Married Women’s Wills: Probate, Property and Piety in Later Medieval England

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Married Women’s Wills: Probate, Property and Piety in Later Medieval England

In 1487 Master William Chaunt, notary public and proctor general of the court of Canterbury, held that it was “the custom [consuetudinem] of the kingdom of England [that] a married woman, first having obtained license [licencia] from her husband, can make a testament concerning her own property [bonis paraphonalibus et distinctis]”.¹ In 1497 Chief Justice Fineux argued in the King’s Bench that, “by ecclesiastical law she [a wife] can appoint an executor of her paraphernalia [son apparel de son corps] though they belong to the husband at common law, and she requires his consent at common law”.² Both these legal disputes - one in a church court, one in a common law court - had


their origins in a married woman making a will at the end of the fifteenth century and
there being some disagreement about whether such a will was valid. In both cases those
who believed that a married woman could make a will did so by setting out clear
parameters for such an act: she must secure her husband’s permission (the King’s
Bench case discussed if this needed to be explicit or could be implied) and only
bequeath her own personal property (and here the lawyers argued about what might be
said to be the wife’s own).

In the King’s Bench case, the Chief Justice referred back to an earlier case (1426) in
which a Justice had argued that it did not matter if canon law allowed a married woman
to make a will, in this court “our law” prevailed and under this law she had no
possessions.³ Although this view was not the majority one in this particular court room,
it sets up well the clash between the canon and common law positions on married
women’s wills. The scholarly consensus, cemented by Richard Helmholz’s essay of
1993, is that the common law position prevailed, at least to the extent that the Church
did not succeed in convincing people that married women did not need their husbands’
consent to make a will but perhaps also to the extent that married women largely
ceased to make wills from around 1440 or 1450.⁴ I will summarize the debate about the

³ Trin. 4 Hen. VI pl. 21 f. 31; Seipp 1426.050; discussed in Sara M. Butler, “Discourse on
the Nature of Coverture in the Later Medieval Courtroom”, in Married Women and the

⁴ Richard H. Helmholz, ”Married Women’s Wills in Later Medieval England”, in Wife and
common law and canon positions below, adding in the position of customary law. I will then review the studies of married women’s will making in practice, adding some of my own statistical findings in order to argue that there was regional variation in the late fifteenth century. The article will then focus on the deanery of Wisbech 1465-77, its linked diocese of Ely 1449-1505, and the Archdeaconry of Buckingham 1483-97, where married women made wills in significant proportions and had them proved. In particular, a focus on court books (for Wisbech and Buckingham) which included visitation material, enrolled wills, and probate acta, enables more to be said about the kinds of married women who made wills and their possible motivations for so doing. The article argues that, in these areas, as well as a continued tendency for wives who had some land or buildings to make wills, wives who were married to, or had other close connections with, men who acted as churchwardens or jurors in church courts might also have their wills proved, even when they had little to bequeath. It will thus add another dimension to the debate about the impact of different legal jurisdictions on the property rights and legal abilities of married women, one that allows for more fluid practices.

Married women’s wills: the legal position

In late medieval England, church courts had primary probate jurisdiction and, according to canon law (following Roman law), married women were fully capable of making a testament of their separate property. English ecclesiastical legislation in the thirteenth and fourteenth centuries set out that husbands must not prevent their wives making wills, under pain of excommunication. However, the matter of probate jurisdiction was one of customary practice in England, not a canonical principle. This is one of the reasons Helmholz offers for why there was room for development in the legal position concerning married women making wills.

While some people in this period made a “last will” for land and a “testament” for chattels, this separation was not always made. The lack of a clear distinction between a

5 Helmholz, “Married Women’s Wills”, 166.
8 Helmholz, “Married Women’s Wills”, 175.
9 See Michael M. Sheehan, The Will in Medieval England: From the Conversion of the Anglo-Saxons to the End of the Thirteenth Century (Toronto: Pontifical Institute of Mediaeval Studies, 1963), 178, 192; E. F. Jacob and H.C. Johnson (eds), Register of Henry Chichele Archbishop of Canterbury, 1414-1443, 4 vols, Canterbury and York Society, 42,
will and a testament is also evident in some contemporary discussions about whether
married woman could bequeath property, which is significant because, under common
law, a married woman owned no chattels.\textsuperscript{10} Under common law, with its doctrine of
coverte, on marriage a husband became guardian of his wife’s lands, whether they
were part of her dowry or she inherited them, but she retained ownership and so when
the marriage ended she should be able to recover them. With chattels, including those
she received after marriage, the husband became the owner, with the possible
exception of her clothes and jewelry.\textsuperscript{11}

The earliest treatises on English common law indicate that the initial common law
position was that a married woman could not make a will without her husband’s
consent. The late twelfth-century treatise known as \textit{Glanvill} stated that because “she is
in the power of her husband” (“\textit{in potestate viri}”), any chattels are his. However, it did
go on to suggest that it would be “kind and creditable” for a husband to allow his wife to
dispose of that third part of his goods that she would have obtained had he died first.\textsuperscript{12}

\textsuperscript{10} Donahue Jr, “Lyndwood’s Gloss”, 20 n. 3.

\textsuperscript{11} Sheehan, “Influence of Canon Law”, 113; Donahue, “Lyndwood’s Gloss”, 34-5;

Frederick Pollock and Frederic William Maitland, \textit{The History of English Law Before the
Time of Edward I}, 2 vols (2\textsuperscript{nd} edn; Cambridge: Cambridge University Press, 1911), II,
407-27.

\textsuperscript{12} G. D. G. Hall (ed.), \textit{The Treatise on the Laws and Customs of the Realm of England
The division of a man’s movables into thirds, if he had children (halves if he did not), originated in England as a customary rule and was widespread by the end of the reign of Henry I. The husband should leave a third of his goods to his widow, a third to his children and his testament would then concern the final third, which he could freely bequeath.

The treatise known as Bracton, largely composed in the late 1220s and early 1230s, was in agreement with Glanvill that allowing a wife to bequeath her third was “only proper” (“propter honestatem”), and added “especially things given and granted her for personal adornment, as robes and jewels, which may be said to be her own”. Although the term “paraphernalia” was not used as yet, this is what came to be understood in common law by that term. Neither of the statements in Glanvill and Bracton about what wives might have been able to bequeath had the force of common law, but they are allusions to contemporary practice in the late twelfth and early thirteenth centuries.

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15 In a King’s Bench case of 1311, the serjeants argued about whether a married woman might make a will of the third share. One argued that it was against common law. Justice Rothbury cited clause 18 of the Magna Carta of 1225, which referred to the reasonable
Glanvill stated with reference to husbands allowing their wives to bequeath a third share: “many husbands in fact do this, which is much to their credit.”  

The question of whether a married woman needed her husband’s consent to make a will or not was publicly contested in 1344. The Archbishop of Canterbury John Stratford had issued a provincial constitution in 1343 stating that anyone who hindered married women from making a will, including their husbands, should be excommunicated from the church. This led to a Commons petition to the king in 1344, which seemed to object to the very idea that married women could make wills: “the commons pray: that whereas an ordinance was made by the prelates … that bondsmen and married women [femmes] might make a will, which is unreasonable, may it please him and his good council to ordain remedy”.  

shares belonging to wives and children, as support but the serjeant responded that it referred to the woman as widow: Year Books of Edward II, ed. G. J. Turner, vol. 10, Selden Society, 63 (1944), 241; Seipp 1311.295ss.  

16 Hall (ed.), Treatise on the Laws, 80: “quod plerique mariti facere solent, unde merito commendabiles effociuntur”.  


18 Chris Given Wilson (ed.), The Parliament Rolls of Medieval England, 1275-1504 (Leicester: Scholarly Digital Editions, 2005), hereafter PROME, June 1344, ii-149, IX. I have altered the translation of “femmes” from women to married women as that makes more sense in this context. The citizens of Dublin, also under the rule of the English
As Charles Donahue reminded us, we should be wary of assuming that the canon legal position had been “overwhelmed by the force of the common law” by the middle of the fifteenth century, even if it was in the sixteenth century.\(^\text{19}\) He demonstrated how William Lyndwood’s gloss “propriarum uxorum”, part of his canonical commentary Provinciale (completed by 1430), deliberately adopted a broad understanding of “paraphernalia” - all that is hers except the dowry, and those acquests attributable to it - in order to argue that a married woman did not need permission to dispose of something that she was considered to own.\(^\text{20}\) The year book evidence suggests that around the same date common lawyers had a much narrower definition of paraphernalia; given the small number of legal treatises written in late medieval England, the year books are our principal source for the development of common law doctrines and concepts.\(^\text{21}\) A debate in the Court of Common Pleas in 1454, recorded in a year book, about whether a widow effectively took on liability for her deceased husband’s estate when she accepted delivery of certain goods, speaks to what the crown, made a similar complaint in 1347: John T. Gilbert (ed.), Calendar of Ancient Records of Dublin, I (Dublin: Dollard, 1889), 145.

\(^{19}\) Donahue, “Lyndwood’s Gloss”, 37; here he was responding to, amongst others, Sheehan, “Influence of Canon Law”, 120, 123-4.


\(^{21}\) On year books see n. 2 above.
justices considered a woman’s own property as opposed to her husband’s. The justices argued about whether she even had a right to her own clothing; two justices argued that the widow should not receive her apparel nor any other goods until the question of administration had been settled, another argued that she could have what apparel canon law stipulated, and two others maintained that she could have suitable (“convenient”) but not excessive (“excesse”) apparel.22

We also need to consider the status of married women’s property under customary law. Bracton and Glanvill both referred to what was common practice in England and, as we saw earlier, in 1487 an ecclesiastical official referred to “the custom” of England. However, there were also regional customs. Bracton mentioned that in the city of London it was the custom that a wife would not get a third share if she had a specified dower from her husband; a Cambridge custom of 1299 specified that the wife should be allowed a half share.23 There are a number of boroughs that recorded their stance on married women’s ability to make wills; civic governments required wills that affected their jurisdiction – in that they, for example, concerned burgage tenure or the protection of orphans - be enrolled before them too.24 In some of these the custom was little more than a reminder that a husband must consent to his wife’s will (for example,

22 Mich. 33 Hen. VI fo. 31b; Seipp 1454.041. See also Mich. 18 Edw. IV fo. 11b; Seipp 1478.075.


Bristol c.1240, Lincoln 1480-1) but in others it set out restrictions on what real estate a married woman could bequeath even with her husband’s consent (for example, Ipswich 1291, Godmanchester 1324, London 1419).\(^{25}\) In terms of movable goods, there were also specific customs about what constituted “principalia” (heirlooms), which were reserved to the heir, usually the equipment needed for the household and its work.\(^{26}\) In Leicester, according to a custom recorded in 1293, after the death of a father the heir should get “the best boiler, the best brass pot, the best basin with the laver, the best mazer, ... the best table, with the best table-cloth”.\(^{27}\) In Godmanchester 1312-13, it was decided that if the wife received some of the “principalia” she should pay a deposit to the heir in case she damaged them.\(^{28}\)

Janet Loengard has demonstrated that what was viewed as the wife’s “paraphernalia” also varied regionally. For example, in the province of York and the city of London (perhaps the southern province in general) it included her bed and a chest; in London she might keep “her chamber”, that is, all cloths belonging to it such as linen and wool

\(^{25}\) See Bateson (ed.), *Borough Customs*, II, 108-11.

\(^{26}\) Sheehan, *The Will*, 295.

\(^{27}\) Bateson (ed.), *Borough Customs*, II, 141.

\(^{28}\) Bateson (ed.), *Borough Customs*, II, 141-2. The equivalent Scottish custom also applied to mothers: Ibid., 138-40. Some of the English customs, including that of Godmanchester, referred to the death of parents or ancestors, which could be gender-neutral, although the latter goes on to make clear it concerns a man’s death: Ibid., 141 (“parentum suorum”); see also 142 (“antecessorum suorum”).
for the beds. Helmholz has also argued that the custom of giving a third to one’s children, *legitim*, was only preserved in parts of England by the end of the fourteenth century, again primarily the province of York and a few places in the south such as the city of London. These findings move us onto the realm of practice. Did married women make wills and, if so, of what kind of property and were there regional variations?

**Married Women’s Will Making in Practice**

The first foray into the area of married women’s wills was by Michael Sheehan in 1963. He cautioned that it was hard to deduce how frequently wives made wills as most early extant wills survived because they concerned land, which was less likely to be a feature of married women’s wills. However, he examined a printed consistory court register for the diocese of Rochester pertaining to the years 1347-8 and found that of 186 notes of probate (also known as probate *acta*), fifty-seven pertained to women’s wills (30.6%) and twenty-six certainly belonged to those of married women (and probably at least five others; 14.0-16.7%). Sheehan concluded that, despite the common law position, married women “very often managed to distribute property at death.”

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1982 essay also argued that we need to examine practice, suggesting that such wills “seem to get less common as the middle ages wear on”.32

It was Helmholz, in an essay dedicated to Sheehan, who took up the mantle to see if Sheehan’s impression - that, by the time of Elizabeth I, the ecclesiastical courts had lost their attempt to influence common law as regards married women’s rights to chattels - was correct.33 Helmholz focused on whether married women continued to make wills in the fifteenth century and found that, while there were examples, they were very few in number “by 1450, at the latest”.34 Like Sheehan, he examined notes of probate, choosing to do so because, while not all wills were recorded, “acta record all the wills proved by specific ecclesiastical courts and normally all cases of intestacy as well.”35 Helmholz sampled unpublished records in five ecclesiastical jurisdictions to prove this decline (see table 1). He also cited, as supporting evidence, P.J.P. Goldberg’s work on the Exchequer Court in the diocese of York.36 Goldberg counted enrolled wills rather than

32 Donahue, “Lyndwood’s Gloss”, 36; he referred to an ongoing survey of testamentary practice in late medieval England by Sheehan but unfortunately this was never completed.


34 Helmholz, “Married Women’s Wills”, 175.

35 Helmholz, “Married Women’s Wills”, 169.

notes of probate but his findings do fit the chronological pattern that Helmholz was suggesting for England as a whole (see table 2).\(^{37}\)

"[Insert Tables 1 and 2 here]."

Helmholz argued that this decline in married women’s will making was not about increasing pressure from common lawyers on the church courts, which only happened at the very close of the fifteenth century, but was perhaps driven by “a growing social acceptance of the view that married women had no separate property and that what personal property they did have would normally have been held in trust for them.”\(^{38}\) Helmholz refers back to his earlier argument that the custom of a man having to think of his chattels in thirds was dying out at the time and thus married women could no longer assume they had a third of the household’s goods to bequeath.\(^{39}\) He also points out that it was the fifteenth century which saw a growth in trusts, known as the “use”, by which a married woman assigned legal ownership of land or chattels to a trusted party; what happened to this property in the event of her death would be covered by the terms of the use thus negating the need for a will.\(^{40}\)

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\(^{38}\) Helmholz, “Married Women’s Wills”, 172.

\(^{39}\) Helmholz, “Married Women’s Wills”, 172-3; see further Helmholz, “Legitim”.

\(^{40}\) Helmholz, “Married Women’s Wills”, 173-4.
Mary Prior, who was most interested in what happened to married women's will making in the period 1558-1700, suggested 1440 as the point at which the decline set in. She also mentioned "pockets of resistance" to the national trend, such as in the archdeaconries of Buckingham and Sudbury.\footnote{Prior, "Wives and Wills", 202.} In general, archdeaconry courts dealt with the wills of testators who did not have property in another archdeaconry (commissary courts with wills concerning property in more than one archdeaconry, and the Prerogative Court of Canterbury for those with property in more than one diocese).\footnote{Although in practice, these divisions might not have been kept. See Helmholz, Oxford History of the Laws of England, I, 427-9.} The Register for the archdeaconry of Sudbury, 1439-74, does contain some married women's wills, but not enough to be considered a pocket of resistance (see table 3). Prior cited an index as her source, which perhaps accounts for the claim. The index identifies 121 testators as wives for the period 1354-1530, eighty-six post 1440. However, a number of these women were widows who began their wills describing themselves as former wives. An examination of the Baldwyn Register (which covers the period 1439-74) reveals that of the thirty-three women described in the index as wives, twenty-six were actually widows. Also, of the twenty-nine married female testators in this register (twenty-six wills and three additional notes of probate, one for a married couple), only seven were described as wives in the index.\footnote{Prior, "Wives and Wills", 202, n.2; Index of the probate records of the court of the Archdeacon of Sudbury 1354-1700, compiled by M. E. Grimwade, ed. W. R. and R. K. Serjeant, Index Library, 95-6 (Keele: British Record Society, 1984); Suffolk Record Office, Bury St Edmunds branch (hereafter cited as SROB), R2/9 and R2/10; Peter}
of Buckingham, 1483-97, does seem to be a possible “pocket of resistance”. Although there are only two married women’s wills recorded in the court material for this period, there are thirty-five probate acta that pertain to married women in the same period (out of 195; 17.9%). This suggests that, while married women continued to make wills in significant numbers and this court continued to prove them right up to the end of the fifteenth century, very few of these wills were thought to merit the expense of recording, perhaps because they did not concern immovable property. The two married women’s wills that were recorded both mention a tenement they had acquired from a previous marriage; one left it to her current husband for life, one left it to her son, although her husband was joint executor of the will.


44 The Courts of the Archdeaconry of Buckingham, 1483-1523, ed. E. M. Elvey, Buckinghamshire Record Society, 19 (1975). For discussion of how the court material is currently found in four manuscripts, one of which is itself a miscellany of registers see Ibid., ix-xi.

45 For discussion of what was recorded and why see Courts of the Archdeaconry of Buckingham, ed. Elvey, xxii-iv, xxviii. One man left a bequest of 6s 8d for the registration of his own will in 1493: Ibid., xxii.

46 Courts of the Archdeaconry of Buckingham, ed. Elvey, 23 (Joan Hobbis, 1486), 168 (Alice Mitchell, 1496). There is a third married woman’s will in this edition, from 1523, but the process of recording both wills and probate acta changed a lot between 1497 and 1523, hence the sample: Ibid., xxi-ii, 412-3 (Alice Eyre).
In terms of the chronological pattern identified by past scholarship, it is also worth noting that the numbers of married women’s wills recorded in London were low at the start of the fifteenth century (see table 3), as well as at the end, although here we have to compare Robert Wood’s work on the archdeaconry court with Helmholz’s sampling of the consistory court as the probate materials for both do not survive for the whole period. Wood found only eight married women’s wills enrolled in the Archdeacon of London’s register in the period 1393-1415, out of 1,384 wills (0.6%). If we turn to the city’s court of Husting, which proved wills pertaining to citizens with property in the city, we find that two married women’s wills were annulled in 1291 and 1307 respectively, because the testators were “under the rod” (sub virga; echoing the language Bracton used for married women’s legal coverture) or “feme covert”.


custom in London from 1256 was that married women could not devise tenements, even with the permission of their husbands.\textsuperscript{49}

For Helmholz, his outlier finding from the diocese of Hereford that three of nineteen testaments (15.8\%) proved in autumn 1453 were by certainly married woman was “quite unusual” but also his smallest sample.\textsuperscript{50} However, there are similar if not higher proportions of married women’s wills for the middle of the fifteenth century from larger samples in other dioceses, albeit in registers that largely recorded wills rather than notes of probate (see table 3). A register of wills proved before the Dean and Chapter of Norwich in the period 1444-54 contains forty-six wills, of which eleven were by female testators and nine are certainly married women (19.6\%).\textsuperscript{51} A probate register for the diocese of Ely, 1449-60, contains 257 wills of which seventy-five were by women and


\textsuperscript{50} Helmholz, “Married Women’s Wills”, 170.

\textsuperscript{51} Norfolk Record Office (hereafter NRO), DCN 69/1; the marital status of the other two women is unclear (5, 12). There is another surviving Dean and Chapter Register for Norwich that contains material from 1447-1559 but only 15 of the 257 wills therein predate 1500. Of these, 2 are by women and 1 of those was a married woman: NRO, DCN 69/2 (fos 8-8v Alice Cobald, married woman, 1468; fo. 15 Marion Albon, widow, 1496). The Register contains 2 other married women’s wills: Ibid., fos 41v (Agnes Blandes, wife of Thomas, 1509), 52v (Margaret Byllarde, wife of Adelarde of Sedgeford, 1529).
thirty-seven by certainly married women (14.4%).\textsuperscript{52} It is the latter area that I shall focus on, in part because we have a full series of probate registers from 1449, stretching into the sixteenth century. These are registered in bound manuscript volumes, which are labeled Liber A, B, C and D, with the titles being contemporary or near contemporary with the volumes’ compilation.\textsuperscript{53}

"[Insert Table 3 here]."

Another reason for the focus on the diocese of Ely is that the second register in this series, Liber B, is actually a court book for the deanery of Wisbech, a rural deanery within the diocese of Ely, as well as a will register. In the fifteenth century a diocese was still divided into a number of deaneries, with deans appointed to administer these smaller units, on behalf of the bishop.\textsuperscript{54} The deanery of Wisbech included the small

\textsuperscript{52} Cambridgeshire Archives (hereafter CA), VC 1. Three others are possibly by married women: see p. XX below. There is also one will made by a married couple: VC 1, fos 22v-23 (Thomas and Helena Smyth).


town of Wisbech plus four small, largely adjacent rural parishes (Elm, Leverington, Newton, and Tydd St Giles). The bishop empowered one of his officials, sometimes the dean, to convene a court which dealt with a range of matters such as breach of faith cases, defamation suits, some sexual and marital offences, and granting probate for testaments in this deanery, as well as Whittlesey, which was technically outside the deanery. The surviving court book includes 181 wills from the deanery (including Whittlesey). Of these wills, twelve are certainly by married women (6.6%). Although, this represents a substantial drop from the previous register (see table 4), it is still high compared to the figures cited by Helmholz and Goldberg for this period (tables 1-2) and these wills have sparked comment for that reason. The advantage of having surviving court material for the Deanery of Wisbech means that sometimes more can be said about the married female testators and their families than is revealed by a study of their wills alone. In a classic essay, Clive Burgess demonstrated the problems of using wills alone to assess how pious a testator was and how much property they owned. Using supplementary material, he demonstrated that a will might only be part of a testator’s plans for their property and soul. Liber B, which I will focus on first, can be used to find out more about the social status of the testators.


56 See Poos (ed.), Lower Ecclesiastical Jurisdiction; this volume includes an edition of the court book.

57 For this reason, Whittlesey will be included in the counts of wills from the Deanery of Wisbech in the other probate registers too.

58 See Poos (ed.), Lower Ecclesiastical Jurisdiction, liii.

“[Insert Table 4 here].

While Prior’s study is much later in date, her qualitative approach to samples of married women’s wills meant that she did find some noticeable trends in the kinds of women who made them. Her study was based on sampling in the Prerogative Court of Canterbury (PCC) 1558-1700 and in two courts in Oxfordshire to give her some women below the ranks of the elite. First, she found that a substantial proportion of her PCC samples were women who had been married more than once. Second, she found that a significant number of the husbands in these samples were lawyers or had connections with the Inns of Court. Third, she found married women’s wills tended to fall into pairs or clusters, for example, of women who shared kinship ties. She also found a few

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61 Prior, “Wives and Wills”, 212. Erickson made a similar point using the PCC data: Amy Louise Erickson, Women and Property in Early Modern England (London: Routledge, 1993), 140-2. Erickson also discussed the chronological pattern but the statistics are problematic in that some were taken from studies of civic courts (e.g. Bishop’s Lynn), which tended only to record the wills that bequeathed burgage tenure, and others were taken from indexes/first lines of wills, which do not give the most accurate data: Ibid., 140, 206.

examples in which the successive wives of a particular man both made wills.\textsuperscript{63} Fourth, Prior found that women whose families had been persecuted because of their religious beliefs formed another significant cluster.\textsuperscript{64} Fifth, a key cluster that she identified in the Oxfordshire sample was that three married women’s wills dealt with land in the ancient demesne manor of Long Handborough. Prior’s thesis here was these wills were concerned with oversetting the custom of the manor in which the land would have gone to the youngest son; she also suggested a similar concern in some wills from Combe.\textsuperscript{65} These are patterns to which we will return.

The intention of my case study is not just to make the case for the diocese of Ely, particularly the deanery of Wisbech, as another “pocket of resistance” in terms of married women making wills. It will appraise the evidence for why some married women made wills, something which is not explicitly stated in the documents themselves, and evaluate what this reveals about the women, their families and their communities. Further, it will consider what this might suggest about the impact of the

\textsuperscript{63} Prior, “Wives and Wills”, 214-5. There is an example of this discussed below. Also, in York, the successive wives of Warimbald Harlam both made wills: York Minster Library (hereafter YML), Dean and Chapter Registers, D/C Reg. 1, fo. 131r (Joan Harlam, 1401); Borthwick Institute for Archives (hereafter BIA), York, Exchequer Court, Probate Register 2, fo. 583r (Lawrenicia van Harlam, 1408); I am grateful to Lisa Liddy for bringing the latter will to my attention.

\textsuperscript{64} Prior, “Wives and Wills”, 213-4.

law – be it, ecclesiastical, common or customary - on marital property and married women’s will making.

**Married Women’s Wills in the Court of the Deanery of Wisbech, 1465-77**

The twelve married women’s wills in Liber B (or VC 2 as it is now known) all date from the period 1465-77. Sixty-six Seven of the wills identify the testators as wife (“uxor”) in the opening line, but in the other five it is only a later reference to a living husband (“maritus meus” or “sponsus meus”) that identifies them as married women. None of the twelve wills specifically stated that they had been made with the husband’s permission but he was named as an executor in ten of the wills. Margaret Freman, who made William Satywyn from Bishop’s Lynn (now King’s Lynn) in Norfolk, her executor, had her husband, John Freman, witness the will. The court when granting probate, then, would have been satisfied that the husbands in these eleven cases had consented

66 See CA, VC 2, fos 21, 32, 37v, 38, 43v, 64 (x2), 66v, 67, 91v, 104, 109v. This volume has been edited and all subsequent references will be to this edition: Poos (ed.), *Lower Ecclesiastical Jurisdiction*, 267-592.

67 For the seven women described as “uxor” see Poos (ed.), *Lower Ecclesiastical Jurisdiction*, 373 [Alice Qwyght; Joan Elyott], 389 [Alice Galyarde], 447 [Margaret Kellsull], 448 [Matilda Clerk], 537 [Joan Powdych], 589 [Elizabeth Tailor]; for the other five see pp. 321 [Alice Dowdynett], 356 [Alice Gybert], 456 [Margaret Freman], 458 [Cicely Freman], 571-2 [Katherine Haukyn].

to the making of the wills. In the twelfth, Matilda Clerk’s will, her husband (Thomas Clerk) was assigned no formal role but was left various household items, alongside her son, William Godfrey, who was one of the executors. Perhaps William was a son from a previous marriage as he does not share her surname. Although a previous marriage was a feature in a large number of the wills in Prior’s samples, only one of the twelve women, Cicely Freman, explicitly referred to a former husband in her will. Indeed, part of the intention of her will was to ensure that her late husband’s will was honored. The will requested that 40s. be distributed according to the will of Geoffrey Mobbe, Cicely’s late husband, which Thomas Mobbe (an unspecified relation) would have distributed if he was alive. Even when the husband was given a formal role we cannot assume that he always carried it out. We learn from the court entries that, c.1467-9, the husband of Elizabeth Tailor, Richard, was presented for hindering the execution of her will by withholding 6s. 8d. from her other named executor, Guy Alcok; her will had been proved on 6 November 1466. It is noted in 1466 that Robert Galyarde of Wisbech withheld

69 See also Helmholz, “Married Women’s Wills”, 167; Prior, “Wives and Wills”, 203. Cf. Chief Justice Fineux in the 1497 King’s Bench case: “the husband has proved the will, which proves his consent” (Kiralfy, Source Book, 436).


71 Poos (ed.), Lower Ecclesiastical Jurisdiction, 458: “Item volo quod xl s. distribuantur secundum effectum testament Galfridi Mobbe quondam mariti mei, quos xl s. Thomas Mobbe distribuisset si vixisset.” Her husband’s will was not recorded in Liber A nor B.

72 Poos (ed.), Lower Ecclesiastical Jurisdiction, 393, 589. The husband of Alice Dowdynett was rebuked for not having settled his wife’s debts to various guilds but this does not relate to provisions made in her will: Ibid., 378, 321.
40d. from the legacy of his wife which should have been paid to the church of St Andrew in Whittlesey. The will of Alice wife of Robert Galyarde was not proved until 1472, so this seems to be an example of a man whose successive wives made a will.

If we turn to the detailed content of the wills, four in part concerned real estate, such as buildings and land, and this ownership of property was probably a significant factor as to why these married women made wills and why they were preserved. One was the woman who was concerned with the will of her late husband: Cicely Freman of Wisbech. In her short will, she made her current husband, John, the executor and asked him to sell a dwelling (“messuagium meum”) in March, a nearby village, and spend the money on good works including celebrating the anniversaries of the burials of herself and her former husband in their parish church. John was to get 40s for his efforts. This will, while relatively brief, gives a clear sense that Cicely Freman saw herself as the owner of

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73 Poos (ed.), Lower Ecclesiastical Jurisdiction, 535. In 1463 the churchwardens of Whittlesey, a neighboring parish, told the general chapter that one Robert Galyard was administering the goods of his deceased wife, presumably without the church court’s authority: Ibid., 363; the first case noted in this session explicitly stated “absque auctoritate ordinarij”. This might be about the same will. It is not recorded in either Liber A or B.

74 Poos (ed.), Lower Ecclesiastical Jurisdiction, 389. See above for the discussion regarding successive wives making wills, as found by Prior.

75 Here I discuss buildings together with land as real estate, although in some medieval discussions the former were seen as “chattels”, in order to distinguish between wills that bequeath very few goods of value with those which concern substantial property.
the property that she brought to the marriage and perhaps they had made a marriage settlement to that effect.\textsuperscript{76}

In the second of the two wills not to name the husband as executor, that of Margaret Freman, also of Wisbech, her house ("mansio mea") was to be sold by her executor, a William Satewyn of Bishop’s Lynn. Her husband was to get 10s from the sale but also to have a home within this house for the rest of his life, at the discretion of her executor. The husband was additionally left “all my necessaries pertaining to the hall and chamber” and all her apparel pertaining to her body except her best clothing, which was to serve as a mortuary payment.\textsuperscript{77} There are no indications as to how she came by this property, whether it was from her natal family or a previous marriage. The church which was to get 20s from the sale of her property was in Sutton St James in Lincolnshire, which like Bishop’s Lynn was not far from Wisbech despite being in another county.

The will of Alice Galyarde was largely concerned with real estate, leaving a dwelling house with its adjacent buildings in Wisbech to her husband for life and then to her sons and their heirs. She also requested that her properties and lands in the neighboring county of Norfolk be sold and the money go to her sons. The only material objects

\textsuperscript{76} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, 458. Prior argued that these were common in her period but hard to detect from the wills themselves: Prior, “Wives and Wills”, 203-4.

\textsuperscript{77} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, 456: “omnia necessaria mea aule et camera pertinentia”.
mentioned in the will were her best tunic, which was her mortuary payment, and a set of rosary beads that she was gifted by her mother, which she passed onto her husband.\textsuperscript{78} This will suggests that Alice Galyarde held property in her own name, perhaps from her natal family (as the beads came from her mother) or it might have been from a former marriage. As discussed above, it seems likely that her husband Robert had been married before. The fourth will, that of Elizabeth Tailor of Wisbech, is also largely concerned with real estate and does not even begin with any religious bequests. Her husband was left a house and various lands for life, as well as a fishery called Blakdike.\textsuperscript{79} The reference to her debts, which he should pay, suggests that she perhaps ran this as an independent business while married.

While the four wills just discussed dealt with real estate, the wills recorded in this book do not only concern such property. As Poos commented, “the Wisbech court book is especially noteworthy for the large number of early wills of obviously fairly humble people that it contains.”\textsuperscript{80} This applies to some of the married women’s wills. The eight other married women’s wills were concerned only with movable goods and of these six were largely concerned with clothing. However, perhaps only three of the wills pertained to a strict, common law understanding of “paraphernalia”, that is, clothing

\textsuperscript{78} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, 389.

\textsuperscript{79} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, 589. There has been an archaeological excavation of a medieval fishery in Whittlesey, see


\textsuperscript{80} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, liii.
and personal jewelry. I will discuss these three first (the wills of Alice Qwyght, Joan
Elliott and Alice Gilbert), before considering the three that bequeath a little more
(Margaret Kellsull, Katherine Haukyn, Alice Dowdynett), and then will turn to the two
which have more substantial goods to give away (Joan Powdych and Matilda Clerk). An
appreciation of what married women’s wills contain, something that cannot be
ascertained from a study of probate acta, is important to an understanding of why these
women had these documents made and what property they considered to be at their
disposal.81

The will of Alice Qwyght of Leverington was relatively brief. After stating where she was
to be buried, she left her best animal as a mortuary payment, and then bequeathed five
specific items of clothing to four women, two of whom were her daughters. These items
were referred to as “my gown” (“togam meam”), “my hood” (“caputium meum”), “my
tunic” (“tunicam meam”), and “my overtunic and shirt” (supertunicam meam et
camisiam meam).82 This looks like a basic wardrobe, not excessive apparel.83 The will

81 Loengard also used wills to access what goods married women were seen as owning
in practice, chiefly drawing on husbands’ bequests to their wives: Loengard, “Which
may be said to be her own”.

82 Poos (ed.), Lower Ecclesiastical Jurisdiction, 373. An interpolation in Bracton stated
that if a married woman died the Church should take the second-best beast, if the
husband agreed: Bracton, ed. Woodbine, II, 178. This was also included in Fleta, a legal
treatise written in the reign of Edward I: H. G. Richardson and G. O. Sayles (eds), Fleta, II,

83 Cf. the 1454 case discussed above; Seipp 1454.041.
then ends by saying that she left the residue to her husband, Thomas Qwyght, whom she
made executor (a formulaic statement). 84 The majority of the will is thus concerned
with leaving clothing to a few named women and in this does not stray too far from the
“robes... which may be said to be her own”. 85 The other two wills, which generally
concern a few bequests of clothing to family and friends, also made a number of
donations to their local churches. The will of Joan Elliott left a cow as a mortuary
payment but also 7d. to the high altar of Tydd St Giles, where she wanted to be buried,
and 12d. to the fabric of the church, followed by payments to all the lights in that
church, some named and given a higher amount than others. 86 She also bequeathed a
tunic of rose russet, another tunic made from woolen cloth (“blanket”), one black hood
and a shirt to a woman called Katherine Bryde. Again this was not excessive apparel but
a basic set of clothes. 87 In this will the religious bequests dominate the short text. 88 The

84 Poos (ed.), Lower Ecclesiastical Jurisdiction, 373.
85 Bracton, ed. Woodbine, II, 179.
86 On the importance of keeping candles burning before images, see Barbara A.
Hanawalt, “Keepers of the Lights: Late Medieval English Parish Guilds”, Journal of
Medieval and Renaissance Studies 14 (1984): 21-37 (esp. 21, 28); D. Postles, “Lamps,
lights and layfolk: ‘popular’ devotion before the Black Death”, Journal of Medieval
History 25:2 (1999): 97-114; Virginia Bainbridge, Gilds in the Medieval Countryside:
Social and Religious Change in Cambridgeshire c. 1350-1558 (Woodbridge: Boydell &
87 Blanket and russet wool were set out in the 1363 sumptuary legislation as the
materials that agricultural workers, and those with less than 40s. in goods, were
allowed to wear: PROME, 1363 October, ii-279, 31.
will of Alice Gilbert, also of Tydd St Giles, is analogous but she bequeathed Alice
daughter of Roger Aylwarde a jet rosary (“j par precularum de get”). While Loengard
was ambivalent as to whether all jewelry was seen as paraphernalia in the late medieval
period, she did think rosary beads were included.

The will of Margaret Kellsull left a little more, although largely in cloth rather than
money. In terms of religious bequests she left 12d. to the high altar, presumably of her
parish church in Whittlesey, and some cloth to be used as vestments. She gave all of
her godchildren (unspecified number) 2d. each. Then eleven named individuals (ten
women, one man) were given various items of clothing or cloth; the one man, Robert
Kelsull (possibly a brother-in-law), was to get a yard of woolen cloth and a pair of

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88 Poos (ed.), *Lower Ecclesiastical Jurisdiction*, 373.
89 Poos (ed.), *Lower Ecclesiastical Jurisdiction*, 356.
90 Loengard, “Which may be said to be her own”, 166-8.
91 Poos (ed.), *Lower Ecclesiastical Jurisdiction*, 447: “ad usum dicti altaris unam albam
et j examitum de novo panno”. The “albam” could refer to white cloth or specifically to a
priest’s long white gown; for the “alb” as a vestment see Henry F. Berry (ed.), *Register of
Wills and Inventories of the Diocese of Dublin in the Time of Archbishops Tregury and
Walton, 1457-1483* (Dublin: University Press, 1898), 201. “Examitum” means six-
threaded and thus costly and splendid. It was used, for example, to describe vestments
in Evesham abbey: Daniel Rock, *Textile Fabrics* (New York: Scribner, Welford and
Armstrong, 1876), 24-5. French and Lowe have argued that men were more likely to
give ready-made vestments to the church, whereas women would give the cloth to make
shoes. This will seems to stretch the common law understanding of “paraphernalia”.

While the custom in London might have been for widows to get the cloth pertaining to their chambers, that other married women in this area do not bequeath cloth suggests that this was not a local custom.

Two other wills are similar in that they also stretch the definition of “paraphernalia” by including the odd household item. The will of Katherine Haukyn, of Tydd St Giles, allocated some money to the church and items to seven individuals (six female, one male). Each person got an item of clothing, described by color or material or with adjectives such as “best” and “old”. However, two women - her daughter, Matilda Pocok, and Katherine daughter of Geoffrey Godfrey - were also to get a household item. She left a gallon pot to her daughter (“j ollum enema mensure unius lagene”). Women tended to do the domestic brewing, as ale was a staple of the late medieval diet, and so


93 See n. 29 above.


95 Poos (ed.), Lower Ecclesiastical Jurisdiction, 572.
this perhaps explains why Katherine Haukyn felt she could lay specific claim to it. We might see it as akin to “principale”, discussed above, in that she was passing it on so that her daughter could continue to do the household brewing. She bequeathed a large chest to Katherine Godfrey but noted that she was only to have it after the death of her husband (“j magnam cistam post decessum Willelmi Haukyn’ sponsi mei”). Perhaps this was a chest she brought to the marriage as part of her trousseau or akin to the chests that widows could take on their husband’s deaths in places like York and London. The will of Alice Dowdynett left, in addition to a kerchief each to three women, a “focer”, which was a chest or coffer, to one of them, Agnes Perch. There is an argument for seeing such chests as part of a woman’s paraphernalia; a married woman in York left her daughter all her jewelry but also a coffer to put them in (“pro ornamentis meis conservand[um]”).

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96 See Judith M. Bennett, *Ale, Beer, and Brewsters in England: Women’s Work in a Changing World, 1300-1600* (New York: Oxford University Press, 1996), although she argues that this was changing in the late fifteenth century with the introduction of beer (ch. 5).

97 Poos (ed.), *Lower Ecclesiastical Jurisdiction*, 572.

98 See n. 29 above. There is a similar example in Liber A, discussed below.


100 BIA, Prob. Reg. 2, fos 583-583v (Lawrenca Van Harlam).
The final two wills concerned more goods. That of Joan Powdyche of Wisbech, refers to more items of high value than we have seen so far but they are largely items that could be considered as “personal adornments”, with the exception of two crucifixes. Joan left her two female servants some items of clothing, but she also left her brother the silvered blue girdle which she wore on her wedding day, her mother a big crucifix of silver gilt, and her father a small ring of gold. She also bequeathed a necklace containing a large amount of silver to a chaplain, a round crucifix of silver to another chaplain and a silver ring called a “crampryng” to a rector (this was an amuletic ring for cramps, recommended for ailments such as epilepsy). That the majority of Joan Powdyche’s bequests were to her natal family suggests that this was the original source of the items and the jewelry and devotional items probably had personal as well as economic significance, which might explain why she thought of them as her own possessions. Her husband was her executor so he presumably agreed.

101 Loengard was sceptical that chains, pendants and brooches were included as “jocalia”, but she did note that perhaps many women just did not have such items to leave: Loengard, “Which may be said to be her own”, 168.


The eighth will, that of Matilda Clerk of Wisbech, starts in a similar way to most of the wills discussed so far, in terms of its religious bequests. In addition to bequests of clothing to her son, William Godfrey, and two women (one was probably William’s wife), Matilda Clerk specified that her gown and best hood, rosary beads and a ring of silver were to be sold by her executors. This could all be classed as paraphernalia. However, she then went on to apportion various household equipment and furniture between her male kin, including her husband. For example, her husband was to have his choice of her best pots and pans and her son William was to get the rest of them (“Thomas sponsus meus habeat electionem optime olle mee et patelle et Willelmus filius meus habeat alteram partem”); her son was to get her best table and one of her grandsons was to have the other. This sense of ownership of household property is perhaps the result of an earlier marriage. Her son is referred to as William Godfrey and while it is possible he is her son-in-law this seems unlikely as Alice Godfrey is not described by a familial relationship; this is also the one married woman’s will in which the husband was allocated no formal role.

104 Loengard included wedding rings as “paraphernalia”, but not other rings: Loengard, “Which may be said to be her own”, 168. However, Joan Balderton of Whittlesey, p. XX below, gave away two silver rings.

105 Poos (ed.), Lower Ecclesiastical Jurisdiction, 448.

106 In a married woman’s will from York, Alice Marchall, wife of William de Craven, disposed of various pots and pans, which she specified had come to her after the death of her previous husband, Thomas Marchall: YML, D/C Reg. 1, fo. 121v (1399).
Matilda Clerk, like Joan Powdyche and the women who owned real estate, had enough property to dispose of to account for her will's existence. Her sense of ownership of household chattels is interesting given the common law position. But if we return to the six other married women who left very little, we might particularly ponder why they made a will. There are the obvious reasons for making a will like piety, looking after one's soul and so on, although the will of Alice Qwyght barely touched on those elements. But given married women's wills seem to have largely disappeared from probate registers and court books in some parts of England by this date, the question remains why did these wives make wills and their executors, usually their husbands, have them registered in court?

When looking into the family, particularly the husbands, of the married, female testators I found another connection that might explain why some made wills. Four of the six women whose wills left very little had husbands who had official roles which gave them direct access to the court that proved their wills. The women's husbands were named as a churchwarden ("iconomus") or a juror ("inquisitor") during their lifetimes. John Dowdynet, husband of Alice, is listed as a churchwarden in the early 1460s (she died in 1467). John Elliott, husband of Joan, is listed four times as a juror in Tydd St Giles.

107 Poos (ed.), *Lower Ecclesiastical Jurisdiction*, 373.


109 Poos (ed.), *Lower Ecclesiastical Jurisdiction*, 321, 335, 384, 421. Although the only heading in the first two of these entries is "Yconomi", we can assume that this just applies to the top two names, separated out, and the rest are "inquisitores" as that is the way the record works in the second two examples.
as is Henry Gilbert, husband of Alice,\textsuperscript{110} and their relationship is attested by Henry Gilbert witnessing the will of John Elliott in 1469.\textsuperscript{111} Thomas Qwyght, husband of Alice, was listed as a juror for Leverington twice (but on one of those occasions it is noted that he did not appear).\textsuperscript{112} The identification of Margaret Kellsull’s husband as a churchwarden is more problematic. There is a William Kellsull named in that role in Whittlesey, her parish, but not until 1479-80 and Margaret Kellsull’s will was proved in 1467 or 1468.\textsuperscript{113} Allegations of immorality had been leveled against both of them in the 1460s.\textsuperscript{114} Such allegations, even if true, might not have been enough to stop William becoming a churchwarden ten years later but the gap in time makes the identification less secure.\textsuperscript{115} However, we should also note that the brother of Joan Powdych, whose

\textsuperscript{110} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, 290, 335, 384, 407; as discussed above, on 335 only the “iconomi” are labelled.

\textsuperscript{111} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, 439.

\textsuperscript{112} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, 286, 326.

\textsuperscript{113} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, 308, 447-8. The will is said to have been made in October 1467 but proved in July 1467 so one of the years is incorrect.

\textsuperscript{114} In 1463 Margaret Kellsull was presented for sexual immorality with diverse persons and her husband was presented at the same court for harboring those guilty of illicit sexual relations, presumably a linked charge. William Kellsull appeared and denied the charges with the aid of five male supporters. In 1465-6 William faced a similar allegation, denied it and this time purged himself seven-handed and was warned to avoid such activity on pain of public penance: Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}.\textsuperscript{116}
will largely dealt with jewelry and devotional objects that she wanted to pass to her natal family, was twice named as a juror for Wisbech.\textsuperscript{116} 

The sixth woman was Katherine Haukyn, she of the gallon pot; while I did not find Katherine Haukyn’s husband, William, recorded as an office-holder in this court book, he can be found listed as a juror in the manor court of Tydd throughout the 1460s.\textsuperscript{117} It is not impossible that William Haukyn was also a church court juror at some point too. L. R. Poos compared some of the names of jurors and churchwardens in this court book with the jury lists from the same communities’ manorial court records, another category of local office-holding, and his findings are revealing: almost one third (29%; twenty-five of eighty-seven) of churchwardens and jurors in the 1460s and 1470s were serving as manorial court jurors at almost exactly the same time.\textsuperscript{118} Joan Elliott’s 

\textit{Jurisdiction}, 363-4, 537. That he avoided a punishment the first time and only received a warning the second time suggests he was believed or there were extenuating circumstances. For Helmholz, such dismissals point as much to the role of gossip and rumor in \textit{ex officio} cases, as “to the inherent weakness of methods of proof in the ecclesiastical system”: R. H. Helmholz, “Harboring Sexual Offenders: Ecclesiastical Courts and Controlling Misbehavior”, \textit{Journal of British Studies} 37:3 (1998): 261. \textsuperscript{115} On churchwardens see Katherine L. French, \textit{The People of the Parish: Community Life in a Late Medieval English Diocese} (Philadelphia: University of Pennsylvania Press, 2001), 68-98; Beat A. K{"u}min, \textit{The Shaping of a Community: The Rise and Reformation of the English Parish c. 1400-1560} (Aldershot: Scolar, 1996), 22-42; Clive Burgess, “Pre-Reformation Churchwardens’ Accounts and Parish Government: Lessons From London and Bristol,” \textit{English Historical Review} 117 (2002): 306-32; Katherine L. French,
husband was a juror in the manor court of Tydd in 1465 (he is presumably one of the
overlapping jurors to whom Poos refers). This suggests both that certain
parishioners were especially likely to be selected for the maintenance of order and that
there was some clear overlap between the personnel of secular and ecclesiastical courts
here.\textsuperscript{120}

The overlap in families who made wills and those who were officials with a role at this
ecclesiastical court is doubtless because local office holders tended to be drawn from
the heads of established families of middling status.\textsuperscript{121} But, in terms of what this tells us
about married women making wills, one interpretation would be to argue that strong

\begin{quote}
“Rebuilding St. Margaret’s: Parish involvement and community action in late medieval
grateful to Kit French for discussion on this matter.\textsuperscript{116}

\textsuperscript{116} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, 274, 399 (Thomas Sorrell).

\textsuperscript{117} Cambridge University Library (hereafter CUL), EDR, C 9/2/86. William Haukyn is
named as a juror in entries dated 1461, 1462, 1465, and 1467.

\textsuperscript{118} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, lxii.

\textsuperscript{119} CUL, EDR, C 9/2/86.

\textsuperscript{120} Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, lxii. McIntosh had made a similar point:

Marjorie Keniston McIntosh, \textit{Controlling Misbehavior in England, 1370-1600}

\textsuperscript{121} See the sources on churchwardens in n. 114 above; on jurors see Ian Forrest,

\textit{Trustworthy Men: How Inequality and Faith Made the Medieval Church} (Princeton:
connections with the local court that dealt with probate might have been a factor in these women knowing that canon law allowed married women to make wills and having their husbands’ support to do so. Prior’s early modern study had found a connection between husbands with legal knowledge and married women making wills.\(^\text{122}\)

As the Buckinghamshire probate material, discussed above as demonstrating a possible “pocket of resistance”, is also included in court material, I conducted a similar exercise. Here I found indications of a similar pattern to that identified in Wisbech. For example, Alice Picot -- a married woman from Upper Winchendon who had her will proved in 1490 -- was married to a man named Richard; a Richard Pigot was listed as a churchwarden in the same place c.1483-5.\(^\text{123}\) The (unnamed) wife of Thomas Hawkyns, from Whaddon, made a nuncupative will in 1492 with her husband as executor and he could well have been a churchwarden in Wotton c.1483-5.\(^\text{124}\) In the entries for Quainton 1485, Isabelle Maister’s note of probate named a John Maister as executor and Alice Elys’s note named a Thomas Elys.\(^\text{125}\) While we do not have enough evidence from the acta to assert the women’s marital status (hence the risk of undercounting in the studies by Sheehan and Helmholtz and in my own figures for Buckinghamshire which do not include these women), the matching surnames suggest that these were also married.

\(^\text{122}\) Prior, “Wives and Wills”, 211.

\(^\text{123}\) Courts of the Archdeaconry of Buckingham, ed. Elvey, 88, 7.

\(^\text{124}\) Courts of the Archdeaconry of Buckingham, ed. Elvey, 118, 8. The husband did not have to pay the fine to have the probate registered in 1492 because he was poor.

\(^\text{125}\) Courts of the Archdeaconry of Buckingham, ed. Elvey, 23.
women. In both cases the men can be found as churchwardens for the same parish c.1483-5.  

Returning to the Wisbech material, it seems that twelve married women made wills and their husbands had them enrolled in the court book c.1465-77 for one of two reasons: either because they had specific property of value to bequeath or, when they did not have much to leave, because they had the support of men (usually their husbands) who were well connected to the court. We can now turn to the other will registers for the diocese of Ely to assess the content of the married women’s wills and whether these changed over the course of the late fifteenth century.

**Married Women’s Wills in the Probate Registers for the Diocese of Ely, 1449-1505**

In the diocese of Ely, as well as a decline over the course of the late fifteenth century in the number of married women making wills and them being recorded, there was also a shift away from the recording of married women’s wills when they had little to bequeath to married women generally only having their wills registered when they had real estate to bequeath (see table 5). Liber C generally overlaps in time with Liber B, which explains why in its earliest sections it contains virtually no wills from the Deanery of Wisbech and, perhaps as a consequence, only one married woman’s will.  

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126 Courts of the Archdeaconry of Buckingham, ed. Elvey, 6-7 (here John Master).

127 See Poos (ed.), Lower Ecclesiastical Jurisdiction, xxxix, n. 79. The one married woman’s will it does contain is that of Maud Bregge of Triplow who had some land to give to her husband: CA, VC 3, fos 2-2v.
For the purpose of chronological trends, then, we can count Liber B and Liber C together. The key registers to be discussed here are therefore Liber A and Liber D.

"[Insert Table 5 here]."

In Liber A (1449-60), there are thirty-seven married women’s wills, possibly forty. In thirty-six of these the husband was named as the executor;¹²⁸ in another, the will of Joan wife of Robert Green, the husband was not the executor but he was left five acres of land for life.¹²⁹ In three other wills the woman identifies in the opening line of the will as “uxor” but does not mention him again and so I have not counted these in my

¹²⁸ CA, VC 1, fos 13 (Margaret Joly als. Lyster), 13v (Emma Elwyn), 15v (Christine Owtyng), 15v-16 (Katherine Towt), 18 (Margaret Coper), 18v (Katherine Howlet), 19v (Agnes Clement), 21v (Christine Marcaunt), 26 (Katherine Hawsold), 27 (Alice Clement), 28-28v (Joan Stevenson), 31-31v (Joan Grene), 34-5 (Alice Mas), 35v (Beatrice Edmund), 36v (Margaret Schernan), 39 (Joan Bolle; Margaret Wallarde), 39v (Margaret Reynalde), 41 (Alice Makrowe), 41v (Marion Pococke), 42 (Margaret Dawntre), 43v (Katherine Milner; Lettice Galyard), 44v (Margaret Derby), 45v (Katherine Writh), 47 (Katherine Fryng), 49v-50 (Agnes Tyler), 52 (Joan Hamond; Beatrice Kedewyn), 55 (Alice Skotte), 56v (Ellen Bateman), 57v (Emma Belman), 59 (Joan Brice), 60v-61 (Annis Alettes), 61v (Alice Botolf), 62 (Isabel Edward).
statistics. More than half of the married women's wills in this register were concerned with small religious offerings and perhaps the odd gift of clothing (nineteen of thirty-seven). For example, the will of Katherine wife of William Howlet, made in 1456, consisted of small monetary payments (from 2d. to 12d.) to the high altar and the fabric of her parish church in Wisbech, to various lights (two specifically named) in the same church and then a payment to a church in Leverington, perhaps where she had lived previously. There were no other bequests and her husband and another man, as executors, were to dispose of any residue. The will of Marion Pococke made in 1455, made a bequest to the high altar (6d.) and to the fabric (12d.) of the parish church in Sutton but the only other bequests were items of clothing to two married women. Marion Pococke's husband, Robert, was named as executor. A further six wills referred to some other movable assets. For example, Katherine wife of John Towt made her will in 1456 and left one Agnes Hope some clothes but also a large chest ("magnam cistam"), the latter only after the death of her husband, as we saw in the will of

129 CA, VC 1, fos 66v-67. Her sons were named as executors, both with different surnames, which might suggest she had re-married.

130 The three are Katherine wife of Godfrey Wyn (Ibid., fo. 36); Elena wife of Stephen Kelful (CA, VC 1, fo. 42); Katherine wife of Adam Boole (Ibid., fos 51-51v).

131 CA, VC 1, fo. 18v.

132 CA, VC 1, fo. 41v. The wills of Marion and her husband Robert are discussed in the Wisbech court c.1460-3: see Poos (ed.), Lower Ecclesiastical Jurisdiction, 336. For the other 17 wills, see CA, VC 1, fos 13, 13v, 15v, 18, 19v, 39v, 42, 43v (x2), 44v, 47, 52, 55, 56v, 57v, 59, 61v;
Katherine Haukyn.\textsuperscript{133} Johana wife of Richard Bolle, in her will of 1454, left to five of her children two sheep and a lamb each.\textsuperscript{134} Only eleven of the thirty-seven wills dealt with real estate such as land or a dwelling. For example, the will of Alice wife of John Mas, made in 1454, left her husband a house ("mansionem meam") in Wisbech in which one Thomas Sorham currently stayed, until her husband's death when it was to go to the Gild of Holy Trinity. Her son, Walter, was to get seven acres of land in Tyrington; this land seems to have come from her mother's side of the family as her mother's will was mentioned here.\textsuperscript{135}

In terms of similarities with Liber B, it should be noted that of the thirty-seven married women's wills in Liber A, only seven were from areas outside the deanery of Wisbech, if we include Whittlesey in the deanery's jurisdiction.\textsuperscript{136} This suggests that married women making wills might have been more common in the latter jurisdiction, rather

\textsuperscript{133} CA VC 1, fo. 15v; see p. XX above.

\textsuperscript{134} CA, VC 1, fo. 39. For the other 5, see Ibid., fos 28-28v, 36v, 39, 41, 49v-50; the will of Alice Nakrowe (Ibid., fo. 41) did not contain any bequests of animals or furnishings but it did contain a bequest of 6s. 8d. to her son, which is why I have grouped it here.

\textsuperscript{135} CA, VC 1, fos 34-5. For the other 10, see Ibid., fos 21v, 26, 27, 31-31v, 34-35, 35v, 45v, 52, 60v-61, 62. In the joint husband and wife will in this register, the land bequeathed came from the wife's relatives: Ibid., fos 22v-23.

\textsuperscript{136} There are 7 wills from Whittlesey: CA, VC 1, fos 18, 39 (x2), 39v, 42, 43v (x2). It was technically in the diocese of Ely but see p. XX above. The 7 other wills are from Sutton (Ibid., fos 36v, 41v), Ely (fos 41, 49v), Benwich (fo. 55), Downham (fo. 56v) and Chatteris (fo. 61v).
than the diocese as a whole. The will of Joan wife of Adam Stevenson of Elm, made in 1452, left three items of clothing to one Agnes Perche.\textsuperscript{137} Agnes Perche was perhaps the same woman left a kerchief and a chest by Alice Dowdynett, whose will was recorded in Liber B in 1467; Agnes seems linked (perhaps married) to William Perch of Elm, who is named just above her in Dowdynett's will and was a juror in Elm, where Joan Stevenson resided, c.1467-72 and in 1479.\textsuperscript{138} The will of Margaret wife of John Derby from Newton, made in 1454, only included religious bequests ranging from 3d. to named lights to 3s. 4d. to the fabric of her parish church (and she left money to a chaplain in Tydd St Giles which was within the Deanery of Wisbech).\textsuperscript{139} There is a John Derby junior recorded as a juror for the manor court of Newton in 1461.\textsuperscript{140} This again suggests that, as well as being a localized practice, women married or closely connected to jurors were more likely to make wills and have them enrolled, even when they had little to bequeath.

By the time of Liber D (1486-1505), the balance had shifted substantially towards recorded married women's wills – of which there are fewer - being concerned with real estate (seven of ten), primarily land. For example, Matilda Cokke of Ickleton, in her will

\textsuperscript{137} CA, VC 1, fos 28-28v.

\textsuperscript{138} Alice Dowdynett made a bequest to the servant of William Perch just before the bequest to Agnes Perch: Poos (ed.), \textit{Lower Ecclesiastical Jurisdiction}, 321. For William Perch as juror see Ibid., 270 (undated), 279 (undated), 301 (1479), 378 (did not come), 491 (did not come and name crossed out).

\textsuperscript{139} CA, VC 1, fo. 44v.

\textsuperscript{140} CA, VC 1, fo. 44v; CUL, EDR, C 9/2/86.
of 1494, left her husband a property and all her lands for the term of his life on
condition he commemorate her parents’ deaths, presumably from whom she had
acquired the land, as well as her own. A further two bequeathed some movable
property. The will of Isabel Pecherde of Little Shelford left her children some household
objects such as a large brass pot and a round pan to her son William. The will of Joan
Balderton of Whittlesey was more extensive. It set out the religious bequests in Latin
and then switched to Middle English for the bequests to family and friends. Her
husband, also her executor, was to get two silver spoons but her son, John Edward, was
to get her mash vat (for making wort from malt), a gile vat (for fermenting the wort), a
lead brewing vessel, a cheese vat (for straining curds), three brass pans, two brass pots,
six pewter pans, a candle holder, a saltcellar, two silver rings, two coverlets, a blanket, a
pair of sheets and a gown for his wife. This reads very much like the core elements of
the household and perhaps also a brewing business and might be akin to principia. In
Torksey, Lincolnshire, the custom recorded c.1345 set out that the heir on the death of
his ancestors (“antecessorum suorum”) would get, in addition to the tenement, the
following utensils: “the best bed with counterpane and sheets, a hutch, the whole
cupboard, a tun with the best cup if it be of silver or of mazer, a silver spoon, the best
table-cloth, towel and napkin, the best table with tressels, the best laver and basin, the
best pot, gridiron, pan and trivet, the best mash-vat and guile-vat and trough, and a tub

141 CA, VC 4, fos 90v-91. For the other 6 see Ibid., fos 6v-7 (Margaret Doughtteffyer), 8v
(Agnes Keyd als. Jackson), 21 (Matilda Whytrett), 22v (Margery Plombe), 23-4 (Isabel
Benett), 87v-88 (Alice Clerke).

142 CA, VC 4, fos 41v-42 (1487).

143 CA, VC 4, fos 24-24v (1495).
and a [bowl], the best boiler and hand-mills".\textsuperscript{144} The tenth married woman’s will in this register, that of Agnes Manne of Hardwick, largely concerned bequests of clothing and one pair of beads (a rosary).\textsuperscript{145} In this it is similar to the majority of the married women’s wills in Liber A, a quarter of those in Liber B, but it is unusual in the context of Liber D.\textsuperscript{146}

On the whole, there was clearly a trend away from recording married women’s wills that did not deal with real estate. There appear to be no notes of probate for married women, apart from those that follow their wills, in Liber B (or Liber A). There are some in Liber D, although not on the scale found in Buckinghamshire, which might indicate that there was also a trend towards married women either not making wills or their husbands not bringing them to court.\textsuperscript{147} However, in all of the Ely registers there are notes of administration relating to married women who died intestate. For example, in Liber B -- between the enrolled wills of Margaret Kellsull and Matilda Clerk (both

\textsuperscript{144} Bateson (ed.), \textit{Borough Customs}, II, 143; I have changed her reading of ‘unam gatam’ from ‘a cat’ to ‘a bowl’; see \textit{Dictionary of Medieval Latin from British Sources}, ‘gata’, 1 (\url{http://www.dmlbs.ox.ac.uk/publications/online}; accessed 26 July 2018).

\textsuperscript{145} CA, VC 4, fo. 51v (1489).

\textsuperscript{146} In this register 5 of the 10 married women’s wills enrolled were from the deanery of Wisbech, including one from Whittlesey. The others were from March, Doddington (CA, VC 4, fo. 8v), Little Shelford (fo. 41v-42), Hardwick (fo. 51v), and Ickleton (fos 87v-88, 90v-91).

\textsuperscript{147} See CA, VC 4, fos 15v (Agnes Persone), 48v (Elizabeth Tauntte), 61v (Marion Sturmyn), 84 (Margaret Bedford).
married women) -- there are eight notes of administration for people who died intestate, one dated 1470, and three are married women. For example, Margaret Rede died intestate and her husband, John, was dismissed from paying a fee on account of poverty. In Liber A, there are two such notes pertaining to married women below the will of Emma wife of William Belman. This is significant as Sheehan expressed some doubt about whether church courts would treat marrying women without wills as dying intestate given the common law position about property.

Conclusions

The case study of married women’s wills in the probate registers for the diocese of Ely 1449-1505 has shown that, while a decline set in of married women making wills, it was

See Poos (ed.), Lower Ecclesiastical Jurisdiction, 448: “Eodem die commissa est administratio bonorum Margaret Rede decedentis abintestato Johanni marito suo et dimissus est propter paupertatem.” The other married women who died intestate are Agnes Stone and Alice Boolde: Ibid.

CA, VC 1, fo. 57v (wife of John Baret; Katherine wife of John Spynk). See also VC 1, fos 4v (Elizabeth Cutt), 8v (Katherine Sawnsum), 15 (Margaret Haw), 15v (Margaret Chapman), 16v (Katherine Grene), 43 (wife of John Emreth), 49 (Margery Meyrbek), 63 (Agnes Gabbys); CA, VC 4, fos 1 (Annabel Bothe), 15 (Agnes Croser), 52a (Isabel Smyth), 52b (Margaret Goodwyn), 61 (Margaret Symund), 104v (Agnes Plowryght), 123 (Agnes Karsay).

Sheehan, “Influence of Canon Law”, 120-1; reasserted by Ferme in his Canon Law, 139.
later than Goldberg found in York and later than has been suggested for England as a whole by Helmholz and Prior. The registers do signal that there was a particular concentration of married women making wills in the deanery of Wisbech (including Whittlesey) which further suggests regional variation in practice, as Prior suggested for parts of early modern Oxfordshire. The registers also reveal a shift away from recording married women’s wills if no real estate was being bequeathed, so that by 1486 (Liber D) any wills that did not include such bequests were rare. The Buckingham court book, which only includes two married women’s wills for the period 1483-97, suggests that this might have been about the cost of registration as the probate acta included indicate that married women continued to make wills and have them proved in not insignificant numbers (17.9% of probate acta).

In terms of which married women made wills and had them proved, the Wisbech and Buckingham court books also suggest that another cluster was women who were closely related to male officials whose roles provided direct access to the courts (there are also indications of this in Liber A). This is not exactly the same as Prior’s finding that women related to lawyers were more likely to make wills in early modern England, but the women whose wills were proved before archdeaconry courts were generally of lower social status than those whose wills went to the PCC. We might conclude, though, that knowledge of how courts worked might have been a factor in the drawing up and proving of these legal documents. Other, smaller clusters (pairs) include connections between married women who made wills, whether that is the two wives of Robert Galyarde or the wives of Henry Gilbert and John Elliott, whose husbands knew each other, or Joan Stevenson and Alice Dowdynett who both knew an Agnes Perch. Some of
the married women who made wills in Ely were certainly remarried but this was not as noticeable as in Prior’s PCC sample.

The social status point is also worth reflecting on. Helmholz commented, "by the middle of the fifteenth century, wills of married women had become rarities in England. There were always some, perhaps more so among the wealthy or the powerful than among the middling sort most diocesan courts dealt with". However, this study suggests that it is precisely amongst the records of archdeaconry courts that we find married women’s wills in late fifteenth century England. In Prior’s study of the PCC 1558-1700, her highest proportion of married women’s wills, in 1694-1700, was less than 9 out of 1000 wills (less than 1%); for 1558-1583 she estimated it was less than 4 out of 1000 wills.152 Prior also commented that her “Oxfordshire sample goes further down the social scale than might be expected… two labourers’ wives, the wife of a husbandman, and three other country wives in quite humble circumstance”.153 This is again congruent with the Ely material.


152 See Prior, “Wives and Wills”, 208-9 for the figures and her methodology. I have identified four married women’s wills in the PCC registers 1454-1500: The National Archives, Kew, PROB 11/7/39 (Elizabeth Chittok, 1480); PROB 11/7/304 (Agnes Lytton, 1486); PROB 11/8/87 (Alice Tympley, 1487); PROB 11/9/273 (Matilda Esterfeld, 1493).

Helmholz suggested that one possible reason for the decline in married women's wills was that families found other ways to pass on property such as trusts. While that might have been the case, many of the married women's wills discussed in this study were not concerned with real estate and some bequeathed little in the way of movable goods. The latter point also suggests that there was no custom of shared marital property in these areas, although Donahue had pointed to hints of its survival. The married women's wills considered in this study did not attempt to bequeath a third share, as was suggested as a reasonable practice in Glanvill and Bracton. The value of the wills, beyond the fact of their continued existence in spite of the position of the common law, thus lies in their communicating a sense of what items married women could claim as their own, something that we cannot access from probate acta. For Alice Qwyght it was just five items of clothing, for Katherine Haukyn it was a gallon pot, and for Joan Balderton it was a much more extensive list of household goods. As Prior articulated, “Wills are amongst the most useful sources for the study of ordinary people... For married women, ... they are almost our only source.”

In terms of what married women's wills reveal about the law, they suggest that we need to be cautious in assuming that, just because common lawyers set out a particular position, medieval people followed it. Further, the matter of probate jurisdiction in late medieval England was one of customary practice, rather than canonical principle, which


allowed for regional variation, as Helmholz found for the custom of legitim. Just as some areas continued the practice of reserving a third of the parent’s goods for his or her heirs for longer than others, some areas continued to allow (if not, encourage) married women to make wills. The references to married women dying intestate in the diocese of Ely c.1449-1505 suggest an expectation that married women would make wills and some wives did just that.
Table 1: Helmholtz’s data pertaining to married women’s will making in later medieval England

<table>
<thead>
<tr>
<th>Diocese</th>
<th>Date</th>
<th>No. of probate acts</th>
<th>Female Testators</th>
<th>Married Female Testators</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
<tr>
<td>Hereford</td>
<td>1453</td>
<td>19</td>
<td>6</td>
<td>31.6</td>
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<tr>
<td></td>
<td></td>
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</tr>
<tr>
<td>Rochester</td>
<td>1457</td>
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<tr>
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<td>1477</td>
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<td></td>
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<tr>
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<td>13.9</td>
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<td></td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Chichester</td>
<td>1506-8</td>
<td>42</td>
<td>5</td>
<td>11.9</td>
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Table 2: Married women’s wills in the Exchequer Court of York, 1389-1500

<table>
<thead>
<tr>
<th>Dates</th>
<th>No. of wills</th>
<th>Female Testators</th>
<th>%</th>
<th>Married Female Testators</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1389-1408</td>
<td>437</td>
<td>136</td>
<td>31.1</td>
<td>68</td>
<td>15.6</td>
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<tr>
<td>1418-1444</td>
<td>668</td>
<td>182</td>
<td>27.2</td>
<td>35</td>
<td>5.2</td>
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<tr>
<td>1445-1469</td>
<td>370</td>
<td>85</td>
<td>23.0</td>
<td>3</td>
<td>0.8</td>
</tr>
<tr>
<td>1470-1500</td>
<td>448</td>
<td>89</td>
<td>19.9</td>
<td>2</td>
<td>0.4</td>
</tr>
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</table>

Table 3: Married women’s wills in select ecclesiastical jurisdictions in later medieval England

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Dates</th>
<th>No. of Wills</th>
<th>Female Testators</th>
<th>Married Female Testators</th>
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<tbody>
<tr>
<td>Archdeaconry of London</td>
<td>1393-1415</td>
<td>1384</td>
<td>241</td>
<td>8</td>
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<tr>
<td>Dean &amp; Chapter, Norwich</td>
<td>1444-1454</td>
<td>46</td>
<td>11</td>
<td>9</td>
</tr>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>19.6</td>
</tr>
<tr>
<td>Archdeaconry of Sudbury</td>
<td>1439-1461</td>
<td>947</td>
<td>103</td>
<td>13</td>
</tr>
<tr>
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<td></td>
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<td></td>
<td>1.4</td>
</tr>
<tr>
<td>Ely consistory court</td>
<td>1449-1460</td>
<td>257</td>
<td>75</td>
<td>37</td>
</tr>
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<td></td>
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<td>14.4</td>
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<tr>
<td>Archdeaconry of Sudbury</td>
<td>1461-1474</td>
<td>766</td>
<td>113</td>
<td>13</td>
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<td>1.7</td>
</tr>
<tr>
<td>Archdeaconry of Norfolk</td>
<td>1459-1489</td>
<td>1143</td>
<td>161</td>
<td>18</td>
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<td></td>
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<td>1.6</td>
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<tr>
<td>Archdeaconry of Buckingham</td>
<td>1483-1497</td>
<td>85</td>
<td>9</td>
<td>2</td>
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<tr>
<td></td>
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<td></td>
<td></td>
<td>2.4</td>
</tr>
</tbody>
</table>

Sources: Wood, “Life and Death”, 12, 44; NRO, DCN 69/1; Northeast (ed.), Wills of the Archdeaconry of Sudbury, 1; CA, VC 1; Northeast (ed.), Wills of the Archdeaconry of Sudbury, 2; NRO, ANF will register Liber 4 (Grey); Courts of the Archdeaconry of Buckingham, ed. Elvey, 1-189.
Table 4: Married women’s wills in the Diocese of Ely, 1449-1505

<table>
<thead>
<tr>
<th>Source</th>
<th>Dates</th>
<th>No. of Wills</th>
<th>Female testators</th>
<th>Married Female Testators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liber A</td>
<td>1449-1460</td>
<td>257*</td>
<td>75</td>
<td>37</td>
</tr>
<tr>
<td>Liber B</td>
<td>1458-1484</td>
<td>181</td>
<td>45</td>
<td>12</td>
</tr>
<tr>
<td>Liber C</td>
<td>1478-1486</td>
<td>172</td>
<td>30</td>
<td>1</td>
</tr>
<tr>
<td>Liber D</td>
<td>1486-1505</td>
<td>549</td>
<td>81</td>
<td>10</td>
</tr>
</tbody>
</table>

* One joint will from a husband and wife; not counted as a woman's or wife's will.

Source: CA, VC 1-4.
Table 5: The types of bequests in married women's wills in the Diocese of Ely, 1449-1505

<table>
<thead>
<tr>
<th>Source</th>
<th>Dates</th>
<th>No. of wills by married women</th>
<th>No. of wills that bequeath</th>
<th>religious offerings/clothing/personal jewelry only</th>
<th>other moveable property</th>
<th>real estate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liber A</td>
<td>1449-1460</td>
<td>37</td>
<td>19</td>
<td>-</td>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td>Liber B</td>
<td>1458-1484</td>
<td>12</td>
<td>3</td>
<td>-</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Liber C</td>
<td>1478-1486</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Liber D</td>
<td>1486-1505</td>
<td>10</td>
<td>1</td>
<td>-</td>
<td>2</td>
<td>7</td>
</tr>
</tbody>
</table>

Source: CA, VC 1-4.