General feedback – this is really very promising indeed. You have clearly shown the potential for studying the burial clause. Very encouraging! WS See below for specific (mainly minor) comments.

The Development of the Burial Clause. Alex Marchbank, 13.12.17

INTRO

References to burial can be found in even the earliest surviving English wills dating from the Anglo-Saxon period.[[1]](#footnote-1) Whilst these early documents do not contain a clause detailing the location of the testator’s burial, they often note the amount given as a burial fee.[[2]](#footnote-2) Much work has been done on the development on testamentary giving in recompense for burial, as it has been widely recognized that this provided a substantial portion of parish income.[[3]](#footnote-3) So significant was this income that there are many records of disputes over burial location which provide valuable insight into the importance that was placed on this aspect of death and dying.[[4]](#footnote-4)

Firstly it is important to note that this section refers to *testaments* instead of *wills.* Whilst the two terms are often used interchangeably, their form and function differ greatly in practice. Where the two exist as separate entries in the probate act books, the testament comes first, and it here that the religious preamble and burial clause are found. Technically the testament deals with moveable goods, whilst the last will deals with the disposition of lands and property.[[5]](#footnote-5) As such, it was possible to make just a testament, without a last will, as some testators did not hold immoveable property. Similarly, it seems that it was also possible for some testators to just make a last will.[[6]](#footnote-6) In the four instances where a will was made without a testament, none of the documents contain a burial clause. This is probably more to do with the formulaic construction of the will than any coincidental omission of this clause by all four of these testators. As such, it is necessary here to talk specifically about testaments, as opposed to wills, as it is only within the testament that burial clauses are found.

This section traces the development of the burial clause within English testaments, and considers some of the ways in which historians have put this part of the document to use. It looks firstly at the evidence which exists for individuals expressing choice over their burial location, and how this caused friction particularly in the later medieval period. The development of the burial clause as a part of the testament is then discussed, before finally turning to examine whether this clause can be considered part of the preamble.

CHOICE IN BURIAL LOCATION

Wills from Anglo-Saxon England frequently document the amounts given by testators in return for their burial. This controversial payment appears in England as early as the ninth century, and one which, by the year 1000, was widely accepted within the church.[[7]](#footnote-7) Indeed, reference to this payment is made in Archbishop Wulfstan’s law code, which states that ‘it is best that saulsceat be always paid at the open grave. And if any body is buried elsewhere, outside the proper parish, saulsceat is nevertheless to be paid at the minster to which it belonged’.[[8]](#footnote-8) John Blair suggests that this demonstrates a growth in prescriptiveness surrounding burial arrangements, as well as increased competition between churchyards. Blair later suggests that this law could have been motivated by higher-status families seeking burial amongst the tombs of their ancestors in minsters outside of their parishes.[[9]](#footnote-9) This demonstrates that as early as the eleventh century, individuals were choosing the location of their burials, even if those who made wills were not in the habit of writing this down.

Later on in the medieval period, issues of burial location and its associated income further worsened the conflict between friars and the secular clergy. This is illustrated in the text of *Piers Plowman,* the late fourteenth-century allegorical poem, at the point at which the Dreamer confronts his friar-confessor about the priorities of his order:

And tho fond I the frere afered and flittynge bothe

Ayeins oure firste forward, for I seide I nolde

Be buried at hire hous but at my parisshe chirche

(For I herde ones how Conscience it tolde

That there a man were cristned, by kynde he sholde be buryed).

And for I seide thus to freres, a fool thei me helden,

And loved me the lasse for my lele speche.

Ac yet I cryde on my confessour that [so konnyng heeld hymself].

"By my feith, frere!' quod I […]

Where my body were buryed, by so ye hadde my silver!

Ich have muche merveille of yow, and so hath many another,

Whi youre covent coveiteth to confesse and to burye

Rather than to baptize barnes that ben catecumelynges. (B XI 63-71; 74-77)

As Wendy Scase has argued, this focus on burial is particularly pertinent in this late fourteenth-century context, at a time when understandings of pastoral care were being challenged.[[10]](#footnote-10) As the above excerpt shows, however, Langland is critical of the friars’ attempts to divert income from parish churches by persuading individuals to be buried in friaries instead. This does demonstrate that individuals had a choice in their burial location, and as the following section will show, testators were at this time able to express their burial preferences in their testaments.

BURIALS IN TESTAMENTS: THE WORDING OF THE BURIAL CLAUSE

Very little work has been done on the development of the wording of the burial clause within testaments. Jameson Weetman’s PhD research on piety and charity in London’s Husting Court wills and testaments does make some reference to this. Weetman notes that prior to the 1340s it is unusual to find references to burial location in these particular testaments. In a short period of time, however, he argues that this changed dramatically. In the period 1339-1350, 40 percent of testaments made provision for burial, and from 1351 onward, he claims that a majority of noted their preferred burial site.[[11]](#footnote-11) Weetman frames this change in terms of the impact of the Black Death and its associated social, religious and economic repercussions. The increase in wealth associated with the post-plague period meant that testators could spend more on expensive tombs within churches. From a socio-religious perspective, Weetman argues that there was a greater need to propagate memory and ensure individualised commemoration. And although Weetman rejects the idea that the Black Death fundamentally changed burial and funerary practices, arguing instead for a change in scale rather than type, it would certainly seem that the plague had a profound impact on the form of the testament in London.[[12]](#footnote-12)

Looking more widely across England, evidence from pre-plague testaments from York do not seem to support Weetman’s thesis. Instead, of the thirty-eight testaments which are recorded in *Testamenta Eboracensia* for the years 1316-1347, only four of them do not contain a burial clause.[[13]](#footnote-13) Does the standardisation of the burial clause as part of the testament depend upon ecclesiastical jurisdiction, then, or on other factors? Status may well play a part: the testators whose testaments are enrolled in the York volumes are frequently members of the nobility or aristocracy, and could well have been heavily invested in their burial location. For example, as Karen Stöber has shown, burial in one’s own family monastery was understood to be of great importance as an expression of status, wealth and connections. Testators who were patrons of such institutions thus had good cause to ensure that they were buried there, which they could do through their testaments.[[14]](#footnote-14) Similar arguments could be made for other churches which testators could well have been connected to either through family, their own lifetime giving, or devotional interests. Perhaps for these wealthier members of society it was more important to ensure that burial and commemoration – often very visual, and permanent markers of an individual’s identity – was in the location that they required. Weetman does not reflect on the status of the individuals whose testaments were enrolled in the Husting court,

Certainly by 1387 the burial clause seems to have been a standard part of testaments from London, as evidenced by Frederick Furnivall’s edited collection of early London testaments, starting in the year 1387 and ending in 1454. Of the fifty testaments in the collection, eight do not mention a burial clause, although in three cases this could be down to editorial amendments rather than accurately reflecting the wording of the testament.[[15]](#footnote-15) A working majority of 84 percent of testaments that do contain a burial clause does however tend to support the argument that by the late fourteenth century at least, London testaments contained a burial clause as part of the testamentary formula.

BURIALS IN TESTAMENTS: THE PLACE OF THE BURIAL CLAUSE

By the fourteenth century, burial clauses belonged to the opening portion of the testament, forming part of the preamble, and as such belong to a rich historiography which has been explored by linguists and historians alike. Studies have considered the extent to which these often formulaic opening lines can be used as evidence of a testator’s faith, whilst other research has looked at the longevity of these clauses as markers of their significance.[[16]](#footnote-16) More recently Alison Spedding has linguistically analysed formulaic phrases from preambles written in English, French and Latin in order to assess the extent to which testamentary language facilitated individual expression and creativity.[[17]](#footnote-17) This ties in with work by Elisabeth Salter which shows that the burial clause marks the end of the formulaic preamble, and the beginning of the testament, arguably opening up creative possibilities for the testator.[[18]](#footnote-18) Spedding however conceptualises the post-1300 preamble as comprising of three sections: the divine invocation, general preamble, and pious preamble. It is in this last section that we find the burial clause, and it is followed by obsequies, pious bequests and the payment of debts.[[19]](#footnote-19) Although the burial clause is, according to Spedding, part of the formulaic preamble as opposed to marking the start of the testament proper, the variation in descriptions of burial space certainly seem to point to the creative potential which this section of the testament held for testators.[[20]](#footnote-20)

1. By later standards these documents are not ‘wills’ as they do not necessarily deal with the post-mortem distribution of the testators property, they do not always name an executor, and they are not always revocable and ambulatory, although they may possess some of these qualities. H. D. Hazeltine, ‘General Preface’, in *Anglo-Saxon Wills*, ed. by Dorothy Whitelock (Cambridge, 1930), p. vii. [↑](#footnote-ref-1)
2. *Anglo-Saxon Wills*, ed. by Dorothy Whitelock (Cambridge, 1930). [↑](#footnote-ref-2)
3. Vanessa A. Harding, ‘“And One More May Be Laid There”: The Location of Burials in Early Modern London’, *The London Journal*, 14 (1989), 112–29 (p. 113). [↑](#footnote-ref-3)
4. Ian Forrest, ‘The Politics of Burial in Late Medieval Hereford’, *English Historical Review*, 125.516 (2010), 1110–38. [↑](#footnote-ref-4)
5. S. K. Wray and R. Cossar, ‘Wills as Primary Sources’, in *Understanding Medieval Primary Sources*, ed. by Joel T. Rosenthal (Abingdon, 2012), pp. 59–71 (p. 61). [↑](#footnote-ref-5)
6. All of these testators are from Faversham, suggesting different attitudes to the making of wills and testaments in the two towns. William Best PRC/17/12/2b, William More PRC/17/12/449a, William Thornbury PRC/17/3/494a, and Symond Warmecourte PRC/17/6/215. [↑](#footnote-ref-6)
7. John Blair, *The Church in Anglo-Saxon Society* (Oxford, 2005), p. 437. [↑](#footnote-ref-7)
8. Francesca Tinti, ‘The “costs” of Pastoral Care: Church Dues in Late Anglo-Saxon England’, in *Pastoral Care in Late Anglo-Saxon England*, ed. by Francesca Tinti, Anglo-Saxon Studies, 6 (Woodbridge, 2005), pp. 27–51 (p. 34). [↑](#footnote-ref-8)
9. Blair, pp. 444, 470. [↑](#footnote-ref-9)
10. Wendy Scase, *‘Piers Plowman’ and the New Anticlericalism* (Cambridge, 1989), p. 34. [↑](#footnote-ref-10)
11. J. Weetman, ‘Testamentary Piety and Charity in London, 1259-1370’ (University of Oxford, 2003), p. 230. [↑](#footnote-ref-11)
12. Weetman, 'Testamentary Piety', pp. 244–45, 261. [↑](#footnote-ref-12)
13. *Testamenta Eboracensia*, ed. by James Raine (London, 1836), i, pp. 1–38. [↑](#footnote-ref-13)
14. Karen Stöber, *Late Medieval Monasteries and Their Patrons* (Woodbridge, 2007), p. 113. Individuals of lower status may well have patronised monastic houses during the fourteenth century, but they did not tend to make wills. [↑](#footnote-ref-14)
15. F. J. Furnivall, *Fifty Earliest English Wills in the Court of Probate, London* (London, 1882). The three wills which have been edited and may well contain a burial clause in the original are those of: John Pincheon (1392), Thomas Bathe (1420) and Roger Flore (1424-5). [↑](#footnote-ref-15)
16. Margaret Spufford, ‘Religious Preambles and the Scribes of Villagers’ Wills in Cambrdigeshire, 1570-1700’, in *When Death Do Us Part: Understanding and Interpreting the Probate Record of Early Modern England*, ed. by Tom Arkell, Nigel Goose, and Nesta Evans (Oxford, 2000), pp. 144–57; Michael Zell, ‘The Use of Religious Preambles as a Measure of Religious Belief in the Sixteenth Century’, *Bulletin of the Institute of Historical Research*, 50.122 (1977), 246–49; J. D. Alsop, ‘Religious Preambles in Early Modern English Wills as Formulae’, *Journal of Ecclesiastical History*, 40/1, (1989), 19–27. Christopher Marsh has argued for the role of testators themselves in the continued existence of the dedicatory religious phrases: 'The religious preamble would surely have had a much shorter life than it did if England's testators had no desire at all for its continuing existence.' Christopher Marsh, ‘Attitudes to Will-Making in Early Modern England’, in *When Death Do Us Part: Understanding and Interpreting the Probate Record of Early Modern England*, ed. by Tom Arkell, Nigel Goose, and Nesta Evans (Oxford, 2000), pp. 167-168. [↑](#footnote-ref-16)
17. Alison Spedding, ‘“My Testament in Englisshe Tonge”: A Study in the Use of the Vernacular in Medieval Wills’ (Unpublished PhD Thesis, University of Birmingham, 2010), pp. 131–83. [↑](#footnote-ref-17)
18. Salter, *Cultural Creativity,* p. 130. [↑](#footnote-ref-18)
19. Alison J. Spedding, ‘Hoc Est Testamentum: The Structure and Development of Introductory Clauses in Latin Testamentary Writing’, *Viator*, 45/1, (2014), pp. 283–87. [↑](#footnote-ref-19)
20. This is noted by Spedding: ‘The church of burial was named, perhaps including the identification of a specific location either inside or outside the building, or with a spouse or other family member.’ [↑](#footnote-ref-20)