Lloyd Bonfield. *Devising, Dying and Dispute: Probate Litigation in Early Modern England.*

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Lloyd Bonfield's work on legal history has been particularly concerned with the process of intergenerational property transfer in early modern England. His first major publication, *Marriage Settlements, 1601–1740: The Adoption of the Strict Settlement* (1983), was a notable study of an important development. The book reviewed here analyzes litigation concerning wills in the Prerogative Court of Canterbury between 1660 and 1700. This ecclesiastical tribunal (which actually sat in London) was England's principal probate court, where 1,796 wills were proved in 1681 alone. The fuller proceedings, or causes, with which Professor Bonfield is concerned comprised probates "in solemn form of law," which protected the wills concerned against a possible future challenge, and litigation about actively disputed wills. During his period, Professor Bonfield estimates, some 10,500 causes came before the court. Allegations made in support of the wills involved, which throw some light on the circumstances of cases, survive for about a third of these causes. A "rough and ready" (259) sample of 184 causes, or 5 to 7 percent of those for which allegations survive, provides the main basis of Professor Bonfield's study;

he also read the surviving records of forty other cases. The testators represented by cases in the sample range from a countess to a mariner and a carpenter.

Nearly a quarter of Professor Bonfield's sample causes were uncontested probates in solemn form. In the remainder (the actively contested causes) the most important issues during the period as a whole were the capacity of the testator and the possible influence of interested parties over the process of will-making. Attempts to contest the validity of wills by showing that their makers had been incapable as a result of mental debility of various sorts, or subject to undue influence, failed in three-quarters of relevant cases. A fruitful source of litigation was the readiness of ecclesiastical law to accept wills delivered by word of mouth ("nuncupative" wills). The Statute of Frauds, passed by Parliament in 1677, introduced stricter requirements for the probate of nuncupative wills disposing of estates valued at over £30. This moderate reform decisively reduced the amount of litigation concerned with nuncupative wills, which is perhaps this book's most important single finding. Such cases amounted to nearly a third of the contested causes before 1677, but only 3.6 percent thereafter. A substantial minority of causes turned on what Professor Bonfield classifies as "authenticity issues," including conflicts between two surviving wills, the genuineness of wills ostensibly written by testators, interlineations, and the lack of due formalities such as signing and publication. As Professor Bonfield emphasizes, reinforcing the conclusions of other accounts of early modern testamentary litigation, ecclesiastical judges' paramount aim was to give effect to what appeared to be the latest genuine expression of the testator's intentions, even if it had not fulfilled all the appropriate formalities. This helped to sustain a "culture of will-making," discussed in chapter 1, which was distinguished by a widespread reluctance to make a will long before the approach of death.

The last part of this study, "Windows into Social Relationships," is largely devoted to the familial context of litigation. Clandestine marriages were responsible for several disputes during this period. Rancor between parents and children, between siblings, and between husbands and wives, all gave rise to litigation. Professor Bonfield observes, however, that resentful family members apparently expressed their feelings by means of richly varied verbal abuse rather than physical violence. He underlines in chapter 10 the "Myriad Roles of Women," especially as litigants (over 46 percent of those in his sample) and witnesses (largely due to their importance in caring for the dying). A final conclusion contrasts the haphazard character of will-making during this period with the orderliness of the process of strict settlement, increasingly adopted by the upper classes for the intergenerational transfer of landed estates. The contrast is, as Professor Bonfield concedes, heightened by his "idealized" picture of the strict settlement (243), and of course by the fact that this is a study of the disputes generated by a small minority of all wills. As such, it makes a useful and accessible contribution to legal history. Specialists in that field will provide its principal readership, though social historians will also find in it much to interest them.

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