Legal History and the Medieval Englishwoman: 
A Fragmented View

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Ninety-seven years ago, the English legal historian Frederic William Maitland gave a lecture called ‘Why the History of English Law is Not Written’.¹ This essay has something of a similar theme, on a much more modest scale: ‘Why a recent, scholarly, relatively comprehensive history of medieval English law as it applied to women has not been written’. Its purpose is both to examine factors which may have deterred historians from undertaking such a project and to attempt an overview of the kind of work in women’s legal history that has been, and is being, done.

I

The nineteenth and early twentieth centuries saw some interest in the history of women’s legal rights and liabilities and in both Britain and the United States there were attempts at summarizing hundreds of years of Englishwomen’s experience in relatively slender volumes. Sometimes there were also efforts to discuss comparative legal systems; often the result was a scope too broad to permit depth, as in The Legal Rights, Liabilities and Duties of Women with an Introductory History of their Legal Conditions in the Hebrew, Roman, and Feudal Systems, by Edward D. Mansfield in 1845.

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(Books or articles mentioned in the text and also listed in the bibliography which follows are not ordinarily footnoted except where there has been quotation or discussion of a specific point made by an author.)

Even when authors limited themselves as to place, their work still had a rather wide focus: *Women under the English Law from the Time of the Saxons to the Present Time*, the present time being 1896 and the author Arthur Rackman Cleveland; or *The Status of Women under the English Law*, by Annie Wallis Chapman and Mary Wallis Chapman in 1909; or *British Freewomen: Their Historical Privilege in Common Law and Equity*, an 1894 volume by that remarkable woman Charlotte Carmichael Stopes. And then there are some which really did define their limits more sharply; Courtney Stanhope Kenny’s *The History of the Law of England as to the Effects of Marriage on Property and on the Wife’s Legal Capacity*, published in 1879, would be a good example.

But all reflect scholarship as it stood eighty or a hundred or a hundred and forty years ago. This is not to belittle the men and women who wrote those volumes. Annie Beatrice Wallis Chapman was a fine scholar who edited the *Black Book* of Southampton. Charlotte Stopes published her book because she could not get a hearing any other way; she proposed a paper on what she called ‘a Woman’s Subject’ to be read before the British Association in 1885 and was turned down with the explanation that ‘although they formed valuable contributions to Constitutional History, the Committee felt they would certainly lead to political discussion, which must not be risked’.2 Her book, and the Chapmans’ and others, were pioneer works. But these older books obviously cannot reflect and incorporate work done in our lifetimes; often, almost a century of scholarship lies between them and us. Moreover some, at least, were written by authors who used history to explain and even to justify the legal status of women as they themselves knew it.3 And, most important, none is based on a wide study of cases because none is based on in-depth work in the plea rolls and few make extensive use of other unprinted archival sources. Most offer only a handful of cases, often those transcribed into chronicles and genealogies. Instead, the studies look to statutes, treatises, and commentaries for authority—reputable sources, of


3. Edward Mansfield’s *The Legal Rights, Liabilities and Duties of Women with an Introductory History of their Legal Condition in the Hebrew, Roman and Feudal Systems* (Salem, Ohio, 1845) provides a good example. Virtually his sole source for English legal history is Blackstone, but his ‘introductory history’ is not really the point of the book: he was writing to explain ‘to intelligent women a mass of legal information concerning their persons, property, and happiness’ (6) and he firmly believed that history proved ‘that women have, in Christian countries, made such vast progress, especially in our republican government’ (102). They could not be sold in marriage, their husbands could not practice polygamy, and concerning existing inequalities as to property rights of married women, ‘an apologist for the existing state of things may very reasonably say that it is an inequality depending on the free will of women themselves. If they do not choose to avoid marriage, the laws still allow them to make a settlement on trustees for their separate use’ (104).
course, but all going to the same point; they give information about what the law should be, or what it is in theory, but do not speak to practice. Work based on them lacks an evidentiary base sufficiently wide to permit conclusions about how medieval law or laws affected heiresses or doweresses or executrices—or murderesses, for that matter. One cannot know from Bracton’s many pronouncements about dower rights how often those rights were thwarted by intimidation or harassment of the widow, any more than one can know how much de facto control over her land an heiress with an incompetent or permissive husband might in fact retain. And, quite apart from provisions designed to apply only or especially to women, one cannot know how general law affected the female half of the population: a widow was free to bring an action in debt, but how was she received in court? Was she as likely as a man to recover the amount claimed? Conversely, women were no more free than men to commit felony, but when accused were they convicted as often and punished as severely? Only a quantitative study of cases would allow even a guess. But the nineteenth and earlier twentieth century historians of law were not interested in making such a guess. They—and many later legal historians—were studying institutional history or the history of legal principles, for both of which their sources were admirably suited. Questions of how doctrine and the rule of law affected the lives of actual women never had to be answered because they were not asked.

In any event, the studies were attempts at a definitive treatment of ‘the law of women’. In more recent years, so far as I am aware, no one has seriously made an attempt at an overview and no one has written a scholarly comprehensive history of medieval law in its application to women. One reason may be that at least until within the past fifteen or possibly twenty years, anyone who wanted to do a synthetic piece, an overview—which is what a comprehensive history must be—would have started with very little help available by way of published books or articles dealing with specific topics and based on extensive research in primary sources. One can point to F. Joüon des Longrais’ 1962 piece ‘Le Statut de la Femme en Angleterre’ in


5. Maitland found the same situation frustrating: ‘Then think of the tons of unprinted plea rolls. . . . there is so much to be done that one hardly knows where to begin. He who would write a general history thinks perhaps his path should be smoothed by monographs; he who would write a monograph has not the leisure to win his raw material from manuscripts; but then only by efforts at writing a general history will men be persuaded that monographs are wanted, or be brought to spend their time in working at the rolls’ (supra note 1 at 484).
the volume entitled *La Femme* of the Société Jean Bodin and to S.J. Bailey’s excellent article called ‘The Countess Gundred’s Lands’ in the *Cambridge Law Journal* in 1948 and to Father Michael Sheehan’s equally excellent ‘The Influence of Canon Law on the Property Rights of Married Women in England’ in *Medieval Studies* in 1963. And there are others. But it is not easy to list a dozen more pieces of the same caliber from the 1940’s or 1950’s or even the early 1960’s. A historian would have been pretty much a pioneer in using many of his or her primary sources. That is in itself a formidable challenge. In her essay, ‘Women under the Law in Medieval England, 1066-1485’ in the 1979 volume edited by Barbara Kanner, *The Women of England from Anglo-Saxon Times to the Present: Interpretative Bibliographic Essays*, Ruth Kittel points out that legal records may be one of the best sources for studying medieval women and that much remains to be done, with whole classes of documents virtually untouched. But there follows an ominous postscript, a cautionary note to the unprepared enthusiast: ‘Because of the nature of the available legal documents, research on the history of medieval English women based on these sources must be done by people trained in medieval studies.’6 She explains: most documents are in Latin while others are in Anglo-Norman French. Nor are they printed, for the most part; the historian must be trained in paleography. And the amount of unpublished material is staggering: ‘For example, only two percent of the common law records for the thirteenth century are printed. In the other ninety-eight percent, there are at least 27,500 membranes in one class, the rolls of the justices itinerant.’ The conclusion seems inevitable: ‘Any new work on medieval English women will probably come from people trained in both languages and paleography, who can work with what are often quite difficult sources.’7

She is right, of course. The amount of material is incredible. The legal records are not as voluminous for the thirteenth century—which I think helps to explain why Maitland’s own *History of English Law* stopped at 1272—but they grow steadily until, by the end of the medieval period, just for each of the central courts for each of the four terms of the legal year there is a heavy bundle of parchment with foxing leather covers, tied up with knotted ropes, every one with hundreds of membranes sewed together at the top, every membrane nearly three feet long and almost a foot wide, written often front and back, in Latin, in highly stylized court hand. And the central courts are not the only courts and plea rolls are not the only important legal records. One can safely guess why a comprehensive study based on those primary sources has not been written for the four-hundred-odd years between the Norman Conquest and the first Tudor.


7. Ibid. at 133.
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But difficulty of sources is not the only reason. The fact seems to be that few have been discouraged by the difficulty because few wanted to write a legal history of medieval Englishwomen in the first place. Some have worked with one aspect or another of `women`s law`, but it is perfectly possible to write on a legal topic which necessarily concerns women, or even to write about a woman, without writing women`s legal history. An example might be the absorbing article by Ralph Griffiths, `The Trial of Eleanor Cobham: an Episode in the Fall of Duke Humphrey of Gloucester`, which appeared in the Bulletin of the John Rylands Library in 1969. Even the title proclaims Professor Griffiths` real interest: he is concerned with Duke Humphrey`s loss of power and the attack on Humphrey`s duchess was an attack on that power just as an attack on his tenants or his horses might have been. The trial does, in fact, have some importance for women but Griffiths takes that up only on the very last page of his article: As a result of a Commons petition growing out of the case, it became law that peeresses accused of treason should, like peers, be judged by the judges and peers of the realm. `So stands the trial of Eleanor Cobham. It has a timeless importance in the history of English law and the definition of the legal status of peeresses, if not women generally.`¹⁸ And then the article returns to a consideration of the effects of the trial on Duke Humphrey, the theme of the preceding seventeen pages. This is not to fault Professor Griffiths. He did not claim in his article to be writing women`s legal history and he did what he had set out to do. But it illustrates the point made earlier that many modern historians who have worked with law have begun with an interest in a legal idea or event or institution, not with a concern for how it affected women. Very few have started with an interest in women`s history that they might have elected to pursue through various areas of law. And the result of all this is that the view of law and the medieval Englishwoman is fragmented.

II

But it does exist today, even if in fragments. A great deal has been written on relatively narrowly defined topics, much of it within the past fifteen years and certainly within the last twenty, much but by no means all of it written by women. Most of it has not been published in law reviews or journals of legal history. D. Kelly Weisberg, who did some counting, has suggested that over the past sixty years only an average of one historical work per year on women has appeared in legal periodicals.⁹ The new history has appeared,

rather, in journals dealing with childhood, economics, social history, interdisciplinary studies. At least in part, it is tied in with the newly expanded interest in the family and family law. Some of this material should be noted, because it is important to see what concerns the authors of the new work in medieval English women’s legal history.

Ms. Weisberg, in the introduction to *Women and the Law: The Social Historical Perspective*, a collection of essays published in 1982, comments that women have been of legal historical interest primarily in a few areas. In the criminal law, they have figured as witches and/or murderers and/or prostitutes. In the civil law, they have been of interest particularly in relation to their property rights following marriage. Her comments on the criminal law are not limited to work on the Middle Ages and may pertain less to that period. The work which comes first to mind in this context, if one is thinking of medieval England, is Barbara Hanawalt’s, whose studies on peasant families and crime and on female felons and victims do not focus on women as either witches or murderers; her work tends to show, in fact, that women committed proportionately fewer crimes of violence than men and that their criminal acts tended to involve property. And she discusses crimes not only frequently committed by women but also frequently committed against them, the obvious example of the latter being rape. Perhaps because it was an offense in which women were virtually always the victim and never the perpetrator, rape has, in fact, received attention from a number of historians interested in medieval women and law. Moreover, recent work shows the influence of social history; one example is John M. Carter’s 1982 article in *Comitatus*, ‘Rape and Medieval English Society: The evidence of Yorkshire, Wiltshire, and London 1218-1276’ and his 1985 book on the same topic, *Rape in Medieval England: An Historical and Sociological Study*. Carter uses eyre rolls but, particularly in his article, his real interest is in neither procedure nor the substantive law of rape. He is concerned with women’s history, with the changing status of women in the thirteenth century, and he uses a perceived laxity in punishment of the offense as evidence that that status suffered.

10. Ibid.

11. See, for example, her comments in ‘Females as Felons and Prey in Fourteenth Century England’, in *Women and the Law* supra note 9, at 179; she points out that women, ordinarily charged with providing their families’ clothing, food, and household items, essentially stole goods related to that function. ‘The modern ascriptions of the roles of chief perpetrators of infanticide and stealthy deaths through poisoning of spouses are not borne out by the records. Rather, women were more likely to be the victims . . .’.


One form of murder which does seem to have involved women perpetrators was infanticide, and considerable work has been done on it for all periods of English history. As far as the medieval period in England is concerned, Barbara A. Kellum’s ‘Infanticide in England in the Later Middle Ages’ appeared in the History of Childhood Quarterly in 1974, followed in the same journal the next year by Richard Helmholz’s ‘Infanticide in the Province of Canterbury during the Fifteenth Century’. The Kellum article in particular attempts to assess some of the many factors which went into making infanticide increasingly appear to be a women’s offense, an interesting line of thought although the speculation on the mentality of the murdering mother (the term is not mine, but Peter Hoffer and N.E. Hall’s) cannot be substantiated from legal records.14

Moving from criminal law, there is no question about the fascination which women’s property rights have had for historians. It is not startling. A great deal of legal history has been written about property rights in general because property—the right to obtain it by inheritance or purchase or gift, the right to hold it, the right to sell it or pledge it or give it or will it, the right to seize it or protect it—looms very large in medieval law. Nor is it surprising that married women have been singled out for study. By the time that legal records begin to exist in quantity, in the first half of the thirteenth century, some adult women without husbands enjoyed a capacity similar to that of men to hold and deal with property, although of course women were at a disadvantage for inheritance purposes. In many instances, the real distinction was not between men and women but between men and single (usually widowed) women on one hand and married women on the other.15

Property-related research involves a wide range of subjects: dower, maritagium, writs of entry cui in vita, inheritance by co-heiresses and so on. Perhaps the grandmother of all is Florence Griswold Buckstaff’s 1894 article in the Annals of the American Academy of Political and Social Science, ‘Married Woman’s Property in Anglo-Norman Law and Origins of the Common Law Dower’. It is subject to all the criticisms made of nineteenth century scholarship, but it was a pioneering work and apparently the only one in the field until F. Jouon des Longrais’ La Conception anglaise de la Saisin du XIIe au XIVe siècle in 1925, which despite its lack of case material—and some brilliant surmes which have turned out to be


15. For an analysis of an earlier period when women’s right to inherit land was not settled, see S.F.C. Milsom’s ‘Inheritance by Women in the Twelfth and Early Thirteenth Centuries’ in Morris S. Arnold, Thomas A. Green, Sally A. Scully, and Stephen D. White, On the Laws and Customs of England (Chapel Hill, 1981). More recently, RaGena de Aragon has been working on women’s inheritance in the twelfth century; she presented some preliminary findings in a paper called ‘Women and Inheritance in Twelfth-Century England’ at the American Historical Association meeting in Chicago in December, 1984.
untenable—is still essential for anyone looking for an overview of the institution of dower. A good example of a new approach to questions of married women’s property is Charles Donahue’s probe of the circumstances underlying some accepted medieval concepts; his article, ‘What Causes Fundamental Legal Ideas? Marital Property in England and France in the Thirteenth Century’ appeared in the 1979 *Michigan Law Review*. Donahue, in an interweaving of legal and non-legal materials, offers what he calls a political explanation—the power of the English king—and social and anthropological explanations based on the strength of the French family and familial communities, to account for the divergence in practice in the two countries.16

Inheritance—patterns of inheritance, changing customs in inheritance—is a ‘growth industry’ in history writing, and much of what has been written is concerned with the effects of a rule or a custom on women. One example would be Cicely Howell’s ‘Peasant Inheritance Customs in the Midlands, 1200-1700’ in *Family and Inheritance: Rural Society in Western Europe, 1200-1800*, the collection of essays edited by Jack Goody in 1976.17 Ten years before that, in 1966, Rosamund Faith published a widely-cited article, ‘Peasant Families and Inheritance Customs in Medieval England’ in the *Agricultural History Review* and more recently, R.M. Smith’s ‘Some Thoughts on “Hereditary” and “Proprietary” Rights in Land under Customary Law in Thirteenth and Fourteenth Century England’, published in the Spring, 1983, issue of this journal, offered information about women in several different situations—and, incidentally, references to numerous works in the field. This is an area where virtually every piece of work recently done devotes at least some space to women.

The same is of course true in another, even bigger, growth area: the law of marriage and the family and the multitude of rights and liabilities connected with it. It is, in fact, impossible to separate the study of marriage in medieval England from a study of women’s property rights in medieval England or, indeed, from a study of any of women’s rights or liabilities in medieval England. Almost all women were married at one point or another in their lives—unless they had entered the religious life—so that married women’s rights or liabilities are effectively the norm which must be studied. Marriage touched most aspects of the medieval woman’s life; questions relating to it could subject her to the jurisdiction of two separate legal systems since church courts alone were competent to make any decisions relating to the marriage’s very existence. Issues related to the church courts’


enforcement of marriage contracts and impediments to those contracts which could result in divorce or annulment are discussed by R.H. Helmholz in his highly-regarded 1974 volume, *Marriage Litigation in Medieval England*. Moreover, an ecclesiastical court’s decision on an issue affecting the validity of a marriage often had repercussions in the common law courts which had to consider the effects of the invalidity of a marriage on inheritance by offspring, or on dower rights, or on maritagium. Getting beyond the question of whether a marriage existed at all, what was the effect of a canonically valid but socially or tenurially unacceptable marriage on a woman’s property rights: did the need for consent, insisted on by the church, involve freedom of choice? On whose part, under what circumstances and, realistically, at what cost? Assuming a valid marriage which had had the approval of lord and family, the death of a husband meant that a widow could experience significant alteration in her relationship to her children, most especially her minor children. How likely was she, in practice, to play a role in determining their future, especially in the crucial matter of arranging or at least vetoing their marriages? What happened, in practice, to her right of dower, suddenly no longer inchoate? What about property she had brought to a marriage but had never controlled? It is not surprising that legal historians as well as social historians have been interested in the institution of marriage. Maitland devoted a considerable number of pages to it in his *History of English Law*. Modern work, again, has tended to be on more narrowly defined topics; only a few can be mentioned here. Canon law issues have been commented on in a series of articles and monographs. Father Michael Sheehan published ‘The Formation and Stability of Marriage in Fourteenth Century England: The Evidence of an Ely Register’ in *Medieval Studies* in 1971 and in the same year, James Brundage’s ‘Concubinage and Marriage in Medieval Canon Law’ appeared in the *Journal of Medieval History*. On the question of consent, John T. Noonan did ‘Marriage in the Middle Ages: The Power to Choose’ in *Vitator* in 1973. Even more has been written about the common law and common law courts’ handling of issues arising from matrimony. On the related issues of choice and consent, there is Sue Sheridan Walker’s study of widows’ remarriage, ‘Feudal Constraint and Free Consent in the Making of Marriages in Medieval England: Widows in the King’s Gift’, published in *Historical Papers*, a selection from papers given at the annual meeting of the Canadian Historical Association in 1979, and—at least tangentially—

18. Sir Frederick Pollock and Frederic W. Maitland, *The History of English Law* 2nd ed., 2 vols. (Cambridge, 1968) ii, 364-436. There is also a subsection in the *History* entitled ‘Women’ (i, 482-85); it immediately follows subsections on excommunicates, lepers, lunatics, and idiots—the point being that medieval women were not ‘normal persons . . . free and lawful men’ (482)—but it ends by cautioning that everything there said applies only to spinsters or widows (485). For a study, contemporary with the *History*, of the comparative law of marriage, see James Bryce’s ‘Marriage and Divorce under Roman and English Law’ in *Studies in History and Jurisprudence*, 2 vols. (New York, 1901), ii, 782-859.
her ‘The Marrying of Feudal Wards in Medieval England’ in *Studies in Medieval Culture* (1974). In less strictly technical terms, Lady Stenton treated the same subject in her 1957 book, *The Englishwoman in History*; it has, of course, been touched on by a number of historians interested in feudal society.\(^{19}\) Leaving aside both common and canon law, the freedom to marry as one chose could involve manorial jurisdiction. One thinks of the ongoing debate between Eleanor Searle and Jean Scammell on the meaning of merchet, the payment required of a peasant who wished to marry off his daughter: was merchet an attempt to control the marriage of women tenants, or did it represent a tax reflecting assets lost to the lord by reason of the marriage? Mrs. Scammell’s original article, ‘Freedom and Marriage in Medieval England’ and a second article, ‘Wife Rents and Merchet’, both appeared in the *Economic History Review*, as did Professor Searle’s ‘Freedom and Marriage in Medieval England: an Alternative Hypothesis’. Professor Searle went on to write ‘Seigneurial Control of Women’s Marriage: Antecedents of Merchet in England’ (*Past and Present*, 1979) and it is perhaps significant that a revised version of that paper has appeared in the Weisberg collection under the title, ‘Merchet and Women’s Property Rights in Medieval England’. Marriage and property, property and marriage.

Marriage inevitably meant widowhood for a proportion of women and widowhood in England had important legal consequences. Sue Walker has written on the question of the widow’s relationship to and control over her children, specifically over her husband’s heir, in a 1976 article in *Feminist Studies*, ‘Widow and Ward: The Feudal Law of Child Custody in Medieval England’, published the same year in Susan Mosher Stuard’s *Women in Medieval Society*. Barbara Hanawalt’s paper, ‘Widowhood in Medieval English Villages’, given originally at the Fifth Berkshire Conference on Women’s History in 1981, and now a chapter in a forthcoming book, discusses a number of the rights and liabilities of the widow at a lower level of society. She has used manorial court rolls as her source, and what she has found often reflects customary law and practice. There is, again, an instructive distinction to be drawn between work such as hers and articles such as George Haskins’ *Harvard Law Review* article ‘The Development of Common Law Dower’ in 1948. Professor Haskins wanted to present an overview of dower for an extended period; he chose to write institutional history. One would not know from it that widows were faced with legal, social, and familial limitations which affected their suits and, indeed, the action itself, or that the adjudication of dower rights could affect an entire family’s future. Haskins was not interested in widows as women any more than he was interested in heirs as children. He was not writing women’s legal history; he did not try to.

\(^{19}\) As an example, see Sidney Painter, ‘The Family and the Feudal System in Twelfth Century England’ in *Speculum* xxxv (1960) 1-16.
III

Even this brief outline makes evident that much work has been done. More is being done. But the result still provides a very spotty picture. Women’s property rights, their legal limitations vis-à-vis their husbands or guardians, their rights of guardianship and other relationships with their children’s persons and property, are being discussed. But if we learn a great deal about women as wards, criminals, heiresses, victims, guardians, tenants in chief, dowagers, and the like, there are still aspects of their life which we have not seen. We know very little about women’s commercial activities, although apparently not only single women but both the widows and wives of urban tradesmen and artisans frequently carried on economic enterprises and there is evidence that other women sometimes did also, if only within defined limits. Until recently, little has been written about them, apart from the important work of Sylvia Thrupp and a few commentaries on guilds controlled by women in various European cities, most notably the narrowly focused but impressively researched 1932 article by Marian K. Dale on fifteenth century London ‘silkwomen and throwsters’. Is it because, in the eyes of the law, these women’s legal status was no different from men’s? Or is it because their commercial activities had no effect on their legal status or rights, as Judith Bennett’s 1982 paper ‘The Village Ale-Wife’ has suggested was true of alewives in the several village communities studied. The custom of London was not alone in making provision for married women who carried on their trade activities; what did that mean in practice? Where women were not acting alone, how often were

20. Professor Thrupp’s classic study, The Merchant Class of Medieval London, 1300-1500 (Chicago, 1948), did not focus on women, but in addition to comments on girls and women in various capacities, there is a useful section on ‘The Woman’s Role’ at 169-74. The Dale article, ‘The London Silkwomen of the Fifteenth Century’ Economic History Review 1st series, iv (1933), 324-35 used chancery proceedings, wills, deeds, the Rotuli Parliamentorum, the Plea and Memoranda rolls, and other original sources and would be immeasurably useful to anyone interested in women artisans and traders. Very recently, there has been some new work begun in this area. Maryanne Kowaleski has examined the role of women as merchants and craftsmen in the later middle ages in both her unpublished paper ‘Female Merchants in Medieval English Seaports’, delivered at the Sixth Berkshire Conference on the History of Women at Smith College in June, 1984, and her essay ‘Women’s Work in a Market Town: Exeter in the Late Fourteenth Century’ (supra note 1). In a related field, William C. Jordan is interested in medieval women both as borrowers and as moneylenders, although he is not primarily concerned with England; he presented some preliminary thoughts in his paper ‘Women and Credit in the Middle Ages: Current Research’, read at the American Historical Association meeting in Chicago in December, 1984.

suits by husband and wife really based on the wife’s economic activities? And in a related area, what of the many women who were named executrix in a husband’s will, who were charged with the settlement and often the long term management of the husband’s estate? They appear in the records and what is more, they appear in their own persons; it would be useful to know more about them and their transactions and how they used the legal system to protect their assets and to facilitate their activities. Nor are these the only blank spots in the legal history of women; what about the whole area of what we would call tort law, much of it handled by the actions of trespass and trespass on the case? There are women plaintiffs in the plea rolls: who were they in terms of both economic and legal status? Were they always single or widowed, given the rule that a married woman could not sue or be sued without her husband’s being joined in the action? What were their causes of action—what kinds of suit were they most likely to bring? Against what kind of defendant? How likely were they to be successful? How important, in economic terms, were suits by women? There are many such blank spots, many gaps; some may never be filled in because records are missing or uninformative or simply so massive and difficult to use that it is not worthwhile to ask the questions necessary for a meaningful answer. But in some instances the material is there and relatively manageable: it is just that no one has asked questions designed to elicit more information about women rather than more about an action or an institution. Ideally, then, people interested in women’s legal history would ransack legal records for information about every aspect of women’s lives and how they were touched by law and would then write articles setting out what they had found. The articles themselves would be worth having, but each would be useful beyond its own limits because it would be a piece in the mosaic which must be reconstructed, the jigsaw puzzle which must be put together. There are now enough scholars primarily interested in the legal history of women. But only when there are enough pieces will someone be able to write the comprehensive, scholarly, synthetic history that does not now exist. And only then will the view in the kaleidoscope be resolved into a coherent picture of the relationship between English medieval women and law, as it existed for the better part of half a millenium.

22. Sharon Ady has compiled some statistics on the number of wives named executor by their husbands in the fifteenth century; her work on the registers of the Archbishop of Canterbury has led her to examine both the circumstances under which wives were likely to be appointed executor and their activities in the role. Her paper ‘Between Husbands and Wives: Testamentary Evidence from the Registers of Henry Chichele, Archbishop of Canterbury, 1414-43’ was read at the meeting of the American Historical Association in Chicago in December, 1984.
Bibliographic Appendix

The following is by no means exhaustive; it is a working bibliography, or even a tentative working bibliography—it doubtless omits works which should be included. Almost no entries deal with the period after 1500; the exceptions are surveys which include the Middle Ages, studies centered in a later period but reflecting or referring to medieval practices or problems, or articles which are the only treatment of a topic relevant to medieval women’s legal history.

1—[Anonymous], The Laws Resolutions of Women’s Rights; or, The Lawes Provision for Women (London, 1632).
2—[Anonymous], Baron and Feme: A Treatise of Law and Equity, Concerning Husbands and Wives (London, 1700).
5—Brundage, James, ‘Concubinage and Marriage in Medieval Canon Law’ in Journal of Medieval History i (1975) 1-17.
15—Donahue, Charles Jr., ‘What Causes Fundamental Legal Ideas? Marital
17—Frey, Linda, Marsha Frey, and Joanne Schneider, eds., Women in Western European History: A Select Chronological, Geographical, and Topographical Bibliography from Antiquity to the French Revolution (Westport, 1982).
19—Goody, Jack, ‘Inheritance, Property and Women: Some Comparative Considerations’ in Family and Inheritance: Rural Society in Western Europe, 1200-1800, see supra item 18 at 10-36.
31—Howell, Cicely, ‘Peasant Inheritance Customs in the Midlands, 1280-1700’ in Family and Inheritance: Rural Society in Western Europe, 1200-1800, see supra item 18 at 112-55.


34—Joüon des Longrais, Frédéric, La conception anglaise de la Saisine du XIIe au XIVe siècle (Paris, 1924).


43—Mansfield, Edward D., The Legal Rights, Liabilities and Duties of Women with an Introductory History of their Legal Conditions in the Hebrew, Roman and Feudal Systems (Salem, Ohio, 1845).


60—Sheehan, Michael, ed., with Kathy D. Scardellato, Family and Marriage in Medieval Europe: a Working Bibliography (Vancouver: University of British Columbia, Faculty of Arts, Medieval Studies Committee, 1976). Not concerned primarily with England, but has much English material in it.

61—Sheehan, Michael, ‘The Formation and Stability of Marriage in Four-
63—Simms, Katherine, ‘The Legal Position of Irishwomen in the later Middle Ages’ in 10 Irish Jurist (1975) 96-111.
66—Stopes, Charlotte Carmichael, British Freewomen: Their Historical Privilege in Common Law and Equity (London, 1894).
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