent was to compel the Irish to integrate into English culture by adopting English surnames in place of their Gaelic ones; they were also ordered to dress like the English in the same law.¹⁸ Interestingly, the law made no mention of patronymics¹⁹ – or a name derived from the father or paternal ancestor²⁰ – which is an indication of how uncommon patronymic naming still was at that time, if not also the desire of the English to minimize family and clan bonds of the Irish.

Through the 14th century, surnames changed quickly and easily, and were less likely to refer to the bearer's paternity than to other factors relating to the person.²¹ Because of this fluidity, members of the same family might have different surnames,²² and the name of an individual could itself change throughout his life.²³ John Cooke might have a daughter known as Alice Draper (seller or maker of cloth)²⁴ and a son called Henry Johnson, who is also called Henry Short by some, or Henry Bridges if he lived near a bridge.

The hereditary nature of surnames did not exist as we know it today through the Middle Ages, even for the upper class, and exhibited considerable flexibility and nuance during

¹⁴ Recorded in 1175. *Id.* at 270.

¹⁵ Recorded in 1195. *Id.* at 214.

¹⁶ Pine, *supra* note 2, at 10; Bowman, *supra* note 2, at 8.

¹⁷ Bowman, *supra* note 2, at 8.

¹⁸ Horace S. Meese, *Chronological Outline of Irish History: From Legendary Days to the Early Part of the Twentieth Century* 241 (2007), <http://www.igp-web.com/igparchives/ire/countrywide/history/timeline01.txt> (last visited April 3, 2014).

¹⁹ Bowman, *supra* note 2, at 8.

²⁰ Throughout this paper I use the word “patronymic” in this sense: specifically, to refer to a name that is of, or relates to, the name of the father. Likewise, “matronymic” will be used to refer to a name that is of, or relating to, the name of the mother.

²¹ Doll, *supra* note 1, at 228.

²² *Id.* (citing *Smith v. U.S. Casualty Co.*, 90 N.E. 947, 948 (N.Y. 1910)).

²³ Pine, *supra* note 2, at 15.

²⁴ “draper.” *Middle English Dictionary*. 2013. <http://quod.lib.umich.edu/cgi/m/mec/med-idx?size=First+100&type=headword&q1=draper&rgxp=constrained> (last visited April 7, 2014).

that time. Although surnames were occasionally hereditary as early as the 12th century,²⁵ their permanence started to become more common by the end of the 14th century, such that names no longer necessarily served as a literal description of a person (i.e., the son of John Cooke could be named Henry Cooke, regardless of his profession). However, the shift happened incrementally, and at different times in different places;²⁶ some people through the 14th century still had no surname at all, and some were still not hereditary even into the 15th century.²⁷ In 1444, for example, one man took the surname Asheby, while his brother was Adam Wilson; Adam Wilson's son was called John Adkynson.²⁸ In fact, surnames themselves were not universal or firmly established in all parts of England even by the early 1700s.²⁹ A perusal of any of the multiple parish records held at the British Library, which list births, marriages, and deaths of local citizens, demonstrates this fluidity in surnames: the recording of births often lists the babies with an alias, and occasionally, two of them:³⁰ Roger Smyth, als. Goldyng (1573),³¹ and Ales Fletcher, als. Leadebeater, als. Crowther (1585)³² are two examples. The practice seems to have largely declined by the early 1600s, though it depends on the parish, and children are sometimes listed with no last names at all.

Surnames generally fell into one of five types. The first was topographical, such as John Attford (from John atte Ford, meaning John at the Ford), or John Hill (John at the Hill). The second surname form was paternal, also known as patronymic, such as John Richardson (John son of Richard), or John Hughes (John son of Hugh). Third, surnames might represent nicknames or individual characteristics, such as John Fox (crafty like the animal), John Smallman (small in stature), John Fairfax (fair face, complexion), or John Goodman (good man). Fourth, surnames reflected place names, such as Brian of Durham or John of Warwick (becoming Brian Durham and John Warwick, respectively). Such locational surnames include nearly anything ending in “ton,” (town, e.g. Hampton) “ham,” (village, homestead, e.g. Graham) “wick” (abode or village, e.g. Brunswick), “den” (valley, e.g. Snowden), “don” (hill, e.g. Bragdon), “stow” (place, e.g. Bristow),

²⁵ Reaney and Wilson, *supra* note 3, at xlvi.

²⁶ Gwynek and Benicoeur, *supra* note 6. [See also](#) Reaney and Wilson, *supra* note 3, at [xlv-xlvi, li](#) (“It is abundantly clear that in the north surnames became hereditary much later than in the south.”).

²⁷ Reaney and Wilson, *supra* note 3, at xlix.

²⁸ Bowman, *supra* note 2, at 9.

²⁹ *Id.* at 10.

³⁰ It is unclear the reasons for so many alias names. Illegitimacy may be one possibility, but is almost surely not the only one, since many babies are identified as “bastard(e)” in their listing, and while a few “alias” babies are called “bastard,” many are not. Because most of the parish records do not record the names of both parents, and sometimes neither parent, it is difficult to determine the origins of the surnames given these children.

³¹ Parish of Leyland, THE REGISTER BOOK OF CHRISTENINGS, WEDDINGS, AND BURIALS WITHIN THE PARISH OF LEYLAND, IN THE COUNTY OF LANCASTER, 1653 TO 1710, p. 40 (Walter Stuart White ed., 1890).

³² *Id.* at 84.

“stead” (place, e.g. Almstead), “leigh” or “ley” (clearing or meadow, e.g. Ackley), or “chester” (site of an ancient Roman fort, e.g. Rochester). Finally, surnames could be represent an occupation, such as John Fletcher (maker of arrows) or John Clarke (cleric, secretary), in addition to the more obvious Baker, Taylor, Cook, Smith, Miller, Potter, etc. Many occupational surnames that survive today are not recognized as such, either because they reflect a vocabulary that has since changed, or because they represent occupations that no longer exist, thus creating a picture of what life was like at the time at which the names became hereditary and thus solidified into the cultural fabric. An “ackerman” was a ploughman; a “barker” tanned leather (also called a “tanner” at the time); a “chamberlain” tended to the master bedroom (chamber); a “chandler” was a maker or seller of candles; while a “draper” made or sold woolen cloth. A “foster” made scissors, while a “fuller” softened course material by pounding or walking on it, and was therefore also known as a “walker” or “tucker”; a “garnett” made hinges, a “mercier” was a trader, a “porter” was a doorkeeper, a “reeve” was a sheriff; a “ryder” was a mounted forest officer (rider); and a “sawyer” was someone who sawed wood. Someone who covered roofs with slate was called a “slater” or a “tyler” (tiler); a “snider” stitched clothing; a “spencer” dispensed a manor Lord’s provisions to those who lived on the estate; a “stoddard” was a horse keeper (stud herder); a maker of string or bow strings was a “stringer;” a “sumner” was an official who called people to appear in court (summoner); the person who gathered taxes was called a “toller” (from toll, or tax); a “turner” worked with a lathe; a “ward” was a guard or watchman (a “woodward” thus was a guardian of the wood, while a “hayward” protected an enclosed forest;); a “wright” was a maker of machinery; a wagon maker was a “wayne,” a “wainwright,” or a “cartwright;” and a “wheeler” made the wagon’s wheels. Such a cursory sampling as this demonstrates just how many modern surnames descend from medieval occupations. Some of these surnames are represented with multiple spellings (i.e., Taylor/Tailor, Ryder/Rider), while others are found only in forms that reflect archaic spelling of occupational words (i.e., Tyler). This is evidence of the pervasive variation in the English language at the time at which surnames were becoming hereditary and thus firmly established, as well as the fluctuations the language has undergone since then.

Because the surnames of women in particular have not been well documented, their ancestry is quite difficult to trace, which effectively eliminates them from the historical record. The standard discourse – to the extent that there even exists a discourse which considers the history or development of women’s surnames – is that women have always been given the surnames of their fathers at birth, and their husbands at marriage. That is of course why, we say, women today still overwhelmingly do the same unquestioningly – it is “tradition;” it’s what’s always been done.³³ This research, however, serves to

³³ Recent data suggests that more than 80% of American women change their names when they get married. Diana Boxer, *American Women, Changing Their Names*, NPR (June 13, 2006), <http://www.npr.org/templates/story/story.php?storyId=5482928>.

deconstruct the concept of “traditional” when it comes to surnames – and perhaps the status of women beyond their surnames. Setting aside the fact that a plethora of surname practices have abounded worldwide which differ from ours,³⁴ even within Anglo-Saxon and English culture, systems have varied significantly over time. The ways in which this process has played out for women has implications for the foundations for our current practices, as well as an analysis of gender rights more broadly conceived.

III. Women’s Names

In my investigation into the holdings at the British National Archives and the British Library, I sought to answer the question of whether and when female-specific surnames ever existed in England, and if so, what form they took, and what mechanisms served to eliminate them from history. As such, I searched for evidence of women’s surnames as independent from men’s; for indications that, if not now, women did at one time have individualized surnames that perhaps did not strictly follow the name allocation and inheritance systems that we take for granted today. What I discovered was somewhat different than I had anticipated, and carries with it broader implications about the state of patriarchy and the historical progression (and regression) of the status of women. I not only found a multitude of examples of women’s unique names, but I also discovered that they haven’t all disappeared; many of them remain in use as surnames in some form today, largely unrecognized for what they signify.

As discussed above, existing work on surnames rarely discusses women beyond perhaps a cursory mention in a short section of a book, as though surnames involving women are ancillary to the real issue—the names of men. Work that does focus on women’s surnames typically investigates modern practices rather than historical ones, focusing of whether women should and do adopt the surnames of their husbands at marriage, how they might go about rejecting that practice, and the implications of doing so.³⁵ Alternatively, work that investigates more generally the historical status and rights of women typically approaches the question from the unexamined and unstated foundational assumption that the further back in history one looks, the worse it was for women: in other words, the status and rights of women proceeded on a trajectory that generally improved over time – perhaps unevenly, in fits and spurts and stalling out at times, but always increasing when broadly conceived.³⁶ As I suggested above, this assumption is not true – at least in some important respects.

It should be noted that in Middle English—the English in recorded documents between the 12th century and the end of the 15th century—the spelling of words was functionally

³⁴ Kelly, *supra* note 9, at 7 (noting the wealth of possible naming systems worldwide).

³⁵ See, e.g., Patricia J. Gorence, *Women’s Name Rights*, 59 MARQ. LAW REV. 876 (1976); Julia C. Lamber, *A Married Woman’s Surname: Is Custom Law?*, 1973 WASHINGTON UNIVERSITY LAW REVIEW 778 (1973).

³⁶ A few notable exceptions are discussed below.

different than in Modern English (beginning in the 16th century to present, though this period is also divided into Early Modern and Modern English and evidenced further changes as well).³⁷ Words were written as they were pronounced and there was no standardized spelling, which resulted in multiple spellings of a single word and considerable variation from document to document, person to person, and region to region. Even a single document written by a one person could contain multiple spellings of the same word. Fixed spelling began with the advent of printing, around 1475, but this standardization was a gradual process that lasted several centuries.³⁸ The spelling of surnames therefore varies as well (e.g., Cook/Cooke, Thomson/Thompson/Thomasson, Forrester/Forester/Forster). In addition to spelling variations, surnames have been altered, condensed, chopped, mispronounced, eccentrically written by scribes and clerks, or altered by dialectical usage over time in ways that significantly impact their representation over the centuries.

Surnames related specifically to women existed in various forms, which will be discussed separately and defined below. These names could be patronymic (from the father), matronymic (from the mother), or neither; the specific relevant categories consist of patronymic female-specific, matronymic female-specific, matronymic male-specific, matronymic gender-neutral, and female-specific but neither patronymic nor matronymic. (Additional categories exist which are not specific to women, and therefore are not relevant to or included within this discussion, including patronymic male-specific, patronymic gender-neutral, and non-patronymic gender-neutral names.) All of the surname types relating to women are in evidence in England beginning as early as the 11th century, and continued for hundreds of years. Such occurrences became much less common by the 17th century, which will be discussed below. However, the incidence of female-specific surnames was widespread,³⁹ and cannot be thoroughly expounded upon here. The following represents a decidedly incomplete sampling of the usages that existed and the modern surnames to which they have evolved.

a. Patronymic Female-Specific Surnames (Father-Daughter)

A patronymic female-specific name is one that identifies or is passed down from the father, but must be held specifically by a female by virtue of the name itself. The name identifies the holder as the daughter of a particular man: Albertsdaughter (using modern spelling) is an example. It is patronymic because it identifies the father, Albert, and

³⁷ T.H. Howard-Hill, *Early Modern Printers and the Standardization of English Spelling*, 101 MODERN LANGUAGE REVIEW 16, 17 (2006).

³⁸ Edmund Weiner, *Early Modern English Pronunciation and Spelling*, OXFORD ENGLISH DICTIONARY (2013), <http://public.oed.com/aspects-of-english/english-in-time/early-modern-english-pronunciation-and-spelling/>.

³⁹ “The frequency of metronymics cannot be doubted.” P.H. Reaney, THE ORIGIN OF ENGLISH SURNAMES 77 (1967).

female-specific because the name was created to identify a female, his daughter. A *male*-specific patronymic surname equivalent would be the more familiar Albertson, identifying the son of Albert.

A number of names can be found where a woman's surname indicates her status as the daughter of a particular man. All such names take the same basic form: identification of the father (by name or occupation), followed by some version of "daughter" (though rarely spelled that way, as that is a more modern form of the word). Some of the examples found include Margaret Starkbayndoghter (1379),⁴⁰ Joan Tomdoutter (1379),⁴¹ Emma Rogerdaughter (1381),⁴² Esolda Peersdoghter (1430),⁴³ Magota Stevendoghter (1379),⁴⁴ Johanna Robyndoghter (1379),⁴⁵ Alice Saunderdoghter (1379),⁴⁶ Alice Gefdoghter (1379);⁴⁷ Emma Nicoldoghter (1379);⁴⁸ Emma Watdoughter (1381);⁴⁹ Alice Wilkynsondoghter (1379),⁵⁰ and Margareta Wallerthwaytdoghter⁵¹ (daughter of a man bynamed Wallerthwayt, from the town of Wallerthwaite).⁵² Katheryn Doctor (1570) is also from the Old English "dohtor," meaning daughter,⁵³ but the name does not indicate whose daughter she is. Some "daughter" names indicate not the father's name, but some other characteristic: a nickname or his occupation, for example. Matilda Foxdoghter (daughter of fox, a nickname), Isabella Shephirddoghter (daughter of the shepherd), Agnes Taylourdoghter (daughter of the tailor), all in 1379, are examples,⁵⁴ as well as Margery le Revedouctur (1335)⁵⁵ (daughter of the reeve, a local official), and Johanna Prestdoghter (1379) (daughter of the priest),⁵⁶ as well. None of the above "daughter" surnames have survived to modern times,⁵⁷ although a number of modern surnames

⁴⁰ *Id.* at 425.

⁴¹ *Id.* at 127.

⁴² *Id.* at xviii.

⁴³ *Id.*

⁴⁴ *Id.* at li.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* at 83.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Reaney and Wilson, *supra* note 3, at 127.

⁵¹ *Id.* at li.

⁵² P.H. Reaney, A DICTIONARY OF ENGLISH SURNAMES 3284 (1991), <http://books.google.com/books?id=5sVq7VQINwC&pg=PA3284&lpg=PA3284&dq=Wallerthwaytdoghter&source=bl&ots=hPsNcHtCPl&sig=d9ijNwi5wcMuvyXp-XkclxZeKNQ&hl=en&sa=X&ei=bwzU5GcE-ewyQGjtoDQCg&ved=0CDUQ6AEwAg#v=onepage&q=Wallerthwaytdoghter&f=false>.

⁵³ Reaney and Wilson, *supra* note 3, at 127.

⁵⁴ *Id.* at li.

⁵⁵ Reaney, *supra* note 34, at 83.

⁵⁶ Reaney and Wilson, *supra* note 3, at 361.

⁵⁷ Reaney and Wilson, *supra* note 3, at xviii-xix.

derive from the word “daughter” alone: Daughter(s), Dauter, Darter, Dafter(s), Daftor(s), and Doctor.⁵⁸

Interestingly, such surnames were not limited exclusively to women; there are examples of men who were known by surnames ending in “daughter” – Robert Felisdoghter (1379),⁵⁹ John Jakdoghter (1381)⁶⁰ and Richard Wryghtdoghter (1379) are examples.⁶¹ This suggests that, at a time when surnames were not necessarily hereditary, these men nevertheless inherited their surnames from a *female* ancestor, perhaps a mother or grandmother, in the same way that many women inherit “son” surnames from a male ancestor. This is remarkable, because the fluidity of surnames of the time means that there were likely a plethora of possible surnames for the men in question, and yet they are listed with “daughter” surnames. It is a clue to the status of 14th century women that this could be the case.

b. Matronymic Female-Specific Surnames (Mother-Daughter)

A matronymic surname is one that identifies the mother, and could be either female- or male-specific. A female-specific example would be Mabelsdaughter, identifying the mother and indicating that the holder of the name is female, and the daughter of Mabel. Matronymic or matronymic-like surnames in general were actually fairly common in early English history, and some of their derivatives are still in use today.

However, despite the frequency of matronymic surnames, there are relatively few examples of matronymic *female-specific* surnames, identifying the bearer as the daughter of the mother; for some reason it appears more common for matronymic surnames to apply to sons⁶² or to be gender-neutral (see below). Rose Anotdoghter (1379),⁶³ (daughter of Annot, diminutive of Ann),⁶⁴ and Ameria Ibbotdoghter (1324)⁶⁵ (daughter of Ibb-ot, diminutive of Isabel),⁶⁶ are a few of the examples found that are both matronymic and female-specific. None have survived to modern day.

c. Matronymic Male-Specific Surnames (Son)

A matronymic male-specific surname identifies the mother and indicates that the bearer of the name is male. There are many instances of such surnames; the most typical form

⁵⁸ Reaney, *supra* note 34, at 81.

⁵⁹ Reaney and Wilson, *supra* note 3, at 127.

⁶⁰ Reaney, *supra* note 34, at 83.

⁶¹ Reaney and Wilson, *supra* note 3, at 127.

⁶² *Id.* at 12.

⁶³ *Id.* at 127.

⁶⁴ *Id.* at 12.

⁶⁵ *Id.* at xviii.

⁶⁶ *Id.* at 247.

begins with the woman's given name and ends with "son." Robert Mariorison (1379) and Richard Margison (1683) both mean son of *Margery*.⁶⁷ From *Margaret* we see Richard Margretson (1381),⁶⁸ Thomas Margetson (1425),⁶⁹ and Thomas Magotson (1379).⁷⁰ *Elizabeth* brought rise to John son of Libbe (1298);⁷¹ *Isabel* resulted in Robert Ibboteson (1374-5),⁷² John Ibbeson (1324)⁷³ (son of Ibbot/Ibb, pet form of Isabel). *Mary* and *Marie* resulted in Ælric Meriete sune (1066),⁷⁴ Willelmus filius Marie (1292),⁷⁵ William Marysone (1298),⁷⁶ and Walter Mariesone.⁷⁷ John Letesson (1327)⁷⁸ is the son of *Lettice* (Leticia),⁷⁹ John Sibson, Sibbeson (1314) and William Sibbison (1327)⁸⁰ each have surnames meaning "son of Sibb," which is a pet form of *Sibyl*.⁸¹ William Mabbeson's name (1332) means son of Mabb, short for *Mabel*.⁸² James Madison, one of the original framers of the U.S. Constitution and the country's fourth President, himself held a matronymic surname; Madison means son of Maddy, a pet form of Maud, and is seen early on with Thomas Madyson (1425).⁸³ *Maud*, from the Norman personal name *Matilda*, also resulted in Ralph Maldesone (1327) and John Maltson (1438).⁸⁴ Other examples include Richard Elynoreson (1375);⁸⁵ Edric' Modheuesune (1137);⁸⁶ and Henry Emmesone⁸⁷ (Emme's son or Emmot's son, both of which are feminine given names of the time),⁸⁸ Allison means son of *Alice*: William Alisun (c. 1248) John Allison (1332), and John Aliceson (1324)⁸⁹ are examples. Dyson means "son of Dye," short for *Dionysia*, and appears with Richard Dysun (1275)⁹⁰ and John Dyson de Langeside (1369), whose mother was

⁶⁷ *Id.* at 298.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 293.

⁷¹ *Id.* at 278.

⁷² Reaney, *supra* note 34, at 88.

⁷³ Reaney and Wilson, *supra* note 3, at 247.

⁷⁴ *Id.* at 306.

⁷⁵ *Id.* at xx.

⁷⁶ *Id.*

⁷⁷ Peter Franklin, *THE TAXPAYERS OF MEDIEVAL GLOUCESTERSHIRE: AN ANALYSIS OF THE 1327 LAY SUBSIDY ROLL WITH A NEW EDITION OF ITS TEXT* 112 (1993).

⁷⁸ Reaney and Wilson, *supra* note 3, at 277.

⁷⁹ *Id.* at 276-77.

⁸⁰ *Id.* at 408.

⁸¹ *Id.*

⁸² *Id.* at 290.

⁸³ REGISTER OF THE FREEMEN OF THE CITY OF YORK: FROM THE CITY RECORDS. VOL. I, 1272-1558, at 138 (1897) (hereinafter REGISTER OF THE FREEMEN).

⁸⁴ *Id.* at 303.

⁸⁵ *Id.* at 153.

⁸⁶ *Id.* at xix.

⁸⁷ Franklin, *supra* note 72, at 27.

⁸⁸ Bowman, *supra* note 2, at 100.

⁸⁹ Reaney and Wilson, *supra* note 3, at 7.

⁹⁰ *Id.* at 147.

Dionysia de Langeside.⁹¹ That one is an interesting case, because he took his mother's full byname "de Langeside," and also incorporated her first name into his byname with "Dyson." A number of surnames of this type are still in use, including Dyson, Sibson, Emson, Emmeson, Alison, Margison, Ibson, Mabson, Maudson, Mawson, Maryson, and Letson.⁹² *Cecilia*, often shortened to Sis and Cis, lead to the modern Sissons, Sysons, and Sisselson,⁹³ and is seen in John Sisson (1379).⁹⁴

Occasionally a name refers to a female family member not the mother: Thomas Janekynes⁹⁵ means kinsman of Jane; John Letmore (1682)⁹⁶ means a kinsman of Lett (Leticia); William Marekyn (1390)⁹⁷ means Mary's kin; John Maggekin (1396)⁹⁸ means kin of Magge (pet form of Margaret). Osbert Lovekin (1275) and Robert Lufkyn (1524)⁹⁹ both mean kinsman of Love, a female given name, and both represent modern surnames Lufkin, Lukin and Lovekin as well.¹⁰⁰ It speaks to the prominence of many women in their communities that the chosen way to identify many men was by reference to their connections to these women.

Also present but uncommon are matronymic surnames that do not include the woman's name at all: William filius Richefemme (1148) means son of a noble or rich woman,¹⁰¹ while surnames reflecting a man's status as a son of a widow crop up as well: William Wideweson (1327);¹⁰² Richard Wyduesone (1309);¹⁰³ John la Wydewesone (1326);¹⁰⁴ and William le Wydusone (1332)¹⁰⁵ demonstrate this. Widdowes sometimes also means "the widow's son,"¹⁰⁶ and the surname survives today as Widdows, Widders, and Widdas.¹⁰⁷

d. Matronymic Gender-Neutral Surnames

Gender-neutral matronymic surnames identify the mother or other female ancestor, but

⁹¹ Reaney, *supra* note 34, at 88.

⁹² Death record searches for the U.S. conducted at <http://search.ancestry.com/search/db.aspx?dbid=3693>. Death record searches for the U.K. conducted at <http://www.findmypast.co.uk/search/all/deaths>.

⁹³ Reaney & Wilson, *supra* note 3, at 411; Bowman, *supra* note 2, at 99.

⁹⁴ Reaney & Wilson, *supra* note 3, at 411.

⁹⁵ Franklin, *supra* note 74, at 115.

⁹⁶ Reaney & Wilson, *supra* note 3, at 277.

⁹⁷ *Id.* at xxxix.

⁹⁸ *Id.* at 293.

⁹⁹ *Id.* at 285.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 377.

¹⁰² Franklin, *supra* note 72, at 107.

¹⁰³ Reaney & Wilson, *supra* note 3, at 491.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Reaney, *supra* note 34, at 83.

could apply equally to males or females and are therefore held by both sons and daughters. They are the most common type of matronymics, and typically come in the form of female given names used as surnames, without the addition of “son” or “daughter.” There are countless examples, with a number of them surviving as modern-day surnames. In addition to the highly popular names *Elizabeth*¹⁰⁸ and *Isabel*¹⁰⁹ *Margaret*,¹¹⁰ and *Mabel*¹¹¹ giving rise to a great many historical and modern surnames with various representations, a number of other women’s names are represented as well.

The female given name *Agnes* was used as a surname, with Robert Agnes (1230)¹¹² as an example, and it is still present today along with alternate versions Annas, Anness, Annis(s).¹¹³ From *Emma* we get the surnames Emmot (a popular nickname),¹¹⁴ Emmett, Emmes, and Emm(s);¹¹⁵ early examples include John Emote (1327)¹¹⁶ and Ranulph Emmot (1332).¹¹⁷ *Susan* gave us Thomas Susanne (1327)¹¹⁸ and Eustace Susanne (1327),¹¹⁹ and both Susan and Susans are in current use as surnames. Multiple surnames arose from the female given name *Constance*,¹²⁰ Matilda Custaunce¹²¹ and Alice Cunstance¹²² both show up in 1327. Modern derivatives of this matronymic name include Cusson(s), Cussen(s), Cussan(s), Cutson, Cuss, and Cust.¹²³ *Beatrice* is still in use today, and is also responsible for the modern Beaton, Beton, and Beatson.¹²⁴ It was

¹⁰⁸ The modern names Libbe/Libby come from *Elizabeth*. Water Bethel (1279) (diminutive of *Elizabeth*) is another example. Reaney & Wilson, *supra* note 3, at 41, 250.

¹⁰⁹ *Isabel* has resulted in pet forms Ib and Ibbott, and early uses of the name include William Isabelle (1202-16); John Isbel (1379); Adam Ibbe (1334); William Lybbe (1506); John Lybet (1332); and Simon Lybbett (1642). *Id.* at 247, 250, 278.

¹¹⁰ Maggot/Magot/Magote/Margetts, all derived from Magge, a pet form of *Margaret*. Reaney, *supra* note 34, at 132; Reaney & Wilson, *supra* note 3, at 293. For example, see John Margaret’ (1275); John Marget (1524); Nicholas Margrete (1327); and Simon Marges (1327). Magg-ot is a diminutive of Magge, and is seen with Robert Maggote (1279); and Henry Magot (1327). Reaney & Wilson, *supra* note 3, at 293, 298; Franklin, *supra* note 72, at 62, 106.

¹¹¹ Mabb/Mabbs, Mabbet, Mabbot, Mabe, Maby, Mabey all derive from *Mabel*. Reaney & Wilson, *supra* note 3, at 290; Bowman, *supra* note 2, at 100. Early examples include Arnaldus Mabilie (1185) and John Mably (1279). Reaney & Wilson, *supra* note 3, at 290.

¹¹² *Id.* at 3.

¹¹³ Reaney, *supra* note 34, at 76.

¹¹⁴ Reaney & Wilson, *supra* note 3, at 155.

¹¹⁵ Bowman, *supra* note 2, at 100; Reaney, *supra* note 34, at 132.

¹¹⁶ Reaney & Wilson, *supra* note 3, at 155.

¹¹⁷ *Id.* See also Joan Damemme (1327) (lady Emma). Franklin, *supra* note 72, at 58.

¹¹⁸ Franklin, *supra* note 72, at 44.

¹¹⁹ See also William Susann’ (1279) & Wilson, *supra* note 3, at 435.

¹²⁰ *Id.* at 107.

¹²¹ Franklin, *supra* note 72, at 54.

¹²² *Id.* at 57.

¹²³ Bowman, *supra* note 2, at 101; Reaney, *supra* note 34, at 81.

¹²⁴ Bowman, *supra* note 2, at 101.

present early on in Geoffrey Beatriz (1210)¹²⁵ and John Baytrise (1662).¹²⁶ *Tiffany* (from Tephania) gave rise to several surnames as well: William Tyffen (1524) and Nicholas Tiffin (1674) held the name,¹²⁷ with modern surnames Tiffany, Tiffen, Tiffin as their progeny.¹²⁸ The Greek name Sibyl leads to the surname Sibley,¹²⁹ and Geoffrey Sibilie (1275) and Richard Sebely (1327) were early holders of the name.¹³⁰ The female given name *Rose* gives us Rose and Royce,¹³¹ with both showing up in the 14th century in Peter Rose (1302) and Richard Roys (1327).¹³²

The female given name *Anastasia* resulted in the name William Anastasie (1222).¹³³ We see surname representations of the feminine *Edith* as early as 1188; Henry Edith (1327)¹³⁴ represents the name. Ellen, Hellen and Ellenor are all variants of the earlier English name *Helen*,¹³⁵ and we see representations of it in Robert Helene (1275)¹³⁶ and William Elene (1327).¹³⁷ Ann-ot is a diminutive of Ann, and is found as a surname with Robert Anot (1275)¹³⁸ and John Annot (1327).¹³⁹ *Love* was a popular woman's given name, and was in use as a surname as early as the late 11th century: Gilbert Luue (1177) and Peter Love (1255)¹⁴⁰ are early manifestations. The woman's name *Matilda* was also popular and is still found in surnames Maude, Mahood, Mald, Mault, and others.¹⁴¹ From pet names for Matilda also come Mott,¹⁴² Tills, Tilson, Tillett, and Tillotson.¹⁴³

Marie and *Mary* have had a lasting influence on surnames: John Marie (1279)¹⁴⁴ and John Mariun (1279)¹⁴⁵ originate from the name.¹⁴⁶ Modern surname derivatives include

¹²⁵ Reaney & Wilson, *supra* note 3, at 34.

¹²⁶ See also Richard filius Beatrice (1212). *Id.*

¹²⁷ See also Christina Typhayn (1327) *Id.* at 447.

¹²⁸ *Id.*; Bowman, *supra* note 2, at 101.

¹²⁹ Reaney, *supra* note 34, at 76.

¹³⁰ Reaney & Wilson, *supra* note 3, at 408.

¹³¹ *Id.* at 383.

¹³² *Id.*

¹³³ Reaney, *supra* note 34, at 134.

¹³⁴ Franklin, *supra* note 72, at 63. See also Ralph filius Edihe (1188) and Everard filius Edithe (1210) Reaney & Wilson, *supra* note 3, at 151.

¹³⁵ Reaney & Wilson, *supra* note 3, at 153.

¹³⁶ See also Walter Eleyrn (1279) and William Helyns (1332). *Id.*

¹³⁷ Franklin, *supra* note 72, at 34.

¹³⁸ Reaney & Wilson, *supra* note 3, at 12.

¹³⁹ See also Thomas filius Anot (1357). *Id.*

¹⁴⁰ See also Galfridus filius Love (1208). *Id.* at 285.

¹⁴¹ Reaney, *supra* note 34, at 76. Examples include Smale Mautild (1199), Gilbert Maughtild (1327), and William Matild' (1327). Reaney & Wilson, *supra* note 3, at 302-303.

¹⁴² Reaney & Wilson, *supra* note 3, at 315.

¹⁴³ Reaney, *supra* note 34, at 76. The pet form of the name is represented in William Mot (1221), Robert Motte (1298), and Geoffrey Maude (1279). Reaney & Wilson, *supra* note 3, at 309, 315.

¹⁴⁴ Reaney & Wilson, *supra* note 3, at 298.

¹⁴⁵ *Id.*

Marion, Marians, Maryan, Marrian, and Marrion.¹⁴⁷ J.W. Marriott, founder of the Marriott hotel chain, owes his name to a woman: Mari-ot was a common diminutive of Mary,¹⁴⁸ and leads to the surname Marriott as well as Marritt, Merrit, Merioth (and multiple additional spellings). Early examples abound, including Hervicus Mariot (1185),¹⁴⁹ Richard Meryet (1297),¹⁵⁰ and William Mariet (1327).¹⁵¹

There are multiple representations of the female given name *Caterine* (Catherine), also seen in the popular form *Catelin*: Robert Caterin (1247)¹⁵² and Robert Kateline (1327)¹⁵³ illustrate the name, and modern surnames *Catell* or *Cattle* represent diminutives of *Cat* (short form of *Catelin*) (Geoffrey Catel (1275))¹⁵⁴. Modern surnames *Claris*, *Claricia*, *Clericia*, *Claritia* all come from the feminine *Claritia*, a derivative of *Clara*.¹⁵⁵ Walter Clarice (1327)¹⁵⁶ and Robert Clarice (1327)¹⁵⁷ bore the name early on. The surname *Dwight*, as masculine as it sounds to the modern observer, is actually from the medieval feminine name *Diot*, a diminutive of *Dionysia*.¹⁵⁸ John Dwight (1524)¹⁵⁹ and Josiah Dwight (1665)¹⁶⁰ represent such a use.

Jane and *Joan* were both very common female given names. Because they so closely resemble *John*, and were pronounced the same and often even shared the same spelling, it is difficult to distinguish the masculine from the feminine versions of the resulting surnames. It is likely that *Joan* is responsible for at least some of the *Johnsons* in existence, from the merging of the surnames *Johnson* and *Joanson*.¹⁶¹ Furthermore, surnames such as *Janes*, *Joanes*, *Jeanes*, *Jennings*, and *Jennison* could come from matronymic naming as well.¹⁶² We see multiple *Jannes* in 1327: no less than twelve representations of it can be found in Gloucestershire county alone that year,¹⁶³ with

¹⁴⁶ See also Godfrey filius Marie (1189); William Marye (1367); and Richard Marioun (1350). *Id.*

¹⁴⁷ *Id.*; Bowman, *supra* note 2, at 103.

¹⁴⁸ Reaney & Wilson, *supra* note 3, at 299.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.* See also Ralph, Symon Meriet (1202); John Meryet (1316); John Meryatt (1375); and John Meryatt (1375). *Id.* at 306.

¹⁵² *Id.* at 87.

¹⁵³ Franklin, *supra* note 72, at 118. See also William Caelin (1198); Robert Catyln (1441). Reaney & Wilson, *supra* note 3, at 87.

¹⁵⁴ Reaney, *supra* note 34, at 3; Reaney & Wilson, *supra* note 3, at 87.

¹⁵⁵ Reaney & Wilson, *supra* note 3, at 98.

¹⁵⁶ Franklin, *supra* note 72, at 44.

¹⁵⁷ *Id.* at 63.

¹⁵⁸ Reaney & Wilson, *supra* note 3, at 147.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.* at 256; Bowman, *supra* note 2, at 99.

¹⁶² Reaney, *supra* note 34, at 132; Bowman, *supra* note 2, at 99.

¹⁶³ Franklin, *supra* note 72, at 44, 47, 48, 58, 62, 68, 69, 81, 92, 93, 98.

alternate spellings present there as well.¹⁶⁴

The list of matronymic names goes far beyond what can be thoroughly developed here. A very large number of surnames – both existing and historical – come from female given names. It is remarkable to note just how many of these names survive today.

e. Female-Related Names Neither Patronymic nor Matronymic (Occupation, Characteristics, Relationship)

Names that are clearly specific to women but follow neither a matronymic nor patronymic form are found regularly as well. These names identify the bearer's occupation, personal characteristics, or relationship with others.

i. Characteristics

Individual characteristics sometimes turned into nicknames, which sometimes then turned into the byname by which a person was known. Such names could vary considerably, and many of them did not survive the centuries for being so specific to the individual and therefore so uncommon. The more frequently used nicknames are still around; modern surnames such as Small, Short, Long (tall), Swift, Smart, Wise, Thicke, Stern, Fairchild, and Armstrong represent what were once individual characteristics describing the bearer of the name, which went on to become nicknames, bynames, and eventually family names. Sometimes those names refer specifically to female characteristics; Cecilia le Fairewif (fair wife) (1254)¹⁶⁵ and Nota Godwyf (good wife) (1311)¹⁶⁶ are examples. Much like names identifying a man as the son of a widow, a descriptive surname might also identify the widow herself: Christine la Wedewe (1327),¹⁶⁷ Millicent la Wydewe (1327),¹⁶⁸ and Agnes la Wedewe (1327),¹⁶⁹ are examples. A woman's status as a mother appears to have at times been noteworthy enough to earn her a surname: Vlfgiēt Moder (1162) and Alicia le Moder' (1279) are both examples.¹⁷⁰ Several people have surnames that are female-related rather than female-specific, held by men but related to women: Hugh Moderles (1198-9); Walter le Moderles (1275); and Adam Moderless (1327)¹⁷¹ each had a surname meaning "motherless," while the names of Henry Mariman (1296) and Robert Marimon (1332) mean "servant of Mary."¹⁷²

¹⁶⁴ William Janes; John Jaynes. *Id.* at 72, 105.

¹⁶⁵ Reaney & Wilson, *supra* note 3, at 160; Reaney, *supra* note 34, at 84.

¹⁶⁶ Reaney, *supra* note 34, at 109.

¹⁶⁷ Franklin, *supra* note 72, at 62.

¹⁶⁸ *Id.* at 63.

¹⁶⁹ *Id.* at 65.

¹⁷⁰ Reaney & Wilson, *supra* note 3, at 315.

¹⁷¹ *Id.*

¹⁷² *Id.* at 298.

ii. Occupation

Although occupation names in modern English typically have no gender (a “cook,” for example, could refer to a man or a woman), Old English sometimes contained grammatical gender more akin to the early German which contributed to its development. With occupational nouns, the suffix “ster” (often “stere” or “stre”) was sometimes added to words as a feminine form.¹⁷³ Thus, where a spinner spun thread, a female spinner would be a spinnestre (spinster).¹⁷⁴ Spinster could therefore be used as a female-specific occupational surname.¹⁷⁵ Likewise, a feminine sewer of cloth was a sewster, as represented by Alice Sewstere (1301), and the name survives today as Souster.¹⁷⁶ There are several feminine form occupational surnames still existing today whose masculine counterparts also exist. Where “baker” is masculine in form, “bakestere” was at one time the feminine version, and it became Baxter¹⁷⁷ – with both versions of the surname still in use today. Similarly, where a male weaver was a “webber,” a female weaver was a “webster,” which gives us two corresponding surname versions as well.¹⁷⁸ A male brewer would be called Brewer, and the female would be Brewster.¹⁷⁹ A “dyer” was a person who dyed cloth, while both “dyster” and “dexter” were used to describe women with the occupation.¹⁸⁰ A male tailor or sewer would be called Seamer, while a female would be Seamestre;¹⁸¹ both names are still represented.¹⁸² Less common today than the others, Malster (female malt maker),¹⁸³ Tapster (female ale seller),¹⁸⁴ and Folster (from fullestre, the feminine form of fuller, one who treated raw

¹⁷³ Paul Peterson, *An Old Problem in Etymology Revisited: The Origin of Germanic Nouns with the Suffix –STER*, 70 *Amsterdamer Beiträge Zur Älteren Germanistik*, 1, 13-14 (2013).

¹⁷⁴ “spinnestre.” *Middle English Dictionary*. 2013. <http://quod.lib.umich.edu/cgi/m/mec/med-idx?type=id&id=MED42228> (last visited April 7, 2014).

¹⁷⁵ While the word appears to have been used as a surname historically, I could locate no one who held the surname in the U.K. since 1909, and none at all in the U.S. record (though that record begins in 1936). This may be partially due to the fact that the word’s meaning shifted to become a pejorative reference to an older unmarried woman, and was therefore undesirable as a surname. See Bridget Hill, *WOMEN ALONE: SPINSTERS IN ENGLAND, 1660-1850* p. 4 (2001).

¹⁷⁶ Reaney & Wilson, *supra* note 3, at 418.

¹⁷⁷ J.R. Dolan, *ENGLISH ANCESTRAL NAMES: THE EVOLUTION OF THE SURNAME FROM MEDIEVAL OCCUPATIONS* 20 (1972).

¹⁷⁸ Reaney & Wilson, *supra* note 3, at 480.

¹⁷⁹ Emma le Breustere (1279), Margaret Brewster (1381). *Id.* at 63.

¹⁸⁰ *Id.* at 133, 147.

¹⁸¹ Alicia Semester (1376); Julia Semster (1380); Margaret Sembster (1381). *Id.* at 410.

¹⁸² Now Simester and Simister. *Id.*

¹⁸³ *Id.* at 133, 147, 296. See also “maltere.” *Middle English Dictionary*. 2013. <http://quod.lib.umich.edu/cgi/m/mec/med-idx?type=id&id=MED26691> (last visited April 7, 2014); “maltester.” *Middle English Dictionary*. 2013. <http://quod.lib.umich.edu/cgi/m/mec/med-idx?type=id&id=MED26693> (last visited April 7, 2014).

¹⁸⁴ Alicia Tapstere (1384) is an example. Reaney & Wilson, *supra* note 3, at 439.

cloth)¹⁸⁵ are feminine forms which have also survived.

A number of medieval surnames indicating the bearer's occupation and her female status have not survived. Alice la Selkwimman (female dealer in silk) (1334),¹⁸⁶ Ysabelle la Lauendere (laundress) (1253),¹⁸⁷ Alice le Pesteresse (female baker) (1270),¹⁸⁸ Juliana le Peyneresse and le Pineresse (1281) (female comber of wool or flax),¹⁸⁹ Sarah la Bredmongstere (1311)¹⁹⁰ (feminine form of bread monger, or dealer/maker of bread); Alicia Bredsellestere (1317)¹⁹¹ (feminine form of seller of bread), are all examples. In addition to these names which clearly take a feminine form within the name itself, there are also examples of occupational bynames which are presented in a feminine form by virtue of the article *la*, which is a French feminine form of "the" sometimes used in early English (*le* is the male form). Alice la Sopere (1327);¹⁹² Emma la Sapere (1301),¹⁹³ as well as Emma la Sapere (1301),¹⁹⁴ all mean seller or maker of soap¹⁹⁵ and are feminine by virtue of the *la*. Other examples include Isabel la Politer¹⁹⁶ (1327) (polisher),¹⁹⁷ Matilda la Swon (1327)¹⁹⁸ (swineherd),¹⁹⁹ Malyna la Roperes (1311) (servant of the roper or of a man named Roper),²⁰⁰ and Alice la Brewes,²⁰¹ (brewer)²⁰² (or more likely a servant of the brewer, given the "s" at the end).²⁰³

"Husewyf," or housewife, indicated that someone was the mistress of a family or the wife of a householder, and has led to modern surnames Hussey, Hussy, Husey, and Hosey. Margeria Hosewyf (1327)²⁰⁴ is an early holder of the name. Roger Huswyffe

¹⁸⁵ Dolan, *supra* note 171, at 128-129; Reaney, *supra* note 34, at 184-185; Reaney & Wilson, *supra* note 3, at 179.

¹⁸⁶ Reaney & Wilson, *supra* note 3, at 409.

¹⁸⁷ *Id.* at 273.

¹⁸⁸ *Id.* at 347.

¹⁸⁹ *Id.* at 352-353.

¹⁹⁰ Reaney, *supra* note 34, at 84.

¹⁹¹ *Id.*

¹⁹² Franklin, *supra* note 72, at 56.

¹⁹³ *Id.* at 417.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ Franklin, *supra* note 72, at 28.

¹⁹⁷ "polite." *Middle English Dictionary*. 2013. <http://quod.lib.umich.edu/cgi/m/mec/med-idx?type=id&id=MED33929> (last visited April 7, 2014).

¹⁹⁸ Franklin, *supra* note 72, at 55.

¹⁹⁹ "swon." *Middle English Dictionary*. 2013. <http://quod.lib.umich.edu/cgi/m/mec/med-idx?type=id&id=MED33929> (last visited April 7, 2014).

²⁰⁰ Reaney & Wilson, *supra* note 3, at xxxiv.

²⁰¹ Franklin, *supra* note 72, at 82, 83.

²⁰² Reaney & Wilson, *supra* note 3, at 63.

²⁰³ *Id.* at xxxv-xxxvi.

²⁰⁴ *Id.* at 245.

(1435), as a man, either held the name derogatorily or inherited it from his mother.²⁰⁵ Some surnames also ended in “woman,” indicating that the bearer was the female servant of the person indicated. Emma Parsonwoman and Isabella Vikerwoman (both 1379) were likely servants of the parson and the vicar respectively, while Johanna Prestewoman (1379) probably served the priest.²⁰⁶ Saliwymman means female servant of Sely (1276),²⁰⁷ where Sely was a female given name that also shows up in modern surnames Sealey and Seeley.²⁰⁸ “Mayden” functioned much like “woman,” also indicating a female servant, and can be seen in Matilda Marschalmaydyn, Alice Gibmayden, Alice Martynmayden, and Johanna Hurlemayden (all 1379).²⁰⁹

iii. Relationship

A number of female-specific names can be found that identify a woman’s relationship with another person. A woman’s status as someone’s wife is often identified, either in terms of the husband’s name or his occupation. Examples from 1379 include Matilda Hanwyfe, Elena Hobsonwyf, Beatrice Clerkwyf, Alice Caresonwyf, Dionisia Raulynwyf, Johanna Jackewyf; Alice Odsonwyf; Agnes Milnerwyf; and Elena Wrightwyf,²¹⁰ among others.²¹¹ In other years we see Amabilla Hannewyf (1327),²¹² Johanna Raweswyf (1332),²¹³ and Matillis Medewif (wife of mead maker/seller) (1327).²¹⁴ Nicholas Snypewife (1309)²¹⁵ means wife of a man from Snipe, but as a man he cannot be himself a wife; this is another indication of a man inheriting a female-specific surname from a female ancestor.

Other types of relationships are represented as well; Agnes Vikercister (1379)²¹⁶ (vicar’s sister), Alice Prestsyster (1379)²¹⁷ (priest’s sister), and francisca Motherinlawe (mother-in-law) (1638),²¹⁸ are instances of such surnames.

²⁰⁵ *Id.*

²⁰⁶ *Id.* at li.

²⁰⁷ *Id.* at 400.

²⁰⁸ Reaney, *supra* note 34, at 76.

²⁰⁹ Reaney & Wilson, *supra* note 3, at li.

²¹⁰ *Id.*

²¹¹ Joan Tomwyf, Alice Lawranswyf, Matilda Diconwyf, Margaret Gudsonwyf, and Alice Smythwyf. Reaney, *supra* note 34, at 83.

²¹² Reaney & Wilson, *supra* note 3, at xviii.

²¹³ *Id.*

²¹⁴ *Id.* at 304.

²¹⁵ *Id.* at 416.

²¹⁶ *Id.* at li.

²¹⁷ *Id.*

²¹⁸ *Id.* at 315.

f. Frequency of women's names

Assessing the surname practices of Medieval England and identifying the frequency of use of various forms is not an easy task. For one thing, records are sparse, and much of what exists focuses exclusively on the upper class and nobles, whose lands and inheritances were often the subject of legal actions, and early records are specific to this group.²¹⁹ The lives and customs of peasants are difficult to pin down with any certainty as the documentation is less consistent, especially on a large scale.²²⁰ For another thing, there is some evidence that both men's and women's individual surnames as recorded in official documents may not have always been the ones actually used by the individual, in which case the surnames put to common use are exceptionally difficult to determine on a mass scale with any certainty. For example, one woman recorded as Agnes de Humet bore the seal Agnes de Bellomonte.²²¹ In 1299, another woman named Agnes was recorded as "Agnes daughter of Regerus piscator of Coventre," yet her seal identified her as Agnes filia Petronille²²² (Agnes daughter of Petronille, a woman's given name). Her officially recorded name referred to her father, but her personal seal referenced her *mother*. Such an incongruity is significant, particularly if it happened in other cases, as it may indicate that personal preference and usage were not only different than the official, but may have also revealed a greater matronymic influence in daily life than government recordings would indicate. However, given the scarcity of examples to investigate,²²³ we must be satisfied with the more limited conclusion that daily name usage may have varied from what is recorded. Indeed, surnames recorded as "filius" (son of) or "filia" (daughter of) were used for documentary purposes rather than common usage,²²⁴ so when such a surname is indicated, we can determine nothing about how the person was known by her peers. Still, the officially recorded surname, even if it may not be universally consistent with the common use surname, can nevertheless tell us a great deal about surname usage and convention. Finally, both matronymic and patronymic surnames represent the minority of surname types,²²⁵ and a great many surnames were neither female- nor male-specific. Although some descriptors must necessarily have referred only to men—such as Gildynballokes (1316) (golden testicles)²²⁶ and Whytpintel (1232) (white penis)²²⁷—many could logically be applied to either women or men, especially names which are topographical (Hill, Ford); characteristic (Bellamy "fair

²¹⁹ *Id.* at xii, xxii.

²²⁰ *See id.* at xxii.

²²¹ *Id.* at xiii.

²²² *Id.*

²²³ I did not search original records for such a phenomenon, instead relying on the examples cited by Reaney & Wilson, *supra* note 3.

²²⁴ Reaney & Wilson, *supra* note 3, at xxi.

²²⁵ *Id.* at xx.

²²⁶ *Id.* at 25.

²²⁷ *Id.* at 353.

friend,” Goodchild); place-related (Durham, Huntington); and some occupational names (Chandler, Draper). It is impossible to determine how much of an effect women had on the existence and perpetuation of these types of surnames, but the frequency of female influence in other name types suggests that they likely had an impact in this area as well.

The records that do exist indicate that matronymic surnames were quite common at one time. In the Sussex Subsidy Rolls in 1332, there are 13 examples of surnames ending in “son” – but *every one of them* is a matronymic name.²²⁸ Surrey that year had 4 out of 6 “son” names as matronymic; the same thing is seen in 7 of 23 cases in Lancashire, and 7 of 22 in Cumberland. Overall, about half of the “son” names that year came from the mother, but it seems to be a phenomenon that is more common in some locations than others. Records from other years show similar results. In 1327, Worcestershire had 4 of 11 “son” names as matronymic; along with 5 out of 8 cases in Somerset, 6 of 17 in Cambridgeshire, 3 of 7 in Suffolk, and 3 of 10 in Yorkshire.²²⁹ Considering the virtual nonexistence of active matronymic naming²³⁰ today – and largely based on tradition, no less – this is remarkable, and it reinforces the widespread use of matronymics in the 14th century.

IV. Modern Developments

A number of developments affected surname usage over time. Middle English saw the loss of grammatical gender,²³¹ so in the 14th century, the female suffix “ster” began to be replaced by the French suffix “eresse,”²³² (e.g., seamster became seamstress) and previously feminine words ending in “ster” often either disappeared or began to be used for both males and females. Female occupational bynames ending in “ster” (Webster, for example) therefore began to be used for both sexes interchangeably as well. While Baxter, Dexter, and Webster would have originally referred to women, by the Middle English period they appear to have been used for men as well.²³³ Nicholas le Baxter, for example, is found in 1327,²³⁴ Ralph le Dextere shows up in 1262,²³⁵ and John le Webestere was recorded in 1275.²³⁶ By the 1300s it appears that grammatical distinctions were generally no longer made on the basis of sex, but rather than the female version disappearing, both the feminine and masculine suffixes were used for both sexes.²³⁷ In

²²⁸ *Id.* at xx.

²²⁹ *Id.*

²³⁰ As opposed to the modern remnants of matronymic naming whereby women’s names are used as surnames only by virtue of being passed down by men.

²³¹ Peterson, *supra* note 168, at 12.

²³² *Id.*

²³³ Reaney & Wilson, *supra* note 3, at 33.

²³⁴ Franklin, *supra* note 72, at 63.

²³⁵ Reaney & Wilson, *supra* note 3, at 133.

²³⁶ *Id.* at 480.

²³⁷ Dolan, *supra* note 171, at 20-21.

fact, it appears that only Sewster (now Souster),²³⁸ Seamster (now Simister/Simester),²³⁹ and Spinster remained exclusively feminine²⁴⁰ and were never used to refer to men, although Spinster did not endure as an occupational surname.²⁴¹ Thus, although the female form of many of these “ster” occupational names surnames still exist, because the change toward their use for both men and women happened before surnames became solidly hereditary, it cannot be said with absolute certainty that many of these names would have survived had they not begun to be used by men. However, the fact that two of these surviving female occupational names were used *exclusively* for women provides an additional strong indication of not only the existence but the common historical usage of matronymic naming. At some point, one or more of the women Sewsters would have had to pass the name to a son, who then passed the name to his children, in order for the name to survive the modern period.

Many of the women’s surnames discussed herein have disappeared, or appear to have done due to significant changes in form, whether their existence came about as a matronymic name or a female-specific nickname or descriptor. Yet the same can be said for male-specific surnames as well as sex-neutral ones in Medieval England: a great many of those no longer exist either.²⁴² Fivepeni,²⁴³ Godbiemidus (“god be with us”),²⁴⁴ Mytehare (mid the here, or ‘with the hair’),²⁴⁵ Swetalday (sweet all day)²⁴⁶ Welifed (well fed),²⁴⁷ and Welshapen²⁴⁸ all once existed but have long since vanished. Uncomplimentary names are especially likely to have disappeared;²⁴⁹ surnames such as Malclerk (bad clerk),²⁵⁰ Sourale (sour ale),²⁵¹ Malenfant (naughty child),²⁵² Lenealday,²⁵³

²³⁸ Reaney & Wilson, *supra* note 3, at 418. However, I located four examples of the original “Sewster” in U.K. records between 1853 and 1907. None were found in the U.S. since 1935.

²³⁹ Reaney & Wilson, *supra* note 3, at 410.

²⁴⁰ Peterson, *supra* note 168, at 11.

²⁴¹ According to the U.S. Social Security Death Index 1935-present. http://search.ancestry.com/cgi-bin/sse.dll?db=ssdi&rank=1&new=1&so=3&MSAV=0&msT=1&gss=ms_db&gsln=spinster&dbOnly=_F00032DD%7C_F00032DD_x&uidh=000, and U.K. Death Records 1796-2006, http://www.findmypast.co.uk/search/all/results?recordCount=-1&forenames=&_includeForenamesVariants=on&surname=spinster&_includeSurnameVariants=on&fromYear=&toYear=®ion=&county=&dobYear=&dobYearTolerance=2&sortOrder=RK%3Atrue&_performExactSearch=on&event=D&recordType=ALL&route= (last visited April 7, 2014).

²⁴² *See, e.g.*, Reaney & Wilson, *supra* note 3, at xliii, discussing the rarity of the survival of surnames which came about from nicknames. *See also* Reaney, *supra* note 34, at 234.

²⁴³ Bowman, *supra* note 2, at 148.

²⁴⁴ Reaney & Wilson, *supra* note 3, at 194.

²⁴⁵ Reaney, *supra* note 34, at 234.

²⁴⁶ Reaney & Wilson, *supra* note 3, at 436.

²⁴⁷ Reaney, *supra* note 34, at 244.

²⁴⁸ *Id.*

²⁴⁹ *Id.* at 256.

²⁵⁰ *Id.* at 243.

²⁵¹ Reaney & Wilson, *supra* note 3, at 418.

(lean/rest all day), Liggebiyefyre (lie by the fire),²⁵⁴ Overdewe (overdue),²⁵⁵ Paynot,²⁵⁶ Spilblod²⁵⁷ (spill blood), Drunkard,²⁵⁸ Half-naked,²⁵⁹ Losewit,²⁶⁰ and Dringhe-dregges²⁶¹ (drink the dregs) were used at one time but cannot be found today. Foulweather, Rowedder (rough weather), Coldwedre (cold weather), and Ilwedyr (ill weather), all likely referring to a bad temperament, did not survive, but Merryweather, indicating a happy person, did.²⁶² (A few uncomplimentary names have endured, however, such as Savage,²⁶³ Gulliver (glutton),²⁶⁴ Greedy,²⁶⁵ Mallory (unlucky),²⁶⁶ Giddy (insane or possessed),²⁶⁷ Dolittle (do little; lazy),²⁶⁸ and Treacher (deceiver, cheat).²⁶⁹)

What is notable in this mass of lost names is the number of matronymic surnames that do still exist in some form. As discussed above, many of the surnames that are adaptations of female given names are still represented in modern surnames. A quick search of the U.S. Social Security Death Index²⁷⁰ and U.K. death records²⁷¹ confirms the current existence of many of these surnames, including Agnes, Elizabeth, Isabel, Mary, Jane, Joan, Lettice, Custance, Constance, Alice, Love, Catharine, Cecilia, Margaret, Susan, and many other female given names which were popular in Medieval England, both in their original forms and a great many adapted ones.²⁷²

When bynames became regularly hereditary around the 15th century, women's names over time were largely superseded by men's—but not so much by the advent of hereditary naming as by the stricter customs surrounding *whose* names got passed down and whose names survived marriage. The convention of women taking the name of the husband at marriage developed, which became more and more common until it was all

²⁵² Geoffrey Malenfant (1205). Reaney, *supra* note 34, at 242.

²⁵³ Henry Lenealday (1336). Reaney, *supra* note 41, at 78; Jan Jönsjö, STUDIES ON MIDDLE ENGLISH NICKNAMES 21 (1979).

²⁵⁴ Geoffrey Liggebiyefyre (1301). Reaney, *supra* note 34, at 78; Jönsjö, *supra* note 246, at 121.

²⁵⁵ Oliverus Overdewe (c. 1445). REGISTER OF THE FREEMEN, *supra* note 78, at 163.

²⁵⁶ Willelmus Paynott (1360-61); Thomas Paynott son of Willelmi Paynott (1517-18). *Id.* at 55, 240.

²⁵⁷ Willelmus Spilblod (1349). *Id.* at 43.

²⁵⁸ Bowman, *supra* note 2, at 147.

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ *Id.* at 152.

²⁶² Reaney, *supra* note 34, at 259.

²⁶³ *Id.* at 256; Reaney & Wilson, *supra* note 3, at 393.

²⁶⁴ Reaney, *supra* note 34, at 256; Reaney & Wilson, *supra* note 3, at 208.

²⁶⁵ Reaney, *supra* note 34, at 256; Reaney & Wilson, *supra* note 3, at 204.

²⁶⁶ Reaney, *supra* note 34, at 257; Reaney & Wilson, *supra* note 3, at 295.

²⁶⁷ Reaney, *supra* note 34, at 257; Reaney & Wilson, *supra* note 3, at 189.

²⁶⁸ Walter Dolittle (1219). Reaney & Wilson, *supra* note 3, at 138.

²⁶⁹ Robert Trechour (1301). Reaney and Wilson, *supra* note 3, at 453. Reaney, *supra* note 34, at 257.

²⁷⁰ 1935-present. Accessible at <http://search.ancestry.com/search/db.aspx?dbid=3693>. =

²⁷¹ 1796-2006. Accessible at <http://www.findmypast.co.uk/search/all/deaths>.

²⁷² The name Mary alone is responsible for well over twenty modern surnames.

but universal, and it resulted in the elimination of many women's names. When women began to universally relinquish their individualized names, and their children likewise took the husband's name, then "surnames" as we know them today were born: women's names represented their status only as a certain man's wife rather than identifying any individual characteristics of their own. The family unit was created with the male as head of the household, unified under his name. Furthermore, although women were permitted to own and inherit property through medieval times, that practice diminished as well, and even distant male relatives were often preferred for inheritance over immediate female family members. Surnames, for the upper classes at least, were strongly tied to property, so when women's property ownership was prohibited, their individual surnames were thereby erased right along with it. The only reason that names which were once matronymic are still represented is that they were passed from mothers to children – becoming hereditary but not necessarily patronymic – *before* this "traditional" usage of marital names developed whereby women lost their names to their husbands and children always took the name of the father. What remains are the remnants of that time when women were still represented in names and retained some naming rights, if not officially and legally, then certainly unofficially and in practice. Mary may have had a son who was bynamed Marriott after her, who then later passed that name on to his wife and children, and down again and again through males in the family to the present day. To the extent that women's names were able to take hold in men before the new rigidity occurred, those names were able to survive. The fact that so many of them have done so is remarkable. The developments in marriage law and practice, as well as women's inheritance and property ownership, are critical to the understanding of what happened with women's names, but require more investigation and analysis than there is space for here.

Today, "tradition" has it that women still overwhelmingly adopt the surname of their husbands at marriage.²⁷³ Yet, while it is currently not a legal requirement for them to do so, it has actually never been legally required. The English common law allowed individuals to adopt a surname of their choosing, which meant that even after names became hereditary and standardized, a person had the right to change the name she or he was given at birth to something else entirely, for any reason other than fraud. That allowance applied to both men and women alike, and necessarily meant that a woman could retain their birth name at marriage if she so chose. Yet, although as a technical matter the common law tradition would allow women a choice in surnames, during certain historical periods it was all but universal in practice for them to adopt the name of the husband, and it would not have been a simple matter for a woman to do otherwise. The practice became so universal, in fact, that it brokered no exceptions, which in effect gave it the force of law. For example, a 1957 English legal treatise stated, "When a woman on her marriage assumes, as she usually does in England, the surname

²⁷³ Over 80%. See Boxer, *supra* note 29.

of her husband in substitution for her father's name, it may be said that she acquires a new name by repute. The change of name is *in fact, rather than in law*, a consequence of the marriage."²⁷⁴ She begins with her father's name, and then acquires her husband's name, her exclusive identity shifting from "the daughter of this man" to "the wife of that man." It is simply a fact – whether or not it is the law. But it was not always the case.

If we consider surname usage and conventions to be an indicator of the practice of coverture and the way in which it was manifest, then coverture may have in some ways actually become more rigid, rather than less, over time. This history suggests that what we consider to be "traditional" when it comes to naming practices was not at all consistent, and depends on the specific time period to which we refer. At one time naming practices were not nearly so unyielding as they remain today. Modern structures became so entrenched that courts jumped on board to coerce compliance with them, clearly contrary to the common law right to choose one's name, all under the guise of "tradition."²⁷⁵ Well into the 1970s, U.S. courts were still holding that a woman must adopt her husband's surname; the underlying principle of male naming rights was deep-rooted, and courts were eager to enforce it.²⁷⁶ Courts litigating naming issues talked of the "fundamental," "primary," "natural," and "time-honored" right of a father to the naming of his family,²⁷⁷ the presumption being that a practice so universal must somehow be based in the laws of nature.²⁷⁸ Recent cases have discussed these male rights in terms of the naming of men's children, which has likewise fallen under the patriarchal dictates of the male line. For example, an Oregon trial court in 2006 granted an unmarried father's demand to have his child's last name legally changed from the mother's to his, for no other reason than that he was the father.²⁷⁹ Under the current naming scheme, women's heritage and legacy is minimized or rejected outright. But historical naming practices verify that this was not always the case.

Little empirical research has been conducted on the modern name choices of men and women. Studies are difficult to conduct because data sets often do not contain

²⁷⁴ 19 HALSBURY, LAWS OF ENGLAND 829 (3rd ed.1957) (emphasis added).

²⁷⁵ See Lamber, *supra* note 31, at 779.

²⁷⁶ There is even some evidence that courts considered this not just a right of individual men, but of men collectively. In one case a trial court refused to allow a woman's name change even when the husband had consented, as if allowing it in one case would taint the right of men in general. *In re Erickson*, 547 S.W.2d 357, 358-60 (Tex. Civ. App. 1977).

²⁷⁷ *Rio v. Rio*, 504 N.Y.S.2d 959, 961 (App. Div. 1986); *In re Trower*, 66 Cal. Rptr. 873, 874 (Ct. App. 1968), *overruled by* *In re Schiffman*, 620 P.2d 579, 583 (Cal. 1980) (rejecting the "common law and custom, which have given the father a 'primary right' to have his child bear his surname...").

²⁷⁸ *Rio*, 504 N.Y.S.2d at 961.

²⁷⁹ *Doherty v. Wizner*, 150 P.3d 456, 457 (Or. Ct. App. 2006). The court overturned the trial court decision, and granted the father's request for name change of the child. *Id.* at 466.

information on birth names and married surnames of women, much less of men.²⁸⁰ Some expectations and traditions are apparently so entrenched that we fail to even think to ask questions about them. In fact, the term “maiden name” itself highlights this phenomenon. Today in the U.S. it is still the primary method of denoting “birth name” or “name before marriage” for women; “maiden” simply means an unmarried woman.²⁸¹ After marriage, a woman is no longer a maiden, so her “maiden name” is lost. Yet the word “maiden” is no longer used in common parlance to refer to an unmarried woman in any context other than with women’s names.²⁸² For that, we have held on to the term as well as the practice, indicating further that our naming conventions have largely escaped critical analysis. There is no male equivalent to the term, other than perhaps the French *né* (meaning born), which is unfamiliar to most Americans and rarely used. The term, and all of the official documents employing it, acknowledges and thereby reinforces only the established naming structure consistent with dominant cultural ideals that were solidified four centuries ago. Although the formal gender inequality brought about by the system of coverture has almost entirely disappeared from the law, it is still present in our collective conscience; our language and naming, and what we consider to be normal and acceptable, continues to instantiate women as objects, as property of the husband, as contingent and dependent beings.

V. Analysis

As discussed above, the importance of names cannot be overstated; they play a central role in the construction of individual personhood and legal identity. Today they operate at the cornerstone of one’s life, and serve as a symbol of individuality, religion, community, lineage, and family structure, making them central to one’s identity. They provide connections to family and a sense of legacy. Beyond their individual and family implications, names also function as “linguistic correlates of social structure”²⁸³ and have been used throughout history as a means of oppression and control by stripping groups of their right to self-determination and self-identification.²⁸⁴ Compulsory name changing has been associated with cultural domination or assimilation. The Privy Council of Scotland passed an Act in 1603 banning the use of the surname MacGregor, on penalty of death, after conflicts between the clan and agents of King James VI.²⁸⁵ Nazis in the

²⁸⁰ Claudia Goldin & Maria Shim, *Making a Name: Women's Surnames at Marriage and Beyond*, 18 J. ECON. PERSP. 143, 143 (2004).

²⁸¹ “maiden.” Merriam Webster’s Collegiate Dictionary (10th ed. 1994).

²⁸² And, perhaps, to a few other marriage-related conventions, as in “maid of honor” and “old maid.”

²⁸³ Kif Augustine-Adams, *The Beginning of Wisdom Is to Call Things by Their Right Names*, 7 S. CAL. REV. L. & WOMEN'S STUD. 1, 10 (1997).

²⁸⁴ Omi Morgenstern Leissner, *The Problem That Has No Name*, 4 CARDOZO WOMEN'S L.J. 321, 330-331 (1998).

²⁸⁵ James Finlayson, *SURNAMES AND SIRENAMES* 23 (1863), <http://books.google.com/books?id=5U9NAAAacAAJ&printsec=frontcover#v=onepage&q=veto&f=false>.

1930s required Jews to add Sarah or Israel to their names to mark them as "other."²⁸⁶ Immigrants were regularly renamed at Ellis Island in order to assimilate them into American culture, sometimes involuntarily.²⁸⁷ Slaves in America were often given no last names at all because, as property themselves, they could not have an independent surname. When they did have last names, they were given the master's surname, and renamed each time they exchanged owners.²⁸⁸ Although this concept of a surname as signifying ownership (of wife, children, and property) is no longer overt, it is still undoubtedly present in more subtle ways within our social schema and naming framework. Throughout the past four or five centuries at least, society has accorded the surnames of men more importance than those of women.²⁸⁹ The common conception is that only men have "real" names, and their permanency is one of the rights of being male;²⁹⁰ women's names are more fleeting and relationship-dependent and they must therefore be less psychologically connected to them. Men today still tend to hold more steadfastly to their names as a permanent, solid symbol of their identity.²⁹¹ That notion managed to insert itself into the American legal system, where the courts have upheld men's naming "rights" with respect to their wives and children, because women's names are contingent and impermanent and women "merely inhabit names which actually belong to their husbands."²⁹² Yet research found that, even within these conditions, both women and men identified strongly with their last names.²⁹³ Names are therefore important for their own sake, yet they also speak volumes about broader issues within the dominant culture, including the status of women vis-à-vis their husbands, their children, and their society.

Any contention that female-specific or matronymic surnames ever existed was at first met with tremendous resistance and derision. When Canon Bardsley in 1901 first pointed out the existence of matronymics in English history, the suggestion was not only rejected outright but considered offensive, for the assumption was that the only possible reason for the existence of any matronymics would have been the birth of illegitimate children; his contention thus suggested the moral degradation of English culture.²⁹⁴ Yet Bardsley was quite clearly correct, and later scholars agree that the reasons for the

²⁸⁶ Elizabeth F. Emens, *Changing Name Changing: Framing Rules and the Future of Marital Names*, 74 U. CHI. L. REV. 761, 770 (2007).

²⁸⁷ Kelly, *supra* note 9, at 16-17.

²⁸⁸ *Id.* at 12-14.

²⁸⁹ Doll, *supra* note 1, at 229.

²⁹⁰ Dale Spender, MAN MADE LANGUAGE 24 (1980).

²⁹¹ *Id.*

²⁹² Doll, *supra* note 1, at 235 (analyzing *Burke v. Hammonds*, 586 S.W.2d 307, 309 (Ky. Ct. App. 1979), in which a mother's attempt to change the child's surname to hers was actually an attempt to change the child's name to that of his stepfather).

²⁹³ Leissner, *supra* note 276, at 363.

²⁹⁴ Bowman, *supra* note 2, at 94.

existence of matronymics could not have been limited solely to illegitimacy.²⁹⁵ The fact that so many of these names have survived over centuries, generation after generation, raises serious doubts as to whether there could have been quite *that* much illegitimacy. Later scholars suggested that other factors were at play, including the adoption of children by (presumably single) women, the death of the father, distinguishing of children after a second marriage (also after the death of the father), and the distinction of villagers of the same name.²⁹⁶ Such scholars also suggest that in cases where the mother was strong-willed and the father was not, her name might take precedence over his.²⁹⁷ Yet these suggestions itself belie an assumption of their authors: that the default must necessarily be towards a patronymic system and there must be some anomaly in the family in order to deviate from that system. Patronymics was certainly more common, but it was not always clearly the default naming configuration. To assume it was, and that there must be some unusual explanation for any deviation from it, only reinforces exactly how far (backwards) we have come in our naming strictures. Why must it necessarily be the case that a man known as Robert Margretson must have a lazy, weak-minded, do-nothing father, or else a dead one? Is it inconceivable that there might be some other reason his mother might be recognized in the adoption of his surname? The frequent appearance of such names seems to suggest that something more (or less, depending on one's perspective) was in play in such situations.

The system of coverture seems to have begun in England around the 11th century, and it gained a strong hold in the late Middle Ages (1300-1500). In such a system, the husband and wife became one person upon their marriage – a lofty ideal, but in fact, that person was the husband alone, making the union less a merger than an annihilation. A woman's legal rights and obligations – indeed, her entire legal existence – were subsumed by her husband upon marriage. She lost her right to own or use property, and any property she owned prior to the marriage became the property of the husband. He became entitled to her company, her labor, and her services, including sexual ones, for the marriage constituted her irrevocable and permanent consent to sexual intercourse at the husband's whim. He was permitted the use of physical force against her for reasons he saw fit. In short, she was his property.²⁹⁸ The practice of the wife assuming the husband's surname reinforced this legal and social absorption. "Custom said . . . that man owned what he paid for, and could put his name on everything for which he provided money [H]is land, his house, his wife and children, his slaves when he had them, and on everything

²⁹⁵ *Id.* at 95; Reaney, *supra* note 34, at 77.

²⁹⁶ See Bowman, *supra* note 2, at 95; Reaney, *supra* note 34, at 78.

²⁹⁷ Reaney, *supra* note 34, at 78; Bowman, *supra* note 2, at 95.

²⁹⁸ Some scholarship suggests, however, that the reality of women's practical lives and economic practice, as opposed to their technical legal existence, during the 18th and 19th centuries may have been more complex; some wives may have "exerted considerable economic autonomy as property owners" during that period. Margot Finn, *Women, Consumption and Coverture in England, c. 1760-1860*, THE HISTORICAL JOURNAL 703, 706 (1996).

that was his."²⁹⁹

Where the wife as a legal individual no longer exists independently from the husband, it might seem natural, even necessary, for her to adopt the husband's surname, and for children of the marriage to take his name. Yet that development happened some time after the institution of coverture apparently became established in English law; there exist numerous examples of women retaining their birth names at marriage, passing their names to their children, and even to their husbands, as late as the 17th century. This suggests that coverture was not exactly what we presume it to have been, or it did not take the full measure of its chokehold as early as we think. There is some evidence to support the latter.

William Blackstone, an 18th century pioneer of legal commentary who was a professor of law at Oxford, wrote the four-volume *Commentaries on the Law of England*, a treatise on the common law published in 1765-1769. The work categorized English law in an unprecedented way; it influenced the development of the American legal system and has been frequently referenced by United States courts. Of coverture, Blackstone explains:

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and cover, she performs every thing; and is therefore called in our law – French a feme-covert;...and her condition during her marriage is called her coverture.³⁰⁰

Blackstone worked to present the English legal system as superior and unassailable, such that his approach was congratulatory rather than critical. But he may have been rather misguided regarding some of his views of women. The principle of coverture became a part of the common law of England during the Middle Ages, but my research suggests that some of its manifestations became increasingly rigid through that time and into the early modern period. Indeed, an anonymously authored book published in 1777 called *The Laws Respecting Women* points out that women in ancient England actually enjoyed “rank an eminence” and their rights were considerable.³⁰¹ Æthelberht's code, written in about 600 A.D., supports such a contention.³⁰² Under that law, the fine for killing a woman was the same as a man;³⁰³ women could inherit as well as men; and in the event

²⁹⁹ Priscilla Ruth MacDougall, *The Right of Women to Name Their Children*, 3 LAW & INEQ. 91, 138 (1985) (quoting Ruth Hale, *But What About the Postman?*, 54 THE BOOKMAN 560, 561 (1922)).

³⁰⁰ William Blackstone, COMMENTARIES ON THE LAW OF ENGLAND 442 (1768).

³⁰¹ Anonymous, THE LAWS RESPECTING WOMEN p. x (1777), <http://babel.hathitrust.org/cgi/pt?id=hvd.rsmctf;view=1up;seq=9>

³⁰² Available at <http://www.earlyenglishlaws.ac.uk/laws/texts/abt/>

³⁰³ David C. Douglas, Ed., *Laws of Ethelbert*, ENGLISH HISTORICAL DOCUMENTS 359, par. 74 (1968).

of divorce or death of the husband, the wife was entitled to half of the marital property.³⁰⁴ The morning gift paid by the husband to the wife at marriage was hers to control alone.³⁰⁵ But this all changed with the Norman invasion, which was extremely damaging to women's rights, especially their right to hold property. In fact, Arianne Chernock argues that the principle of coverture itself originates in the Norman influence brought to the region after the invasion in 1066 and the subsequent rise of feudalism, rather than a traditional "English" practice; the Saxons had in fact not only allowed, but encouraged women to own property individually.³⁰⁶

An historical tracing of English law indeed shows that, where the Anglo-Saxon wife enjoyed autonomy with most of her property,³⁰⁷ that began to change around Glanvil's time in the 12th century.³⁰⁸ Courtney Kenny, writing in 1879 about marital property rights in English history, agreed. He discussed the deterioration of rights for women through the centuries, and similarly attributed it to the Norman influence. That influence resulted in the wife sinking to the state of being a "puppet of her husband's will;" Kenny called this a "revolution in the law of marriage."³⁰⁹ Given that we know that the system of coverture did not exist through time immemorial in England, but rather developed in the late Middle Ages,³¹⁰ it is reasonable to conclude that such a system did not take over immediately – with women one day having certain rights, abilities, and status, and the next day, coverture smacking them in the face and leaving them with almost none the next. In fact, a more gradual implementation and development of coverture and its attendant principles, including a more prolonged reining in of women's rights, is the more likely scenario given the ways in which change in general was protracted and older traditions died hard: in medieval life, "...ideas and information spread only slowly, and against great resistance, from one district to another; custom determined everything, and the type altered little from age to age."³¹¹

The evidence concerning surnames discussed herein also clearly supports such a

³⁰⁴ *Id.*, par. 78, 79.

³⁰⁵ *ANGLO-SAXON WOMEN*, HULLWEBS HISTORY OF HULL [HTTP://WWW.HULLWEBS.CO.UK/CONTENT/C-ANGLO-SAXON/HOME-LIFE/ANGLO-SAXON-WOMEN.HTM](http://www.hullwebs.co.uk/content/c-anglo-saxon/home-life/anglo-saxon-women.htm).

³⁰⁶ Arianne Chernock, *MEN AND THE MAKING OF MODERN BRITISH FEMINISM* 91 (2010).

³⁰⁷ Courtney Stanhope Kenny, *THE HISTORY OF THE LAW OF ENGLAND AS TO THE EFFECTS OF MARRIAGE ON PROPERTY AND ON THE WIFE'S LEGAL CAPACITY (BEING AN ESSAY WHICH OBTAINED THE YORKE PRIZE OF THE UNIVERSITY OF CAMBRIDGE)* 10 (1879).

³⁰⁸ Ranulf de Glanvil was Chief Justiciar in England under Henry II in 1180, and was most likely the author of *TREATISE ON THE LAWS AND CUSTOMS OF THE KINGDOM OF ENGLAND*. John Hudson, *THE OXFORD HISTORY OF THE LAWS OF ENGLAND: C.900-1216*, p.872 (Vol. II, John Hamilton Baker ed. 2012).

³⁰⁹ Kenny, *supra* note 299, at 11.

³¹⁰ Alina Semo Kofsky, *A Comparative Analysis of Women's Property Rights in Jewish Law and Anglo-American Law*, 6 *JOURNAL OF LAW AND RELIGION* 317, 337 (1988).

³¹¹ Charles Homer Haskins, *The Spread of Ideas in the Middle Ages*, 1 *SPECULUM* 19, 20 (1926).

conclusion. The development of surname practices as applied to women provide evidence that the subsumation of women by the systems of patriarchy and coverture neither remained consistent over the centuries, nor gradually improved: the status of women in many respects worsened over time as their acknowledgment in surnames vanished. What's more, although Blackstone's work provides the foundation of modern English law, incredibly, he appears to have relied on a mistranslation to draw some of his conclusions about women's property rights in ancient England, which he then used as support for his own assertions about the foundations and justice of the contemporary treatment of women.³¹² Those mistakes were repeated for centuries.³¹³

It is sometimes difficult to conceive of the idea that the progression in years brought with it a regression in thinking—that earlier ages were in any way more enlightened or more advanced than the present. This insistence on a flawed vision of history that assumes continual progress and advancement can be called “chronological ethnocentrism.”³¹⁴ In other words, we want to believe that the present always represents the pinnacle of enlightenment and progress, that human advancement is constant and unrelenting, and that wherever we are today, it is always better than where we were yesterday. Whatever mistakes we are making, at least we're doing it better than those of the past did. We always represent the most enlightened society human history has ever known—surely none has ever been more advanced, more progressive, more civilized. Such a view may be a natural tendency, but that does not make it any more accurate. It colors the ways in which we perceive the modern world and study the past. We tend to avoid searching for evidence to the contrary, and reject as implausible or anomalous what we do happen to come upon. It obfuscates the complexities of a nuanced history, and it is a delusion. Ironically, despite the tendency to think of our modern society as eminently more advanced than any prior ones, we nevertheless refer to that deficient past to justify and validate our own questionable practices.

The etymology of the word “surname” is worth a brief discussion as it sheds some light on the development of the practices surrounding the word and their application to women. The word “surname” is sometimes said to originate from “sir” name³¹⁵ (a man

³¹² See, e.g., Kenny, *supra* note 299, at 35-36.

³¹³ It may also be the case that Blackstone's description served as more of an attempt to *reinforce* the principle rather than as a strict description of it. This may have obscured later scholarship on the legal status of women, ignoring the complexities, exceptions, and common practice to the extent that they conflicted with Blackstone's account. See Finn, *supra* note 290, at 705.

³¹⁴ I first encountered this term in a Salon article by Jim Loewen: chronological ethnocentrism allows the writers of history to “sequester bad things, from racism to the robber barons, in the distant past.” As such, we always “know” that everything turned out for the best.” Jim Loewen, *Our Real First Gay President*, Salon.com (May 14, 2012), http://www.salon.com/2012/05/14/our_real_first_gay_president/.

³¹⁵ Surnames “were for the knights and gentry who bore heraldic devices on their shields, and stamped documents with private seals...” Bowman, *supra* note 2, at 9.

of rank or position³¹⁶), or “sire” name³¹⁷ (meaning father, although an archaic definition also includes a man of rank or authority, especially a lord³¹⁸). Both have obvious masculine connotations and implications, and they make sense given modern usage of the word – it must refer to a “man” or “father,” because that is how surnames operate, after all. In fact, however, the word “surname” does not actually have anything to do with “sir” or “sire” at all; it originates from the Old French *surnom*, from *sur* “upon” and *nom* “name”³¹⁹ and generally translated as “nickname.”³²⁰ The word was adapted from the French, Anglicized as “surname,” and used to refer to bynames beginning around the 14th century.³²¹ The definitions of the word have shifted somewhat over time in a way that mirrors the changing use of the convention itself. The University of Michigan’s online Middle English Dictionary, which defines words used in Middle English (1100-1500) by the ways in which they were used, provides the first definition of “surname” as follows: “(a) An additional name, usually derived from a quality, an achievement, or a place and attached to one’s given name;... also, an epithet; a suffixed name-element [quot. a1387],” while “a last name, surname; a family name, cognomen”³²² is presented as an alternate definition. But by the 18th century, “surname” had come to be known first and foremost as a *family* name, suggesting its hereditary nature from the male line; Johnson’s 1768 dictionary defined it as “The name of the family; the name which one has over and above the Christian name.”³²³ A number of other 18th and 19th century dictionaries similarly defined “surname” primarily as a family name, rather than an individualized nickname, with varying degrees of nuance.³²⁴ This serves as an additional indication that the exclusively masculine orientation and function of surnames did not solidify until well after surnames came into regular use. The word was eventually

³¹⁶ “sir.” MERRIAM WEBSTER’S COLLEGIATE DICTIONARY 10th ed. 1994.

³¹⁷ Spender, *supra* note 282, at 25.

³¹⁸ “sire.” MERRIAM WEBSTER’S COLLEGIATE DICTIONARY (10th ed. 1994).

³¹⁹ “surname.” James Stormonth, *DICTIONARY OF THE ENGLISH LANGUAGE, INCLUDING A VERY COPIOUS SELECTION OF SCIENTIFIC TERMS FOR USE IN SCHOOLS AND COLLEGES AND AS A BOOK OF GENERAL REFERENCE* (6th ed. 1881), <https://archive.org/details/etymologicalpron00storrich>.

³²⁰ “surnom.” Reverso French to English Translator, <http://www.reverso.net/translationresults.aspx?lang=EN&direction=french-english> (last visited March 4, 2015).

³²¹ “surname.” *THE RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE* (2nd ed. 1987).

³²² “surname.” *MIDDLE ENGLISH DICTIONARY*. 2013. <http://quod.lib.umich.edu/cgi/m/mec/med-idx?type=id&id=MED43906> (last visited March 4, 2015).

³²³ The second definition provided is: An appellation added to the original name. Samuel Johnson, *A DICTIONARY OF THE ENGLISH LANGUAGE* (3rd ed. 1768), <http://books.google.com/books?id=bXsCAAAQAAJ&pg=PT7#v=onepage&q&f=false>.

³²⁴ For example, Stormonth defines “surname” as a name added to, or over and above, the baptismal or Christian name...; the family name.” Stormonth, *supra* note 311, at 632. Webster in 1828 defines it as “An additional name; a name or appellation added to the baptismal or Christian name, and which becomes a family name...originally designated occupation, estate, place of residence, or some particular thing or event that related to the person.” Noah Webster, *AN AMERICAN DICTIONARY OF THE ENGLISH LANGUAGE* 711 (Vol. 2. 1828), <https://archive.org/details/americanationa02websrich>

appropriated by patriarchal systems to mean “sire” name quite literally, as being owned by and situated with the male alone, and passed down by the father exclusively. In the process, the word itself was sometimes distorted to reflect that current understood meaning and usage. Multiple references to “surnames” and “sirenames,” while clearly incorrect given the French origins of the word, can be found in documents beginning in 17th century England.³²⁵ “Surname” became legitimized enough that it even appeared in some dictionaries as a (less correct) version of “surname,”³²⁶ and “surname” can be found 19 different times in definitions within Bailey’s 1736 dictionary.³²⁷ Tradition had reshaped the definition of surnames – and even the structure of the word itself – to fit the changing strictures surrounding the convention, and then referred back to the adapted definition to support those new strictures.

There is more to be said about surnames than that women once held their own individual names and that children sometimes took their surnames from their mothers. Even after surnames had become more consistently hereditary, their use reflected a status different still than modern expectations would have it. Women sometimes retained their birth names after marriage. Men sometimes adopted the surnames of their wives at marriage if the wife had inherited property or expected to. A woman would sometimes pass her family name to her children instead of the man. Such flexibility left women with some independent identity, until those options were eventually foreclosed to them as well via imposed legal impotence. It is evident that the increasingly restrictive rules of coverture and property ownership eventually eliminated any independent women’s names. Indeed, one might say that surname usage is a reflection of women’s rights more generally, especially with property and inheritance rights, and as those rights disappeared, so did their names.

The law has been fundamental in the historical subordination of women. But as the case

³²⁵ See, e.g., Finlayson, *supra* note 277; Samuel Clarke, *The lives & deaths of most of those eminent persons who by their virtue and valour obtained the surnames of Magni, or the Great. Whereof divers of them give much light to the understanding of the prophecies in Esay, Jeremiah, Ezekiel, and Daniel, concerning the three first monarchies. And to other Scriptures concerning the captivity, and restauration of the Jews.* (2d ed. 1675); J. H. Lawrence-Archer, *An Account of the Surname Edgar: And Particularly of the Family of Wedderlie in Berwickshire* (1873); *Memorial for those of the Surname of Fraser* (1729); *A Bill to Enable John Freston, Esq; and the Heirs of his Body, to Take and Use the Surname and Arms of Scrivener* (1754); *A Brief Account of S. upon A. with ... a Description ... of the Collegiate Church, the Mausoleum of Shakspeare ... to Which is Added, Some Account of the Lives of Three ... Prelates who Derive their Surnames from Stratford, etc.* (1800).

³²⁶ “surname.” Noah Webster, *An American Dictionary of the English Language* 600 (Vol. 2 1828), *available at* <https://archive.org/details/americandictionary02webstrich>.

³²⁷ Ironically, although Bailey uses the word “surname” to define words like Bartley or Morris, the word “surname” is not itself defined in the dictionary. The word “surname” appears 12 times, and is defined as “a name added to the proper or baptismal name to denominate the person of such a family.” Nathan Bailey, *DICTIONARIUM BRITANNICUM OR A MORE COMPLEAT UNIVERSAL ETYMOLOGICAL ENGLISH DICTIONARY THAN ANY EXTANT.* (2d ed. 1736).

of surnames demonstrates, the law interacts heavily with society, culture, and tradition, and these institutions are intertwined so extensively that the law cannot be seen to operate separate and apart from them or analyzed independently. Where formal law created new restrictions and disabilities for women in Medieval England, those restrictions influenced the ways in which surnames were culturally adopted and used, even though no law directly addressed it. The law imbued the husband with a superior legal status as head of household and gave him legal ownership of his wife and children and control of all marital labor and property. That ownership seemed to include, eventually, the convention of the wife and children adopting the surname of the husband. Those cultural adaptations became so deeply entrenched that it was unthinkable to flout them; the “tradition” tolerated no exceptions, and it began to unofficially enjoy the force of law. Despite the lack of a formal legal requirement, by the early 18th century women and children took the name of the husband and father almost universally. In that sense, formal law reaches beyond the topics it is created to address and extends in practice to other related areas. In fact, even in the 20th Century United States it was so commonly believed that women were legally required to take the husband’s name at marriage that numerous pamphlets and articles were written to dispel the myth. Yet when some women began to reject the traditional practice, they were hauled into court where battles were fought to maintain it, and at that point some courts actually decided that the “tradition” was so fundamental and absolute that it deserved legal sanction and support, thus overturning a millennium of common law principle in favor of a recent cultural practice that was considered critical to maintaining the dominant social status quo. The rejection of tradition had brought the force of the law to bear, so that the unofficial practice became an official requirement. It wasn’t until the 1980s that courts had uniformly rejected the justification of such disparate treatment based on tradition alone, as there was no legal leg to stand on given the abolition of coverture.³²⁸ The symbiotic relationship between culture and law subtly shifts over time, while the two reinforce each other and address cultural phenomenon from different stations.

³²⁸ See, e.g., *In re Erickson*, 547 S.W.2d 357, 358-60 (Tex. Civ. App. 1977) (overruling trial court's rejection of name change request). Remarkably, the trial court refused to allow the wife's name change even when the husband had consented, as if allowing it in one case would taint the right of men in general, suggesting that naming rights belong to men collectively, not just individually. See also *May v. May*, 6 Kan.App.2d 24 (1981) (reversing trial court denial of wife's request to restore her maiden name upon divorce, holding that such a restoration must always be granted when requested); *Malone v. Sullivan*, 124 Ariz. 469 (1980) (holding that a woman is not required by common law, statute, or rule to adopt her husband's name upon marriage, thus reversing trial court's refusal to consider wife's petition for dissolution of marriage due to her filing of the petition under her maiden name.)

VI. Conclusion

Names are central to our lives and our identities; our current practices cannot be analyzed without an understanding of the history that brought them to bear. The existence and frequency of female-specific and matronymic surnaming in England through about 1600 would today fall in the realm of the extraordinary. In our belief that the modern system represents age-old tradition, we fail to recognize the number of today's surnames that originated from women. What happened to those surnames at marriage and the birth of children during the pre-modern era reflected not only a marked flexibility, but also a certain standing of women, providing them with an independent identity represented in a way that is still not seen today. While it would be disingenuous to argue that the historical use of women's surnames conclusively proves that English women had more rights and status in the 14th century than they do in the 21st – many laws and customs from the period clearly put women on unequal footing with men – the fact that medieval women were so commonly represented and acknowledged in the surnames of not only themselves, but also their descendants, means that their status was probably much more complex than we tend to presume. They were not systematically and thoroughly denied any legacy or condemned to the total eradication of their identities, as was the case later; they had names specific to them as women; they were able to retain those names after marriage; they independently inherited and owned property; and they passed both their property and their names down to their daughters, sons, and other descendants. The frequency at which these practices occurred varied depending on the period, the location, the social class, and other circumstances of the individuals involved. But it was the strict reining in of those rights and that status, and the eventual elimination of any matronymic naming and female property ownership, which makes the earlier system so hard to imagine. Surnames provide a vantage point from which to evaluate the status of women, and that status saw a very long period of decline beginning around the 11th century and not reversing again until the women's property acts of the 19th century began to emerge in both the United States and the United Kingdom.³²⁹ The rigidity in naming we know today is one of the last vestiges of the old system of coverture, and we are just beginning to reject it. It is a product not of abiding and ancient tradition, but rather of new strictures instituted most firmly during modern period, ironically during the "Age of Enlightenment" of the 17th and 18th centuries. When names stopped signifying individual attributes, they came to signify ownership instead; as such, they became closely connected to property and inheritance. The development of gendered rules in those areas supports this observation—with profound and negative effects on women.

³²⁹ The Married Women's Property Act of 1870 was the first to allow married women in the U.K. to inherit and retain property and money (at a capped amount), as well as to retain her own wage earnings. In the U.S., similar laws were passed by individual states, the first being Mississippi in 1839.

Future research on this topic would expand upon the history developed here in a few ways. First, it will be enlightening to investigate the ways in which surnames in particular, and gender more broadly, became closely tied to the concepts of property and inheritance. The legal recognition of personhood is implicit in the concept of property ownership. Given that the law regarding female property ownership shifted over time, there are considerable implications for women's standing in other areas, including their surnames. Second, an in-depth analysis of the relationship between culture, tradition, and law, seen through the lens of surname usage, will shed light on the underlying ways in which patriarchy became more firmly enshrined into cultural and legal systems. Surname usage and adoption was strictly a traditional practice, yet it became so entrenched that it eventually garnered legal backing when it encountered resistance. This was accomplished by virtue of a deceptively appropriated "tradition" that was not, in fact, traditional at all. The mechanisms by which this took place warrant further analysis. Third, a theoretical investigation into the reasons for the constriction discussed herein will be important; if coverture in fact became more restrictive over time, what reasons underlie such a fundamental shift? I believe these manifestations may be tied to political developments in the 17th through the 19th centuries, including theoretical concepts of citizenship, rights, exclusivity, and conquest, as well as imperialism and the building of the modern nation-state.

While many archaic notions regarding gender have been eradicated from modern American culture, we have been unable to fully, or even largely, shed the relics of the strict male-dominated naming systems that took hold in the past few centuries. This reinforces a patriarchal regime which deceptively claims that tradition, founded on the natural order, common sense, and divine right, support the current system, and the results have been profound and expansive. Increasingly strict surname rules for women served as a mechanism by which patriarchy was both reflected and reinforced. The system itself, not just its residues, is still with us today. We are left with a tradition that is not traditional. We would do well to recognize it for what it is and what it represents, in this, the most enlightened age the world has ever known.