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The Importance of Family in the Community of New Poquoson Parish, York County, Virginia, in the Late Seventeenth Century

Sarah Jane Weatherwax

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THE IMPORTANCE OF FAMILY IN THE COMMUNITY OF NEW POQUOSON PARISH, YORK COUNTY, VIRGINIA, IN THE LATE SEVENTEENTH CENTURY

A Thesis
Presented to
The Faculty of the Department of History
The College of William and Mary in Virginia

In Partial Fulfillment
Of the Requirements for the Degree of
Master of Arts

by
Sarah Jane Weatherwax
1984
APPROVAL SHEET

This thesis is submitted in partial fulfillment of
the requirements for the degree of

Master of Arts

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Approved, May 1984

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ABSTRACT

Despite geographical separation, the residents of New Poquoson Parish, York County, Virginia, in the late seventeenth century forged bonds which tied them into a community. These ties ranged from the economically-based ones of business connections and debt/credit transactions to the all-important ties of family and kin. Although families were difficult to maintain within the harsh demographic conditions of the seventeenth-century Chesapeake, parish residents struggled to do so because families not only tied members to one another, they also helped to place people into the larger world inside and outside of the parish.

Families served a number of functions. By being a part of a family, a person had someone to turn to for support. This support could be emotional or, as frequently was the case in New Poquoson Parish, support for family members was based on economics. Through gifts, bequest, and provisions in wills, family members looked out for one another. In addition to economically and emotionally rooting people into a community, families were also the identifying element which placed people into the social hierarchy of the community at large.

The presence or absence of these family ties often directly related to the type and the amount of community involvement residents of New Poquoson Parish experienced. Parish residents without family ties usually did not hold office or actively participate in the community. For the residents with family ties the social rank of their family influenced their community involvement. Poorer families were outside of the hub of community activity. A few "big families" dominated the community and their power and influence was often passed on to their children and to people marrying into the family. These families derived their power from their ties to the outside world. Through the political, military and judicial positions they held, members of the "big families" controlled the local community.

Many members of the prominent families served as justices of the peace and in that role confronted the everyday problems of the parish. Some problems such as debt/credit transactions could be controlled, but other disturbances were caused by circumstances beyond the justice's control. The prevalence of death created a continual dilemma of dealing with orphans. Once again, family was a crucial element in how the justices and the community met this challenge. The social status of the orphan, for example, influenced whether the court became involved. If the justices did become involved, the orphans were placed with another family member or a relative if at all possible.

The justices' desire to keep families as intact as possible illustrates the importance of family to the residents of New Poquoson Parish. Family groupings gave the parish a sense of order. Families were also a primary source for the ties based on mutuality and emotional commitment which are necessary for a community to exist.
THE IMPORTANCE OF FAMILY IN THE COMMUNITY OF NEW POQUOSON PARISH, YORK COUNTY, VIRGINIA, IN THE LATE SEVENTEENTH CENTURY
INTRODUCTION

In the late seventeenth century the lives of residents of New Poquoson Parish, York County, Virginia, were filled with uncertainty. Although the parish had been established in 1635, many residents were still relatively new to the area. Most engaged in planting and depended primarily on just one crop, tobacco. While the environment may have suited tobacco, it was not healthy for humans. Death took a heavy toll on parish residents, as it did other inhabitants of the Chesapeake region. According to historian Daniel B. Smith, the harsh demographic conditions usually associated with the Chesapeake were why "'well-ordered' families were slow to develop." "In large part," wrote Smith, "it was the disease-ridden, immigrant-dominated character of seventeenth-century Virginia and Maryland that loosened the ties of family and kin."²

While it is statistically true that death broke up families in New Poquoson Parish and the rest of the Chesapeake, parish residents resisted the loosening of family bonds. Parish residents struggled to maintain family ties despite difficult conditions because those ties not only bound individuals to one another, but also helped create a sense of community in the parish. While there were many ways of being part of the community, family played an important role in determining a person's role and position in the parish.

Basing a paper on the apparently impersonal source of court records might seem a strange way to study the importance of family in
a community. By their very nature, court records would seem to exclude much of the personal, emotional element usually associated with families. Historian Richard Beeman has argued, however, that the norms and values of a particular people are best observed during public social activity, and in the Chesapeake the courthouse acted as "the geographic and social core" of the community. Court records reveal a wealth of information about the daily activity taking place within the court's jurisdiction. The constant credit/debt transactions, the impanelling of juries, the appointment of men to offices, and a multitude of other court documents help to define people's place in the community. Other court records—including wills, deeds of gifts and guardianship arrangements—all reveal the importance that parish residents attached to families. What the court records say and what they do not say can reveal much about family and community in New Poquoson Parish.
Notes for Introduction


CHAPTER I
FAMILY AND COMMUNITY

Part I: The Family in Community

Historians, sociologists, anthropologists, and other scholars have long debated the definition of "community." For many people, both scholars and non-scholars, the word evokes a response more personal and nostalgic than objective. Community is something that Americans once had, but somehow have lost through the passage of time. A village green surrounded by houses, a church, and the town hall are usually elements which come to people's minds when questioned about community. Populating this idealized world are a group of closely-knit people who peacefully work with one another for the common good. Of course, such a community never existed either in colonial New England, nor in the colonial South.

The nostalgic view of community does, however, incorporate two elements, geographic place and people, that must be considered in a more objective discussion of the word's meaning. A community, obviously, has to occupy some sort of physical space. The type of physical space and its importance in defining the concept of community is one point of contention among scholars. Sociological definitions emphasize territorially-based social organizations and activities as the cornerstone for community, but fail to specify a particular size for this territory. Historians grasped the idea of territory being
central to the existence of communities and easily fitted the early New England settlement pattern into this definition.

Arguing that the colonial Chesapeake with its widely scattered settlements also had communities requires a greater emphasis on people rather than place. Historian Thomas Bender declared that community was best defined "as an experience [rather] than as a place." Similarly, Darrett Rutman described community as a place of social action. In the study of community, continued Rutman, the subject is the people of a particular locale and their patterns of association among themselves and with others beyond the local area. Anthropologist Robert Redfield also recognized that something other than territory held a community together. According to Redfield, communication among people rather than physical space was the key to studying communities. If the activities of people instead of physical proximity form the basis for community, then the presence of communities in the colonial Chesapeake can be considered.

Interaction among people does not occur randomly and a study of these relationships must have a logical order. Darrett Rutman devised a research design which divided human associations into two types. The horizontal element, or internal web of association, centered on the family, and vertical, or external web of association, recognized that neither people nor a community existed in isolation. Vertical associations such as owning land in more than one locality, selling goods not locally produced, and holding political offices linked people and community to the larger world.

The proportion of horizontal and vertical associations varied among communities, just as it differed among individuals within each
community. Living in the approximately thirty-two square miles of southeast York County that made up New Poquoson Parish (see maps) were an assortment of individuals, both rich and poor, landowners and tenants, free and unfree, black and white. Servants or slaves, usually without family and with their behavior restricted by law and custom, would scarcely be expected to have the same amount of vertical ties as a member of a wealthy merchant/planter family. Between those two extremes of the social spectrum fell the majority of New Poquoson Parish residents. Examining one individual's life can reveal the vertical and horizontal relationships characteristic of a more typical parish inhabitant.

Though choosing a "typical resident" raises problems, David Lewis Jr. exhibits many of the characteristics associated with life in the seventeenth-century Chesapeake. Lewis was one of the "middling sort." Although it is not clear if he was a planter, at the very least, he was involved with the area's mainstream economy through credit and debt suits based on tobacco. And as a resident in a parish which historian Daniel B. Smith called "one of the unhealthiest areas in colonial Chesapeake," Lewis' life is a good illustration of the demography of the region.

Born in New Poquoson Parish in October 1653, David Lewis Jr. was more fortunate than many children in the area. In their study of Middlesex County, Virginia in the late seventeenth and early eighteenth centuries, Darrett and Anita Rutman determined that only 46.4 percent of the children who reached the age of thirteen had both parents still living. David Jr. had both a mother and a father during much of his childhood. When his father died, in February 1670, David had reached
CHART OF JAMES RIVER
SHOWING THE EARLY SETTLEMENTS
AND PRINCIPAL INDIAN TOWNS.

Source:
Southeastern York County

Source: York County Project
the age of sixteen, but his younger brother John was only six. Illness, however, was not a stranger to the Lewis household. The elder Lewis had not been well for sometime before his death. A fine levied against him in 1666 for failing to list himself for tax purposes was remitted because he had been infirm when the list was taken. Three years later, the York County Court granted a postponement of a credit/debt action because David Sr. was too ill to appear in court.7

Nine months after David Lewis Sr.'s death, the York County Court probated his will. David Jr. received a horse and its increase, as well as an unspecified amount of land including "the houseing Orchard & Plantacion I live on." David's inheritance also included a cautionary note. David, wrote his father, "shall not Cause any division of my Estate or any remove [any] pte. thereof till his Age of one & twenty years."8 The elder Lewis' concern about his son was apparently justified, because in August 1675, the court voided David Jr.'s lease of "1/2 of his plantation to John Drewry" since he had struck the bargain before turning twenty-one.9

Once David Jr. reached his majority10 in October 1674, he was free to conduct whatever business transactions he wished. Throughout the 1680s and 1690s, he appeared in court both as a creditor and debtor and as a party in land transactions. In 1685, for example, he entered into an agreement with fellow parish resident John Ayres in which Ayres bought fifty acres of parish land near David Lewis' dwelling including the cornfield, tobacco and swamp.11 Earlier that year, Lewis had received a patent for 217 acres of land originally purchased by his father. The land rested on the north side of a creek dividing York and Warwick counties.12
The location of this land caused Lewis problems throughout his life. In 1680 some Warwick County residents took Lewis and another man, Andrew Day, to court for obstructing the road at the head of the "old Pocoson Creeke" also known as "the Damms." The court's decision is unknown, but the problem apparently continued. In 1702, Lewis once again appeared in court for refusing to clear the roads. Less than six months after that court appearance, David Lewis Jr. died at the age of forty-nine, leaving behind his wife Ann and four underaged children.

Throughout his life David Lewis Jr. formed both horizontal and vertical ties. Although linked to the outside world beyond the parish through his credit/debt transactions and disputes with Warwick County residents, Lewis also had ties rooting him into the local area. Of these horizontal ties, family was most important. Although legally considered orphans because their father had died, David and his brother stayed together as a family unit under the care of their mother. The stipulation in David Sr.'s will about David Jr.'s inheritance also indicated the desire of a father both to keep his son under the control of an adult family member and "to preserve the household after [his] death."

The role that family played in the life of an individual such as David Lewis intertwines in many ways with the concept of community. Indeed, anthropologist David Schneider saw the family as "a special kind of community." "Common to their [kinship and community] definitions," stated Schneider, "is the idea of a unity, of commonality (common blood or common outlook, common aims or values, for example)."
Historian John Demos also viewed family and community as similar. "Family and community, private and public life, formed part of the same moral equation," declared Demos. From this feeling of unity, an individual family member like Lewis gained a sense of belonging.

Like David Schneider and John Demos, sociologist Richard Clayton also believed that families provided people with a set of "anchors" or a feeling of belonging not only to the family unit but to the larger world. According to Clayton, families fulfilled the human need for "an identity, a name, [and] a role position" which distinguished them from other people. Sociologist William F. Ogburn's model of social and familial change was even more specific about the role of families. Using the colonial American family as his model, Ogburn declared that the functions of families included status conferring, education/socialization, economic, protection, religious, recreation, and affection. Although criticized for generalizing and creating an idealized family, Ogburn's delineation of familial functions closely resembles historian John Demos' in-depth examination of families in Plymouth Colony.

All of these scholars have either implicitly or explicitly included a feeling of unity as an element in family. By being part of a family, people had ties to one another. According to Schneider, however, these bonds not only included ties to particular people, but also ties to the place where those people lived. The presence of families, then, helped to promote a sense of community among people. The community, in turn, supported families because everyone benefited when the many tasks of the family were smoothly carried out. "The one supported the other," declared Demos, "and they became in a sense indistinguishable."
Part II: Ties Within the Family

The emotional ties among members promoted a sense of unity within a family. Instructions in the wills of New Poquoson Parish testators often exhibited a concern for the welfare of other family members. When Thomas Kerby died in 1668, for example, his will attempted to ensure a successful future for his six-year-old son Robert. Robert should "be put to schoole to reade write & cast Accompt out of the produce of my Estate," stated Kerby, "without bringing any Charges upon the Estate of my sonne when hee comes to age." Regardless of Anne Harman's age, her father's will declared that she "should have her Estate delivered in her owne hands" if her mother remarried. By including this stipulation, William Harman hoped to protect his daughter's estate from a potentially dishonest stepfather. Similarly, John Bartlett sought to protect his son and his estate. He named his wife Elinor as executrix or estate manager and placed her in charge of his son Michaell, but also took the precaution to stipulate that if Elinor married someone who "be crosse to my Child or make away with my Child's pte," John's younger brother Michaell was to become guardian.

John Hunt's will stated even more specifically how the family was to continue after his death. In his will, dated five days before his death in April 1679, Hunt left an unspecified amount of land to his eldest son, sixteen-year-old John. He requested that John allow his brother Richard to have a "planting [spell] with him a yeare or two either in share or by himself til he can put his own plantation in order convenient." Sadly, such instructions were unnecessary since Richard died only six days after his father. Richard was not
John Hunt Jr.'s only sibling, however, and John's sense of commitment and ties to other family members remained strong. When in 1695 William, out of the "love & affection" he felt towards his older brother John, granted him 300 acres of land, John in return provided William with food and drink and other necessary items, since William was "Weake & much disable & incapaasitlated of getting his livelihood by his labor or management." Although willing to accept this responsibility, John Jr.'s obligation lasted less than a year. In September 1696, his thirty-four-year-old brother William died.

Wills also reveal the efforts to maintain family ties in the harsh demographic conditions of New Poquoson Parish. Testators recognized that their legatees might soon die themselves, and some wills contained detailed instructions of how legacies should be distributed in case of death. Thomas Foote, who died in 1668, had bequeathed to his wife Purina "all & every pt & pcell of my Psonall Estate." When Purina died only one day after her husband, his property then went to "her sonne Francis Penrice" as he had instructed. If Francis died the property was to pass to his younger brother Thomas Penrice Jr. In the event that all his kin passed away, Foote requested that his property go to New Poquoson Parish for a glebe.

Thomas Foote's desire to provide for family members by keeping his property under their care was hampered by a not untypical dearth of immediate family. Despite the difficulties, however, Chesapeake residents continued to follow a familial pattern of inheritance. Historian Daniel Blake Smith calculated that less than ten percent of Virginia testators in the last half of the seventeenth century bequeathed property to anyone outside their immediate families.
A similar study of seventeenth-century Maryland revealed that over three-fourths of the testators with families made no mention of other relatives besides spouses and children.27

For people without immediate family members and even for those with families, family boundaries were sometimes stretched to include quasi-relatives and people who were not relatives at all. Although New Poquoson Parish resident Richard Trotter was married, he apparently had no children and when he died in 1699, his legatees included his sister, his cousin, his cousin's wife, and another cousin and her children.28 Non-relatives who served as guardians to parish orphans occasionally left the orphans' legacies in their wills. In addition to leaving an unspecified amount of land to his stepson, Charles Dunn left property to his natural daughter and wife. If both his wife and daughter died, the property was willed to Dunn's orphaned charge, William Colvert, "who is to be brought up well and well educated."29

Giving a child godparents was another way of stretching the family unit's boundaries in response to demographic conditions, thus providing more people for family members to turn to in time of trouble. Bound to the family by affection rather than by blood ties, godparents often displayed their interest by deeding gifts to their godchildren. "Gifts of animals," declared historian Lorena Walsh, "were the seventeenth-century equivalent of opening a bank account or purchasing a savings bond for a child today"30 and frequently New Poquoson Parish godparents bestowed cattle on their godchildren. In 1672 Mary Pescod's godfather Richard Sable gave her three cows. Mary apparently kept her cows and their increase, because thirteen years later her new husband Nicholas Martin presented himself before the York County justices to
state that he now marked his own cattle with the mark appearing on the cattle given by Mary's godfather. Although Edmund Watts made a similar gift of a cow with its increase to his godson Samuel Tomkins in 1660, unlike Richard Sable he also included specific instructions on how this gift was to be used for Samuel's benefit. When the cows reached the age of thirteen, Watts permitted Samuel's parents "at their owne discretion" to sell part of the stock or to kill any of them, as long as each one killed was replaced. Any profits gained from the cows went "to improve an Estate for the said Samuell." Godparents, of course, were not the only people deeding gifts to children. Robert Shield's grandmother Ann Davis, for example, gave him two mares, a colt, and two cows. These gifts were to be held in trust for Richard by his mother and stepfather. In 1711, another parish resident, John Drewry, out of the "natural love and affection" he felt for his son John Jr. deeded him fifty acres of land. Using a similar, and perhaps standard phrase, John Ensworth "out of [his] meere goodwill & affection" gave a foal to Henrick Vandoverage Faison Jr. who was neither a relative nor a godchild.

Although love and affection may have indeed prompted the giving of gifts between blood relatives, such gifts were also inspired by a desire to keep property or wealth within the family. Gifts from godparents might also have been economically based. Godparents wished to create an economically secure future for their godchildren. Parish testators' wills exhibited a similar objective. Indeed among New Poquoson Parish residents the ties of affection that bound immediate family members, quasi-relatives, and non-relatives into a unit were inexorably linked to economics. Material possessions gave something
tangible to the owner who faced a future filled with uncertainties. Emotional ties, therefore, manifested themselves by providing economic security for loved ones.
Notes for Chapter I.


2 Bender, p. 6.


7 York County Court Records, Virginia, Deeds, Orders, and Wills (DOW) Book 4, pp. 119, 125, and 275.

8 DOW, Book 4, p. 321.

9 DOW, Book 5, p. 121.

10 According to colonial Virginia law, males reached their majority at twenty-one, while females reached their majority at eighteen. In actuality, marriage bestowed majority, regardless of age. (Darrett and Anita Rutman, p. 158).

11 DOW, Book 8, p. 66.


13 DOW, Book 4, p. 321.

14 DOW, Book 5, p. 121.


19 Demos, p. 186.

20 *Dow*, Book 4, p. 189.

21 *Dow*, Book 4, p. 332.

22 *Dow*, Book 5, p. 121.


24 York County Court Records, Virginia, *Deeds and Bonds* (DAB), Book 1, pp. 57-63.

25 *Dow*, Book 4, p. 182.


29 *Dow*, Book 6, p. 90.


31 *Dow*, Book 4, p. 382 and Book 7, p. 70.


33 *Dow*, Book 5, p. 66.

34 *DAB*, Book 2, pp. 379-380.

35 *Dow*, Book 5, p. 104.
Families not only provided New Poquoson Parish inhabitants with emotional and economic support, they also influenced how involved residents became in the activities of the parish. The degree of community involvement, of course, varied greatly. Some people immersed themselves in community life, seeking political office and eagerly accepting positions of responsibility and power. William Arnold was one such person. Throughout the 1660s, 1670s and 1680s, Arnold frequently appeared in York County Court. He served on juries, appraised deceased parish residents' estates, and acted as a witness to a deed of gifts to his future stepchildren, to wills, to land transactions and other documents. In 1678, for example, Arnold was in court testifying about a disputed horse. During the "late troublesome times," parish resident John Nickson had ridden fellow parish resident John Needler's horse and Needler now sought compensation. Arnold testified that Nickson rode the horse only when ordered to do so by his commander William Wetherall and the justices ordered Wetherall to pay Nickson the amount of damages that Nickson had already paid to Needler.

William Arnold also appeared in York County Court in actions that would benefit himself. In 1674, the justices named him to hold the position of surveyor of the highways for the lower precincts of
the parish, and he remained in this office until 1677. His court appearances to recover tobacco debts also usually went in his favor. Of the five credit/debt suits involving Arnold, the justices decided in his favor in four cases. Several disputes involved a sloop of which Arnold was at least part owner. His sloop may have been what the York County budget for October 1680 referred to when it ordered Arnold paid 200 pounds of tobacco "for carrying the soldiers bedding to the fort."

Although transporting this bedding earned Arnold a personal financial reward, he was also performing a service for the community. Similarly, while holding office gave him prestige, the surveyors of the highway were required "to lay out churchways, ways to James Towne, and to County Court, and keep all ways clear" which helped everyone in the area. In his role as witness and jury member, Arnold helped solve disputes and avoid possible disruptions in the parish. Arnold's acceptance of these various responsibilities and his active participation in the community benefited both himself and his neighbors.

Of course, not everyone living in the parish participated to the extent William Arnold did. For some, involvement in the parish centered on just one type of activity. As a merchant in New Poquoson Parish, Edward Phelps had the opportunity to meet and form both economic and other types of ties with a large number of people. All of his York County ties, however, had an economic base. Throughout the 1670s and 1680s, Phelps engaged in continual credit/debt actions. Phelps' lack of community involvement in any other sphere may have been caused by the nature of his work. In 1673 when he purchased 550
acres of land from a New Poquoson Parish planter, the bill of sale identified Phelps as a London merchant. A year later he was referred to as a "marriner." Not until 1675 was Phelps identified as "of Yorke River in Virginia beyond the seas merchant." Although a local landowner, Phelps' role as a merchant apparently caused him to spend a good deal of time away from the area and in 1675 he appointed a parish man, John Heyward as his attorney with the power to pursue credit and debt cases.

Edward Phelps' will also reveals his lack of immediate involvement with the local community. Phelps requested that the York County Court have nothing to do with his estate. The keys to his store and the responsibility to keep everything intact went to parish resident Charles Dunn, but only until Phelps' nephew Joseph Davis or another relative from England could arrive in Virginia. Phelps also looked to England rather than the local community in his choice of legatees. The bulk of his estate went to his sister and two nephews who lived in England. Family ties, however far away, proved stronger than any local associations.

Although as a merchant Phelps provided an essential service, he was never an active participant in different aspects of the community of New Poquoson Parish. Another parish resident, Nicholas Taylor, was more integrated into the parish, but like Phelps, Taylor's participation centered on one dimension. Taylor was a public nuisance. During the October 24, 1659 court session, the justices were presented with depositions from several people who claimed to have knowledge of an illicit relationship between Taylor and Elizabeth Knight, servant to his neighbor Charles Dunn. Mary Hazelgrave declared that Taylor...
was "very Familiyar" with Knight "playing & gesting with hir in hir Master & Mistresses absence & many times staying there untill the family was abed & sometimes staying all night." Hugh Jones also noticed the familiarity between the two and stated that he saw "the said Elizabeth in bed in a little room there & Taylor with hir."

John Tylett, however, observed Taylor and Knight "going to a Thickett of small bushes . . . [where] the said Elizabeth Knight was sent to gather Wood to heat the oven." Elizabeth Knight herself declared that Taylor had "often times solicited hir to be naught of hir body with him & his Importunity prevailing at last to the getting of hir Assent." The justices ordered Taylor to pay Charles Dunn 200 pounds of tobacco for his transgression.  

Nicholas Taylor's troubles, however, were not over. In 1665, the parish minister accused Elizabeth Mackintosh of keeping a bawdy house "with a rogue and a whore"—Taylor and his maid Susanna Bewford. A few months later, the New Poquoson Parish vestry presented Taylor for drunkenness in church. Not only was he drunk, declared the outraged vestry, but "in full view of the congregation in time of divine service, [Taylor] spewed." For this offense, the justices ordered Taylor placed in the stocks. 

Despite Nicholas Taylor's habitually unacceptable behavior, other parish residents did not shun him. During his own period of trouble with the court, he served on several juries. He acted as a witness to another parish member's will. Since Taylor also appeared several times in court as a debtor, his participation in the community included, to some extent, an economic role.

Nicholas Taylor's main role in the community, however, seems
to have been as a deviant. Historian John Demos uncovered a similar figure in his study of colonial Massachusetts. Constantly involved in court cases and on several occasions accused of witchcraft, John Godfrey was a notorious person in seventeenth-century eastern Massachusetts. Godfrey, however, experienced no difficulty in finding lodging or work with people in the area. Demos suggested that John Godfrey and his neighbors needed one another. "[Godfrey] defined for his community, a spectrum of unacceptable behaviors," wrote Demos. "Like deviant figures everywhere, he served to sharpen the boundaries between 'good' and 'bad', 'moral' and 'immoral', 'legitimate' and 'illegitimate'." Although probably unaware of it, Nicholas Taylor performed such a role through his participation in the activities of the parish.

Nicholas Taylor, Edward Phelps, and William Arnold all resided in New Poquoson Parish, and their lives illustrate the different ways a resident could be bound to the community. Some people, however, lived within the parish boundaries but had no involvement with the community's activities. As a rule those without nearby family and kin did not actively participate. The only mention of John Jacket in any York County record, for example, referred to his death. Jacket, who died intestate, apparently had no relatives in the area and parish resident William Wise petitioned the court for possession of the estate. In August 1673, the justices granted Wise permission to hold Jacket's estate for nine months and "if no better claime appear" Wise received the right to administer the estate. Like Jacket, William Langham apparently had no family and no involvement in the public sphere of community activity. One month after Langham's death,
the justices declared that parish resident Humphrey Tomkins would be
granted the commission of administration over Langham's estate which
included a bed, some clothes, a crop of corn and tobacco, hoes, and
a parcel of lost hogs once the legal waiting period of nine months
was over. 20

The occupation a person pursued was another factor, in
determining the level of community involvement. Just as Edward
Phelps' job as a merchant associated him with the economic life of
the community, Edmund Watts, who like Phelps had no family in the
parish, became involved in the community through the office of parish
clerk. In that capacity, Watts served as a witness for a wide variety
of legal documents presented to the court by parish residents. Un-
like Phelps, whose personal and family ties were in England, Edmund
Watts formed emotional ties with the people in the local community.
As the "loving friend" of parish inhabitant John Ensworth, he was
bequeathed a gold ring worth twenty-two shillings. 21 In his role as
godfather to Samuel Tomkins, he became part of the extended Tomkins
family. When he died, however, Watts did not bequeath anything to
the Tomkins. His entire estate went to parish residents Enos and
Elizabeth Mackintosh, who also served as the executors to the estate. 22
Thus Edmund Watts' involvement with the community of New Poquoson
Parish went beyond merely fulfilling the duties of his office.

For parish members with families in the parish, the family's
social rank played an important role in determining the type and amount
of community participation. Other than serving once as a juror, parish
resident Thomas Lloyd appeared in court only as a debtor. Not only
was he a debtor, he also had trouble paying off his debts. In December
1675, the York County Court ordered him to pay William Bailey 2100 pounds of tobacco by the next court, but when the court met in January the justices agreed to allow Lloyd one more week to pay off his debt. After Thomas Lloyd's death, the court acknowledged the poverty of his family. In 1677, his widow Mary was described as "being left in a very poore & lowe condicion with a sucking child at her breast" and the court ordered that she should have three barrels of Indian corn "if there be soe much [and], her bedd & provisions for the maintenance of her selfe and Infant." The estate was still encumbered by debts six years later when Thomas Branton married one of Lloyd's daughters and agreed to accept the debts of Thomas Lloyd who was "a very poore man."

The court, however, usually did not involve itself in the lives of the poorer members of the parish, and in turn, the poor tended to be less involved in the public sphere of community activity than the more well-off parish members. Although Nicholas Fussell lived in the parish for at least nine years, he never appeared in court even in the common credit/debt transactions, never acted as a witness to a deed of sale or any other document, never was chosen as a legatee in a will probated in York County, never held a public office, and apparently never participated in any public activities. The recording of the births of his four children in the parish register between 1668 and 1677 provides the only evidence of Fussell's presence in the community. Like Thomas Lloyd whose only involvement with the public sphere was as a debtor, Fussell's lack of involvement may indicate poverty. Undoubtedly there were other poor people in the parish, whose presence went unnoted by the keepers of the public
At the other end of the social scale were members of the merchant/planter families who made up a large part of the parish's elite. Although a small minority in the parish, this group dominated community activities through the judicial, military, and political positions it held. Of the parish's merchant/planters, William Hay was one of the most successful in combining wealth and power. From the mid 1650s until his death at the age of about fifty-seven in 1669, Hay dominated parish life. Sworn in as a York County justice of the peace in 1656, Hay served in that capacity until 1667 when, on Governor William Berkeley's nomination, he became sheriff. The York County budget for 1658 and 1659 also recorded payment of 4,370 pounds of tobacco to Hay, his salary as a Burgess. Throughout the 1660s, Hay also frequently acted as parish tithetaker, "going from house to house to bring in . . . a list of their Titheables."26

These political and judicial offices made William Hay a highly visible member of the community. He heard complaints and made judgments which affected the whole community. His large landholdings added to his power. By the time of his death, his plantation totalled over 3,000 acres. His will, probated in March 1669, indicated the diversity of his economic assets. The "whole Estate of lands, Mills, Negroes, English servants, horses, Mares, hoggs, Cattle with their increase, goods & Chattells," wrote Hay, were to be shared by his wife, his daughter, and his unborn child.27 Community acceptance of Hay's social position is indicated by their respectful use of the titles of "Captain" and "gentleman."28

Despite his many successes in life, William Hay failed in one
important respect. Although married several times, Hay did not pro­duce a son who lived to inherit his vast estate. His namesake died in 1666 only three days after birth, and the unborn child mentioned in his will also died. With no sons to inherit his wealth, power, and influential position in the community, Hay's role was filled by men marrying into the family. While none achieved his stature, all became noticeably more involved in the community after their marriages.

Within four months of her husband's death, Bridget Hay had remarried and her new husband, Thomas Hunt, quickly embarked in credit/debt suits involving William Hay. Although Hunt died in 1670 or 1671, in the short span of time he was married to Hay's widow and tried to arrange Hay's finances, he was more involved in the economic sphere of the community than he had ever been in his twelve years in the parish. Similarly, Bridget Hay's next husband, John Heyward took over the responsibility of managing Hay's finances, but he also became involved in other aspects of the community's activities. In the years following his marriage, Heyward served as a jury member, witnessed various types of documents, appraised estates, and acted as an attorney for other people. Before his marriage, Heyward appeared in court only once. In this 1670 appearance, the court convicted Heyward of fornication and ordered him to receive twenty lashes as a punishment. Past misdeeds apparently did not prevent Heyward from becoming a successful member of the community. After his marriage to Hay's thirteen-year-old daughter Elizabeth in 1680, Samuel Snignell also became more deeply involved in the com­munity, serving on juries, acting as an attorney, participating in large land exchanges, and holding the office of constable.
Since a family's social rank helped determine the amount of community involvement by its members, entering the "right" family through marriage was one way to gain influence and prestige in the community. For families lucky enough to escape the ravages of Chesapeake demographic conditions, wealth and power passed down through inheritances. The Cheesman family enjoyed considerable success in maintaining its level of involvement and position of influence in the community throughout most of the seventeenth century.

John Cheesman was in York County as early as the 1630s when he received land patents totalling 2,100 acres, some of them on the New Poquoson River. During his thirty years in Virginia he served as a justice of the peace, a burgess for York County, and a captain in the militia. By 1662, he had returned to England, but for £50 yearly rent, 150 pounds of bacon, and 100 pounds of "Sweetscented topleafe tobacco," John Cheesman let all his York County lands and personal property to his brother Edmund Cheesman of "Poquoson Parish."[33]

After John Cheesman's death, the land went to Edmund, who also acquired land and property on his own. When Edmund's will was probated in 1674, it mentioned land at Milford Haven, land near Chisman's Creek adjoining the New Poquoson River, land in New Poquoson Parish near the York River, millstones, and an iron works.[34] Like his brother, Edmund also served as a York County justice of the peace.

Edmund Cheesman's children, Thomas and Edmund, inherited both the land and prestige. By the time his father died, Edmund had risen to the rank of captain. He also served as a York County justice, was nominated for sheriff in 1673, and was chosen to list the tithables for upper New Poquoson Parish in 1673, 1674, and 1675.[35] His younger
brother Thomas became a justice of the peace in 1680 at the age of twenty-eight. Throughout the 1680s, Thomas was chosen repeatedly to list the tithables of the parish. In 1685 he followed in his uncle's footsteps and achieved the prestigious political office of York County Burgess. He also increased his already considerable landholdings. By the time Captain Thomas Cheesman wrote his will in 1711, he possessed land in Yorkhampton Parish, Warwick and Gloucester Counties, as well as in New Poquoson Parish. 36

Just as the presence or absence of family ties and the social rank of the family influenced the level of community participation, family was also one factor in determining a person's contact with the world beyond New Poquoson Parish. These vertical ties were often based on the horizontal or familial element of community. Parish cooper Thomas Crandall had a business as well as a personal relationship with his brother Charles Fowson, a cooper in adjoining Warwick County. In 1670, the York County Court stepped in to settle a dispute between the two men. The justices ordered Crandall to pay his brother 680 pounds of tobacco "being the remainder of a greater sum" along with "2 barrells, 1 headknife, 1 crasse, 1 pair of compasses, 1 frowe, 1 handsaw, 1 spokeshane & a new sett of coopers tooles." 37 Despite the court's decision, Thomas Crandall apparently harbored no ill will towards his brother and within the next year he had twice appointed his "loving brother" Charles Fowson to act as his attorney. 38

Parish planter/merchant Samuel Trevillian also had business connections based on family ties. As a Virginia merchant, many of Trevillian's business contacts were with men in England and after his death these men petitioned the York County Court to collect their debts.
With one of these men, John Plater, an English cheesemonger, Samuel Trevillian had entered into a joint business agreement along with an English relative named Anthony Trevillian. The justices reviewed the agreement and declared that despite Samuel's death, the obligation to Plater was "still in full force" and ordered Anthony Trevillian to pay him 1,000 pounds of tobacco.39

The nature of Samuel Trevillian's work made it necessary for him to have contacts with the world outside of the parish and some of those contacts happened to be with relatives. Similarly, others in the community pursued occupations which involved them in the world beyond the parish boundaries, but such vertical ties were not always based on family. Although Thomas Gardner, who in 1681 was identified as the master of the James, lived in New Poquoson Parish, his travels brought him in contact with people living in England. In 1671 the York County Court accepted "London chirugeon" Richard Helme's appointment of Gardner as his attorney to gather in debts owed to him.40 Slightly over a year later, Gardner travelled to England and witnessed a similar document in which Samuel Edwards "London Marriner" appointed a Gloucester County man as his attorney.41

Pursuing the occupation of merchant or marriner required contact with the outside world. The economic ties of other, perhaps more typical, parish residents were not always so extensive. Parish planter William Gill's economic ties centered almost exclusively on other parish residents. When he died in 1680, the account of his estate revealed that of the ten people who owed him money, only one did not live in New Poquoson Parish. In turn, Gill was in debt to eighteen parish members.42

John Nickson, a more prominent parish member who had served as
constable and surveyor of the highways had a greater number of outside business ties than Gill. Of the sixteen individuals to whom he owed money at the time of his death, four apparently did not live in New Poquoson Parish. Nickson owed the largest sum of money to one of these non-parish members. He was indebted to prominent Hampton Parish, York County resident Dudley Diggs Esq. for a total of 2,492 pounds of tobacco. Nickson owed the next largest sum of money, 1,000 pounds of tobacco, to his son Richard Nickson who lived in the same parish as his father. Parish members, non-parish members, family, and non-relatives all formed part of Nickson's economic world.

Thus, vertical contact was not limited to members of the "big families" in the parish. Nickson's connections with the outside world, as well as the local parish, gave him a position of influence in the community. As a holder of two minor political offices, Nickson belonged to the group of men who interpreted the larger world to the parish members. Other men such as Burgesses, justices of the peace, tithetakers and churchwardens all served as even more important links to the world outside of the community.

These men were the direct links to the outside world, and one of their duties lay in seeing that everyone in the parish fulfilled their obligations to the world beyond the parish. The tithetaker's job of tax collecting, for example, reminded parish residents of their responsibilities as inhabitants of York County. All of the county residents also had to abide by a certain moral code. Following acts passed by the Assembly, parish churchwardens attempted to uphold these standards and appeared in court to report on moral offenders. The justices of the peace, in turn, summoned the offender to court where
he or she received the appropriate punishment.

The justices not only decided what actions to take in the cases brought before them, they also had the power to order others to carry out their decisions. When Samuel Snignell complained to justice of the peace Thomas Chisman that Jonathan Davis had left York County "into some other place contrary to Law of this Country without making itt publickly known whereby Creditors might know of his sd departure," the justices declared that attachments of Davis' goods be granted to his creditors. They then ordered the high sheriff or his deputy to execute their decision. Thus, the sheriff and his deputy also served as links to the outside world.

Justices of the peace, however, probably served as the most influential ties between the community and the outside area. These men not only had the responsibility of making decisions that affected the whole community, but also of resolving small problems such as petty credit/debt disputes between two people. The justices' duty lay in keeping a vertically-defined order within a community based on the family or horizontal element.
Notes for Chapter II


2. Presumably this is a reference to Bacon's Rebellion. Although called troublesome times, they did not appear to have had too great an effect on the parish, since this was the only reference I found.

3. DOW, Book 6, pp. 27 and 79.

4. DOW, Book 5, p. 91 and Book 6, p. 20.

5. DOW, Book 4, pp. 120, 208, 339, Book 5, pp. 149-150 and 21.

6. DOW, Book 6, p. 258.


8. DOW, Book 5, p. 69.


12. DOW, Book 6, p. 41.

13. DOW, Book 3, p. 68.

14. DOW, Book 4, p. 27.

15. DOW, Book 4, p. 38.

16. DOW, Book 3, p. 98 and Book 4, p. 32.

17. DOW, Book 6, p. 66.


20. DOW, Book 4, pp. 154 and 156.


22. DOW, Book 5, p. 165.
DOW, Book 5, pp. 134 and 142.

DOW, Book 6, p. 22.


DOW, Book 1, p. 196, Book 4, p. 131, Book 3, pp. 38, 46, and 120.

DOW, Book 4, p. 229.


A 1693 bill of sale for land mentioned that William Hay's child, to whom the land was originally intended, "was abortive." DOW, Book 1, p. 418.


DOW, Book 4, p. 294.

DOW, Book 6, pp. 314, 417, 331, and 332, Book 7, p. 56 and Book 6, p. 399.


DOW, Book 5, p. 64.

DOW, Book 5, pp. 44, 31, 45, 68, and 111.


DOW, Book 4, p. 282.

DOW, Book 4, pp. 304 and 326.

DOW, Book 6, pp. 27-29.

DOW, Book 4, p. 326.

DOW, Book 5, p. 40. While it is possible that Samuel Edwards was in Virginia when he appointed his attorney, it does not seem likely. No other references exist to the other witnesses of the document. Also, the document was dated August 1, 1672, but did not appear in the York County Court records until February 24, 1673. That seven-month time span is similar to the time which elapsed after Abraham Ewers, who was definitely in England, appointed an attorney to collect his debts from Samuel Trevillian in Virginia. That deed was dated December 23, 1673, but was not recorded in York County until July 24, 1674. (DOW, Book 5, p. 79.)
Gill also owed money to three people whose identities could not be determined.

DOW, Book 6, p. 341.

DOW, Book 11, pp. 139-140.

DOW, Book 6, p. 414.
CHAPTER III
KEEPING ORDER: SOLVING THE ORPHAN PROBLEM

The York County justices faced a variety of problems during every court session. Although responsible for upholding the colony's laws, the justices of the peace took a considerable amount of leeway in applying the laws to the local parishes. Problems were resolved more on a personal, individual basis rather than by a strict adherence to the law. The law, for example, denied aliens like parish resident Henry Vandoverage Faison the right to full participation in their new country. Not until Faison appeared before the Grand Assembly held at James City in a naturalization ceremony did he officially become "capable of free traffick & trading taking upp & purchasing conveying defising and inheriting of lands & tenements."¹ That ceremony took place in September 1672, after Faison had spent nearly twenty years in New Poquoson Parish. During those twenty years, however, he had acted as an attorney, had received land grants for importing servants, and had served as a grand jury member.² The justices, as well as other parish members, had accepted Faison into the community long before formal legal recognition was accorded him.

The justices also often overlooked the exact letter of the law once the individual circumstances surrounding a case became known. Parish resident Thomas Bevens, for example, had his fine for not appearing when called as a jury member remitted because his wife had
been ill. 3 Similarly, the justices remitted David Lewis Sr.'s fine for failing to list himself for tax purposes because he had been infirm when the list was taken. 4 "Age and inability of body" convinced the justices not to require Lawrence Platt to appear in court as part of the normal procedure for proving a will. 5

Individual circumstances rather than the law also guided the justices in dealing with a problem over which they had little control. The constant presence of death threatened the very existence of families in the community. Lacking the power to stop death, the justices faced the task of trying to control events happening in its aftermath. One crucial responsibility was taking care of parish orphans. Not only did underaged orphans have to be cared for physically, the justices also had to concern themselves with the protection of any estate due to the orphans. Once again, the family played an important role in determining whom the court became involved with and how the court resolved the problem.

A child in the seventeenth-century Chesapeake who reached his or her majority with both or even one parent still living was a fortunate child. Examining a sample of 239 children born in Middlesex County, Virginia between 1655 and 1724, the Rutmans found that 73.2 percent had lost one or both parents by the time they had reached their majority. 6 The situation in New Poquoson Parish was equally grim. Between 1660 and 1740, 66.8 percent of the parish children had lost at least one parent by the time they reached adulthood. 7

Not only were sons and daughters likely to go through adulthood without parents, many spent most of their childhoods as orphans. Almost a quarter of Middlesex County's children lost one or both parents...
by their fifth birthday. In New Poquoson Parish between 1665 and 1675 ninety-two men became fathers, but eighteen or 19.56 percent died during the same ten-year time span. These men left behind twenty-eight underaged children whose mean age was only 5.64 years old (see chart following page 37). Without fathers, these children were considered orphans. The York County justices had to supervise the provisions made for these newly orphaned children, as well as deal with the continuing care of other underaged orphans.

Not all orphans, however, depended on the York County Court to decide their futures for them. In addition to designating specific legacies, many wills also named someone to oversee the estate and the upbringing of any children. Although free to choose whomever they wished, male parish testators nearly always chose their wives to act as executrices or estate managers. Along with overseeing the estate, the widowed executrix also assumed the role of guardian to her children even if the will did not specifically name her to that position. The York County Court recognized the importance of keeping the family together and the justices never stepped in to replace a mother-executrix with another guardian. Nor did the court require her to submit a yearly report of the orphan's estate as stipulated by law. The justices apparently believed that the widow's maternal instincts would provide the best possible care the orphan could receive.

Of course, not all parish men left wills to protect their estates and children. Since wills frequently were not written until only a few weeks or even days before the testator died, many people died without ever getting around to making a will. When a man died intestate, the court had the responsibility of naming someone to act
<table>
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<tr>
<td>Robert Colvert</td>
<td>1666</td>
<td>1</td>
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<td>John Figg</td>
<td>1668</td>
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</tr>
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<td>Robert Kerby</td>
<td>1668</td>
<td>6</td>
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<td>Elizabeth Hay</td>
<td>1669</td>
<td>1</td>
</tr>
<tr>
<td>Anne Harman</td>
<td>1669</td>
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</tr>
<tr>
<td>David Lewis</td>
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<td>16</td>
</tr>
<tr>
<td>John Lewis</td>
<td>1670</td>
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<td>Robert Shield</td>
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<tr>
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<td>1671</td>
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<tr>
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<td>1673</td>
<td>2</td>
</tr>
<tr>
<td>Argall Trevillian</td>
<td>1673</td>
<td>.?</td>
</tr>
<tr>
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<td>Thomas Cable</td>
<td>1675</td>
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</tr>
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<td>1675</td>
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<td>Richard Hunt</td>
<td>1675</td>
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<td>Mary Evans</td>
<td>1675</td>
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</tbody>
</table>

N = 28        Mean = 5.64

Source: York County Court Records, Virginia
as an administrator. Posting a bond and providing security to ensure the court of an ability to fulfill the duties of administrator enabled a person to have the same basic powers as an executor. The court justices, like the male testators, frequently named widows to act as administrators.⁹

Granting administrative powers to widows, especially widows whose husbands left only a small estate, was often an economic necessity for the survival of the family. Although the York County Court never officially named Suzannah Crandall administrator to her husband Thomas' estate, they granted her essentially the same power. When Suzannah Crandall appeared in court trying to collect 800 pounds of tobacco, 2 hogsheads of cider, and two forty-gallon casks owed to her from the estate of Leonard Jones, the court decreed that "liberty [should be] given sd. wd. to gather in & dispose of what debts she shall find belonging to her husband's estate for his owne & childrens sustenances."¹⁰ Parish cooper Thomas Crandall had died a month earlier, leaving Suzannah four months pregnant and in charge of their four-year-old and seven-year-old daughters.

Whenever possible, therefore, both the testators and the court tried to keep the family together by entrusting the care of the orphaned children to their mothers. Such an arrangement, however, was not always possible. Some children were already motherless when their fathers died and others lost their mothers long before reaching maturity. In these cases, the court had the responsibility to step in and appoint a guardian to protect the orphans and their property.

To assist the local justices of the peace in dealing with the problem of orphan care, Virginia's General Assembly passed a series of
acts throughout the latter half of the seventeenth century defining
the nature of the guardian-orphan relationship and establishing guide­
lines for court intervention. Guardians were required to deliver to
their local county courts security for the estate in their care and
"an exact accompt once everie year . . . of the said estates and of
the increase and improvement." The law also required guardians to
"educate and instruct them [their wards] on and in rudiments of learn­
ing." If guardians failed to meet their responsibilities, the
county courts had the power to have the orphan's estate "changed or
called in and placed as the court shall think best."

The phrase "as the court shall think best" allowed the local
justices of the peace considerable freedom in interpreting the law.
Although the acts passed by the General Assembly did contain provisions
for the care of poor orphans, the court exhibited little interest
in the fate of the poorest orphans in the community. According to
the acts, orphans whose estates could not bear the cost of an education
became apprentices in a trade until twenty-one. Those who were not
bound apprentices were given the "produce of their owne labours and
industry" upon reaching the age of seventeen although they still re­
mained under a guardian's care. Historian Lois Carr noted in her
study of Maryland's Orphans' Court that even though a poor orphan
would benefit a guardian through his or her labor, rarely did anyone
petition for their guardianship and the court usually did not become
involved in their care.

A similar situation existed in New Poquoson Parish. Among
the eighteen fathers who died between 1665 and 1675, eight left no
wills and of these eight, the justices had no involvement in three
cases. Edward Cable, William Cook, and Thomas Mason appear to belong to the group of people who lived in the parish but had little involvement with its activities. None of these men had ever held office, been a party in land transactions, acted as a witness, or had been involved with credit/debt suits. Of the three, only Edward Cable ever definitely appeared in court. Although they left behind four orphans, the oldest of which was only three years old, the court did not name their mothers as administrators; nor did it choose anyone else to serve as guardians. The Cable, Cook, and Mason families were probably poor and their position outside the hub of community activity apparently influenced the York County Court's lack of involvement.

In sharp contrast to the lack of interest in the fate of poor orphans, the justices became more involved in the futures of wealthier orphaned children. Although the York County justices named New Poquoson Parish resident Thomas Harwood a co-administrator along with David Condon to the estate of Lieutenant Colonel John Scasbrooke, they declined to choose who should act as guardian to Scasbrooke's four children. During his life, York Parish resident John Scasbrooke had served at least eight years as a justice of the peace, had acted as the tithetaker of the parish, and in 1674 became High Sheriff of York County. The justices called upon the governor and council to decide if this prominent man's estate "be in Thomas & Lydia Harwoods possession as Aunt to the said orphs or in the execrs. to last will & test." One month later, in July 1679, the York County Court recorded the granting of a joint administration to Thomas Harwood and David Condon on behalf of the orphans.
Thus the wealth and social status of the orphan's family influenced the level of concern displayed by the judicial system. Indeed, the laws even stated that if it became necessary for the court to make changes in guardianship arrangements, they should be careful to do so "according to their estates and qualities."20

One way to ensure that the orphan remained with people of an equivalent social rank was to keep him or her with other family members. After mothers, stepfathers were the people most likely to act as guardians to orphaned children. Though common, such an appointment was not automatic. Robert Shield's mother died in 1674, but Robert's stepfather William Wetherall did not assume guardianship over Robert until 1678. During the four year gap, another parish resident John Heyward acted as guardian at least part of the time. In December 1678, the York County Court ordered Heyward paid for "diett lodging, washing & schooling" he had given to the orphaned Robert.21 At the same court session, Robert requested the court to appoint his stepfather as guardian.22 The justices acquiesced to Robert's wishes, although only eight months earlier they had agreed to his request to allow parish resident Samuel Snignell to serve as his guardian.23

In allowing Robert to choose his own guardian and then change his mind, the justices were once again not strictly adhering to the law. According to the law, once an orphan turned fourteen he or she had the right to appear in court to request a new guardian.24 The justices, however, went along with Robert's wishes although he was only eleven. Mary Evans, another parish orphan, was also only eleven
years old when she chose her own guardian. The justices gave orphans a great deal of responsibility in deciding their own futures.

The court justices not only tried to place orphaned children with either a natural or step-parent, they also promoted family cohesion by keeping orphans together as a group. When parish resident John Heyward died, he left behind his wife Margaret and three underaged orphans. Within a few months, Margaret married William Colvert and William, Henry and Elinor Heyward stayed with their mother and stepfather until their stepfather's death in 1666. In the next five years, the Heyward children remained together through three different guardians. William Hay, an overseer to Heyward's will, served as their first guardian until Henry, the oldest Heyward orphan, appeared before the justices requesting parish resident Roger Long as his guardian. The justices placed all the Heyward children with Long and he remained their guardian until he drowned in 1670. One month after Long's death, the court ordered another parish inhabitant, Gerrard Conmer, to take possession of Long's estate and he became the children's next guardian.

Conmer's guardianship, however, was short-lived. In 1671, Elinor Heyward married and left Conmer's care. In 1672, Henry turned twenty-one and inherited his portion of the estate. Within a few months, the court appointed Henry as guardian to his younger brother, William and William stayed with his brother until reaching his majority in 1680. Although the Heywards apparently lacked immediate kin in the area, the justices, through their overseeing of the orphans' care, managed to keep a Heyward family as intact as possible.

Similarly, the justices kept Thomas and Francis Penrice together
when in April 1668 they lost both their mother and stepfather. During that same month, the court agreed to the boys' petition that Robert Everitt act as their guardian. Within a year, however, problems arose over Everitt's management of the estate. Unlike the Heyward orphans, Thomas and Francis Penrice had relatives in the parish to whom they could turn. With Everitt's consent, Robert Penrice, a parish carpenter, was appointed guardian in 1669. Penrice family cohesion was once again maintained when, ten years later, Francis Penrice became guardian to the orphaned children of his brother Thomas.

By keeping orphans from the same family together and, whenever possible, placing them with their mothers or other relatives, the court tried to minimize the children's loss. Presumably, family members would also be more concerned with the physical and financial well-being of the orphan than an outsider. Occasionally, however, family members did not live up to the justices' expectations and the court stepped in to protect the orphan. In doing so, the justices thought of themselves as "fathers of poor helpless Orpts."

Once a guardian had been found, the responsibility of the justices towards the "poor helpless orphan" was largely a matter of requesting a yearly accounting of the estate, unless an abuse was brought to their attention. The community played an important part in reporting abuses. "Personal knowledge of individual people and their circumstances that could only be had by neighbors," wrote historian Lois Carr, "was considered vital to orphan court procedures." And indeed, through "severall Complts being made to this Ct," the York County Court learned that the orphaned Elinor Gill was being abused by her stepfather John Metcalf.
Along with parish resident, James Forsith, John Metcalf in 1680 was named as an executor to the estate of New Poquoson Parish planter William Gill. According to Gill's will, the estate was divided into three parts with two parts going to his daughter Elinor and the other part to his widow. The executors had the responsibility of bringing up Elinor and holding her estate until she came of age. In the event that Elinor died before reaching adulthood, her share in the estate reverted to Gill's widow. At the same court session in which Gill's will was probated, James Forsith relinquished his executorship, leaving Metcalf solely in charge of the estate.

John Metcalf wasted little time in taking advantage of his situation. One year later, Metcalf faced charges of having "in a most Gross and evell manner abused & treated sd Orphit [Elinor Gill]." "If speciall care were not taken," continued the justices, "the hard usage she underwent might endanger her life." The justices went on to note that if Elinor died her part in the estate would go to Gill's widow who had since married John Metcalf. Although Elinor's mother was still alive, the court felt compelled to remove her daughter and her portion of the estate. Elinor became the ward of Agnes Hulett and her estate went into the hands of Henry Howard [Heyward]. Although family ties may have earned Metcalf the role of guardian, the justices did not hesitate to remove an orphan who did not receive adequate care.

The manner in which New Poquoson Parish confronted the problem of orphan care reveals once again the importance of family ties. Testators sought to keep their families together by including detailed instructions concerning their children's futures. The York County
Court justices, wishing to preserve community order, also tried to keep family groups intact. In this way, disputes over the child's estate or physical well-being were less apt to occur since the orphan was under the care of its mother or another family member. The larger the orphan's estate was, the more likely conflict would arise and perhaps that explains in part why the justices took a greater interest in the care and placement of well-to-do orphans. The poorer orphans in the parish were often overlooked by the justices. Just as membership in a family and that family's social status influenced how involved a person became in the activities of the community and the outside world, the same factors influenced the justices' level of concern with the orphans. Family was an important element in assigning people roles in the community of New Poquoson Parish.
Notes for Chapter III

1 York County Court Records, Virginia, Deeds, Orders and Wills (DOW), Book 5, p. 36.

2 DOW, Book 4, pp. 51, 142, and 316.

3 DOW, Book 5, p. 127.

4 DOW, Book 4, pp. 119 and 125.

5 DOW, Book 6, p. 369.


8 Rutman, "'Now-Wives and Sons-in-Law'": p. 158.

9 In granting the administration of the husband's estate to the widow the justices were following English common law procedure. According to Sir William Blackstone, if the deceased died intestate "the ordinary is compellable to grant administration of the goods and chattels of the wife, to the husband, or his representatives: and of the husband's effects, to the widow, or next of kin, but he may grant it to either, or both, at his discretion." (Sir William Blackstone, Commentaries on the Laws of England. Introduction by A. W. Brian Simpson (Chicago: University of Chicago Press, 1979), Book 2, p. 504.

10 DOW, Book 5, p. 62.


On June 24, 1672, Edward Cable served as a witness to an account of the estate of parish resident Thomas Foote's orphans. (DOW, Book 5, p. 18) The presence of two William Cooks living in the area at the same time made it impossible to distinguish which was one the father of Mary. Thomas Mason never appeared.

William Colvert probably died a widower. Not only was Margaret Colvert not named as executrix, she was not even mentioned in his will. There were no further references to Margaret after her marriage to Colvert.

38 Dow, Book 6, p. 246.
39 Dow, Book 6, p. 233.
40 Dow, Book 6, pp. 340-341.
41 Dow, Book 6, pp. 340-341.
Although sociologist Richard Clayton directed his remarks about families towards the Israeli kibbutz, Soviet families, and the nineteenth-century Oneida community, his observations seem to apply equally well to late seventeenth-century New Poquoson Parish. "The family system," wrote Clayton, "was altered to meet the demographic, environmental, technological, and organizational contingencies facing the persons and groups involved." A number of factors facing the residents of New Poquoson Parish hampered the survival of the family, as well as the formation of communities. The environment of the Chesapeake favored the growing of tobacco and the tobacco economy in turn dictated that the growers live in dispersed groups rather than in the small geographic area characteristic of New England communities. The harsh demography of the Chesapeake was also a deterrent to family and community formation. Yet parish residents persisted in trying to maintain families since families played such an important part in rooting people to one another, to the local area, and to the world at large.

Although divisions did exist in the parish community, such as the way orphans from different families were treated, residents nonetheless held some things in common. One definition of community includes sharing a common outlook on life and for New Poquoson Parish inhabitants, the presence of death was a unifying factor in how they organized their lives and in particular their families. To provide
economic as well as emotional support, family boundaries were stretched to encompass quasi-relatives and people such as godparents who were not relatives at all. When death did strike, the legal system also did its best to keep families together. Considerable care was taken to preserve families because they provided people with a sense of belonging to the parish community, while those without families often existed only at the periphery of the community and its activities.

Although perhaps not the "well-ordered" families mentioned by historian Daniel B. Smith,² the Chesapeake family survived despite difficult conditions. Parish residents adjusted the basic nuclear family unit of mother, father, and children to fit the realities of their world. Family groupings gave the parish a sense of order in a sometimes chaotic world. Families also were a primary source for the "relationships marked by mutuality and emotional bonds"³ necessary for the existence of a community.
Notes for Conclusion


APPENDIX

The Promise and Pitfalls of Court Records

In his book *Reconstructing Historical Communities*, Alan Macfarlane addresses many of problems inherent in dealing with primary documents such as court records. Although his discussion specifically deals with records from England, his observations apply equally well to the York County, Virginia, court records.

One problem immediately confronting the researcher is trying to identify the individuals within the area of study. People with the same name can be nearly impossible to sort out. A William Allen described as "a dutch man" died in New Poquoson Parish in 1672, for example, but during that year and again two years later another parish member named William Allen became a father. The court itself also contributed to the problem of identifying people with its erratic spelling of names. Parish resident Thomas Kibble, for example, also appears in the court records as Thomas Keeble. The records also frequently fail to distinguish between fathers and sons with the same name.

Other ambiguities in the records are not caused by the court's lack of precision, but by the researcher's lack of understanding of what was probably perfectly comprehensible to the people of the time. When on August 24, 1668 a York County jury reached a decision, the court records cryptically states that "the jury gave their dyes to Mr.
The only other reference to James Woods is to his death slightly over a week later, thus leaving the researcher no clue of who Woods was or in what capacity he acted in with the jury. Similarly, the meaning is not clear to the modern researcher when the court records accepting "lining cloath" from Thomas Cheesman for the 1694 country budget.

The researcher should also be aware of possible gaps in the records. Over a period of several hundred years, court records, like any other historical document, may have been scattered in several locations or may be missing entire sections. Other gaps result from what the court did not bother to record. Often important historical events are omitted. Local records, declared Macfarlane, "represent only a tiny fraction of the past." Indeed, a researcher focusing on New Poquoson Parish residents in the York County court records would be almost entirely unaware that Bacon's Rebellion ever took place. Only one reference to "the late troublesome times" exist in the records.

Another source of gaps in the records are caused by what the court did not consider important enough to involve itself with in the local community. Some people such as women, children and the poor, are under-represented in the records. Although impossible to flesh out their lives as completely as the more prominent parish members, these people are not necessarily entirely hidden from the researcher. By combining as many sources as possible, something can be discovered about almost everyone.

Indeed, the opportunity to learn more about the average people of a particular time and place is one of the most attractive features of using local records. While the leaders of New Poquoson Parish such
as William Hay and Edmund Cheesman dominate the court records, their activities would probably not warrant them a place in conventional history books about seventeenth-century Virginia. They did not contribute anything beyond what other prominent families of other parishes in other counties in Virginia did throughout the same time period. Through the court records their lives, as well as the lives of more average parish residents are illuminated. Despite the difficulties, these glimpses into the underside of history make the examination of documents such as court records a worthwhile and rewarding endeavor.
Notes for Appendix

1York County Court Records, Virginia, Deeds, Orders and Wills (DOW), Book 4, p. 199.

2DOW, Book 10, p. 56.

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