

WILLS AND WILL-MAKERS IN THE SIXTEENTH
AND SEVENTEENTH CENTURIES:
SOME LANCASHIRE EVIDENCE

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Mrs. Spufford in her recent article in this journal on villagers' wills has put local historians in her debt by pointing out the largely unexploited uses of probate records for an understanding of English society and religion in the sixteenth and seventeenth centuries¹. She is not, of course, the first historian to appreciate the value of this type of record. The eighteenth-century scholar John Strype, for instance, grasped the significance of will preambles for the historian. In his Memorials of the Reformation under the year 1551 he wrote:

"I cannot but observe how wills and testaments now ran, and how different the wording of a will in King Edward's days was from one drawn up in the reign of King Henry his father; whereby we may gather how at this time of day, by the knowledge of the gospel, superstition generally wore off in the nation".²

More recently Professor W.K. Jordan used wills as the basis of his monumental study of English philanthropy. But whereas Jordan was primarily interested in bequests in wills, Professor A.G. Dickens - like Strype before him - analysed their preambles for the expression of religious opinion.³ Mrs. Spufford, however, in concentrating attention on the scribes responsible for the making of villagers' wills carries Dicken's pioneering work an important stage further. After reading her article few would disagree with her conclusion that:-

"The evidence is not statistical. It is wrong for the historian to assume that if he takes a cross-section of four hundred and forty wills proved over a particular period, he is getting four hundred and forty different testators' religious opinions reflected".⁴

To this one should in fact add other warnings about the limitations attached to the use of probate records. The most basic problem of all, of course, is the extent to which will-makers were representative of their local society and its opinions. Testators, after all, were generally the older members of the community and sufficiently wealthy to be preoccupied with the disposal of their property. Testators were also predominantly male; except in exceptional circumstances - when property was held with the husband's consent - married women did not make wills.

Mrs. Spufford drew the evidence of her article from rural Cambridgeshire. It would be interesting, therefore, for comparative purposes, to look at the problems surrounding wills and will-makers in a different part of the country and in a different type of community. Most of the evidence which is presented below is drawn from sixteenth and seventeenth-century Lancashire and in particular from the township of Manchester.

Puritanism is the main research interest of the present writer and it was primarily for evidence of puritan beliefs and inclinations that wills were turned to.⁵ The "puritan will" in its preamble not surprisingly rejected all spirital intermediaries and emphasised the personal link between God and man. But its distinctiveness consisted principally in the expression of the Calvinist concept of exclusiveness. "Elect" was the key word in these puritan wills.

The idea of election was expressed with considerable variety in these Lancashire wills. Some testators were confident that they were of "the number of those elect". There were those who claimed to be about to take their place "amongst his angels and elected", while others counted themselves "one of his elect and chosen". Certain will-makers believed that they would soon be "amongst all the rest of his elected children" while others proclaimed themselves "one of the number of them which shall be elected and chosen".

Amongst these puritan wills there seems to have been a distinctive form of preamble which occurred only in Manchester and its region. With slight variations this ran as follows:-

"first and principally I render and bequeath my soul unto my lord God and creator, firmly trusting that by the death and passion of his dearly beloved son Christ Jesus my saviour and redeemer and by his only mercy and mediation for me, I shall live and

partake with his blessed saints in his heavenly kingdom of those celestial joys which of his eternal goodness he hath prepared for his Elect, of which number, through his infinite grace and mercy, I do confidently hope and believe that I am one." ⁶

Seventeen examples of this form of preamble have been found amongst approximately two hundred Manchester wills of this period, all made between 1616 and 1643. ⁷ A significant point is that in ten of these seventeen wills clerical influence is implied by the witness lists. Moreover it was the influence of a single clergyman - Edward Tacey of the Collegiate Church, a known puritan who had attracted the notice of the ecclesiastical visitors in 1625 when he was charged with administering the communion to those who would not kneel. ⁸ A further indication of his influence in making wills is to be found in the fact that his own will, proved in 1632, is one of this type. This form of will, however, continued to be made after his death. A possible explanation is that continuity may have been preserved by others whose names had appeared earlier in witness lists along with Tacey's. For example the name of Gerard Simkin, gentleman, occurs in six witness lists including the last of this group of wills proved in 1646.

In many cases, however, it is unfortunately impossible to establish the identity of the scribe who wrote out particular wills; we are dealing, after all, with a much larger community than the ones examined by Mrs. Spufford. But it seems likely that only a minority of testators wrote their own wills; outside the ranks of the clergy this practice was exceptional. ⁹

A good many wills - as Mrs. Spufford demonstrates for Cambridgeshire - were no doubt drawn up by ordinary laymen who were better educated than their fellows. There are many wills whose witness lists seem to consist entirely of laymen - though this in itself is not conclusive proof of authorship. The diary of Roger Lowe, a puritan mercer from Ashton-in-Makerfield, Lancashire, throws some light on this question. On April 30th 1663 Lowe wrote:

"...I was sent for to Whitleige Green this night to one William Marsh who lay sick and had several times sent for me to write his will, which I did. John Hasledon went with me at night and William Knowles was there and I composed the man's will somewhat handsomely".

A year later, on May 20th 1664, Lowe's diary contains another entry concerning wills.

"Old Jenkins this day came and payed me for making his will and other things. He payd me 11s 9d., tooke me to Ale house and spent his 6d. on me ..." 10

How general this practice was, however, it is impossible to say, but the fact that presumably it was the cheapest method of making a will may have made it a popular choice. Schoolmasters too - as Mrs. Spufford shows - sometimes had a profitable sideline in drawing up wills. Adam Martindale, for instance, tells us that as a master at Whitley school he also had "opportunities for earning moneys by making writings for neighbours."¹¹ But once again the Lancashire evidence on this point is inadequate.

It is certain, however, that in the towns at any rate many wills in this period were drawn up by members of the legal profession. In the case of Manchester around 10% of wills had this kind of authorship and the names are known of nine scribes who were practising in the town from the late sixteenth century. Six of these have been seen at work in the wills consulted. William Bell, for example, was a Manchester scrivener active in the reign of James I and it was he who drew up the will of the tailor William Smith in 1613. William Sparke was another scrivener in practice at this time. He wrote the will of Edward Pycroft, shoemaker, in 1609, that of Elizabeth Proudlove, widow, in 1608, and probably that of Richard Bowker, tailor in 1619. William Strengthfellow, scrivener, occurs in wills from the 1590's. For example, he drew up the will of Ralph Moss, tanner, proved in 1617, and also that of Richard Ellor proved in 1596. Six of these Manchester wills are known to have been written by the scrivener Thomas Birch. The wills of John Billinge, glazier (1588), Margaret Bowker, widow (1591), Ann Hodgkinson, widow (1594), John Lees, clothworker (1598), Thomas Houghton, yeoman (1606) and William Pycroft, webster (1588), all bear his name. Yet another scrivener, William Eden, drew up the will of Richard Webster, clothier (1590). Amongst later scribes, the name of Robert Holt (d.1644) occasionally appears in wills. It is known that he was responsible for drawing up the wills of Thomas Howarth, yeoman (1634) and Thomas Hulme, butcher (1641).

The names of attorneys as well as scribes occur in the Manchester parish records. George Holden (d.1603), Robert Nield (d.1631), Roger Rogerson and William Radcliffe are mentioned as belonging to this profession. But only one of these has appeared in the Manchester wills. This was Robert Nield whose name is listed amongst the witnesses to the will of Robert Bowker, tailor (1619). It was an attorney who drew up the will of the Rev. Henry Newcome's father. Newcome tells us "... my father fell sick. Finding himself weak he sent for Mr. Loftus, an attorney, to make his will".¹² Humphrey Davenport "learned in the law" was the executor of the will of Alice Hulton, of Manchester, proved in 1610. Besides these members of the legal profession, there was also in Manchester in James I's reign a public notary, Edward Sagar. Four of the wills of the township have been found to have been drawn up by him.¹³

It is probable that by the end of the seventeenth century lawyers had effectively captured the business of making wills, at least in the towns, and these records in the process tended to become increasingly secular and stereotyped. The clergyman William Assheton, although he wrote a treatise on wills, admitted that "to discourse of wills and testaments is chiefly the lawyer's province".¹⁴ But this was in 1696. Before the Civil War, lawyers were by no means assured of this near-monopoly. Professor Jordan, who has probably read more wills of this period than any other historian, has said that of wills made before 1660 "relatively few betray the cold hand of the lawyer or notary in the language and form of their composition".¹⁵

On the contrary the evidence suggests that in the late sixteenth and early seventeenth centuries the role of the clergy in the drafting of wills was an important one. John Glover, Fellow of the Collegiate Church, Manchester, signed himself "the writer hereof" in the wills of William Baguley, clothworker (1572) and of John Cowapp (1581). Edward Pendleton, vicar of Eccles, acted as supervisor and witness of the will of his brother Francis Pendleton, merchantman of Manchester (1574). The will of Joan Newall, widow (1592) was witnessed by no less than three clergymen - Oliver Carter, John Buckley and Robert Barber, all of them puritans. Barber also witnessed the wills of Ottiwell Hodgkinson (1588), Isobel Barlow, widow (1595) and Thomas Hardman, mercer (1578). He was also executor of the will of Margaret Bowker, widow, (1591). The prolific Edward Tacey of the Collegiate Church, Manchester, was witness or executor of no less than thirteen of the Manchester wills consulted.¹⁶ Altogether, clerical influence can be detected in about 14% of these documents.

Activity of this kind, then, was quite clearly a normal part of the clergyman's role in society. Henry Newcome in his Autobiography provides further information on this subject. He writes that in December 1679:

"Mrs. Judith Wollen (a weak, peevish, jealous, wilful person, but I hope a good woman, and a very kind friend to me always) would make her will, and would have me write it. And it must be sealed and none must know what was in it; no, not those that were witnesses: and they also must not tell that she had made a will. This was done according to her mind, when she kept her chamber; but was of perfect understanding as ever".¹⁷

It was a clergyman - William Assheton D.D., rector of Beckenham in Kent - who in 1696 published a Theological Discourse of Last Wills and Testaments. His work was essentially one of instruction.

"I thought it might be useful", he wrote, "to give some direction and assistance to sick and dying persons.. The providence of God having placed me amongst a plain working people who do not much converse with books, some short manual of my own when put into their hands would be accepted and perused".

Assheton was not so much concerned with the legalities of wills as with the sentiments they should embody.

"Remember", he warned, "your will stands upon record for publick perusal and therefore to be idle and extravagant in this last act of your life is to be hissed off the stage and to proclaim your folly to all succeeding ages ... The settling and disposing of a man's estate by his last will and testament is not only the most solemn but also the concluding act of his whole life and as such should be managed with the greatest deliberation and prudence".

Accordingly he advised:

"Make your will in the time of your health. And do not defer so weighty a work, which requires both leisure and composedness of mind, to your death-bed".

The preamble to the will, Assheton argued, ought not to be a meaningless and incidental introduction.

"Let your will be so composed", he declared, "so framed, so worded in the commendatory part as to declare yourself a christian... The first thing which the testator disposeth is his soul. For so run the words First and principally I commend my soul into the hands of God my creator. But here too many of our last wills and testaments do stop and abruptly break off. And then go on in a hurry to the body and estate..."

So Assheton proceeded to give precise instructions about the making of the preamble.

"When therefore you make you will", he wrote, "commend your soul to God in such a manner as may declare your Christianity; give them a reason of the hope that is in you; especially if your religion is suspected (either as having none at all, or as being heretical and corrupt) then vindicate yourself by making a short but pathetic profession of your faith and hope in the beginning of your will.

And that you may better apprehend what I design, you may commend your soul in this or the like form: First and principally I commend my soul into the hands of almighty God as of a faithful creator which I humbly beseech him most mercifully to accept. Looking upon it not as it is in itself (infinitely polluted with sin) but as it is redeemed and purged with the precious blood of his only beloved son and my most sweet saviour Jesus Christ; in confidence of whose merits and mediation alone it is that I cast myself upon the mercy of God for the pardon of my sins and the hopes of eternal life." 18

The clergy, then, played an important part in will-making and of course were constantly presented with the opportunity for so doing. Visiting the sick, after all, was an accepted part of the clergyman's pastoral duties. "It was somewhat new to me", Newcome says in his Autobiography "to visit so many of the sick as I did when I first came to Manchester. Here I visited three or four sick persons a day." 19 Such visits would clearly provide opportunities for prayer, spiritual comfort and preparation for death, and in these circumstances it would be natural for the question of wills to be raised.²⁰ Indeed it was the duty of the clergyman to enquire whether a will had been made. As Assheton wrote in his Discourse:

"According to the order of the Church of England, the minister who visits the sick and dying persons doth admonish them (if they have not done it before) to settle their temporal estates and make their wills". 21

Episcopal visitation articles and injunctions invariably mention this aspect of the clergyman's responsibilities.

To what extent, however, did the scribes of wills - particularly the 'professionals' amongst them, i.e. lawyers and clergy - supply the ideas and form of these documents? Up to a point this was undoubtedly happening in Manchester. Seventeen "puritan wills" opening with the same preamble can admit of no other conclusion, especially since the influence of the puritan clergyman Edward Tacey can be detected in them so frequently. And we have evidence that at least one scrivener supplied a ready-made preamble to a client's will. This was William Strengthfellow whose own will (proved in 1631) is to all intents and purposes identical in its preamble to the one which he drew up for Ralph Moss, tanner, in 1617. But the Manchester wills as a whole display a remarkable variety in the way in which they are prefaced. (Whether this is largely the reflection of a large and diverse range of scribes is another question). Of the Manchester scribes, for example, most is known of Thomas Birch, and significantly all the wills he composed open with a different preamble. Admittedly, in a third of the Manchester "puritan wills" clerical influence is detectable. But it does not automatically follow that this fact is itself the explanation of this kind of will and that wills express religious opinion only because they were on many occasions written by ministers. There was nothing unusual in a clergyman drawing up a will and perhaps the practice need not be attributed with a special significance. In performing this task the minister may only have been acting as a professional scribe. The two wills known to have been written by John Glover of the Collegiate Church, Manchester were different in form and neither was the same as his own will proved in 1591. And Edward Tacey wrote wills containing other preambles than the commonly occurring one quoted above.

But in the absence of further data this problem cannot be finally resolved; in larger communities such as Manchester the authorship of wills is bound to be more difficult to establish than in the case of the Cambridgeshire villages examined by Mrs. Spufford. Wills can provide evidence of religious opinion but they are a difficult source to handle and their value consists as much in the way they indicate

general trends as in providing conclusive evidence in themselves of the religion of an individual.

NOTES

- 1 Margaret Spufford, "The Scribes of Villagers' Wills in the sixteenth and seventeenth centuries and their influence", Local Population Studies, 7, 1971, pp. 28-43.
- 2 Memorials of the Reformation, 1822, vol. 2 pt. 1, pp. 557-8.
- 3 Of Jordan's several works on philanthropy these two in particular may be noted: Philanthropy in England, 1959, and The Charities of Rural England, 1961; A.G. Dickens, Lollards and Protestants in the Diocese of York 1509-38, 1959. Cf. D.M. Palliser, The Reformation in York 1534-53, Borthwick Papers, 40, York, 1971, pp. 18-20, 27-29, 32.
- 4 Spufford, article cit., p. 41.
- 5 R.C. Richardson, Puritanism in North-West England: A Regional Study of the Diocese of Chester to 1642, Manchester, 1972.
- 6 This particular example is the will of George Clarke, haberdasher, proved in 1637.
- 7 Four other examples of this will have been found but in every case the testator lived close to Manchester - at Worsley, Pilkington, Newton and Broughton.
- 8 Chester. County and Diocesan Record Office. 1625 visitation. EDV 1/26 f.98v.
- 9 The nuncupative will of George Hulton of Chester, shoemaker (d.1647), provides a comment on this fact and highlights the special problems of will-making during plague or illness. Hulton's will points out that "the extremitie of the contagion being so violent ... he could not p(ro)cure anyone to come to him to make his will in writing".
- 10 W.L. Sachse (ed.), The Diary of Roger Lowe of Ashton-in-Makerfield, Lancashire, 1663-74, New Haven, 1938, pp.19, 62.

- 11 R. Parkinson (ed.), Life of Adam Martindale, Chetham Society, o.s.4, Manchester, 1845, p. 46.
- 12 R. Parkinson (ed.), Autobiography of the Rev. Henry Newcome, Chetham Society, o.s. 26-27, Manchester, 1852, I. p.5.
- 13 These were the wills of George Burgess, chapman (1623), Edward Glover, baker (1624), Joan Hardy, widow (1605) and Hugh Marler (1605).
- 14 Assheton, A Theological Discourse of Last Wills and Testaments, 1696, p. 2.
- 15 Jordan, Philanthropy in England, p. 16.
- 16 The wills are as follows: George Swarland, Usher of the Free School, (1619), John Jackson, butcher (1623), Adam Hulme, inn-keeper (1622), Jane Downes, widow (1627), Samuel Dickenson, inn-keeper (1624), George Marshall, merchant (1624), Margaret Nugent, widow (1631), John Sorocold, merchant (1621), Nicholas Hartley, woollen draper (1610), James Hough, clothier (1615), Richard Merriott, glazier (1618), Alice Massy, widow (1608), Alice Pendleton, widow (1617).
- 17 Newcome, op.cit., II, p. 230.
- 18 Assheton, op.cit., epistle dedicatory, pp. 20, 1, 3, 15 - 16, 19.
- 19 Newcome, op.cit., I, p. 73.
- 20 The majority of the wills which would have been examined were made by testators who were conscious that they were failing and that death was close. It is unusual to find a testator not declaring that he is "weak in body".
- 21 Assheton, op.cit., epistle dedicatory.