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Nineteenth-Century Kentucky
Yvonne Pitts
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Family, Law, and Inheritance in America

Yvonne Pitts explores inheritance practices by focusing on nineteenth-century testamentary capacity trials in Kentucky in which disinherited family members challenged relatives' wills. These disappointed heirs claimed that their departed relatives lacked the capacity required to write a valid will. These inheritance disputes crisscrossed a variety of legal and cultural terrains, including ordinary people's understandings of what constituted insanity and justice, medical experts' attempts to infuse law with science, and women's claims to independence. Pitts uncovers the contradictions in the body of law that explicitly protected free will while simultaneously reinforcing the primacy of blood in mediating claims to inherited property. By anchoring the study in local communities and the texts of elite jurists, Pitts demonstrates that the term *capacity* was laden with legal meaning and competing communal values about family, race relations, and rationality. These concepts evolved as Kentucky's legal culture mutated as the state transitioned from a conflicted border state with slaves to a developing free-labor, industrializing economy.

Yvonne Pitts is an assistant professor in the department of history at Purdue University. She received a Filson Fellowship at the Filson Historical Society in Louisville, Kentucky, and has been a fellow at the J. Willard Hurst Summer Institute in Legal History at the University of Wisconsin Law School. Dr. Pitts has been published in *The Journal of Women's History*.

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of Nineteenth-Century Kentucky*

YVONNE PITTS

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*To my family:
Those related by blood and those related by affection*

Contents

<i>List of Tables, Figures, and Map</i>	<i>page</i> x
<i>Acknowledgments</i>	xi
Introduction	I
1. “Parental Justice”: Inheritance and Obligation in Families	3 I
2. “My Black Family”: Manumission and Freedom in Inheritance Disputes	62
3. Arbiters of Sanity: Medical Experts and Jurists	83
4. Physical Impairments and Degenerate Minds: The Body as Evidence	114
5. A Special Power: Women’s Testamentary Capacity	141
Epilogue	179
<i>Bibliography</i>	185
<i>Index</i>	201

Tables, Figures, and Map

TABLES

1.1. Interracial Testamentary Dispositions before and after the Thirteenth Amendment	<i>page 37</i>
1.2. Testamentary Gifts Conditioned on Children Taking Care of a Relative or a Specified Living Arrangement	45
1.3. Testators Making Conditional Testamentary Gifts by Sex	45
1.4. Wills Disinheriting an Heir	47
2.1. Testamentary Manumissions by Decade, 1818–1869	65
2.2. Challenged Wills Involving Manumissions at the Court of Appeals	66
3.1. Living Arrangements of Insane Individuals (1880)	88
5.1. Decedents by Sex in Harrison County	147
5.2. Testation by Sex over Time	148
5.3. Testation by Sex in Each County	148
5.4. Husbands’ Devises of Fee Simple Property to Their Wives	149

FIGURES

1.1. Intestacy Distribution, 1834	40
3.1. Dr. David W. Yandell, Physician, Expert Witness, and President of the American Medical Association in 1872	97

MAP

1.1. Map of Kentucky Counties (1846)	28
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Acknowledgments

The cultural importance of inherited property first struck me when I was sitting in an airport on my way to a history conference during graduate school. A woman sitting across from me was on the phone, emotionally describing how she had found her late “Granny’s crochet hook.” She was gently holding this worn crochet hook as though it were a talisman imbued with the spirit and memory of her late grandmother. The hook itself was available in any craft store for a couple dollars. It occurred to me that the hook had taken on immense emotional value as a material symbol of the obviously close relationship she had with her grandmother. Of course, inherited property often has great monetary value and lacks the sentimental attachments of that particular crochet hook. I realized, though, that if I intended to write about the multiple historical meanings of inheritance, I had to look at inheritance practices as conveying more than material wealth. They transmitted all manner of familial affection, angst, and memories. That moment led me to think much more deeply about inheritance, not just as the transfer of wealth, but also as the transmission of a lifetime of emotions, ranging from fervent love to deep enmity.

This project began while I was in a seminar at the University of Iowa School of Law on “Gender and the Law,” co-taught by my mentor and dissertation advisor, Linda K. Kerber, and Patricia Cain, who became my second reader on my dissertation. I owe Linda Kerber an enormous debt of gratitude for her insightful guidance, her encouragement, and her support. Linda’s scholarship was revelatory for me, but it is her remarkable kindness and generosity to aspiring young scholars I will not forget. Patricia Cain patiently led me through the law of wills, ever reminding

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xiii

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