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## A Piece of the Puzzle: Women and the Law as Viewed from the Late Medieval Court of Chancery --Manuscript Draft--

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<b>Abstract:</b>	<p>This article uses fifteenth-century Chancery bills to demonstrate how women negotiated solutions to social and legal disputes not just in Chancery but through a variety of legal jurisdictions. This approach sheds light on women's actions in courts where the records have not survived and it also adds nuance to the long-running debate about whether equity was a more favorable jurisdiction for women than the common law. By bringing into view other jurisdictions - such as manorial, borough and ecclesiastical ones - it demonstrates how litigants might pursue justice in a number of arenas, consecutively or concurrently. Some women approached Chancery because they did not think they would get justice in a lower court, while others were keen that their cases be sent back down so that they could be fully recompensed for the offences against them. A fuller understanding of the disputes to which Chancery bills refer complicates our understanding of why women "chose" Chancery. Chancery is only one piece of the puzzle of how women negotiated justice in late medieval England, but its records can also shed light on some of the missing pieces.</p>

## **A Piece of the Puzzle: Women and the Law as Viewed from the Late Medieval Court of Chancery**

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In the late fifteenth century, Alice Smyth alias Felton, from Much Wenlock in Shropshire, petitioned to get an action against her in the town court of Bridgnorth moved to Chancery.<sup>1</sup> Her bill's narrative starts further back though: it relates how Alice's daughter, Margaret, had got pregnant within a year of marriage to one John Glover but had consequently fallen out with her husband to the extent that she feared for her own life and that of her child. Margaret fled to her father-in-law's home and he and some of her "frendes" took up her cause before the Bishop of Hereford at the time of his visitation.<sup>2</sup> The bishop, clearly swayed by the arguments made, committed the woman and child to Alice's custody. However, John – who was in service with one of the two bailiffs of Bridgnorth – began an action of detinue against Alice in Bridgnorth's court, which was presided over by the bailiffs, for withholding his wife from him, to the damage of forty marks. Alice imagined that she would lose the action as she was "a Foreyner" (not from the town) and was facing "the might of the said Bailifs," who were connected to her opponent. Alice's bill argues that this loss would be against "right and conscience" as it would ignore the Bishop of Hereford's decision.

The Chancellor's jurisdiction to deal with such bills of complaint, known as the "English" side of Chancery because its records are predominantly in Middle English, differed from the king's other central courts in that it did not operate according to the principles of

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<sup>1</sup> The National Archives, Kew (hereafter TNA), Court of Chancery: Six Clerks Office: Early Proceedings, Richard II to Philip and Mary (hereafter C 1), C 1/60/177 (dated by its address to the Bishop of Lincoln as Chancellor to 1475-80 or 1483-5).

<sup>2</sup> "Frend" could denote relative as well as comrade: see *Middle English Dictionary* (online at <http://quod.lib.umich.edu/m/med/>, accessed 2 August 2017), frend (n).

common law.<sup>3</sup> Although some scholars prefer to call the late medieval Chancery a “court of conscience” rather than a court of equity, the key point is that cases were decided according to some notion of what was fair or just as opposed to strict rules of evidence.<sup>4</sup> In order for a case to fall under the remit of the “English” side, the petitioner had to claim that she would not receive justice in another jurisdiction, for example, because the case was not actionable under common law, there was a lack of supporting documentation, she was too poor to afford legal counsel, or the opponent was so powerful that the trial would be unfair. Alice Smyth’s bill includes the conventional claims that she would not receive a fair trial in Bridgnorth because she did not reside there and because her opponent had strong ties with those ruling on the case. It adds that the case should be decided according to conscience as the action brought in the town court was contrary to a ruling made by an ecclesiastic. The petitioner probably expected the Chancellor, also the Bishop of Lincoln, to back up the ecclesiastical decision.<sup>5</sup> The endorsement on Alice’s bill reveals that it had successfully met Chancery’s

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<sup>3</sup> J. H. Baker, *An Introduction to English Legal History*, 4th edn (London, 2002), 101-3.

Before the reign of Henry VI (1422–61), the petitions were usually written in French.

<sup>4</sup> Haskett reviewed this debate and argued that Chancery was not an equity court in the later sense of the term until c.1540: Timothy S. Haskett, “The Medieval English Court of Chancery,” *Law and History Review* 14, no. 2 (Fall 1996): 245-313 (249-80). Subsequently, Tucker argued that ‘equity’ might still be used as a generic term, even if no firm set of equitable principles had yet been developed: P. Tucker, “The Early History of the Court of Chancery: A Comparative Study,” *English Historical Review* 115, no. 463 (September 2000): 791-811 (795).

<sup>5</sup> On the relationship between Chancery and church courts see Joseph Biancalana, “Testamentary Cases in Fifteenth-Century Chancery,” *Tijdschrift voor Rechtsgeschiedenis* 76, no. 3-4 (2008): 283-306 (304-6).

criteria to proceed but, as in many cases, we do not know any more about the outcome of this dispute.

If a bill had appropriately set out its case, the requested writ would be issued, to summon or secure the person about whom the bill complains (*sub pena* or *attachias*), directed to officials and holders of courts asking them why the petitioner had been arrested (*certiorari*), or to produce the petitioner from prison (*corpus cum causa*).<sup>6</sup> Alice Smyth's bill asked for a writ of *certiorari* to be sent to the bailiffs of Bridgnorth, so that the action could be decided in Chancery instead. If the writs were successfully actioned, the next stage was for the defendant to answer the charges made, under oath. The petitioner then had the option of responding to the answer (by submitting a replication), which might in turn produce a rejoinder from the defendant, and so on, until the allegations of the bill had been whittled down to a set of agreed points at issue. These were then used for the next stage, the gathering of evidence. A commission of justices examined witnesses under oath. If the witnesses were near London, this would happen in Westminster, otherwise the commission would record the depositions in the locality. By the mid fifteenth century, it seems that all these elements were presented to the Chancellor in written form, as some of these documents have been preserved. The Chancellor could then make a decision on the evidence that was before him, order a search for further evidence, examine further any of the parties involved, or delegate some of these tasks.<sup>7</sup> It is likely that not all cases lasted the distance, with some being dismissed, and others lapsing due to lack of funds or because the defendants had settled out

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<sup>6</sup> See Tucker, "Early History," 798.

<sup>7</sup> See Margaret E. Avery, "An Evaluation of the Effectiveness of the Court of Chancery under the Lancastrian Kings," *Law Quarterly Review*, 86 (1970): 84-97 (90-3); W. J. Jones, *The Elizabethan Court of Chancery* (Oxford, 1967), 11-15.

of court, although this is hard to quantify from the surviving evidence.<sup>8</sup> In the National Archives series known as C 1, only about a third of bills have further documents stored with them; for actions pertaining to urban rather than county disputes the proportion falls dramatically.<sup>9</sup>

For J. A. Guy, the fact that we often only have the initial bill of complaint means that it is difficult to make any valid generalization about the nature of Chancery's equitable jurisdiction in the period 1450-1550.<sup>10</sup> However, if we focus less on Chancery as a jurisdiction and more on how it fitted into the broader legal framework in late medieval England, the bills can be revealing. The bills might give us only the start of a case in

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<sup>8</sup> On cases being dismissed see Timothy S. Haskett, "The Presentation of Cases in Medieval Chancery Bills," in *Legal History in the Making: Proceedings of the Ninth British Legal History Conference, Glasgow, 1989*, ed. William M. Gordon and T. D. Fergus (London, 1991), 11-28 (20-1). For early modern comparators, see Amy Louise Erickson, *Women and Property in Early Modern England* (London, 1993), 116; Tim Stretton, *Women Waging Law in Elizabethan England* (Cambridge, 1998), 82-3.

<sup>9</sup> J. A. Guy, "The Development of Equitable Jurisdictions 1450-1550," in *Law, Litigants and the Legal Profession: Papers presented to the Fourth British Legal History Conference at the University of Birmingham 10-13 July 1979*, ed. E. W. Ives and A. H. Manchester (London, 1983), 80-6 (85-6): for urban suits in the years 1515-29, 91% are bills alone. Some bills are endorsed with a decree but decree rolls were not kept by Chancery until 1534-5.

<sup>10</sup> Guy, "Development." He was aware that further research in C 4, which contains assorted answers, replications and rejoinders from the Court of Chancery before 1660, might help in this regard. However, for this study searches using variant spellings of names and places only turned up some related bills in C 1 and not any related pleadings in C 4 (although see [n49](#) below).

Chancery but by necessity they almost always also refer to a legal dispute already in process elsewhere and sometimes to the back-story to the dispute. While such narratives were clearly constructed to advantage petitioners in their requests to Chancery, the bills were only necessary because the petitioners were running the risk of losing in another court.<sup>11</sup> The bill of Alice Smyth is particularly interesting in that it gives us some insight into three legal actions – that of her daughter’s “friends”, her son-in-law’s and her own – in three different jurisdictions. Further, it gives a glimpse into actions for which we have no other surviving records than this Chancery bill. In the extant church court records there are relatively few cases of women seeking separations from violent husbands and the records of the particular visitation referred to in Alice’s bill are amongst the many that do not survive.<sup>12</sup> Similarly, the town court records for Bridgnorth do not survive before 1592.<sup>13</sup>

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<sup>11</sup> On the crafting of bills by lawyers, scribes and petitioners see Haskett, “Presentation;” Cordelia Beattie, “Servantes, femmes et veuves: lire le genre dans les suppliques féminines à la cour de la chancellerie anglaise à la fin du Moyen Age,” in *Genre textuel, genre social, CEHTL*, 8 (Paris, 2015; 1<sup>st</sup> edn online 2017 at [https://lamop.univ-paris1.fr/fileadmin/lamop/publications/Cahiers\\_Histoire\\_Textuelle/CEHTL\\_8\\_\\_2015\\_/Cordelia\\_Beattie.pdf](https://lamop.univ-paris1.fr/fileadmin/lamop/publications/Cahiers_Histoire_Textuelle/CEHTL_8__2015_/Cordelia_Beattie.pdf) accessed 29 August 2017).

<sup>12</sup> Butler found only six such cases in the cause papers for the province of York from the fourteenth to the early sixteenth century: Sara M. Butler, *The Language of Abuse: Marital Violence in Later Medieval England* (Leiden, 2007), 134. The only surviving visitation for Hereford is for 1397: A. T. Bannister, “Visitation Returns of the Diocese of Hereford in 1397,” *English Historical Review*, 44 (1929): 279-89, 45 (1930): 444-63. Butler discusses some Chancery bills that reference domestic violence but not this particular case: Sara M. Butler, “The Law as a Weapon in Marital Disputes: Evidence from the Late Medieval Court of Chancery, 1424–1529,” *Journal of British Studies*, 43, no. 3 (July 2004): 291-316.

This article, then, uses Chancery bills to demonstrate how women attempted to negotiate solutions to social and legal disputes not just in Chancery but through a variety of competing but interconnected jurisdictions. In part, it is a response to the historiographical debate about whether Chancery was a particularly attractive jurisdiction for women as a result of the restrictions that they faced under common law. The legal restrictions – and the fact that the legal system itself was entirely peopled by men – also justifies continuing to pay attention to women as a group, although they did not operate as a coherent subordinate group, with a shared mode of resistance, as will be demonstrated below.<sup>14</sup> The article will discuss a select number of Chancery cases in order to illustrate how female litigants might have had to use multiple jurisdictions for what was essentially one dispute and how we can access this from the Chancery bills. It will consider how viewing a Chancery case as part of a broader dispute, which also played out in other courts, affects the historiographical view of Chancery as a more favorable jurisdiction. To this end, it will also discuss what happened *after* a woman petitioned Chancery, not just in that court but in other jurisdictions and beyond them, again from the surviving Chancery evidence but here primarily by considering some cases where we have more than the initial bill. Janet Loengard argued that a necessary path to understanding women’s position under the law was to undertake case studies in particular

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<sup>13</sup> The town had legal privileges conferred by charters in 1227 and 1256: *British Borough Charters 1216-1307*, ed. Adolphus Ballard and James Tait (Cambridge, 1923), 156, 159. Leet records survive from 1434: Shropshire Archives, First Great Leet Book (1434-1563), BB/F/1/1/1.

<sup>14</sup> See also Laura Gowing, “Ordering the Body: Illegitimacy and Female Authority in Seventeenth-Century England,” in *Negotiating Power in Early Modern Society: Order, Hierarchy, and Subordination in Britain and Ireland*, ed. Michael J. Braddick and John Walter (Cambridge, 2001), 43, 62 (45).

sets of legal records, each one “a piece in the ... jigsaw puzzle which must be put together.”<sup>15</sup> The contention of this article is that, while women’s actions in Chancery are but one piece of the bigger puzzle, if we want to understand how women negotiated justice in late medieval England, it is an area which can help us learn more about some of the other missing pieces.

## **WOMEN AND CHANCERY: THE DEBATES**

Scholarship on women and Chancery has debated two interconnected questions: whether equity law was better for women than common law and whether women brought suits to equity courts in higher numbers than they did to the other central courts. While there has been a certain amount of discussion pertaining to these matters for the late medieval court of Chancery, the historiographical debate originally focused on later periods and particularly as it concerned married women’s ability to hold property.<sup>16</sup> The key study on women and the English court of Chancery was carried out by Maria Cioni and relates to the better-documented Tudor period.<sup>17</sup> Cioni argues that women regularly sued in Chancery because it recognized their property rights when common law would not, for example, because of coverture or lack of documentation. Chancery influenced the development of particular

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<sup>15</sup> Janet Senderowitz Loengard, “Legal History and the Medieval Englishwoman: A Fragmented View,” *Law and History Review* 4, no. 1 (Spring 1986): 161-78 (172).

<sup>16</sup> E.g. see Mary R. Beard, *Woman as Force in History: A Study in Traditions and Realities* (New York, 1946), 198-203; Janelle Greenberg, “The Legal Status of the English Woman in Early Eighteenth-Century Common Law and Equity”, *Studies in Eighteenth-Century Culture*, 4 (1975): 171-81.

<sup>17</sup> Maria L. Cioni, *Women and Law in Elizabethan England with Particular Reference to the Court of Chancery* (New York, 1985).

equitable devices such as uses or trusts, which might form part of a woman's family or marriage settlement.<sup>18</sup> Amy Erickson discussed the court for the period 1558-1714 in the context of an argument that "the *primary* purpose of a marriage settlement in early modern England was to preserve the wife's property rights" and Chancery was the court that would uphold such settlements.<sup>19</sup> She then offered a more nuanced view of women's use of this court in her longer study of women and property in early modern England: "While the number of women plaintiffs [in Chancery] illustrates the extent of women's involvement with matters of property and business, the women themselves were not necessarily pleased to be exercising their right to appear before the court", which was forced on them by being sued in a common law court.<sup>20</sup>

The scholarship on women and the late medieval court of Chancery is still at a preliminary stage but has used some of these debates as springboards. For example, Eileen Spring - discussing the period 1300-1800 - has argued that courts like Chancery were used by the aristocracy to defeat common law rules that were advantageous to potential heiresses (for example, strict settlements might be used to bypass daughters in favor of uncles or other collateral males), but did not demonstrate this empirically.<sup>21</sup> In terms of numbers, Emma

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<sup>18</sup> Maria L. Cioni, "The Elizabethan Court of Chancery and Women's Rights", in *Tudor Rule and Revolution: Essays for G. R. Elton from his American friends*, ed. Delloyd J. Guth and John W. McKenna (Cambridge, 1982), 159-82.

<sup>19</sup> Amy Louise Erickson, "Common Law versus Common Practice: The Use of Marriage Settlements in Early Modern England," *Economic History Review*, 43, no. 1 (February 1990): 21-39 (22, 25; emphasis in the original).

<sup>20</sup> Erickson, *Women and Property*, 116.

<sup>21</sup> Eileen Spring, *Law, Land, & Family: Aristocratic Inheritance in England, 1300 to 1800* (Chapel Hill, NC, 1993).

Hawkes has claimed that women were three times more likely to petition Chancery than to take a case to another central court. This finding was based on a very limited sample of cases from Yorkshire in the period 1461-1515.<sup>22</sup> However, Timothy Haskett's "Early Court of Chancery in England Project (ECCE), 1417-1532", which sampled 6,850 cases of approximately 61,000 available in C 1, found that 21% of petitioners to Chancery in his sample were female, which does lend some support to Hawkes' finding.<sup>23</sup>

Matthew Stevens has recently pointed out that the percentages hide the higher number of litigants who used courts like the Court of Common Pleas: "while women formed a larger proportion of petitioners to Chancery than they did litigants at Common Pleas (15 per cent as opposed to 5 per cent, respectively), the fifteenth-century Court of Common Pleas processed twenty to forty-five lawsuits for each one petition to Chancery"; his figures for Chancery are from Hawkes for the proportion of women but from Haskett for the number of cases heard per year.<sup>24</sup> However, a study of the surviving Chancery writs argues that the number of Chancery cases per year might have been much higher than that suggested by Haskett and others. For example, Penny Tucker found over 900 writs for 1441-2, a period for which Nicholas Pronay posited an average of 136 bills. Writs were issued by the court of Chancery during the course of a case so the number of surviving writs suggests that the vast majority of

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<sup>22</sup> Emma Hawkes, "[S]he will ... protect and defend her rights boldly by law and reason ...": Women's Knowledge of Common Law and Equity Courts in Late-Medieval England," in *Medieval Women and the Law*, ed. Noël James Menuge (Woodbridge, 2000), 145-61 (153, 145).

<sup>23</sup> Haskett, "Medieval English Court of Chancery," 281-2, 286.

<sup>24</sup> Matthew Frank Stevens, "London's Married Women, Debt Litigation and Coverture in the Court of Common Pleas," in *Married Women and the Law in Premodern Northwest Europe*, ed. Cordelia Beattie and Matthew Frank Stevens (Woodbridge, 2013), 115-31 (124).

bills have not survived, although Tucker does moot that the survival rate of bills might have improved by the last quarter of the fifteenth century.<sup>25</sup>

Haskett's ECCE Project also reported that women only made up 7% of respondents in Chancery which suggests that when women are found in the court's records it is more likely because they chose to take the case there, lending support to Hawkes's argument.<sup>26</sup> Haskett further found that, from the 1430s to the 1510s, the proportion of female petitioners to female respondents shifted from 80:20 to 52:48, which might "reflect increasing participation in matters of property and inheritance or a more vulnerable state as executors or heirs... [and] some diminished capacity to act at law."<sup>27</sup> However, as we have seen, there are problems with quantitative exercises and the surviving Chancery material. This article will build on some of these debates but, instead of offering another quantitative approach, will think about how a different approach to the same material might offer fruitful rewards to those studying women's use of the law. Hawkes was primarily interested in women's knowledge of the law and, this article contends, the Chancery bills themselves can give some qualitative evidence about women's legal knowledge and their experience of multiple and competing legal jurisdictions.

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<sup>25</sup> Tucker, "Early History," 798-9; N. Pronay, "The Chancellor, the Chancery, and the Council at the End of the Fifteenth Century," in *British Government and Administration: Studies Presented to S. B. Chrimes*, ed. H. Hearder and H. R. Loyn (Cardiff, 1974), 87-103 (89).

<sup>26</sup> Haskett, "Medieval English Court of Chancery," 286.

<sup>27</sup> Haskett, "Medieval English Court of Chancery," 286-7.

## WOMEN NEGOTIATING MULTIPLE JURISDICTIONS

The Chancery bill of Johane, widow of John Baten, gives us an insight not only into her action in Chancery in the early 1480s, but also into how she handled her husband's legal affairs and then her own, both in a church court and two civic arenas.<sup>28</sup> Johane Baten was being sued in the sheriffs' court of London by John Storke for one of her late husband's debts and was seeking a writ of *certiorari* to have the case moved to Chancery. The bill contains the standard claims that would ensure it fitted the scope of the Chancellor's jurisdiction: Johane was poor and not well acquainted in London, in contrast to her opponent who had connections, and therefore she would not get a fair trial. The bill, presumably in a bid to back up her argument that she was being unfairly pursued as well as to evoke sympathy, also offers further contextual information on her legal activities, dating back to her husband's death.

John Baten had been resident in Bristol. According to the Chancery bill, John had named his wife as executor of his testament, as was common, but Johane refused to take on this legal responsibility as she knew that he had more debts outstanding than his goods were worth.<sup>29</sup> Johane also secured a certificate to this effect, under the seals of the commissary and the mayoralty of Bristol. Although the Church had jurisdiction over probate matters, some civic governments also required wills that affected their jurisdiction (burgage tenure, the

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<sup>28</sup> TNA, C 1/60/238 (1480-3 or 1485); the bill is dated by its address to Thomas [Rotherham] Archbishop of York as Chancellor.

<sup>29</sup> On wives as executors see Ann J. Kettle, "'My Wife Shall Have It': Marriage and Property in the Wills and Testaments of Later Mediaeval England", in *Marriage and Property*, ed. Elizabeth M. Craik (Aberdeen, 1984), 89-103 (100-2); Rowena E. Archer and B.E. Ferme, "Testamentary Procedure with special reference to the Executrix," *Reading Medieval Studies*, 15 (1989): 3-34.

protection of orphans) be enrolled before them too, as was clearly the case in Bristol.<sup>30</sup> The wills entered in the city's *Great Orphan Book* from 1382-1492 nearly all contain a note that they had been proved before ecclesiastical authorities before being proved before the Mayor and his officials.<sup>31</sup> Johane must have appeared before both the commissary court and the Mayor's court in order to get these certificates.

According to the bill, once Johane had refused to be the executor of her husband's testament, his goods were sequestered by the commissioner of the Deanery of Bristol for the Bishop of Worcester, in whose diocese they lived. She left the house where her husband died "takynge with her no erthly goods but oonly the smok and the kyrtyll" she was wearing.<sup>32</sup> While this statement has the hallmarks of a legal trope,<sup>33</sup> it perhaps also suggests knowledge that until her husband's estate was settled Johane only had a legal right to her "paraphernalia". This term is most commonly understood to mean a wife's clothes and jewelry; the early thirteenth-century common law treatise known as *Bracton* referred to

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<sup>30</sup> E.g. see Charles Gross, "The Medieval Law of Intestacy," *Harvard Law Review*, 18, no. 2 (December 1904): 120–131 (129-30). For Bristol, the surviving late medieval wills are to be found in civic registers: *Notes Or Abstracts of the Wills Contained in the Volume Entitled the Great Orphan Book and Book of Wills, in the Council House at Bristol*, ed. Thomas Procter Wadley, Bristol & Gloucestershire Society (Bristol, 1886); *The Great Red Book of Bristol*, ed. E. Veale, 5 vols (Bristol Record Society, 1931-53), 2, 4, 8, 16, 18.

<sup>31</sup> *Great Orphan Book*, ed. Wadley, 5-177.

<sup>32</sup> TNA, C 1/60/238.

<sup>33</sup> There is also a similar statement in the bill of widow Mawte Calwey, whose husband died intestate. She was "put oute of the same house oonly in hir feble clothing wherin she than stode": TNA, C 1/64/778 (1475-80 or 1483-5).

“robes and jewels, which may be said to be her own.”<sup>34</sup> To give a contemporary example, justices in the Court of Common Pleas in 1454 debated whether a widow had effectively taken on liability for her deceased husband’s estate when she accepted delivery of certain goods, including 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.<sup>35</sup> Johane’s act of leaving most goods behind, like her refusal to be her husband’s executor, suggests some prior knowledge of the law.

The bill ends with Johane appealing to the Chancellor as “a power [poor] widowe”.<sup>36</sup> Yet, this position seems at odds with the incidental reference that she had gone “to the cite of London for certeyn besynes which she had ther to doo.”<sup>37</sup> That a Bristol widow had business to conduct in London also suggests that she owned more than a smock and kirtle. It is

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<sup>34</sup> “quae sua propria dici poterunt sicut de robis et iocalibus”: *Bracton on the Laws and Customs of England*, ed. George E. Woodbine, trans. Samuel E. Thorne, 4 vols (Cambridge MA, 1968-77), Vol. 2, 179. For the canonist Lyndwood’s broader definition see Charles Donahue Jr, “Lyndwood’s Gloss propriarum uxorum: Marital Property and the ius commune in Fifteenth-Century England,” in *Europäisches Rechtsdenken in Geschichte und Gegenwart: Festschrift für Helmut Coing zum 70. Geburtstag*, ed. Norbert Horn (Munich, 1982), 19-37.

<sup>35</sup> David J. Seipp, “An Index and Paraphrase of Printed Year Book Reports, 1268-1535,” online at < <http://www.bu.edu/law/seipp/>> (accessed 1 June 2017), 1454.041. “Apparaile” is the term the justices use for “paraphernalia”: see also Seipp 1478.075.

<sup>36</sup> For other examples, see TNA, C 1/58/421 (1475-80 or 1483-5), C 1/60/204 (1475-80), C 1/64/1049 (1475-80 or 1483-5; 1475-80 or 1483-5), C 1/64/1130 (1475-80 or 1483-5).

<sup>37</sup> TNA, C 1/60/238.

possible that she had her own business and property, separate from her husband's, as Bristol allowed women to register as a "femme sole", which allowed them to enter into contracts independently of their husbands.<sup>38</sup> It is also while Johane was in London that John Storke affirmed a plaint of debt against her in the sheriffs' court for eight pounds and twenty-two pence, a debt which was actually her husband's.<sup>39</sup>

While we do not know the Chancellor's ruling, the bill does give us an insight into Johane's actions, particularly her legal ones prior to the Chancery case. Rather than bemoan the fact that we do not know how this case progressed in Chancery, we can approach the Chancery bill as but one step in a more complex social and legal dispute and consider what light it sheds on this woman's knowledge and experience of the law. Johane Baten shows knowledge of the rules regarding the administration of probate and she appeared before both ecclesiastical and civic officials to get the relevant paperwork. Her own work brought her into contact with the courts in another city and it is there that Johane was forced to appeal to a higher court because she was not as well-connected in London as her male opponent. Appealing to Chancery was a defensive measure and not the start of her legal battle, which was triggered by her husband dying while effectively bankrupt.

The Chancery bill of Alice Parkyns can be used similarly to look beyond a woman's approach to this particular court and gain a broader sense of her interactions with a number of different legal jurisdictions about a related matter.<sup>40</sup> The case that Alice sought to have

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<sup>38</sup> Peter Fleming, *Women in Late Medieval Bristol* (Bristol, 2001), 7.

<sup>39</sup> The only surviving court roll for the sheriffs' court of London is for 1320: see "Introduction," in *London Sheriffs Court Roll 1320*, ed. Matthew Stevens (London, 2010), *British History Online* <http://www.british-history.ac.uk/no-series/london-sheriff-court-roll/1320/introduction> (accessed 13 July 2017).

<sup>40</sup> TNA, C 1/64/738 (1475-80 or 1483-5).

moved to Chancery was again one for debt, linked to her late husband's dealings, although this time from the Bishop of Winchester's court in Southwark, which he ran as a manor.<sup>41</sup> Alice had been sued by one John Gould, brewer, for 40s., which she claimed was a malicious action. In order to demonstrate the need to get the case heard in Chancery, the bill rehearses Alice's dealings with an ecclesiastical jurisdiction (her husband died intestate), a civic court (John first sued her in the city of London), before it turns to the case in the Bishop's manorial court in Southwark.

According to Alice's bill, Roger Parkyns had paid his debt of 47s. to John Gould but, in an effort to avoid other creditors, he took sanctuary in Westminster. A number of religious houses in late medieval England used their status as royally-chartered liberties to offer permanent sanctuary to debtors as well as accused criminals.<sup>42</sup> Roger was only there for three weeks before he died. As he died intestate, Alice decided to pay for the cost of his burial, which suggests she had some money at her own disposal or she was considered good for credit. Roger's goods, though, were sequestered by the Archdeacon of Westminster for the Abbot of Westminster, presumably so they could be used to pay back his creditors.<sup>43</sup> Alice's bill relates that she was not allowed "to come within her doors ... under the seale of the

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<sup>41</sup> Martha Carlin, *Medieval Southwark* (London, 1996), 108-14.

<sup>42</sup> See Shannon McSheffrey, "Sanctuary and the Legal Topography of Pre-Reformation London," *Law and History Review*, 27, no. 3 (October 2009): 483-514 (483, 485). McSheffrey's book discusses a number of Chancery bills which reference sanctuary but not this particular bill: Shannon McSheffrey, *Seeking Sanctuary: Crime, Mercy, and Politics in English Courts, 1400-1550* (Oxford, 2017).

<sup>43</sup> See further Richard. H. Helmholz, "Bankruptcy and Probate Jurisdiction before 1571," *Missouri Law Review*, 48, no. 2 (Spring 1983): 415-29.

archdeacon”, as she was willing to show the Chancellor.<sup>44</sup> This suggests that a widow did not automatically get her share of her husband’s property in such bankruptcy cases.<sup>45</sup> The bill then turns to the actions of John Gould. He first took an action of debt against her in the City of London but did not see it through as he knew he would not get remedy there.<sup>46</sup> According to Alice’s bill, John then started an action of debt in the neighboring area of Southwark, where he – unlike Alice – had important friends, and so he was more likely to be successful there, hence her request for a writ of *certiorari* to get the case moved. The bill’s endorsement reveals that the request was successfully accepted.

Again we have a woman who was appealing to Chancery for help in a dispute prompted by the death of her debtor husband. The bill positions her as a victim in need of help but it also reveals a woman who had attempted to handle the situation in a variety of ways, before this appeal. After her husband’s death, Alice was refused access to their shared house because of his debts but she also used this official decision as a defence against her husband’s creditors who tried to make her liable for the debts. She was confident of victory in a London court and it was only when John Gould brought a claim in Southwark, where she lacked his connections, that she sought to move the case to Chancery. John pursued Alice

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<sup>44</sup> TNA, C 1/64/738. For another bill, which refers to the doors of the property being sealed (in this case, while the widow was burying her husband) see C 1/48/60 (1473-5).

<sup>45</sup> Helmholz suggests that a wife might have been given a forced share of her husband’s estate before the claims of creditors but he cautions that he only has two examples from the same diocesan court (Chichester post 1527), and possibly a third from Rochester (1499): Helmholz, “Bankruptcy,” 424-5.

<sup>46</sup> Falling “nonnsued” is a common strategy according to Chancery bills. E.g. see TNA, C 1/46/171 (1467-72, possibly 1433-43); C 1/48/43 (1473-5); C 1/64/1130 (discussed below); C 1/169/5 (1486-93, or 1504-15).

serially in neighboring jurisdictions, just as her husband had made use of a neighboring jurisdiction to avoid his creditors.<sup>47</sup> This was not just an issue in London: we also saw how Alice Smyth from Much Wenlock was pursued in Bridgnorth, both in Shropshire. In all these examples the women made a decision to petition Chancery but they were responding to actions initiated by male opponents in other courts. This was not always the case: women might have initiated the original lawsuits or the opponent might also have been female, as will be exemplified below.

### **DID WOMEN FAVOR CHANCERY?**

As discussed, Haskett's ECCE Project suggested that women were more likely to appear in Chancery as petitioners than as respondents. This perhaps indicates that women favored this jurisdiction, although the Project also found that the proportions evened up over the course of the fifteenth century. If we take a qualitative approach, though, the question of whether women "chose" Chancery becomes more complicated, in that we must also factor in earlier decision making. The detail of Chancery bills makes clear that they were the next stage in a dispute, which was often at issue in another court, so the choice was not so much between the central courts as between seeing the case through in a local court or trying to get it moved to Chancery. Also, even when we have a bill in her name, it need not mean that the initial choice of taking a dispute to Chancery was the woman's – what we might have is a counter-suit, in response to a man petitioning the court.

The bill of Alice, wife of John SeintJohn, for example, relates how she had long been seeking compensation from one John Goldesburgh for a leg injury which had prevented her

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<sup>47</sup> McSheffrey, "Sanctuary," 487-8 discusses the other liberties in medieval London, within the city limits or on its immediate outskirts.

from working: she had tried arbitration and love days, then an action of trespass in the sheriffs' court of London. It was at this point that Goldesburgh tried to change the jurisdiction: first to the Mayor's court (it was sent back down to the sheriffs' court where a jury found against him); then *he* petitioned Chancery for a writ of *corpus cum causa*, which stopped the sheriffs' court enacting the jury verdict. Alice SeintJohn was therefore counter-petitioning Chancery to get a *procedendo*, which would send the case back down to the sheriffs' court so that judgment could be given on Alice's compensation.<sup>48</sup> Thus while Alice did petition Chancery, and would feature in Haskett's statistics as such, the jurisdiction which she preferred for her action was the sheriffs' court, which had already found in her favor.

The bill of Johane Martok, a widow in Bristol, reveals that she was also the original initiator of legal action but not of the Chancery phase. Johane had successfully sued one Thomas Walssh and been awarded 51s. 8d. "by processe of the lawe and after the custume of the Towne of Bristowe."<sup>49</sup> Thomas delayed the execution of this decision by securing a writ of *certiorari* from Chancery. He then took an action of debt against Johane in one of Bristol's courts for 43s., claiming that her late husband owed him this and that she was the administrator of his goods.<sup>50</sup> At this point Johane's recourse was to Chancery, claiming she

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<sup>48</sup> TNA, C 1/43/31 (1433-43 or 1462-72). On arbitration and love days see Edward Powell, "Arbitration and the Law in England in the Late Middle Ages: The Alexander Prize Essay," *Transactions of the Royal Historical Society*, 33 (1983): 49–67.

<sup>49</sup> TNA, C 1/64/1049 (1475-1480 or 1483-1485). Thomas Walssh was involved in another Chancery case: C 1/17/214-5. It is dated by its bundle to 1407-56 but when it is linked with a surviving replication in C 4 we can see that the case was heard in Chancery in 1477: TNA, Court of Chancery: Six Clerks Office: Answers etc, before 1660, C 4/6/32.

<sup>50</sup> It was most likely the Mayor's Court, which could handle all civil pleas, although there was also a Tolsey Court for commercial matters, a Staple Court which focused on

was “of none power to hold ple[a]” with him, asking for a *procedendo* so that the result of her initial case could be enacted and a *certiorari* so that the Thomas’s action of debt could be moved to Chancery. While Johane had clearly had legal advice in putting together this bill, it nevertheless is revealing of how a fifteenth-century woman might have to negotiate a legal action and Chancery’s role in this. In this case, it was not just a simple matter of suing a man in Bristol. Johane then had to deal with a counter suit of debt in one of Bristol’s courts and had to use Chancery as a higher court, as had her opponent. Johane was not the first one in this dispute to involve Chancery but her petition was a necessary next step in the dispute. Even then the bill shows awareness of which jurisdiction was better for which action in that it asked for one legal action to be sent back to the court in Bristol (so Johane could receive her 51s. 8d.) and the other to be decided in Chancery (so that Thomas’s debt claim could be quashed).

The bill of one Johan Detton, likely from 1471, reveals that the origin of her Chancery dispute was that she had similarly been “successful” in her initial legal action: she had brought an action of debt in the Bishop of Winchester’s court in Southwark against one John Vernon and he was told to pay her 35s.<sup>51</sup> However, her victory was pyrrhic. There were

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commercial credit, and a court of Piepowder, which should have dealt with outsiders only but see the case of Johan Detton below. On the courts see Fleming, *Women in Late Medieval Bristol*, 1-2. For a Bristol widow in the Tolsey court see TNA, C 1/60/204 (1475-80). A Bristol wife claimed that her opponent got actions taken against her “in dyverse cortes” in the city: C 1/64/1140 (1475-80 or 1483-5).

<sup>51</sup> TNA, C 1/46/344: the endorsement is dated Friday 28 July and so this, and the address to the Bishop of Bath and Wells as Chancellor, narrows the date range to 1471 (most likely), 1437 or 1443. The bill notes that the original debt was 25s but the verdict that Vernon should

deliberate delays in getting the written condemnation delivered to Johan, which she blamed on the bailiff of the court. Then one John Neuland, who was one of Vernon's sureties in the case, brought a feigned action of debt (40s.) against her and caused her to be arrested. Neuland wanted to have his suit settled before "a court of pepouers". Piepowder courts were special courts that were convened to deal quickly with disputes that arose during public fairs as many of the participants were visitors rather than residents; they should not have been used for disputes between locals.<sup>52</sup> The bill alleges that John Neuland had already arranged her condemnation with the intention that she would be forced to drop her claim to the outstanding 35s. in return for him dropping his for 40s. Johan was in prison, fearing a guilty verdict on a false charge, and her petition was for a *corpus cum causa* writ to get her and her case moved to the court of Chancery. Her bill gives us insight not only into a woman successfully suing for debt in a manor court, something we can see in surviving court records, but also into the potential ramifications of such an action, here an allegedly false accusation of debt by her opponent's friend leading to imprisonment, which forced her to turn to Chancery for redress. The bill's endorsement reveals that she was successful in securing the writ.

An unrelated bill supports Johan Detton's claims in that it also attests to John Neuland's undue influence in Southwark's courts. Agnes Johnson was being sued by Neuland (here Newlond) for debt and trespass while her husband was "out of country" and was petitioning from prison.<sup>53</sup> The bill does not appeal to coverture as a defence, which perhaps did not apply in this manorial court, but claims that she feared she would lose as Neuland was wealthy and,

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pay 35s is written twice and so the latter amount seems to be accurate. Either the initial notation of 25s is a mistake or the court had awarded Detton substantial damages.

<sup>52</sup> See Charles Gross, ed. and trans., *Select Cases Concerning the Law Merchant*, vol. 1, Selden Society 23 (London, 1908), xiii-xxvi.

<sup>53</sup> TNA, C 1/46/343 (1467-72, possibly 1433-43).

more significantly, was brother-in-law to the bailiff of the court and “hath such rule in that courte” that the jury always sided with him.<sup>54</sup> Agnes was also successful in securing a *corpus cum causa* writ.

The bills of SeintJohn, Martok and Detton all show that women petitioned Chancery for a variety of reasons. In contrast to the cases discussed earlier, the bills do not position the female petitioners simply as victims of corrupt practices in local courts, although that is one feature of Johane Detton’s bill. In all three cases the women had been successful in their initial legal actions at a local level; in two of the cases the women were petitioning to get their cases returned to that jurisdiction because that would be their best chance of getting full recompense. A qualitative approach to Chancery bills, then, complicates the picture about why women might petition the court and how it functioned as part of a broader strategy of negotiating justice.

### **GENDERED JUSTICE?**

We have now seen a number of cases in which women alleged that they were unable to get justice in a customary court because their opponents had powerful friends. Allegations of

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<sup>54</sup> For a discussion of how coverture was optionally applied in manorial courts see Miriam Müller, “Peasant Women, Agency and Status in Mid-Thirteenth to Late Fourteenth-Century England: Some Reconsiderations,” in *Married Women and the Law*, ed. Beattie and Stevens, 91-113. Some Chancery bills did use neglected coverture as part of their argument for moving cases from customary courts. E.g. see TNA, C 1/32/344 (Canterbury, 1465-71 or 1480-3); C 1/46/47 (London, dated to 1471 by matching writ: TNA, Chancery: Petty Bag Office: Files, Tower and Rolls Chapel Series, Corpus Cum Causa [hereafter C 244], C 244/112 no. 105); C 1/64/755 (Coventry; discussed below); C 1/64/1140 (Bristol; 1475-80 or 1483-5).

corrupt practices in local courts are not atypical in Chancery bills as the claim is one that would help get the matter moved to Chancery.<sup>55</sup> For example, the bill of widow Alcyn Jane alleges that Robert Cruveys, who was suing her in Exeter's mayor's court for breach of contract and theft, was brother to one of the bailiffs of the court and he had put together a jury with the intention of finding against her.<sup>56</sup> Elizabeth the wife of William Thornton petitioned from prison that she would not get a fair trial in Coventry as her opponent, William Rowley, was motivated by "malice" and was one of the twenty-four worshipful men of the city.<sup>57</sup> While male petitioners could and did make similar claims, it is worth reflecting that the people with the power to influence decisions in the courts were all male and so women were structurally disadvantaged by their more limited access to patronage networks that might sway rulings in local courts. This point is perhaps most clearly demonstrated with reference to Chancery cases in which the petitioner had a female opponent who was accused of taking part in corrupt practices.

The bill of widow Petronill Rothirford relates how she had had various malicious actions brought against her in the sheriffs' court of London by a former landlady, Thomasyn

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<sup>55</sup> Carlin argues that the bishop's court in Southwark was particularly notorious in this regard:

Carlin, *Medieval Southwark*, 218-9. For a discussion of such allegations in relation to London's juries, officials and judges see Penny Tucker, *Law Courts and Lawyers in the City of London, 1300-1550* (Cambridge, 2007), 345-9.

<sup>56</sup> TNA, C 1/66/52 (1475-80 or 1483-5). For more on this court see Maryanne Kowaleski, *Local Markets and Regional Trade in Medieval Exeter* (Cambridge, 1995), 337-8.

<sup>57</sup> TNA, C 1/64/755 (1485). William Rowley was a sometime sheriff (1486) and mayor (1492, 1496-7) and seems to have been one of the 24 from 1485-1504, hence my narrower dating of the bill: *The Coventry Leet Book: or Mayor's Register*, Early English Text Society, original series nos 134, 135, 138, 146 (Berlin, 1907-13), 522, 528, 542, 581, 602.

Berkeley, who generally let them fall non-sued.<sup>58</sup> Petronill had lodged with Thomasyn but left because the house was not of good governance.<sup>59</sup> The bill claims that the most recent action of trespass brought by the landlady was likely to be successful due to “the help and mayntenance of certayn officers and yong wyld men that dayly drawith” to Thomasyn’s house, who had ensured that people of their affinity were empanelled on the jury.<sup>60</sup> As a result, the widow was refused bail even though she had offered sufficient sureties and therefore Petronill’s bill requested a *corpus cum causa* writ. In this case, the opponent – as in other examples we have seen – allegedly sought help from better connected people. However, while the male opponent in Alice Smyth’s case worked for a bailiff and the male opponent in Alcyn Jane’s case was the brother of one, Thomasyn Berkely allegedly called on customers at her disorderly lodging house who used their more official networks. Another London bill, that of Anne wife of John Davell, goes further and claims that the action of trespass brought against her by Christine Baxster, singlewoman, was on the advice of Christine’s master, an attorney in the court of the Guild Hall, who would also be able to get the jury to find against Anne.<sup>61</sup> While this does have the hallmarks of a trope, of a more powerful man pulling the strings, such tropes existed because they had the ring of truth in a world in which only men could be court officials, jurors or professional attorneys.

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<sup>58</sup> TNA, C 1/64/1130 (1475-80 or 1483-5).

<sup>59</sup> The bill does not make any specific allegations about what happened in this house beyond being visited by “yong wyld men” and being “of no sad [sober] rewle” but such allegations are common for brothels, disorderly alehouses and innkeepers who took in “vagabonds”: Marjorie Keniston McIntosh, *Controlling Misbehavior in England, 1370-1600* (Cambridge, 1998), 68-81.

<sup>60</sup> TNA, C 1/64/1130.

<sup>61</sup> TNA, C 1/80/12 (1486).

One female plaintiff apparently used a fictional man to help her case. The bill of Cecile, late the wife of John Burnard, claims that Maude Tylard vexatiously took out a joint plaint of debt against her and one John Bowhill in the mayor's court of Exeter, "where of trowth ther is no suche man knowen by the name of John Bowhill."<sup>62</sup> Cecile was arrested but the Mayor and bailiffs refused to hear her plea until she brought this John Bowhill too. Cecile's bill alleges that Maude's intention was, through imprisonment, to weary Cecile until she admitted the feigned debt. This has shades of the story told in Johan Detton's bill about John Neuland's contrived action of debt in Southwark and shows that women could be the agents of corruption as well as the victims. As argued from the outset, women did not negotiate the legal system as a coherent subordinate group, with a shared mode of resistance. Nevertheless, they are still worthy of attention as an entity given that the courts themselves were entirely run by men and, as a result, women faced structural disadvantages in accessing justice.

## **WHAT HAPPENED NEXT?**

We have discussed why some women sought justice in the court of Chancery and why others petitioned Chancery to get cases sent back to another jurisdiction. Although often only the initial bill of complaint survived, we will now consider some cases in which further documentation is extant or in which the bill makes evident that it was not the petitioner's first petition to Chancery. The survival of further documents – or the need for subsequent bills – attests to how contested Chancery cases could be and demonstrates that the path towards securing justice was beset with troubles, even after this stage had been reached. They also

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<sup>62</sup> TNA, C 1/64/198 (1475-80 or 1483-5).

reveal more about the process of seeking redress in Chancery and, sometimes, how it continued to intersect with other jurisdictions.

The widow Fyne Popyngeay, of Bishop's Lynn (now King's Lynn) in Norfolk, petitioned Chancery at least three times and one of these bills notes that the action had been ongoing for two years.<sup>63</sup> It is clear that not all the documentation associated with this case has survived but it seems that Fyne's claim is that she and her late husband, Robert, had purchased 8s. of quit rent (rental payments from land) and 40 acres of land in West Lynn from one Edmund Bray for 40 marks but the land had ended up in one Simon Grene's hands. The first bill to allege this was clearly not the first time Chancery had heard of this dispute as it refers to a commission that the Chancellor had ordered to look into the matter; such commissions could examine witnesses and draw up written depositions as well as take a defendant's answer in the county.<sup>64</sup> While we lack responses from any of the men concerned, one was clearly made by Edmund Bray as we have a replication from Fyne, which responds to it. Edmund had clearly tried to get her bill rejected by Chancery as her replication asserts that the matter contained in the bill was sufficient in law and that she would not receive

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<sup>63</sup> The bills are TNA, C 1/153/64, C 1/73/17, C 1/15/189. The first and third of these are addressed to the Archbishop of Canterbury as Chancellor but TNA has dated them differently: the first as 1486-1493 or 1504-1515 and the third as 1443-1450 or 1455-6. The earlier dates seem likely for both as the petitioner (and husband) are named as defendants in an action *c.*1433 and one of the named opponents, Simon Grene, can be linked with two other bills dated 1426-31: C 1/12/35; C 1/7/99; C 1/7/170.

<sup>64</sup> TNA, C 1/73/17. C 1/153/64 is very similar but alleges that one William Harman instead of Simon Grene was involved. However, subsequent documentation suggests that it was the bill involving Grene that went forward. On commissions see Jones, *Elizabethan Court of Chancery*, 12-13; Avery, "Evaluation," 91-2.

remedy at common law.<sup>65</sup> What seems to be the latest of three extant bills from Fyne Popyngeay claims that the action against Edmund Bray - and Simon Grene - had been ongoing in Chancery for two years. It states that both men had now appeared before the Court, suggesting that this was probably one of the causes of the delay, and Fyne was seeking judgment. She seemed to anticipate that the Court would find in her favor as she also requested that the two men pay a surety to keep the peace so that she could take up the lost property without fearing for her life.<sup>66</sup> This also suggests that she suspected that succeeding in Chancery would not be the end of the dispute.

Eleanor Cotton, wife of Thomas Cotton, had to re-petition Chancery, even though her first bill had been successful.<sup>67</sup> Eleanor's bill alleges that Richard Lovell had taken a feigned action of trespass against her in London, leading to her arrest. She had successfully gained a *corpus cum causa* writ from Chancery and was granted bail.<sup>68</sup> However, the bill claims that

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<sup>65</sup> TNA, C 1/73/18 (1443-1450 or 1455-6).

<sup>66</sup> TNA, C 1/15/189 (for the date see n. 63 above).

<sup>67</sup> TNA, C 1/46/424 (probably 1462-72; see note below).

<sup>68</sup> Tucker argues that the frequent requests for *corpus cum causa* writs was probably because it would have been easier for strangers to get bail from Chancery than from London's city courts: Tucker, "Early History," 800. Eleanor Cotton was from Cambridge and she used the argument that the court in London was "foreyn" in order to get a *corpus cum causa* writ in a bill relating to an action of trespass: TNA, C 1/46/113. Eleanor seems to have been a frequent visitor to Chancery as there are surviving chancery writs relating to actions of debt and trespass taken against her: TNA, C 244/112 no. 173-5 and no. 114 (all dated 1471-2). See further Patricia M. Barnes, "The Chancery corpus cum causa File, 10-11 Edward IV," in *Medieval Legal Records Edited in Memory of C. A. F. Meekings*, ed. R. F. Hunnisett and J. B.

Richard had Eleanor arrested for the same cause, while she was out on bail, leading to her being returned to prison in London. She again requested a *corpus cum causa* writ. The comparatively well-documented case between Katherine Bee and Robert Bee, her late husband's cousin, also demonstrates how securing a favorable judgment in Chancery might not put an end to related litigation in lower courts, particularly because parties often launched multiple suits in one or more courts. In 1477-8 Katherine petitioned Chancery about a long list of her goods, including some silverware, which she claimed she had entrusted to Robert for her own use (she had been lodging with him) but he had sold some of them and was withholding others.<sup>69</sup> The dorse of the bill notes that the court found in her favor on 5 February 1478. However, another bill from Katherine Bee reveals that this was not the end of their legal wranglings. It alleges that on 9 February her suit (presumably another one) was still hanging in Chancery, and that when she was returning home from Chancery that day she was arrested in London, "in contempt of the seid courte."<sup>70</sup> This arrest was the result of Robert taking an action of trespass against her in the "counter of Bredstrete." The counter of

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Post (London, 1978), 429-76 (454-5, 462-3). Barnes comments that a married woman, as *feme covert*, could take no part in her own recognizance (435), but Eleanor did (454, 463).

<sup>69</sup> TNA, C 1/67/93; the dorse of the bill contains the Chancellor's verdict, dated 5 February 1478. A translation of the bill and the schedule of her goods which was attached to it (from Middle English), and the verdict (from Latin), plus summaries of Robert's answer, Katherine's replication and Robert's rejoinder can be found in A. R. Myers, ed., *English Historical Documents, 1327-1485* (London, 1969), pp. 493-6. These other documents can be found in C 1/67/94-7.

<sup>70</sup> TNA, C 1/64/836 (probably 1478).

Bredstreet, also known as Bread Street Compter, was a court and prison run by a sheriff.<sup>71</sup>

The bill asserts that Katherine “is credibly enformed” that Robert had also taken a plaint of trespass against her in the city’s Mayor’s Court. It argues that these vexatious actions were intended to make her drop “hir sute” (plural) against him. This example illustrates that, with multiple suits in play, a verdict on a single suit in one court would not settle the dispute.

The bill of Margaret Couper suggests that it was not just defendants who might ignore Chancery’s decisions. The bill relates how Margaret had been imprisoned in one of the London’s Counters after Rose Wymbyssh, who allegedly had a grudge against her, complained to the Mayor. Margaret, with the aid of a friend, petitioned the Chancellor and was successful in getting a *corpus cum causa* writ. However, the Mayor delayed returning the writ so that he missed the specified deadline and then, the day after the deadline, moved Margaret to Newgate, a purpose built prison which housed those who had committed more serious crimes.<sup>72</sup> The surviving bill therefore asks for another *corpus cum causa* writ with a time limit. The endorsement on the bill reveals that Margaret successfully achieved the second writ but we do not know how the Mayor responded on that occasion. Margaret Avery commented that, “the difficulty of securing obedience to ... writs ordering attachments is shown by the frequency with which commissions of arrest were issued,” although she was optimistic that such abuses were not the norm.<sup>73</sup> For our purposes, though, it reveals another dimension to the interplay between Chancery and other legal jurisdictions. Female petitioners

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<sup>71</sup> See Christine Winter, “Prisons and Punishments in Late Medieval London,” unpublished PhD thesis (Royal Holloway, University of London, 2012), 51.

<sup>72</sup> See Margery Bassett, “Newgate Prison in the Middle Ages,” *Speculum*, 18, no. 2 (April 1943): 233-46; Winter, “Prisons and Punishments,” 51.

<sup>73</sup> Avery, “Evaluation,” 95, 97.

might be successful in acquiring what they sought from Chancery, be it a writ or a judgment, but this might not lead to them securing justice in the underlying dispute.

## **CONCLUSION**

There are many obstacles towards a detailed study of women in the late medieval court of Chancery, ranging from the sheer amount of documentation surviving to the fact that we might only have the initial bill of complaint for a case or a Chancery writ. This article has deliberately adopted a different approach to the material in order to stress that in this period a dispute might involve a variety of competing but interconnected jurisdictions. Litigants, including female ones, might pursue justice in a number of arenas, consecutively or concurrently. While Chancery was but one jurisdiction, its bills shed light on women's actions in courts where the records have not survived. This approach nuances the long-running debate about whether equity was a particularly favorable jurisdiction for women, which tends to focus on common law restrictions, by bringing back into view other jurisdictions, such as manorial, borough and ecclesiastical courts. It argues that while some women did indeed approach Chancery because they did not think they would get justice in a lower court, others were keen that their cases be sent back down so that they could be fully recompensed for the offences against them. This is in line with the article's stance that women did not operate as a coherent subordinate group, with a shared mode of negotiating justice. Yet, we do see some possible trends in the evidence in terms of women lacking direct links to the men who peopled the courts, a structural bias that they would have had to overcome.

In the evidence that survives, we do not see any woman securing justice, even when we know that she received a favorable decision on a particular matter. We rarely know if and

how a dispute was resolved. Chancery bills are but one stage in taking a case to Chancery and in the dispute more generally, which played out inside and outside various courts.

Nevertheless, they give us valuable insight into some women's knowledge and experiences of the law, in all its complexity, and that is an important piece of the puzzle.