

“Women and Wills in 1900 St. Louis”

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KRIS KNAPLUND
PROFESSOR OF LAW, PEPPERDINE LAW SCHOOL



Before 1875 in Missouri:

- *“The oft repeated rule of the common law is that marriage is an absolute gift to the husband of all the personal estate of the wife which she had the time of the marriage, or which accrues to her in her own right, during coverture, and upon his death it will vest in his personal representative.”*
- Kelley’s 1913 Probate Guide

By 1900:

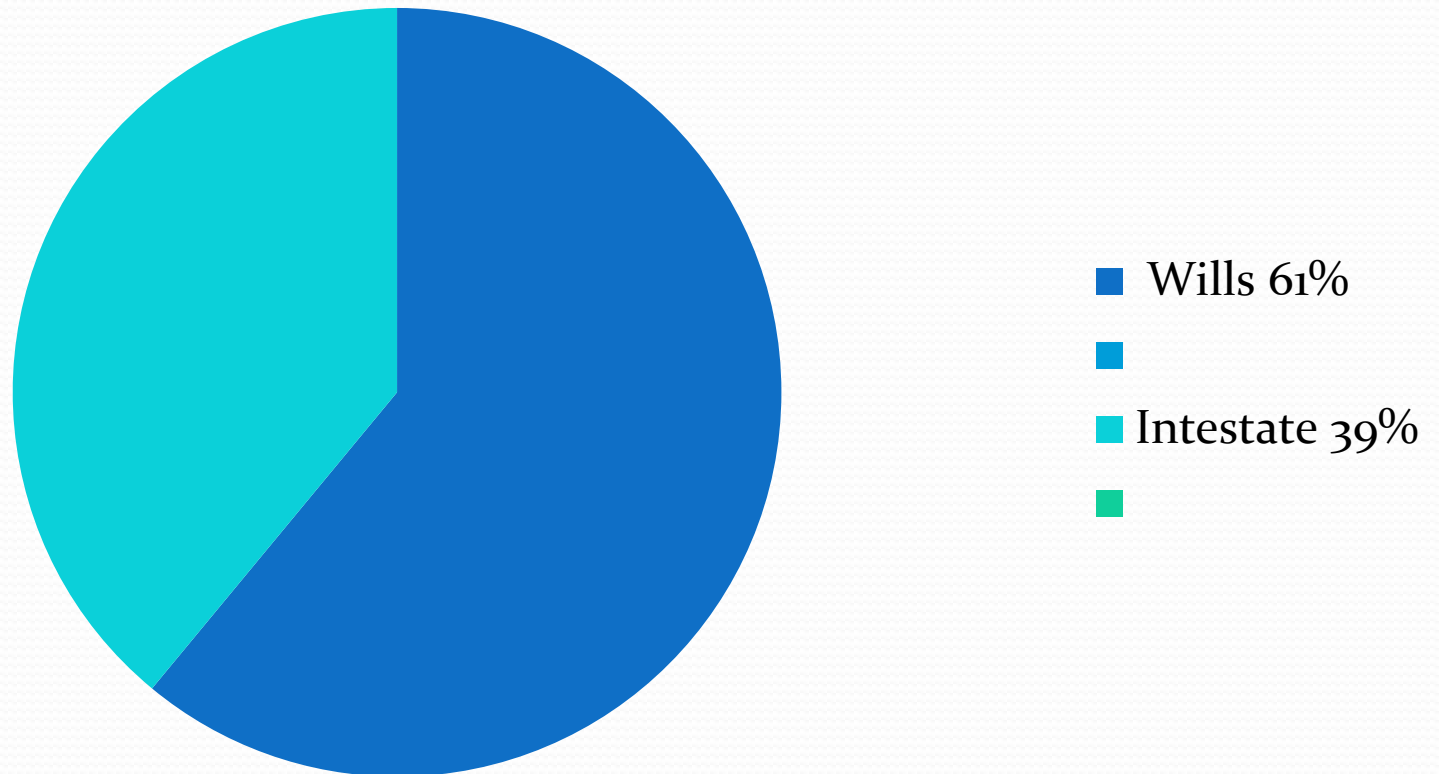
- 1875: Married Women's Property Act: Wife controlled her personal property obtained after March 1875.
- 1889: Wife controlled her real property obtained after 1889.
- No retroactive effect.
- Women (married or single) could not vote, serve on juries, or be elected to any state wide office.

St. Louis in 1900

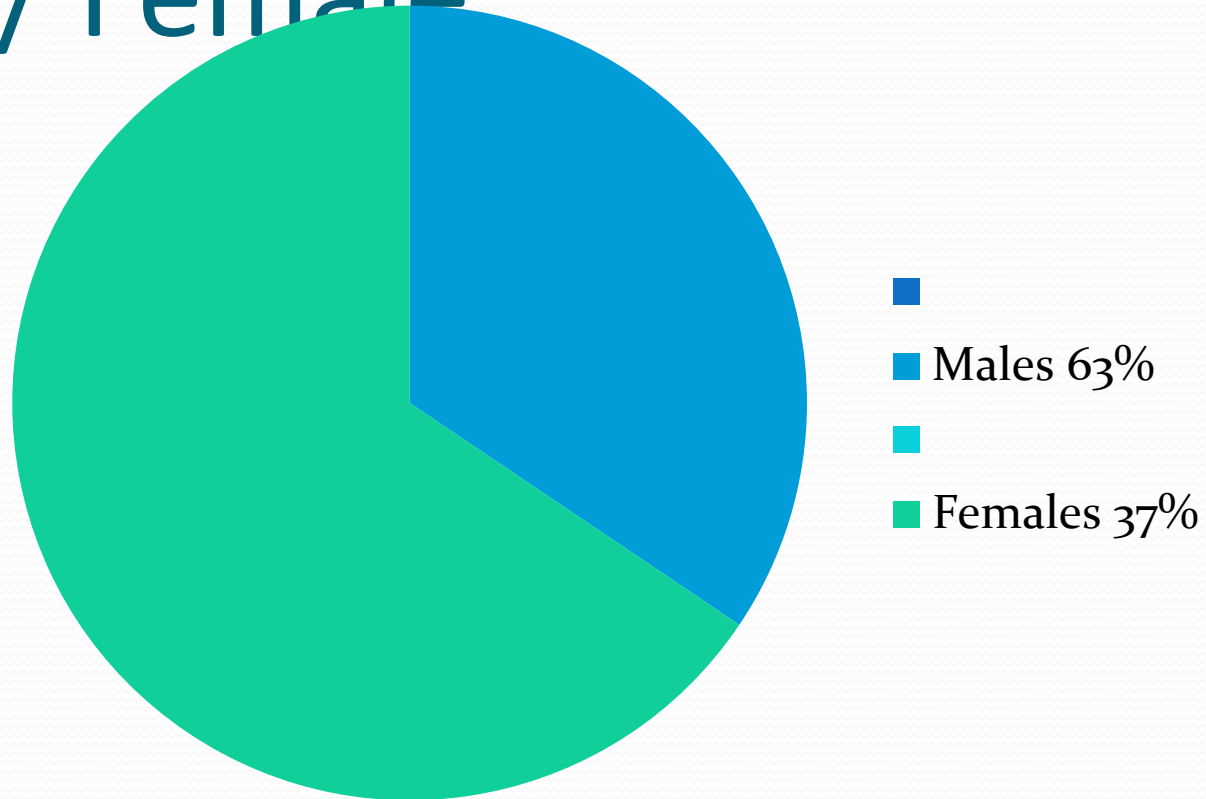
- 4th largest city in US & rapidly growing → up 27% from 1890.
- Large German population with a history of charitable giving.
- 9,221 deaths in 1900 → 771 probate filings for 1900 deaths = 8%

My study

Probate Files



Male/ Female



% testate

- Men: 61%
- Women: 60%

Did married decedents leave wills?

- 72% of married men died testate.
- 49% of married women died testate.

Bequest to Spouse > Intestacy

	Married M Testator	Married F Testator
All to Spouse	64%	52%
Some to 3P/ Rest to Spouse	12%	7%
Split 3P/ Spouse	14%	17%
TOTAL	90%	76%

Bequest to Spouse \leq Intestacy

	Married M Testator	Married F Testator
Intestate share to Spouse	2%	0
Spouse Renounced Will	5%	0
Nothing to Spouse	3%	24 %
TOTAL	10%	24%

Who was named as your executor/ executrix?

- Married men: 81% named their wives
 - Who served? Add in administratrix c.t.a. because executor DQ, declined, or not named in will:
 - Widows = 86%
 - Bonds required in 4 cases
 - 6 executrices signed by X
- Married women: 67% named their husbands
 - Who served? Widowers = 76%
 - No bonds, no X

Other roles for women in files

- Administratrix for 30% of intestate men, and 8% of intestate women.
- 21 female notaries
- 18 female bond persons
- 3 doctors
- 2 appraisers
- Lawyer, florist, owner of livery stables, hat maker, stenographer, etc.

Litigation = 12% of probate files

- 4 types:
- 1. Will contests, will construction suits, omitted child allegations, marriage/ adoption disputes = 21%
- 2. Objections to actions of executor or administrator such as petition for removal, opposition to sale of real property, concealing assets = 21%
- 3. Creditors suing the estate = 42%
- 4. Estate suing creditors = 13%

Gender patterns in litigation?

- Female decedents = 37% of probate files
- Litigation = 59% female decedents

- Women brought 5 of 6 will contests (and were 4 of 6 contestants in the 6th contest)(won 2)
- Women brought 3 of 7 suits for construction of the will
- And 4 of 10 to remove the executor/executrix

Claims litigation

- All 6 claims for housekeeping/nursing brought by women/ all successful to some extent
- Widows sued husbands' estates for debts.
 - Answer: “The wife has no identity separate from her husband.”

Conclusion

- 1900 is too early for MWPA to have much of an effect on married women's assets → their testate patterns differ significantly from married men's.
- Women had significant assets and businesses.
- 63% of all women, and 75% of testate women, had real property. Men: 66% all, 82% testate men.
- Women were not shy about initiating litigation, even against family members.