

1.2 Why and how english last wills and testaments changed since 1837

Abstract: The research focuses on the multifaceted analysis of English Last Wills and Testaments as a social and communicative phenomenon. Wills are considered to be a constitutive genre of the testamentary discourse shaped in some definite situational and cultural contexts. Special attention is paid to changes which have occurred in the layout and lexis of Last Wills and Testaments since 1837 when the Parliament of the United Kingdom confirmed the power of every adult to dispose of his/her property and though the Will which is 182 years old this year yet it serves as the foundation for all wills made since, in England and Wales.

Key words: testamentary discourse, genre of Last Will and Testament, situational and cultural contexts, compositional structure, lexical features.

1.2.1 Introduction

Last Wills and Testament is a legal document of inheritance law and plays an important role in the life of any society. In England it has quite a long history. The article aims at tracing the changes that have occurred in the compositional structure and lexis of wills since 1837. The novelty is provided by the fact that the genre of Last Will and Testament has not been the object of the linguistic research yet and has not been studied as a communicative phenomenon generated in the situation of bequest.

The **subject** of the study is the changes in the compositional structure and lexis that the genre under study has undergone since 1837. These changes were caused by a number of reasons predetermined by social and cultural parameters, legislation rules and other impacts on social institutions in the flow of history. The texts of English Last Wills and Testaments offer insights into human social relationship. They contain information on social class, family group and religion of testators and can as well illustrate their individual experience, everyday life and personal relations. Wills can provide understanding of moral values in the society: right versus wrong, and is an invaluable source of judgements on different aspects of personal and social life that influenced decisions of testators. Thus the texts of Last Wills and Testaments are of great interest for scholars including linguists.

The conducted research illustrates that wills are usually written in institutionalized and fossilized language and have special devices for regulating social behavior.

The major tasks of this paper are to provide the interpretation of: a) genre peculiarities of Last Wills and Testaments; b) layout of Last Wills and Testaments; c) situational and cultural contexts of writing wills; d) dynamics of changes in the genre under study.

The corpus of the research is 400 English Last Wills and Testaments written between 1837 and 2015. Wills written before 1858 are housed in the National Archive www.nationalarchive.gov.uk. Wills written after 1858 are available on the United Kingdom Government website at www.gov.uk/search-will and a number of websites (<http://www.langhaminrutland.org.uk/wills&inventories/19thc-wills.pdf>, <http://www.sro.wa.gov.au/archive-collection/exhibitions-online/soldiers-wills-first-world-war>, <http://www.ancestry.com>).

1.2.2 Methodology

The composite method based on formal, functional and operational coordinate system has been used to carry out the research. The formal coordinate system studies the genre from the viewpoint of the compositional structure of texts and factors that determine this structure. The functional coordinate system deals with the analysis of functions of different textual components. The operational coordinate system takes into consideration socially important interaction which occurs in the form of expanded speech constructions which can be equated to speech acts.

The representatives of the formal approach interpret discourse focusing on lingual means if its encoding and particularly the hierarchy of structural units. They interpret discourse as “language above the sentence or above the clause” (Schiffrin 1994: 23; Макаров 2003: 86) and pay special attention to legal language as a special language code which is of great importance for jurisprudence (Hutton 2009: 4). Legal language is studied as means of formulating legally relevant principles which are converted (transformed) into an effective mechanism for regulating human behaviour due to formalization (Liubchenko / Любченко 2015: 36).

The vast majority of contemporary research in the field of legal discourse use functional approach that relies on the language functions which determine it. Functionalism involves the study of the structure and functioning of language in order to show the agreement between them (Makarov / Макаров 1998: 55).

It should be highlighted that in this research the analysis of situational and cultural context is considered to be of special importance for the study of Last Wills and Testaments. The research of the former is based on the theory of Robin Cooper and Hans Kemp's situational semantics and John Barwise's theory of discourse representation (Cooper & Kamp 1991). The notion of situation (situational context) is presented as an object in the theory of situation, which possesses certain referentiality and evaluative potential. In the situation of bequest, the text of the Last Will is generated, which besides the situational context is influenced by the cultural context. The latter is interpreted in this paper as social conventions of speech behaviour in the context of a particular situation.

1.2.3 Genre features of English Last Will and Testament

Last Wills and Testaments have always played an important role in the English legal system (Herbert 1901: §1). The first Statute of Wills passed by the Parliaments dates from 1540. However, it was so imperfect that it was modified and supplemented in 1542 and 1543 (Herbert 1901: § 15). There were other laws passed regarding land and property since then.

In 1837 the Parliament of the United Kingdom passed the Wills Act. By this document every adult could dispose the property to heirs. The provisions of this document are still valid in England and Wales. The document provides a clear interpretation of the terms *will*, *real estate*, *personal estate*. The law provides the equality of the rights to both men and women (Wills Act: § 1). A will must be written and signed by a testator or other person in his presence and under his directions and certified by at least two witnesses (Wills Act: § 9).

Wills Act 1837 is the main document of testamentary discourse in England which regulates the disposal of property from a testator to an heir. It is worth noting that Wills

Act 1837 is the coner stone of inheritance law not only in England but also in most states in the USA. Thus, in this research the year when this Act was passed is the starting point for compiling the corpus of texts to be used for discovering the dynamics of changes.

A central issue in this paper is the notion of *genre*. We consider genre to be a rhetorical category of communication which determines the content and the form of communication in a definite communicative situation generated by social needs of communicators.

In recent years, researchers have become increasingly interested in genre studies. Proceeding from the New-rhetorical concept of genre we consider it as a socio-communicative phenomenon which occupies an intermediate position in the hierarchy “from the micro level of natural language processing to the macro level of culture” (Miller 1994: 68). In such a model speech-driven social action generates typical linguistic content that is reproduced in specific communicative situations. Thus, a mechanism of communication between individual speech action and recurrent social situation is triggered.

K. Campbell and K. Jamieson draw attention to the fact that a genre does not consist of a series of acts in which certain rhetorical forms recur but a genre “is composed of a constellation of recognizable forms bound together by an internal dynamic” (Campbell, Jamieson 1978: 17). Therefore, the genre is identified not through lingual means analysis but through the analysis of the combination of such means which serve to express a reaction on the demand of the situation.

However, Last Will and Testament as a genre has hardly ever been researched as a genre or has even been mentioned in linguistic publications. This paper is an attempt to fill the gap and the research is based on the following definition: **Last Will and Testament as a genre of testamentary discourse is a recurring speech action that generates typical linguistic content to meet the socially conditioned needs of a testator in a situation of bequeath.** Primarily, this speech action is conditioned by legal culture. The situation of bequeath plays an important role in drawing a will. The approaching death, illness, conflicts in the family are the main incentives for writing a will. A testator aims at determining the heirs of his/her property and money. It is

significant that all the wills in our corpus have a typical structure which includes the following obligatory components: title (*Last Will and Testament*), introduction of a testator, testamentary part, nomination of a fiduciaries (executor (trix), trustees) and self-proving affidavit. Spiritual part and revocation of previous wills are optional.

Another dimension for studying wills as speech action defined in terms of a speaker's intention is the pragmatic one. This genre can be viewed as a typical way of constructing speech in the form of a series of performative speech acts. They serve for achieving the communicative goal of a testator in the situation of bequeath. This has direct impact on: a) the communicative layout of genre fragments in the form of speech acts, b) their illocutionary characteristics of explicitness, c) proportionality of the content and d) the selection of means to render purposefulness and communicative intention of a testator and their motivated sequence of those means that move the reader toward accepting the position of the testator.

1.2.4 Composition of the English Last Will and Testament

The research focuses on the analysis of the study of compositional and lexical changes in English Last Wills and Testaments of the researched period (Fig. 1).

All studied wills have a typical composition: title, introduction of a testator, testamentary part, nomination of fiduciaries (executor(trix), trustees) and self-proving affidavit are obligatory. Spiritual part and revocation of previous wills are optional.

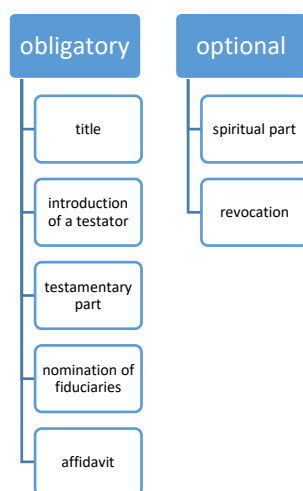


Fig. 1. Composition of Last Will and Testament

The analysis of wills shows that they have the common title *Last Will and Testament*. There are two explanations for the origin of this term. The first theory emphasizes the meaning of the words *will* and *testament*. The name was in use from the XVI century (Sneddon 2011: 694). *Will* was used to bequeath real estate while *testament* – personal property (A New English Dictionary on historical principles 1919: 694). Another theory emphasises the etymology of words and states that these words are synonyms. *Will* is derived from the Old English Word *willa* and means *desire, wish, longing, liking, inclination, disposition to do something, mind, determination, purpose, request, joy, delight*, and *testament* is its Latin synonym *testamentum* which means *last will, publication of a will*) (A new English Dictionary on historical principals, Vol. IX, part II: Su-Th). *Will* as a document which expressed a person's will to dispose his/her property after death was first recorded at the end of the XIV century, and *testament* in the same meaning was first dated in XIII century (ibid). It is worth noting that the term *testamentum* in the meaning of *treaty* and *will* was used collaterally in the Christian tradition (A New English Dictionary on historical principles 1919: 221–222). The Greek term διαθήκη, ης, ἡ denoted will (*covenant*) in early Christian Latin. This term means an official statement chiefly in writing expressing a person's desire to dispose the property after his/her death in the study of law (ibid). The term *testamentum* is not only a legal term. It is also used in theological texts as God's instruction and a part of Bible (*Old Testament* and *New Testament*) (ibid).

C. Ferland called the first theory “historical” and stated that there was no focus on the differences in terms in the modern world but a word combination is used as an official title for naming a legal document to dispose real and personal property. The author also stated that *last* marks the last will of the testator and revokes the previous will (Ferland). K. Sneddon refuted such an explanation and believed that a three-word title was formed rather for sake of harmony and is one of the features of the Last Will and Testament genre (Sneddon 2011: 695–696). The author added that these words combined in the title in different ways by 1500s: *testament and will*, *testament and last will* and even *testament and latter will*. A treatise of Testaments and Last Wills by H.

Swinburne and J. Wake published in 1743 accepted that only the title *Last Will and Testament* has been preserved and is still being in use (Swinburne, Wake J. 1803).

Acts of the English Parliament now and past in history use the term *will*. The attribute *last* indicates the importance of the document, but it doesn't state that the will is final. A testator can revoke or change his/her will before the death. So, it is unknown which will is the last. We cannot agree with K. Sneddon on the question of euphonious since the term is a binominal construction which is common for legal texts.

Binominal constructions are represented by a sequence of two or more words or phrases that belong to the same lexical category and are linked by conjunctions *and* or *or*. M. Gustafson divided such constructions into synonymic (*last will and testament*), antonymic (*in person or by proxy*) and complementary (*shoot and kill*) (Gustafson 1984: 133). N. Andreichuk, a Ukrainian scholar, portions out these constructions into complementary and reinforcing ones and believes that they are means of implementation of logical argumentation and reflect pragmatic instruction to ensure accuracy of the utterance. Complementary constructions reflect a well established combination of different entities (*bodies and goods, credit and profit, form and effect*) and occur less frequently. Reinforcing constructions are more frequent and combine close or equal parts (*authority and power, good and loving, true and faithful*) (Andreichuk 2013: 263–264).

Therefore, Last Will and Testament is a reinforcing binominal construction which is common for legal language and is a title of the document.

The testator's presentation is submitted in two ways:

1) ***This is the last will and testament of (me)*** [name of the person] ***of*** [place] ***in the county of*** [area] with some slight variations, for example:

This is the last Will and Testament of me William Almond of Langham in the county of Rutland grazier made this eleventh day of December one thousand eight hundred and forty (William Almond, 1841);

This is the last will and testament of me John Innocent of Langham in the county of Rutland Miller and Baker made this twenty ninth of June in the year of our Lord one thousand eight hundred and thirty one (John Innocent, 1838).

2) *In the name of God, Amen ... I [name] of [place] in the county of [area],*
for example:

*In the name of God Amen The sixth day of March one thousand eight hundred
and thirty seven I George Fowler of the parish of Langham in the county of Rutland...*
(George Fowler, 1846);

*In the name of God Amen I James Hubbard the elder of the parish of Langham
in the county of Rutland farmer and grazier...* (James Hubbard, 1846);

*In the name of God Amen. This is the last will and testament of me Francis
Williamson of Langham in the county of Rutland farmer...* (Francis Williamson, 1852).

Some Last Wills and Testaments contain a spiritual component *In the name of
God Amen*, which is optional. However, all of them contain the time and the place of
composing.

The testator's statement can be supplemented by the information concerning
his/her age, sex, social status and even personality. A number of wills give information
about testator's profession:

*This is the Last Will and Testament of me Charles Birchall of Nantwich Willaston
in the parish of Nantwich in the county of Chester **Farmer*** (Charles Birchall, 1839);

*This is the Last Will and Testament of me Peter Barber of Crowley in the Parish
of Great Budworth and county of Chester **Yeoman*** (Peter Barber, 1846);

*This is the last Will and Testament of me Raymond Edward Knight of Rhyl,
Barnwood, Gloucester **Schollmaster** at present serving with the 3/5th Gloucester
Regiment* (Raymond Edward Knight, 1916).

The following professions are mentioned in the researched wills: *accountant,
bookseller, baker, brickmaker, butcher, solicitor, clerk, chemist, draper, farmer,
grazier, hatter, innkeeper, miller, printer, shoemaker, schoolmaster, surgeon, tailor,
veterinary, writer, whitesmith, and yeomen.*

Some wills indicate the testator's belonging to a certain social status:

*This is the Last Will and Testament of me Allen Beckett of Sutton Hill within
Sutton in the Parish of Runcorn in the County of Chester **Gentleman*** (Allen Beckett,
1846);

*This is the true last Will and Testament of me James Wright **senior** of High Leigh in the County of Chester farmer* (James Wright, 1856);

*This is the Last Will and Testament of me the rifht **honourable Sir** Winston Leonard Spencer Churchill of Chartwell Manor Westerham in the County of Kent **a Knight of the Most Noble Order of the Garter Member of the Order of Merit Privy Councillor Companion of Honour and Member of Parliament*** (Winston Leonard Spencer Churchill, 1963);

*I Diana **Princess of Wales** of Kensington palace London W8 hereby revoke all former wills and testamentary dispositions made by me* (Diana Princess of Wales, 1993).

Spinster, singlewoman and widow were used to identify the female testators in XIX century:

*This is the Last Will and Testament of me Ann Blackshaw of Lymm in the County of Chester **Singlewoman*** (Ann Blachshaw, 1846);

*This is the Last Will and Testament of me Mary Yearsley of Sandiway in the Parish of Weaverham in the County of Cheshire **Widow*** (Mary Yearsley, 1845);

*I Eliza Wild of Water Street Newton in the County of Chester **Spinster** declare this to be my Last Will and Testamnet* (Eliza Wild, 1878).

This suggests that men, unmeried women or widows could have been the testators or testatrixes in the XIXth century. Married women could not dispose of the property because they didn't own one. However, the first paragraph of the Wills Act 1837 claims that all prescriptions apply to both men and women (Wills Act).

An insignificant number of wills contains the indication of the marital status of men-testators:

*This is the Last Will and Testament of me Thomas Henry Whalley Waller of Waldringfield, Stroud in the County of Gloucester, **Bachelor*** (Thomas Henry Whalley Waller, 1917).

Of special importance is the socially conditioned fact that only a capable citizen who is aware of responsibility for his/her actions can be a testator. Therefore, texts of wills usually contain a stereotypical phrase "*of sound mind and memory*". For example:

*This is the Last Will and Testament of me Charles Birchall of Nantwich Willaston in the parish of Nantwich in the county of Chaster Farmer made and published when of **sound and disposing mind memory and understanding** in manner and form following whereby I give and bequeath....* (Charles Birchall, 1839);

*In the name of God Amen I James Hubbard the elder of the parish of Langham in the county of Rutland farmer and grazier being weak of body **but of sound mind and memory**...* (James Hubbard, 1846);

*In the name of God Amen I Christopher Williamson of the parish of Langham in the county of Rutland farmer and grazier being somewhat indisposed in body **but of sound mind memory and understanding praised be God well knowing the certainty of death and uncertainty of life** and being desirous of setting all things in order in my lifetime and to avoid disputes and differences amongst my relations after my decease do make and ordain this my last will and testament in manner and form following that is to say* (Christopher Williamson, 1839).

The testamentary part of a will as a rule begins with a binominal structure which introduces the disposal of property. These can be reinforcing structures: *I give and bequeath, I give and device, I give device and bequeath, I order and direct, I give and recommend*:

*First I **order and direct** that all my past debts and funeral expenses to be paid as soon as conveniently may be after my decease out of my personal estate...* (Francis Williamson 1852);

*First I **give and bequeath** unto my beloved son George Fowler the sum of five pounds...* (George Fowler, 1846);

*I **give and bequeath** all my real and personal estate to my Trustees...* (Elan John Smith, 2006).

A number of wills (39 texts, 9,7 % of the corpus) contain a spiritual part. Prior to a disposal of property, a testator commends his soul to God: ***First I commend my soul into the hands of Almighty God...*** (Christopher Williamsom, 1839). There are cases when a spiritual part is placed at the end of the will: ***I commit my soul to the mercy of God through our Lord and Saviour Jesus Christ and exhort my dear***

children humbly to try to guide themselves by the teaching of New Testament in its broad spirit... (Charles Dickens 1869).

Here are some other examples of the spiritual part of different wills:

First I give and recommend my soul into the hands of almighty God that gave it and my body I recommend to the earth to be buried in decent Christian burial... (James Hubbard, 1846);

... and first of all I give and commend my soul into the hands of almighty God that gave it and my body I recommend to the earth to be buried at the discretion of my executrix nothing doubting but at the general resurrection I shall receive the same again by the almighty power of God, and as touching such worldly estate wherewith it hath pleased God to bless me in this life... (George Fowler, 1846).

The XIX century wills commonly contain the spiritual part. In the early XXth century wills it occurs quite rarely.

In Christian tradition it was common to leave behind a spiritual inheritance. For this purpose, testators used the ritual first phrase: *In the name of God. Amen*:

In the name of God Amen. I Christopher Williamson of the parish of Langham in the county of Rutland, grazier, being somewhat indisposed in body but of sound mind memory and understanding praised be God well knowing the certainty of death and uncertainty of life and being desirous of setting all things on order in my lifetime and to avoid disputes and differences amongst my relations after my deceased to make and obtain this my last will and testament in manner and form following that is to say (Christopher Williamson, 1839).

In particular, K. Sneddon notes that the phrase has been used in wills since Anglo-Saxon times: “In nomine domini nostril Iesu Christi” and “In nomine domini”, because in those days and in the Middle ages wills were the part of last confession of the testator and a confessor to whom he confessed often composed a will (Sneddon 2011: 696–697). The phrase was used less frequently in the late XIXth century and completely disappeared in the early XXth century (Sneddon 2011: 699). K. Sneddon explains this by the fact that the role of religion in society had become less significant. She also believes that “In the name of God. Amen” is an acknowledgement of death

inevitability and meeting God but also it is a kind of invocation to execute the testator's will and express the hope that the relatives and loved ones will honor his/her wish (Sneddon 2011: 699–700). A will could have been revoked by the testator at any time before his/her death. Thus, the great number of investigated wills have revocational part (268 wills, 67 %), for example: *And I do hereby utterly **disallow revoke and annul all and every other former testaments wills*** (George Fowler, 1846); *I hereby **revoke and make void all former wills** by me at any time heretofore made* (Ann Hubbard, 1840); *And lastly I **rescind all former wills*** (Charles Hubbard, 1850); *I do hereby **declare that all other wills which may have been made by me to be considered null void*** (Francis Williamson, 1852);

*I hereby **revoke all former wills and testamentary dispositions made by me under the law England and Wales*** (David Elan Jones, 1986).

In England executor is responsible for making sure that debts are settled and estate is distributed to those entitled to inherit it. The absolute majority of wills in our corpus contain the appointment of an executor:

*I do **appoint my dear wife Ann Mantle sole executrix*** (William Mantle the elder, 1837);

*I **appoint the said wife and son George joint executrix and executors of this my last will*** (William Snodin, 1855);

*I **appoint my said aunt sole Executor of this my Will*** (John Roy Smith, 1916).

According to the Wills Act 1837 all wills must be signed by a testator himself and witnessed by at least two persons (Wills Act 1837). A testator declares his/her will and witnesses testify it by their signatures.

Let's consider the most common types of testimony of testator's will:

*I have hereunto **set my hand this thirteenth day of May in the year of our Lord one thousand eight hundred and forty three signed by the said John Almond*** (John Almond 1855);

*In witness whereof I have hereunto **set my hand to the first sheet and my hand and seal to this last sheet this day and year above written*** (George Fowler 1846);

In witness whereof I the said Thomas Shuttlewood have to this my will contained in two sheets of paper set my hand the day and the year above written (Thomas Shuttlewood 1848);

In witness whereof I Francis Williamson the testator aforesaid do hereby affix my hand and seal this twenty second day of June in the year of our Lord one thousand eight hundred and fifty-two (Francis Williamson 1852);

In witness whereof I have subscribed the presence at Gloucester this seventh day of April nineteen hundred and seventeen (Harold Charles Organ, 1917);

In witness whereof I have hereunto set my hand 13th day of August 2015 (Boris Tony Jones, 2015).

Here are the most typical patterns of testimony:

In the presence of us who in his present at his request and in the presence of each other have hereunto set our names as witnesses (William Almond, 1841);

In the presence of us present at the same time who in his presence at his request and in the presence of each other have hereunto subscribed our names as witnesses (Philip Hayes, 1855);

Signed sealed and delivered in the presence of us who have hereunto attached our names and who hereby certify that to the best of our knowledge and belief the testator at the same time of such signing was of sound mind and we also certify that the interlining in the sixteenth line of the second page was made prior to the said signing (Francis Williamson, 1852);

Signed by the testator in the presence of us who in his and each other's presence at the same time subscribe our names as witnesses (Joseph Boulton Parslow, 1916);

Signed by the said Judy Ann Jones as her last Will in the presence of us both present at the same time who at her request and in her presence and in the presence of each other have hereunto subscribed our names as witnesses (Judy Ann Jones, 2015).

Table 1 provides a typical text of Last Will and Testament which contains all structural components.

Table 1

An example of Last Will and Testament structure

Last Will and Testament	← Title
In the name of God Amen. I Christopher Williamson of the parish of Langham in the county of Rutland, grazier, being somewhat indisposed in body of sound mind memory and understanding praised be God well knowing the certainty of death and uncertainty of life and being desirous of setting all things in order in my lifetime and to avoid disputes and differences amongst my relations after my deceased do make and obtain this my last will and testament in manner and form following that is to say	← Introduction of a testator
First I commend my soul into the hands of Almighty God that gave it hoping for a happy resurrection in and through the merits and mediation of my blessed Lord and saviour Jesus Christ and my body I commit to the earth from whence it came to be decently interred at the discretion of my wife and executor hereafter named and as to worldly estate and effects which it has pleased Almighty God to bless me with	← (Spiritual will)
I give and bequeath unto Marry Ann my beloved wife all that copyhold messuage or tenements situate in Langham aforesaid and to her heirs or assigns and as to my personal property of whatsoever it hath pleased God to bestow on me whether in nature or quality I give and bequeath unto William Fowler of Whissendine in the said county grasier upon this special trust and confidence in him reposed and to the intent that the said William Fowler do and shall allow my beloved mother Elizabeth Williamson that which he may think proper and sufficient for her maintenance during her natural life. My further trust and will is that my executor do allow my wife Mary Ann Williamson the rest residue and remainder of my property with the profits arising thereof for the support of herself and my son John Williamson and my daughter Sarah Ann Williamson during her natural life providing she remain my wife and at her decease to be equally divided between my son and daughter aforesaid. But if my wife should marry again my further will is that my executor in trust do take immediate possession of my personal property and equally divide it between my son and daughter so soon as they attain the respective ages of twenty-one.	← Testamentary part
And I hereby nominate and appoint William Fowler aforesaid sole executor of this my last will and testament	← Nomination of fiduciaries
[and] hereby revoke all my former will or wills by me heretofore made	← Revocation of previous will

In witness whereof I have hereunto set my hand and seal this twenty-eight day of August one thousand eight hundred and thirty nine. Christopher Williamson	← Testator	Self-proving affidavit
Signed by the said Christopher Williamson the testator in the presence of us present at the same time who in his presence have subscribed our names as witnesses. Charles Hubbard. John Smith. George Fowler.	← Witnesses	

Therefore, it is significant that all studied wills have the typical structure described above: title, introduction of a testator, testamentary part, nomination of fiduciaries and self-proving affidavit are obligatory. Spiritual part and revocation of previous wills are optional.

1.2.5 Situational and cultural contexts

Situational and cultural contexts provide the basis for researching the will genre as a socio-communicative phenomenon. The notion of *situation* is defined in the Dictionary of the Ukrainian language as “a set of relative conditions and circumstances with respect to relationship among people and surrounding (Dictionary of the Ukrainian language 1970-1980: 208). The English dictionary generally recognized as extremely reliable source provides several definitions of the term, in particular: 1) *the place, position or location of a city, country, etc., in relation to its surroundings*; 2) *the place occupied by something*; 3) *a place or locality in which a person resides or happens to be for the time*; 4) *the position in life or in relation to others, held or occupied by a person*; 5) *condition or state*; 6) *position of a person with regard to circumstances*; 7) *position of affairs; combination of circumstances* (A new English dictionary on historical principles 1919. Vol. IX). The definition in a Dictionary of the Ukrainian language actually encompasses the last four meanings in the English dictionary and draws attention to the connection between the notion of situation and relationship among people. Communication is always situationally-conditioned and performs a regulatory function in reference to relationships. The situation of bequeath is generated in legal culture and suggests various ways for the verbalization of legal norms.

Most scholars identify the notions of *situation* and *concept*. However, C. Mechkoor claims that they have different meanings (Mechkoor). In particular, text is viewed as a product generated in a particular situation not only by the laws of language but also by the cultural context. The research on situation of bequeth and cultural context are significant areas to study testamentary discourse.

A situation is a significant component of the communication scheme where it is regarded as a context. It seems appropriate to define it as a situational context with its conditions and circumstances which precede communication, affect it and determine its course. B. Malinowsky in 1923 initiated “ethnographic empiricism” and introduced the term “context of the situation” (Wolf 2001: 259). J. Firth notes that B. Malinowsky’s concept of the situation is rooted in F. Wegener who first developed the theory of situation (*Situationstheorie*) (Firth 2005: 93–118).

In the book “Coral Gardens and their magic” B. Malinowsky introduced the ethnographic theory of language. One of the most important postulates of the theory is the statement that utterances are related to other human activities and to their social and physical environment (Malinowsky 1935: 22). The study of the relationship between the language, activities and the interpretation of each utterance in a real context provides a new point of reference to consider linguistic reality (Malinowsky 1935: 9). The actual linguistic fact is the completed utterance in the context of the situation (Malinowsky 1935: 11).

J. Barwise and J. Perry substantiated the theory of situation which is based on the mathematical theory of meaning which serves to study situational semantics (Barwise, Perry 1983). This theory is multidisciplinary as it involves cognitive science, computer science, artificial Intelligence, linguistics, logic, philosophy and mathematics. Situational semantics aims at explaining the process of speech through semantic universals such as: 1) *external significance of language* (we use language to convey information which determines the course of events, the causes of their occurrence, the place and time at which speakers are); 2) *productivity of language* (we generate meaningful messages by using specific vocabulary); 3) *efficiency of language* (the same sentences can be used to tell different stories but the interpretation of the

sentences will depend on the situation they describe); 4) *perspectival relativity of language* (speakers get into different situations and have different visions of the world; therefore, the message that the utterance conveys will vary from person to person and its understanding will depend on interpretation); 5) *the ambiguity of language* (utterances usually have more than one meaning); 6) *the mental significance of language* (to what extent language affect our thinking) (ibid).

Language serves to convey information not only about the outside world but also about the inner world of a person (Barwise, Perry 1983: 42). S. Lingstrom who analysed in detail the work of J. Barwise and J. Perry, believes that the satiation is one of the components of communication in situational semantics and the core of situational semantics are real situations, real circumstances and events which are clearly defined (Lingstrom 1983: 11).

S. Mechkoor defined the relation between the everyday life situation and the situation in the theory of situation. He noted that people often use the word *situation* to define *context* and vice versa (Mechkoor).

To investigate Last Will and Testament as the main genre of testamentary discourse in the article we use the analysis of situational context and cultural context. The first is considered with reference to Barwise and Perry's theory of situational semantics and Cooper and Kamp's representation theory. The notion of situation (situational context) is interpreted as an object in the theory of situation which determines the information that accompanies the situation and is characterized by a certain referentiality and evaluation (Barwise 1983: 314). Information is always about a particular situation. The content of information depends on the situation which explains the importance of the theory of situation in semantic and logical analysis of information (Devlin). K. Devlin states that the fundamental components of the theory of situation are persons, relationship, place, type and parameters; the last are not individuated but are determined by cognitive behavior of a person and point out important information links (Devlin). Situation theory addresses issues of how we perceive the world and what influences our behavior and communication in society.

The components of the situation of bequeath are: 1) people (testator, heirs, fiduciaries), their communicative goals and roles; 2) the availability of legal rules to regulate relationship; 3) common knowledge of these legal rules by all people involved; 4) the place of making a will (at home, at a hospital, at war etc.).

The situation of bequeath generates the text of a will which apart from situational context also has a cultural context which we interpret as social conventions on speech behaviour in the context of a particular situation. This particular situation is embodied in the text taking into account certain conventions and traditions that determine the structure and content of a document. A cultural context is of complex heterogeneous nature and in Last Will and Testament is characterized as a part of a legal culture. Therefore, situational and cultural contexts are important components of communication which also covers an addresser, an addressee and a language code (Fig. 2).

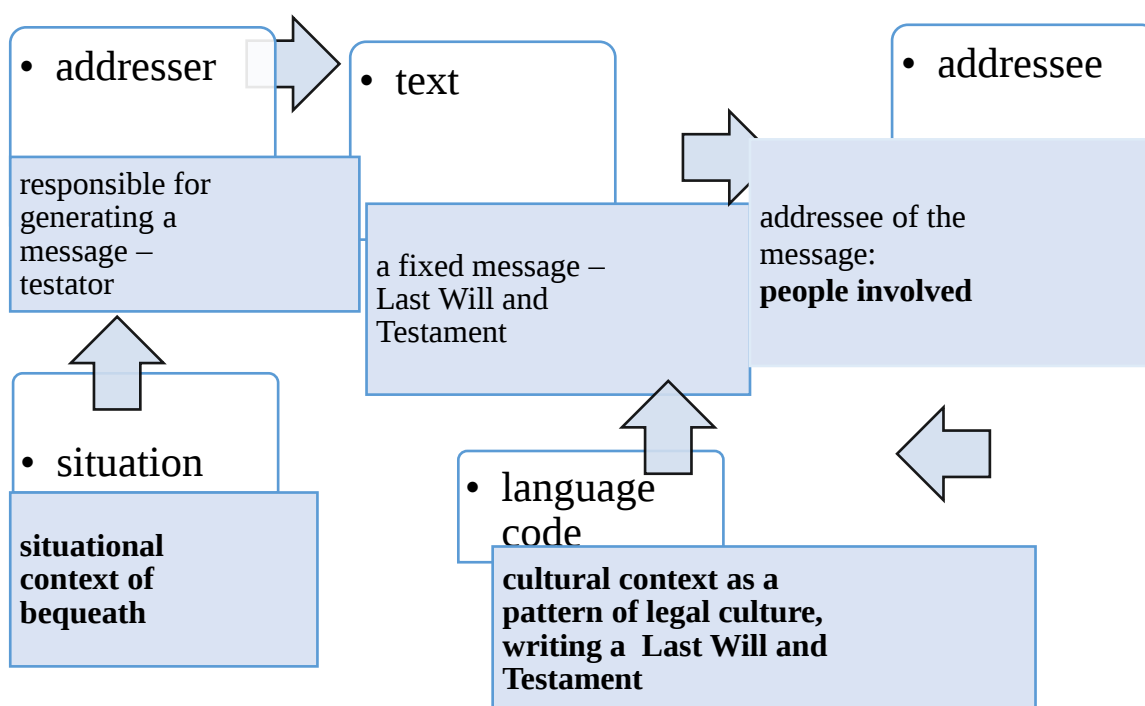


Fig.2. Communication scheme in the situation of bequeath

1.2.6 Dynamics of changes in the layout of Last Wills and Testaments

The number and contents of compositional blocks haven't changed during the investigated period. However, a number of changes have occurred in their layout, in particular, in graphical representation of the texts. Compositional blocks are presented in the form of separate paragraphs (in past a will was composed of one paragraph only). This tendency can be seen in the following example:

This is the last Will and Testamnet of me Ann Blackshaw of Lymm in the County of Chester Singlewoman

I direct the payment of all my just debts funeral and testamentary expences as soon as conveniently may be after my death and subject thereto I bequeath unto my niece Mary Blackshaw the daughter of Thomas ans Ellen Blackshaw late of Manchester deceased the sum of nineteen guineas...

I appoint my said son Samuel Blackshaw and John Thomason of Lymm aforesaid Shoe Maker Executors of my Will

And I hereby revoke every former Will In witness whereof I the said Ann Blackshaw have to this my Will subscribed my name this nineteenth day of December One thousand eight hundred and fifty six (Ann Blackshaw, 1846).

At the beginning of the XXth century, the enumeration of each block was introduced to Last Wills and Testaments especially big-sized ones.

This is the last Will and Testament of me Charles Frederick Robert Barnett of Cheltenham in the County of Gloucester, Clerk at Lloyds Bank Limited Cheltenham.

1. I appoint my wife Cicely Frances Barnett my father Francis Carew Charles Barnett and John Edward Manners at Clerk at Lloyds Bank Limited Cheltenham to be the Executors and Trustees of this my Will and...

2. I bequeath to my said wife absolutely all my wearing apparel jewellery ornaments of the person plate linen china glass books pictures furniture and all other household and indoor effect whether for use or ornament and all outdoor effects...

3. I bequeath the residue of my personal estate and devise all my real (if any) unto my Trustees upon trust to sell, call in and convert into money such parts thereof....

4. I declare that my trustees shall hold my capital trust estate in trust to pay the income thereof to my said wife during her life...

5. I declare that if my said wife shall marry again there shall be any issue of my marriage then living she shall upon the death of the survivor of my father and mother, the remainder of the income from my capital trust estate and two third of my capital trust estate shall go and be applied in the same manner as if my life were then dead...

I revoke all testamentary dispositions heretofore made by me in witness whereof I have hereunto set my hand this nineteenth day of June One thousand nine hundred and three

C.R.R. Barnett

Signed by the said testator in the presence of us both being present together at the same time who in his presence and in the presence of each other have hereunto subscribe our names as witnesses

W.H. Mellersh, Solicitor, Cheltenham

Chas Kingman, Clerk to Messrs Brydges, Mellersh and Mellersh, Solicitors, Cheltenham (Charles Frederick Robert Barnett, 1903).

Last Wills and Testaments of the XXth century have similar enumeration. In addition, some testamentary blocks may be presented in the form of marks f), b)..., for example:

.....4. (a) I give free of inheritance tax all my chattels to my Executors jointly (or if only one of them shall prove my Will to her or him) (b) I desire them (or if only one shall prove her or him (i) To give effects as soon as possible but not later than two years following my death to any written memorandum or notes of wishes of mine with regards to any of my chattels (ii) Subject to any such wishes to hold my chattels (or the balance thereof) in accordance with Clause 5 of this my Will (c) For the purpose of this Clause 'chattels' shall have the same meaning as is assigned to the expression 'personal chattels' in the Administration of Estates Act 1925 (including any car or cars that I may own at the time of my death) (d) I declare that all expenses for the safe custody of and insurance incurred prior to giving effect to my wishes and for packing transporting and insurance of the purposes of the delivery to the respective recipients of their particular chattels shall be borne by my residuary estate ... (Diana Princess of Wales, 1993).

Sections and sub-sections in Last Wills and Testaments of the XXI century are bolted and each compositional block receives a title. For example:

THIS IS THE LAST WILL AND TESTAMENT of me, Mr. John Peter Smith, of 123 Main Street, London, England, with respect to the disposition of only that property owned by me at the time of my death and situate in Canada, and I declare that I have prepared a separate Will disposing of all my other assets.

1. REVOCATION

I HEREBY REVOKE all former wills, codicils and other testamentary dispositions made by me, but only to the extent that they are inconsistent with, or relate to, the property covered by a Will from the same jurisdiction.

2. EXECUTORS

I NOMINATE, CONSTITUTE and APPOINT my wife, Jane Smith, of 123 Main Street, London, England, to be the Estate Trustee, Executor, and Trustee of this my Will, provided that there should be at all times one (1) Estate Trustee, Executor and Trustee of this my Will so that in the event that my above-named Estate Trustee, Executor and Trustee shall have pre-deceased me or shall survive me but die before the trusts hereof shall have terminated or shall be unable or unwilling to act or to continue to act, I appoint, in the following order of priority, such one of the persons hereinafter named as shall not already be acting and as shall be able and willing to act to fill the vacancy so created, namely, my friend, Cindy Jones, of 166 Bayview Avenue, Apt. A-43, Toronto, Ontario, Canada, and my brother, Albert Smith, of Minneapolis, Minnesota, U.S.A.. References to “my Trustee” in this my Will shall include each Estate Trustee, Executor and Trustee of my Will, my estate or any portion thereof who may be acting as such from time to time whether original or substituted and whether one or more.

3. PROPERTY TO TRUSTEE

I GIVE, DEVISE, AND BEQUEATH only that property of mine situated in Canada to my Trustee upon the following trusts, namely:

Debts, Expenses and Taxes

a. *To pay out of my general estate my debts, funeral and testamentary expenses.*

b. *To pay out of my general estate all income taxes, estate, inheritance and succession duties or taxes whether imposed by or pursuant to the law of this or any other jurisdiction whatsoever that may be payable in connection with any property passing on my death or in connection with any insurance on my life or any gift or benefit given or conferred by me either during my lifetime or by survivorship or by this my Will or any codicil hereto and whether such duties or taxes be payable in respect of estates or interests which fall into possession at my death or at any subsequent time...* (John Peter Smith, 2006).

The division of Last Wills and Testaments caused the less frequent use of such conjunctions as *also* and *and*.

Identified changes were formal and did not affect other significant genre features.

1.2.7 Changes in the lexical content of Last Wills and Testaments

Last Wills and Testaments written in 1837–2015 undoubtedly reflect some changes in the life of English society. These changes can mainly be traced on the lexical level. In particular, the wills of the XIXth century had a number of lexical features that disappeared by the middle of the XXth century. The XIXth century wills indicate the social status of the testator. The latter is rendered by lexical items that belong to lexico-semantic group of names of professions such as: *farmer, grazier, innkeeper, yeoman, hatter, tailor, draper, carpenter and joiner, shoe maker* etc. For example:

*This is the last Will and Testament of me William Mantle the elder of Langham in the county of Rutland **tailor and draper**...* (William Mantle, 1837);

*This is the last Will and Testament of me John Moore of Aston By Budworth in the County of Chester, **Yeoman**...* (John Moore, 1864);

*I John Wild of Newton in the County of Chester formerly **Hatter** but now out of business declare this to be my last Will and Testament* (John Wild, 1859);

*This is the last Will and Testament of me James Beckett of Oak Villa Cuddington in the parish of Malpas in the County of Chester retired **Innkeeper** (James Beckett, 1892).*

In a number of wills of the studied period a testator also mentioned the profession of an heir. An example is given below:

*This is the last Will and Testament of me Robert Spragg of Somerford Booths in the county of Chester **Farmer**... And I give devise and bequeath the whole of the rest and residue of my estate real and personal to the said Julia Royle Henry Hulme of Withington in the said County of Chester Farmer and John Shrigley of the Bent Farm near Astbury in the same County **Farmer** (Robert Spragg, 1901).*

123 (69, 1 %) of the 178 studied testaments written in the XIXth century indicate the profession of a testator. Almost half of them are farmer's wills (54 Last Wills and Testaments which is 43,9 %). A number of wills of this period indicate the testators' social status, such as:

*This is the last Will and Testament of me Allen Beckett of Sutton Hall within Sutton in the Parish of Runcorn in the County of Chester **Gentleman** (Allen Beckett, 1846);*

*This is the last Will and Testament of me Roger Banker of Newton in the Parish of Frodsham in the County of Chester **Gentleman**... (Roger Banker, 1846).*

Servants are often among the heirs in the XIX century:

*I give and bequeath unto Mary Wakefield late of Branston in Rutland my old and faithful **servant** at Exton for more than 17 years the sum of... (Stephan Massing, 1840).*

Such heirs are no longer mentioned in the Last Wills and Testaments of the XXth and early XXI centuries. This tendency was caused by the social order of the country after the World War I when farms with a staff of 40–50 people practically ceased to exist (Halliday 2000: 206–214). However, this does not mean that service personnel ceased to exist, it still exists nowadays. But wills of the later period do not indicate that the person is an attendant.

Some Last Wills and Testaments of the first half of the XXth century contain information about testators' profession:

*This is the last Will and Testament of me Charles Frederick Robert Barnett of Cheltenham in the County of Gloucester, **Clerk** (Charles Frederick Robert Barnett, 1915);*

*This is the las Will and Testament of me Raymond Edward Knight of Rhl, Barnwood, Gloucester **Schoolmaster** (Raymond Edward Knight, 1916);*

*This is the las Will and Testament of me Stanley Noel Priestley, Grammar School, Tewkesbury, **Officer in His Majesty's Forces** (Stanley Noel Priestley, 1916);*

*This is the las Will and Testament of me George Edmund Wilkins of Ivydene, Lower Slaughter R.S.O. in the County of Gloucester, **Miller, Baker and Farmer** (George Edmund Wilkins, 1915);*

*This is the last Will and Testament of me Gilbert James Wooles of the Riflemasns Arms, Lydney in the County of Gloucester, **Innkeeper** (Gilbert James Wooles, 1912).*

The decline of agriculture made obsolete the professions related to it. Instead, professions typical for the society of late XX – early XXI centuries came into being. Information on testators and heirs' social status was not mentioned in the second half of the XXth century, except in case of individuals of a very high social status, such as in wills of Princess Diana or Winston Churchill:

*I Diana **princess of Wales** of Kensington palace London W8 hereby revoke all foemer wills (Diana Princess of Wales, 1993);*

*This is the last Will and Testament of me **THE RIGHT HONOURABLE SIR WINSTON LEONARD SPENCER CHURCHILL** of Chartwell Manor Westerham in the County of Kent a Knight of the Most Noble Order of the Garter **Member of the Order of Merit Privy Councillor Companion of Honour and Member of Parliament** (Winston Leonard Spencer Churchill, 1963).*

The form of address also changed during this period. The XIX century wills contained the location where the testator or his heirs lived:

*I John Riley of **Langham in the county of Rutland** (John Riley, 1837);*

*This is the last Will and Testament of me Henry Haspell of **Hatley in the Lordship of Frodsham in the County of Chester** (Henry Haspell, 1848);*

This is the last Will and Testament of me Roger Banker of Newton in the Parish of Frodsham in the County of Chester... I give and devise unto my nephew Willian Bankes of Weston in the Parish of Runcorn in the said County (Roger Banker, 1848);

I John Wild of Newton in the County of Chester... I appoint my said son and my friend Aaron Haughton of Godley in the said county of Chester Builder and carpenter Executors of my last Will (John Wild, 1871).

The XX century wills provide detailed address, containing the name of the street and house number where the testator, heirs and executors lived:

Last Will of Ivan Richard Gibbs Captain 10th Glosters. In the event of my death I give 50 £ (fifty pounds) to Florence Norah Fryer, Spinster of 1 St John Villas, Berkeley Street, Cheltenham, England (Ivan Richard Gibbs, 1915);

I appoint and Commander Patrick Desmond Christian Jermy Jephson of St. James's Palace London SW 1 to be the Executors and Trustees of this my Will (Diana Princess of Wales, 1993).

In the XXI century wills an address is written in the official form accepted in the country. Another characteristic feature of the XIX – early XX century wills is that testatrixes indicated their marital status: widowed or unmarried. Only 27 wills of the XIXth – early XXth century in the corpus of the study were written by women (15 % of all wills of that period). 16 of them stated that women were single. The following lexical units were used to render it: *widow*, *spinster*, *singlewoman*. In XXth–XXI centuries the indication on the marital status of women disappears.

Changes in the life of the English society can be traced by analysing the lexis used to describe objects of bequeath (household items, furniture, clothes, accessories, types of houses, cattle and books) in the testamentary section of a will. In particular, natural wills prevailed in which the testator listed all the items of gifts:

I give devise and bequeath unto my said wife all and every my messuage cottages lands tenements and hereditaments whatsoever and wheresoever and also all and singular my household goods and furniture stock in trade plate linen china money and securities for money and all other my personal estate and effects... (William Mantle, 1877);

*I give bequeath and device... my said wife to have the use and enjoyment of my **live and dead farming stock** and also of my **implements of husbandry** which shall be in and about **the messuage farm and hereditaments** occupied by me at my decease...* (James beckett, 1844).

The development of industry in the XXth century opened up new prospects for citizens. As a result, most professions, buildings and items related to agriculture (*grazier, yeoman, implements of husbandry, messuage farm, hereditaments, copyhold, messuage, tenements*) went out of use. These words became archaic.

It is also worth mentioning that since the second half of the XX century the combination of words *real estate* (property in the form of land or houses (Longman Exam Dictionary 2006: 1271)) and *personal estate* (personal estate means movable property; the term should be construed to mean every species of property not of a freehold nature, including not only goods and chattels, but rights and credits also (Bullowa v. Gladding), *freehold estate* (a freehold estate is the exclusive right to enjoy the possession and use of a parcel of land or other asset for an indefinite period (Longman Exam Dictionary 2006: 606)) also went out of use and the terms *estate* (all of someone's property and money, especially everything that is left after the die (Longman Exam Dictionary 2006: 502), *property* (a thing or things that someone owns (Longman Exam Dictionary 2006: 1222) and *assets* (the things that a company owns that can be sold to pay debts (Longman Exam Dictionary 2006: 75) started to be used instead. For example:

*I give all my **property and assets** of every kind and wherever situate to my Executors and Trustees...* (Diana Princess of Wales, 1993);

*... all my **property** of every kind wherever located* (Sue Smith, 2015).

Characteristic feature of the military wills written during the First World War is the use of the term *property*:

*I give, device, bequeath and appoint **all property** of which I am now...* (Lionel Watson Moore, 1916);

*I give all my **property** to my mother Rosa Knight and appoint her sole executrix of this my Will* (Raymond Edward Knight, 1916).

From the second half of the XXth century the main items to bequeath are *monies* (law money (Longman Exam Dictionary 2006: 987), *legacies* (pl. money or property that you receive from someone after they die (Longman Exam Dictionary 2006: 869), *investment* (the use of money to get a profit or to make a business actively successful or the money that is used (Longman Exam Dictionary 2006: 808), *property* (the thing or things that someone owns (Longman Exam Dictionary 2006: 1222).

Наприклад:

1) *I give the following pecuniary **legacies**:*

*To Anthony Montague Browne **Five thousand pounds***

*To Anthony Forbes Moir **Two thousand pounds***

*To Doreen Pugh **Six hundred and fifty pounds**...* (Winston Leonard Spencer Churchill, 1963);

2) *I give and bequeath any **motor car** owened by me at my death and **the sum of one thousand pounds (£ 1000)** to my newphew David Smith of 21 East Parade Lincoln Lincolnshire LN4 5LF for his own use and benefit absolutely* (Anthony Smith, 2011);

3) *I give the following **Legacies** absolutely with any tax due to be paid by my estate: 1. My **yacht**, “The Other Woman” to Ellen Janet Harrison of Beach House, Sandbanks, Poole, Dorset BH15 1HE 2. My Omega Seamaster Chronograph watch to John Lewis Morse of 11b Wellington Square, Oxford, Oxfordshire OX1 2JP* (Boris Tony Jones, 2015);

4) *The Trustees may make any kind of **investment** that they could make if they were absolutlly entitled to be* (Paul Henry Simpson, 2006);

5) *I give all my **property** and **assets** of every kind and wherever situate to my Executors and Trustees* (Diana Princess of Wales, 1993).

The old forms to denote property are used parallely:

*I give free of inheritance tax all my **chattels** to my Executors jointly (or if only one of them shall prove my Will to her or him)* (Diana Princess of Wales, 1993).

The modern dictionary defines this term as *law old-fashioned* (Longman Exam Dictionary 2006: 235). Despite the fact that new terms had been used the old terms were still in use.

Thus, the analysis of the corpus of wills shows that during the period under study Last Wills and Testaments undergone very minor changes concerning the graphic design and lexical content of the texts. The wills began to be structured in blocks and numbered in paragraphs (both in numbers or letters) in the late XXth – early XXI centuries. This led to a decrease of conjunctions *and* *та also*. The development of technology in the XX century caused the change of the objects of bequeath. Thus, objects related to agriculture became obsolete. Money and real estate became the main objects of bequeath. New objects such as cars and yachts appeared.

The decline of agriculture decimated the professions associated with it. Instead, the professions typical of the late XXth – early XXI century came in sight. It should be noted that the verbs of bequeath (*give, bequeath, direct, leave, dispose, devise, will, advance, declare, further*) remained unchanged.

1.2.8 Conclusions

The research focuses on the analysis of the structural and lexical changes of English Last Will and Testament as a social and communicative phenomenon which reflects the socially determined needs of a testator in the situation of bequest. Last Will and Testament is defined as a repetitive speech act, which generates a typical linguistic layout of the content to meet the communicative needs of a testator on the issue of the inheritance of property and money after his/her death. Attention is paid to genre features of Last Wills and Testaments and their implementation in English wills of mid XIXth – early XXI centuries. The following features of the investigated genre were singled out: 1) social and cultural conditionality; 2) generation in the situation of bequest to perform the act embodied in performative texts; 3) stable composition; 4) typical linguistic content layout; 5) typical way of constructing speech in the form of a series of performative speech acts.

The features of the law system in England are reflected in the choice of compositional and lexical means to embody the communicative purpose of a testator in the English wills. Changes at the level of compositional layout and lexical content are observed in the wills of the mid XIXth – early XXI centuries. Compositional blocks

remain unchanged during the specified period. Namely, blocks are submitted in paragraphs, at a later stage they are divided into numbered blocks, and the last changes are concerned to the presence of points and sub-paragraphs in the block.

Some lexical changes have been discovered and analyzed: professions and objects of the bequest, related to agriculture, and indication of social status have become obsolete; the way of writing the addresses of testators, executors, heirs and witnesses have been changed; new professions and objects of bequest have appeared.

This research sheds some light on Last Will and Testament as a main genre of testamentary discourse. The notion of situation is presented as an object in the theory of situation which is characterized by certain referentiality. It is claimed that the texts of wills are generated in the situation of bequest and are accommodated to situational contexts, however they still have a cultural context which is interpreted as social conventions of speech behavior in the context of a particular situation. Such dynamics of changes are linked to cultural (legal requirements) and social (changes in society) contexts.