

2007

Marriage, sin and the community in the Register of John Chandler, Dean of Salisbury 1404-17

Byron J. Hartsfield
University of South Florida

Follow this and additional works at: <https://digitalcommons.usf.edu/etd>



Part of the [American Studies Commons](#)

Scholar Commons Citation

Hartsfield, Byron J., "Marriage, sin and the community in the Register of John Chandler, Dean of Salisbury 1404-17" (2007). *USF Tampa Graduate Theses and Dissertations*.
<https://digitalcommons.usf.edu/etd/2206>

This Thesis is brought to you for free and open access by the USF Graduate Theses and Dissertations at Digital Commons @ University of South Florida. It has been accepted for inclusion in USF Tampa Graduate Theses and Dissertations by an authorized administrator of Digital Commons @ University of South Florida. For more information, please contact digitalcommons@usf.edu.

Marriage, Sin and the Community in the Register of John Chandler,

Dean of Salisbury 1404-17

by

Byron J. Hartsfield

A thesis submitted in partial fulfillment
of the requirements for the degree of
Master of Arts
Department of History
College of Arts and Sciences
University of South Florida

Major Professor: David R. Carr, Ph.D.
Gregory B. Milton, Ph.D.
Giovanna Benadusi, Ph.D.

Date of Approval:
November 16, 2007

Keywords: medieval England, social history, church courts, disputed marriage, self-divorce, domestic violence

© Copyright 2007, Byron J. Hartsfield

To Mom and Carine.

Table of Contents

List of Figures	ii
Abstract	iii
Chapter One: Introduction	1
Chapter Two: Historiography	18
Legal Historians, Canon-Law Courts, and Social Control	18
Social Historians and the History of the Medieval English Family	32
Chapter Three: Adultery	55
Compurgation	64
Sentences of Fustigation	72
Fines Paid in Lieu of Fustigation	79
Abjuration	85
Chapter Four: Fornication	91
Compurgation	95
Sentences of Fustigation	100
Fines Paid in Lieu of Fustigation	104
Abjuration	106
Chapter Five: Disputed Marriages	113
Chapter Six: Abandonment and “Self-Divorce”	137
Chapter Seven: Marital Abuse	158
Chapter Eight: Conclusion	170
List of References	175
Appendices	179
Appendix A: Sins Reported in Dean Chandler’s Register	180
Appendix B: Adultery in Dean Chandler’s Register	182
Appendix C: Fornication in Dean Chandler’s Register	184

List of Figures

Figure 1.	Adultery and Compurgation in Dean Chandler's Register	66
Figure 2.	Fines Associated with Abjuration of Adultery	88
Figure 3.	Fornication and Compurgation in Dean Chandler's Register	97
Figure 4.	Penalties Associated with Abjuration of Fornication	109

**Marriage, Sin and the Community in the Register of John Chandler,
Dean of Salisbury 1404-17**

Byron J. Hartsfield

ABSTRACT

Marriage is a subject of great interest to the social historian. However, the marriage of the average medieval English villager is very poorly documented, as it bears little obvious relationship to the great affairs of state. Searching for information on such difficult subjects, many social historians have recently turned to legal records, learning to sift them for the intimate details of daily life.

The Register of John Chandler, Dean of Salisbury 1404-17 preserves a rich variety of cases presented to the church courts of early fifteenth-century Salisbury. The questmen, selected from the most respectable men of each village, presented to the court stubborn sinners who had proved incorrigible by the methods of discipline available at lower levels. Most of these cases involved sexual irregularity of some sort, and most of these concerned marriage.

This essay is divided into three parts. The historiography examines the work of ecclesiastical, legal and social historians over the last century, especially where the three merge, as when scholars use the records of church courts to write social history. The next two chapters discuss adultery and fornication in Chandler's register. Because of the large number of these cases, it was impractical to address each of them in detail. Thus these chapters rely on statistical analysis and use specific cases as illustrations. The following

three chapters address disputed marriages, abandonment and “self-divorce,” and marital abuse. Each of these subjects requires a discussion of background and definition of terms, therefore these chapters have longer introductory sections. However, there are few enough examples of these in the register that each can be discussed individually.

The *Register of John Chandler* shows the Church struggling to control the institution of marriage as well as the spiritual lives of the villagers of Salisbury. To the extent that it succeed, it did so because it provided necessary order to the people of Salisbury and because they received it willingly. The average person obeyed the Church and its laws, more or less, but the Church was often unable to enforce its will on the powerful or the stubborn.

Chapter One

Introduction

Every society attempts to regulate the behavior of its members. Societies use a variety of means to do so. These may be located on a continuum of formality, with the subtle pressure of public opinion on one end and the criminal trial on the other. The less formal methods are most likely to come to bear first and are the least likely to leave any trace in the historical record. A scornful glance from a neighbor likely occurred far more often than a formal trial, but no scribe recorded it. Thus the record that we have is prejudiced towards the most extreme of cases. In these cases the more subtle forms of social pressure had often already failed.

If, for instance, the court record shows a medieval English man punished for continuously quarreling with (or “scolding”) his neighbors, then most likely he has already passed through several less formal stages of regulation, all of which failed to control his behavior. If subtle cues of body language, voice tone and facial expression did not adequately convey the depth of his neighbors’ reprehension of his behavior, then someone probably spoke to him. Ideally, the spokesman would have ties of respect and affection which would lend him influence over the offender. A father or brother would likely have the greatest influence. If family members were unwilling or unable to correct the man’s unruly behavior, then others might try – friends, neighbors, employers, guildmates. If none of these could persuade him, then the local priest might try. As a

representative of the Church, he wielded a type of influence which family, friends and neighbors did not. If even this failed to effect a permanent change in the man's behavior, the local elite, having heard of the problem, might warn him that legal action was the next step. They might then, in their roles as jurors of manorial or royal courts, or questmen of church courts, present him as an offender and summon him to answer formal charges. Their indictment, as preserved by a clerk, might give some hint of the circumstances of this particular case, or it might make a bare statement such as, "John Smith is a scold."

Of course all this is only surmise. It cannot be more, as no one recorded the dirty looks which John's neighbors gave him, or the heart-to-heart chats with a senior member of his guild, or the stern admonitions of the vicar. Even granted that all these levels of intervention existed, they were likely not as well organized as the above might imply; no doubt they were often tried out of order, or some of them were skipped. Still, it seems likely that these less formal types of intervention not only existed, but were often effective. The average man, perceiving that, after a loud quarrel with one neighbor, all of them began to treat him coolly, probably took the hint and tried to be more amiable in the future. If his brother advised him to change his behavior, he probably took the advice seriously. If these factors failed to motivate him sufficiently, the threat of hell from the local priest likely did. Just as, in the workplace today, co-workers and managers often give an employee several warnings that his behavior is inappropriate before taking disciplinary action, the offender who went to court for bad behavior in the Middle Ages had often had several chances to correct his behavior.

Of course this system had its flaws. It worked largely on the basis of reputation. Thus the discreet person, the person of high social status, and the charismatic person were

often protected, while unpopular people and those whose status was considered suspicious (e.g. migrants, women living alone) had a harder time. Furthermore, a single enemy could do tremendous damage by spreading rumors. Slander lawsuits were very common in late medieval England as people whose reputations were injured by rumor fought back. Some people must have found themselves reported as notorious based on a single incident which had become inflated by gossip, while others no doubt committed worse offenses but managed to keep them out of the community's consciousness. Protesting that a particular offense had only happened once, moreover, would likely have been of little use. Although jurors and questmen probably normally reported only repeat offenders, no formal rule existed to restrict them. Notoriety was the basis for indictment, and notoriety is always subjective.

The Register of John Chandler, Dean of Salisbury 1404-17 preserves a rich variety of cases presented to the church courts of early fifteenth-century Salisbury. This register contains the results of three diocesan visitations during the period and records a number of cases which came before the church courts during these visitations. The court did not have jurisdiction over all offenses. Most of the matters it addressed were ones which the modern person might think of as "sins" rather than "crimes." Thus assault, theft and the like appear only occasionally, when they were somehow related to the property or prerogatives of the diocese; on the other hand, the register contains many cases involving fornication, adultery, and general failure to live peaceably with spouse or community. From the nature of these cases, it seems that the court had special concerns with regulating the sexual behavior of the villagers and the conduct of their marriages. The categories are, of course, not entirely distinct, but the court seems to have shown the

greatest concern with preserving the institution of marriage. Not only do cases of adultery outnumber those of fornication, but many of the latter seem to have attracted attention because they impinged on issues related to marriage. Some were “disputed marriage” cases in which one or both parties claimed to be married, but the claim was contested. Others seem to have involved long-term concubinage, which the Church frowned upon as an illegitimate rival to marriage. In addition to these two categories, many cases which came before the court involved marriages in which the principals were not treating one another as husband and wife were supposed to do. The court intervened to correct their behavior. The judge of the dean’s court often acted, in the words of R. H. Helmholz, as “a rather heavy-handed marriage counsellor.”¹ Based on the preponderance of the cases found in Chandler’s register, this may even have been its primary role.

Visitations such as those preserved in Chandler’s register were a regular part of the administration of the Church in late medieval England. They emerged in the thirteenth century. The original intent of the visitors (usually the bishops themselves) seems to have been to ensure that the churches in their dioceses were adequately equipped – that their buildings were in good repair and that they had the necessary materials (such as books) to conduct their business. This purpose remained, and although I have not emphasized it in my study, the record of this sort of inspection takes up a good part of Dean Chandler’s register. However, over the course of the thirteenth century, the visitations acquired judicial functions. By the end of that century, it was standard for the

¹ R. H. Helmholz, *Marriage Litigation in Medieval England* (London: Cambridge University Press, 1974), 101.

visitation court to absorb the functions of all other courts with the area for the duration of the visitation.²

Just as royal and manorial courts summoned jurors to report to them any relevant matters (such as unpunished crimes) in their community, the visitation courts summoned questmen from each community they visited. These questmen served as the ecclesiastical court's equivalent of a grand jury. Like the grand jury under the common law, they indicted suspected offenders based on their personal and second-hand knowledge. The questmen were drawn from the most respectable members of the community. They had to be well-respected and relatively wealthy – such persons were considered more trustworthy, in part because they were better able to resist bribes and threats.³ They were often the churchwardens of the parish and might also be jurors at manorial courts. Although records exist of female churchwardens, none exist of questwomen. Although some names appear repeatedly, there was a great deal of turnover among questmen; in Chandler's register, generally more than half of the names at each visitation are new.

During the visitation, the questmen met with the visitation court and were read the Visitation Articles, which specified the details they were expected to report. Although Dean Chandler's Visitation Articles have been lost, it seems clear from the sort of thing the questmen reported that they were similar to those that have survived. The questmen reported on three matters: the physical condition of their church, its lands and equipment; any failings of their clergy, whether in education, eligibility for their status, or their actions; and the behavior of their fellow citizens, including whether they attended church

² T. C. B. Timmins, introduction to *The Register of John Chandler, Dean of Salisbury 1404-17* (hereinafter *Chandler Register*), Wiltshire Record Society vol. 39 (Devizes: Alan Sutton, 1984), xvi.

³ For an example of threats against questmen in Dean Chandler's register, see *Chandler Register*, no. 315 (pp. 112-3).

regularly and gave all that they owed to the church. This last group included any sins which had resisted the less formal levels of correction.⁴

In most dioceses, the bishop made the visitations; some scholars even refer to these rounds as “episcopal visitations.” However, in Salisbury the dean was unusually powerful and independent. He, rather than the bishop, held judicial authority over the prebendary courts of the Salisbury diocese. Because of this authority, he made the visitations rather than the bishop.⁵ In practice, however, not everything could be resolved at one hearing. Often cases ended months later with hearings at central locations, usually Salisbury cathedral. In these cases, the accused had to make the trip to the cathedral, for example to purge themselves or to pay their fines. However, these outcomes were recorded in Dean Chandler’s register next to the original proceeding. This makes it easy to learn the final outcome of a case, where it has been recorded at all, but it often creates the impression that matters were resolved all at once. The register may juxtapose two hearings concerning the same case which were separated by months of time and miles of distance.

Master John Chandler became dean of Salisbury in 1404. At the time he had been both a canon and a confidant of the royal family for over twenty years. He remained dean for thirteen years, then served another twelve years as bishop. He generally attended to his duties sedulously, but he was a politician as well as a cleric, and he took care not to offend powerful men (or women: he served as treasurer to Princess Blanche

⁴ Timmins, xvii; Helmholz, “Usury and the Medieval English Church Courts,” *Speculum* 61 (April 1986): 378; W. P. M. Kennedy, “Fines under the Elizabethan Act of Uniformity,” *The English Historical Review* 33 (October 1918): 519-20.

⁵ Timmins, xiii-xiv.

and Queen Joan).⁶ For most of Chandler's term as dean, the bishop of Salisbury was Robert Hallum, whose register has also survived and contains some additional details about individuals and cases from Chandler's. Hallum, a favorite of Archbishop Arundel, became bishop of Salisbury in 1407 and remained in that position until his death ten years later, when Chandler succeeded him.⁷ Although Chandler made the visitations personally, his official, Master John Shirburne, usually sat as judge at the visitation courts. Thus the judgments handed down in the register were almost always made by Shirburne rather than Chandler. Of course, Shirburne was acting under Chandler's authority, and his judgments presumably reflected his superior's policy.⁸ Where the record shows that powerful persons intervened with the court to prevent certain prosecutions, Shirburne was probably obeying Chandler's directives in allowing them to do so.

Although the importance of Shirburne and Chandler in the dean's court is obvious, these officials did not launch investigations. They made final judgments, but only on those cases which the questmen presented to them. Furthermore, the manner in which the questmen presented their indictments probably had a great deal of influence on their judgments. Yet historians have had little to say about the questmen. Works which deal with the church courts and episcopal visitations, such as R. H. Helmholz's excellent *Marriage Litigation in Medieval England*, typically focus on canon law and the way that

⁶ Timmins, xiii-xiv.

⁷ Joyce M. Horn, introduction to *The Register of Robert Hallum, Bishop of Salisbury 1407-17* (hereinafter *Hallum Register*), Canterbury & York Society vol. 72 (Devonshire: The Canterbury and York Society, 1982), ix-xi.

⁸ Timmins, xxvii.

judges interpreted it rather than on the role of the questmen.⁹ This is understandable, as the primary sources have far less detail about these individuals than they do about clerics. But Marjorie Keniston McIntosh, in her ground-breaking *Controlling Misbehavior in England, 1370-1600*, has shown that jurors (who, again, were only supposed to report suspected crimes, not to judge guilt) took far more initiative in the courts than had previously been believed.¹⁰

The same is true for Salisbury's questmen. Although the courts made final judgments, the questmen largely controlled which cases they heard. Helmholz has argued elsewhere that, in the case of usury, "[m]uch depended on local and private initiative, and to this extent the strict law of usury was subject to mitigation by the mechanism of failure to present anyone except the creditor who took immoderate usury."¹¹ If the questmen felt the same way about other offenses, they may well have acted in the same way. That is, if, as James A. Brundage argues, "[t]he popular belief that simple fornication between unmarried persons was neither a sin nor a crime persisted" in spite of Church doctrine to the contrary, then this attitude may have affected questmen.¹² The questmen of the Salisbury diocese certainly did prosecute fornicators; some 150 counts appear in Chandler's register. However, fewer fornicators were prosecuted than adulterers (184 cases of which appear in the register). While adultery may have been more common or more easily detected than fornication, neither of these seems likely; it seems more likely that the questmen took adultery more seriously. Of

⁹ Helmholz, *Marriage Litigation*.

¹⁰ Marjorie Keniston McIntosh, *Controlling Misbehavior in England, 1370-1600* (Cambridge: Cambridge University Press, 1998).

¹¹ Helmholz, "Usury and the Medieval English Church Courts," 378.

¹² James A. Brundage, *Law, Sex and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 517.

course, the questmen did not always get their way; many times the court seems to have made no effort to prosecute an accused sinner, especially when the accused was a cleric. This difference, however, does show that the questmen often had different ideas than Shirburne and Chandler about who should be punished.

Status often provided protection to the sinners of medieval England. Not only were the courts reluctant to prosecute clerics, they were also inclined to overlook the misdeeds of wealthy and powerful individuals. Such individuals, if powerful enough, could even extend their protection to others. In the most extreme examples, the register openly reports that a particular case was dismissed because of the intervention of a powerful individual such as the abbot of Sherborne.¹³ In other cases, clerics or questmen paid fines on behalf of the accused; this allowed them to escape not only a beating, but often even the necessity of confessing before the court.

That high status helped people escape punishment may not seem surprising, but there is little evidence in the register that low status correlated to harsher punishment. Accused sinners who were identifiably of low status (those who are called by only a personal name or who are specifically identified as servants) usually suffered conviction and punishment at much the same rate as the population as a whole.

Their fate at trial is, of course, a different issue from their likelihood of being accused. Some scholars have argued that young people during this time had a very high rate of mobility as they went through a stage of apprenticeship or service in preparation

¹³ *Chandler Register*, no. 225 (p. 85). For the cordiality of the relationship between dean and abbot, see no. 221 (pp. 84-5).

for settling down and raising a family.¹⁴ If so, then the rate at which servants were accused of crimes such as fornication and adultery (around 15%) may correspond more closely to the distribution of population within a village than would seem likely *a priori*. Since no definitive statistics exist, I have been unable to make a final statement on the issue.

On the other hand, servants and others of low status who were accused of this sort of crime were overwhelmingly more likely to be female than male. Of the 51 servants accused of fornication or adultery, 48 were female. Married men often committed adultery with servants, whether their own, a relative's or a neighbor's. Single men did the same, and some of them seem to have kept their female servants as concubines. Some of these men must have been using their superior positions to take advantage of women of low status. In other cases, poor or transient women may have been attempting to supplement their incomes with a bit of casual prostitution; however, the register makes only three specific references to prostitution, and all three of the women involved (two madams and one *communis leno*) are given family names.

Just as the visitation court took indictments based on reputation, it used a method at trial which relied more on reputation than upon circumstantial or eyewitness evidence. This was the method of compurgation. The accused swore to his innocence, risking the severe spiritual consequences of perjury if he lied. If he could produce an appropriate number of oath-helpers, he would be exonerated. His oath-helpers swore that they believed his testimony. They were not required to have personal knowledge of his

¹⁴ See, for example, Peter Laslett, *The world we have lost* (New York: Charles Scribner's Sons, 1965); Ralph A. Houlbrooke, *The English Family, 1450-1700* (New York: Longman, Inc., 1984).

innocence – which can, after all, be very difficult to know. They were required only to swear to their trust in the accused. Even if he did turn out to be guilty, they would not have perjured themselves so long as they had believed his oath at the time he made it.¹⁵

The number of compurgators most often mentioned in Chandler's register was six – the accused and five oath-helpers. However, in the vast majority of cases, the register does not specify the number of compurgators demanded or involved in a particular trial. The register specifies the number so rarely that it is difficult to know whether the six-handed oath is specified most often because it was used the most often or because it was the most common number used in unusual cases. If, for instance, the court normally required four-handed purgation, but it demanded six-handed purgation in especially difficult cases, then one might expect to see six-handed purgation specifically mentioned most often, precisely because it was uncommon.¹⁶

Whatever the number demanded, the accused did not always need to supply this exact number. Especially respectable people could count as more than one person for these purposes. Someone sufficiently important might count as six compurgators himself, and thus be allowed to purge “by his own hand,” or “single-handed.” In Chandler's register, a lord's son was allowed to purge himself in this manner. However, many accused people in the register purged themselves “with the court's indulgence”

¹⁵ Richard M. Wunderli, *London Church Courts and Society on the Eve of the Reformation* (Cambridge, MA: The Medieval Academy of America, 1981), 43-4; Helmholz, “Usury,” 378; Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge: Cambridge University Press, 1987), 51-2, 331-4.

¹⁶ Timmins implies that six is a typical number of compurgators, but notes that the exact number depended on the judge's discretion (xxx-xxx). Martin Ingram writes that in the early seventeenth century (two centuries after Chandler's time), Wiltshire judges demanded compurgation with four or five hands in three-quarters of cases, and with six or seven hands in one-fifth of cases. However, judges were frequently willing to accept compurgation with one oath-helper fewer than they had originally required, and were sometimes even more generous with the poor (Ingram, *Church Courts*, 331-4).

(*purgavit gratiose*) – that is, they purged themselves with fewer than the usual number of oath-helpers, perhaps with none at all, as a special favor allowed by the court. Purgation by the court's indulgence differs from the previous method in that it seems not to have been granted because of great wealth or social status. It may, on the contrary, have been granted as an act of charity to the poorest of the accused.¹⁷

To the modern sensibility this method seems suspicious. The reader suspects, as one historian delicately put it, that “[e]ither most charges were groundless and defendants innocent or there were many defendants who had little trepidation at committing perjury, for in overwhelming numbers and in all types of cases defendants successfully purged themselves.”¹⁸ Nevertheless this sort of trial had a certain symmetry. The defendant appeared in court, after all, as the result of his reputation. The questmen often had no firsthand knowledge of the sins they reported to the court; rather, they were repeating rumor and hearsay. A defendant believed guilty by some might well be believed innocent by others. Where no other evidence existed, this constituted what we today would call a “reasonable doubt.” If five other people had enough confidence in the accused to swear oaths in his defense, then *a priori* it seemed that the community was divided on the question of his guilt. He might well be the victim of slander.¹⁹

But if a six-handed oath was a sufficient reason to acquit, one might still wonder about compurgation with the court's indulgence, which was quite common in Chandler's register. Over forty percent of accused adulterers and fornicators who managed to purge themselves did so with the court's indulgence. One might well feel, as did the translator

¹⁷ Wunderli, *London Church Courts*, 43-4; Helmholz, “Usury,” 378; Ingram, *Church Courts*, 331-4.

¹⁸ Wunderli, *London Church Courts*, 43.

¹⁹ Ingram, *Church Courts*, 331-4.

of the register, that this sort of leniency “almost certainly ... perverted justice,”²⁰ or, as another scholar put it, that the judge chose the number of compurgators he would accept “by an unknown method that in retrospect seems arbitrary.”²¹ No doubt Shirburne made many such decisions based on his intuition, and this does indeed seem arbitrary to us sometimes. The details on which he based his decisions are lost to time, but my analysis of the cases in which he granted the court’s indulgence shows a pattern. Shirburne tended to grant the court’s indulgence to whole towns rather than to individuals, and yet these villages tended not to have greatly lower rates of punishment than others. This suggests that Shirburne only granted the court’s indulgence in places where, for whatever reason, it was especially difficult for the accused to purge.

The accused who failed to purge, or who confessed their crimes, were generally sentenced to be fustigation, or beating. This was a public ceremony which drew its deterrent power at least as much from the humiliation of being paraded before one’s fellow villagers as a sinner as from the pain of the beating itself. However, more often than not, the guilty party paid a fine rather than suffer the humiliation. This type of court was not allowed to levy fines directly, but in this way it could fine them indirectly by accepting a fine in lieu of fustigation. This happened so frequently that it seems to have been common practice, and the court may well have formally assigned penitential beatings as a way of levying *de facto* fines. Sometimes a respectable person who had some influence with the court would intervene and pay a fine on behalf of a guilty party. This was most often a cleric, but it could be a layman – sometimes even one of the very

²⁰ Timmins, xxxi.

²¹ Wunderli, *London Church Courts*, 43-4.

questmen who reported the sin to the court in the first place. One of the more intriguing questions arising in this study is why this happened so often. Did clerics and other respectable individuals intervene out of pity for the accused, or were they acting on behalf of those who had an interest in putting a matter to rest quietly? The evidence seems to support the first idea in some cases, the second in others, and often to be ambiguous.

In some cases of adultery and fornication, probably those in which it feared a relapse or even long-term concubinage, the court demanded abjuration. It forced both parties to swear an oath not to commit the same sin again with the same partner. A penalty was specified at the time the oath was sworn. If the couple relapsed, each would pay the penalty. This was usually a fine, but sometimes it was a beating. The amount probably depended in part on the sinner's ability to pay, but other factors seem to have been involved as well. In cases of fornication the abjuration might be sworn *in forma commune*, or *sub pena nuibiendi*, meaning that if the couple fornicated again, instead of paying a fine, they would instantly become legally married. In theory, at least, this would put an end to a long-term premarital affair, either by deterring fornication or by marrying the couple willy-nilly.

The state of marriage was a bit unclear in the fifteenth century, and canon law did not entirely jibe with common practice, with the result that sometimes there was real confusion about whether or not a couple was married. These cases might be brought directly before the court or they might arise during a case which the questmen had labeled fornication or even adultery. In these cases the court sometimes acted to reinforce the Church's power over the institution of marriage, but most of the time it

seems to have been acting as an honest arbiter and conscientiously striving for the best solution for all parties.

Similarly, the court sometimes faced cases in which a couple was clearly married, but husband and wife failed to do their duty to each other. This happened when one spouse abandoned the other and when a husband abused his wife. In the latter case, as in the former, the court's primary concern seems to have been that each spouse fulfill his or her duty to the other. These duties included companionship, the care of children, and the "marital debt" of sexual fulfillment which each spouse owed to the other. They also included the duty of the husband both to provide for his wife and to discipline her. Thus the court often showed more concern about husbands who denied their wives food or shelter than those who beat their wives. Despite this emphasis, so different from our own, the court showed a real concern about troubled marriages and made a strong effort to reconcile estranged spouses.

Indeed, although the idea of legal sanctions for sins such as adultery might seem harsh today, the court is marked by mercy at least as much as by strictness, and by a concern for harmony within the villages as much as by an intent to save souls or to expand the Church's power. Dean Chandler's court appears to have been neither corrupt nor indifferent, but to be making a real effort to help the communities it served. It acted to strengthen marriage, to make husbands and wives do their duty to one another, and to provide clarity where genuine doubt existed as to the validity of a marriage. Some historians have claimed that the English people lost faith in the church courts during this period. Dean Chandler's register suggests that the failures of the church courts did not

result from their indifference to the needs of the people but rather from their lack of sufficient power to enforce their judgments.

The following essay is divided into three major parts. The historiographical essay examines the work of ecclesiastical, legal and social historians over the last century. It examines trends in these fields, especially where the three merge, as when scholars use the records of church courts as a source for social history. It pays special attention to those works which provide vital information and tools to understand Chandler's register. The next two chapters (three and four) discuss cases of adultery and fornication in Chandler's register. Because of the large number of these cases, it was impractical to address each of them in detail. Thus these chapters rely on statistical analysis and use specific cases as illustrations. The following three chapters (five through seven) address disputed marriages, abandonment and "self-divorce," and marital abuse. Each of these subjects requires a discussion of background and definition of terms, and so these chapters have longer introductory sections. On the other hand, there are few enough examples of each of these in the register that each can be discussed individually. The appendices include the numerical data from which my analysis, particularly in Chapters Three and Four, is drawn.

A survey of this type is necessarily limited in its scope. A few caveats are in order. The published versions of the registers of Dean Chandler and Bishop Hallum have been translated into English. Any translation, no matter how skillful, is bound to obscure important details. The original Latin phrasing of the registers and any clues which might have been provided by the handwriting of the clerks are unavailable to the scholar who cannot personally visit the archives. Furthermore, the registers themselves tell only part

of the story and likely distort what they do tell. When the questmen report a rumor of adultery, the register does not record who spread the rumor or what motives they might have had for doing so, much less the truth of the matter. The cases the questmen reported were those they thought important. This study generally assumes that these were cases in which a scandal in the community had become so serious that outside help was needed to resolve things. However, in some cases other motives may have applied. For instance, a questman – or someone who influenced him – may have had a financial stake in discrediting a rival. Sometimes a person whose reputation was suffering may even have demanded that the rumors about him be brought to the court so that he could clear his name. Thus this study reveals the biases of the questmen, but also their standards about marriage. It provides a window into the mentality of the villages of late medieval Salisbury – or at least of their elite.

Chapter Two

Historiography

This study will address the interaction of medieval church courts with the peasant family. Legal and ecclesiastical historians have long been intrigued by these courts and acknowledged their role in family life. However, only in the past fifty years have many scholars focused on the family itself as a primary subject, and only in the last twenty years – beginning with the publication of Barbara Hanawalt’s *The Ties That Bound: Peasant Families in Medieval England* – has the use of legal records become a major method of researching it. Thus only recently have social historians begin to use archidiaconal court records as a major source in the study of the family itself as well as the Church. Before this time, the historiography of the medieval English Church and its courts was separate from the historiography of the medieval English family.

Legal Historians, Canon-Law Courts, and Social Control

In the early twentieth century and before, histories of the English medieval church were often marred by partisanship. Nerves seem to have remained a bit raw from the Reformation. This tendency, however, did eventually decline as historians strove to see the medieval Church as contemporaries had seen it rather than from a post-Reformation perspective. One of the earlier historians to attempt to do so was W. W. Capes, author of *The English Church in the Fourteenth and Fifteenth Centuries*, the third volume of

Stephens and Hunt's *A History of the English Church*. Capes' contemporaries praised his innovative use of Episcopal registers to understand quotidian ecclesiastical and spiritual life of as well as his even-handedness towards the medieval Church.²² Capes' study concentrates on ecclesiastical and intellectual history, but his final chapter, "The Influence of the Church on Social Life," attempts to describe the interaction between the Church and the daily life of ordinary people. Capes emphasizes the largely uncontested power which the Church held over people's minds. People for the most part accepted its doctrine without demur and ordered their lives by its ceremonies. In a highly stratified age, the Church was an egalitarian force, in whose buildings rich and poor could meet on a footing which, if not precisely equal, was at least common. Its holy days offered the serf a rare breath of freedom, rest, and even entertainment. Furthermore, the Church acted as a social conscience to the wealthy, encouraging them to acts of charity such as the establishment of hospitals, the feeding of prisoners, and bequests for the poor in their wills.²³

On the other hand, Capes is very critical of the ecclesiastical courts. He notes that their "matrimonial jurisdiction" gave them authority in every household. However, he sees the way that they used this power as heavy-handed, intrusive, and unwelcome. Furthermore, he charges that corruption was rampant in the ecclesiastical courts, causing widespread mistrust and discontent. Whereas other sections of the work are detailed and sympathetic towards the medieval English Church, this particular part is not only harsh

²² Hastings Rashdall, "Review of *The English Church in the Fourteenth and Fifteenth Centuries*, vol. 3 of *A History of the English Church*," *The English Historical Review* 16 (July 1901): 558-9; Francis A. Christie, "Review of *A History of the English Church*," *The American Historical Review* 7 (January 1902): 342-6.

²³ W. W. Capes, *The English Church in the Fourteenth and Fifteenth Centuries*, vol. 3 of *A History of the English Church* (1900; reprint, New York: AMS Press, 1967), 365-75.

but quite short – less than one page is devoted to these courts, even though he describes their influence as “widespread and strong.”²⁴

Capes’ thirteenth chapter, on “The Clergy and Parish Life,” by contrast, gives a realistic and sympathetic view of the role of local priests in daily life. Here Capes delves into Episcopal visitation records to provide a picture of how people felt about their parish priest. He finds that, while a certain amount of discontent can be found, people were by and large pleased with their priests – or at least felt no need to complain of them to the bishop. Capes finds that the level of education of the parish priest was often quite low, and that he often had a concubine or – when the authorities cracked down on that practice – made “temporary connections” instead. However, his tone (unlike that of many previous works, and some later ones) is descriptive, perhaps even understanding, rather than censorious.²⁵

R. H. Helmholz’s 1974 *Marriage Litigation in Medieval England* was a seminal work in the study of Church courts and medieval marriage. In particular, this book remains a touchstone for students of medieval divorce. Helmholz begins by quoting earlier scholars to the effect that it is impossible to know to what extent the courts followed the injunctions of Common Law, then announces that it is in fact possible and that he intends to do so. Helmholz distinguishes between the canonists, the judges and the common people. The three groups each had different attitudes towards marriage, although there were of course variations within each as well. Judges found themselves in the middle, trying to apply the tools of common law to messy, real-world marriages.

²⁴ Ibid., 371.

²⁵ Ibid., 254-78.

However, Helmholz defends the canonists against the charge that they were impractical ivory-tower theorists, and he defends the church courts against charges of slowness, inefficiency, rigidity, and corruption.²⁶

Helmholz notes that in the classical period marriage was a private or family affair and finds that, in the late Middle Ages, the essence of marriage was still that of a private contract. However, the Church was asserting itself more and more in this area, and the resulting conflicts were up to the courts to resolve. Helmholz claims that by far the largest number of marital suits in the church courts of late medieval England concerned efforts to enforce alleged marriage contracts. Clandestine marriages, though frowned upon and even punished, were considered perfectly valid under canon law. However, there was a great deal of confusion as to what constituted a valid (and therefore indissoluble) marriage as opposed to a mere betrothal, which could be broken. Helmholz argues that the wrangling of canon lawyers over such seeming trivia as the exact wording of marriage vows (the choice of verb, and the tense in which it was conjugated, could make all the difference in whether a vow was binding) were not sterile, purely intellectual exercises, but rather were attempts to solve real problems and help the judges who had to deal with them. Furthermore, he argues that their results were useful to the courts as they struggled with thorny and contentious cases. Since most marriage cases in the church courts involved contested contracts, it was vitally important that the courts have a practical standard for determining whether a couple was married. It was quite important,

²⁶ R. H. Helmholz, *Marriage Litigation*.

then, to explain that a contract made in the present tense was forever binding, while one made in the future tense was only binding when consummated.²⁷

Helmholz vigorously disputes the claims of earlier legal historians that divorce was readily obtained in late medieval England, emphatically stating that “Church courts were not divorce mills.”²⁸ Maitland, for example, had claimed that couples after an argument were prone to start researching their family genealogy, looking for consanguinity which could be grounds for an annulment. Helmholz finds this too cynical for the average person, whom he believes took the consanguinity laws very seriously and did his honest best to obey them. He also finds that a consanguinity claim was very difficult to prove (the nobility may have been more cynical and had the resources to research their ancestors, but this was not so for the average person). Helmholz points to the relatively small number of suits for divorce presented to the courts (although he admits that some of the cases which he classifies as attempts to enforce marriage contracts could well be attempts to get out of uncongenial marriages by alleging prior contracts). However, he finds that many people did not bother to go to the courts at all, but simply “self-divorced” – they moved out and went on with their lives without benefit of the courts.²⁹ This point has been considerably expanded on recently by the work of historians such as Andrew Finch and Sara Butler.

Helmholz praises the medieval church courts for their efficiency and practicality, stressing their flexibility and informality. Despite his defense of canon lawyers, Helmholz admits that the courts sometimes found their guidelines too rigid and ignored

²⁷ Ibid.

²⁸ Ibid., 111.

²⁹ Ibid., 59-66.

or modified them. In troubled marriages, the courts allowed legal separations (called divorce *a mensa et thoro*) for some causes, including cruelty (*saevitia*). In these cases, Helmholz finds that judges acted as arbitrators, attempting to persuade the couple to find a way to live together peaceably and helping with informal alimony settlements if this failed. In a few situations, such as the canonical law against a widower marrying a woman with whom he had committed adultery, the courts seem often to have ignored the canonists altogether. In other cases, such as divorce on the grounds of “force and fear,” the courts also showed more flexibility than canon law allowed.³⁰

Although London is unique among the urban areas of England, Richard M. Wunderli’s monograph on *London Church Courts and Society on the Eve of the Reformation* has become deservedly influential as a study of the changes in the relationship between people and the Church courts in late medieval England. Wunderli argues that, in London at least, people were rapidly losing faith in the church courts by the 1490s. Thus from the 1490s on Londoners, affected by the anxieties of the day, began to demand harsher punishments for debtors and moral offenders. The Church courts were unable or unwilling to meet the demand. In part this was because the system of compurgation, well suited to small rural communities where everyone knew everyone, was ineffective in the city, where people belonged to multiple communities. Similarly, excommunication, the Church’s ultimate weapon, mattered less in London, where not everyone knew or cared about a person’s communicant status. The worst offenders, such as pimps, prostitutes, and professional thieves, lived in an underworld where they were

³⁰ “Force and fear” refers to coercion used to force an unwilling person to speak the words of a marriage contract, and was regarded as valid grounds for divorce only if the intimidation was sufficient to move a “constant man” or woman. Thus it differs from claims of *saevitia*, which can be brought for cruelty committed within a marriage freely entered. *Ibid.*, 90-4.

already able to function as outcasts. Therefore excommunication failed to frighten those whom Londoners most wanted to discipline. Besides lacking the tools to provide the harsh enforcement people demanded, the Church's judges were trained in a Christian tradition which tended to mercy towards the repentant sinner – precisely what people resented. Thus Londoners turned more and more to the mayor's court, particularly in cases where they had a strong interest in a conviction, as with the prosecution of debtors and prostitutes. By the time of the Reformation, the Church courts of London had already lost much of their influence and prestige. Thus, in London at least, the Reformation was more effect than cause of the decline of the church courts in the sixteenth century.³¹

John Bossy's *Christianity in the West, 1400-1700* is a broad look at people's attitudes and the Church's attempts to influence them during this time. Bossy emphasizes the Church's theory of incest, which was defined by the Fourth Lateran Council of 1215. While this council's definition was not entirely new, and in fact narrowed the degree of unacceptable consanguinity from seven to four, its formulation was the definitive one for the late Middle Ages. Bossy agrees with Helmholz that the prohibition was generally taken seriously and that the average person made every attempt to obey even though it conflicted with traditional practice in many areas. Bossy argues that the people understood that in enforcing exogamy, the Church intended to widen the bonds of affection within the Christian community, and that they agreed with this goal.³²

³¹ Wunderli, *London Church Courts*, 1-62, 81-102, 133-9.

³² John Bossy, *Christianity in the West, 1400-1700* (Oxford: Oxford University Press, 1985), 18-20.

Bossy points out that the role of the priest in the wedding ceremony, while important, was not vital; nevertheless, this role grew steadily. He proposes two reasons for this. The first was “an increasing fear of diabolic intervention,” especially in northern Europe. Since sexual intercourse was an endeavor particularly vulnerable to demonic influence, marriage was a risky proposition. The best defense was to have a priest bless everything in sight, particularly the ring (symbolically so important) and the bed (both symbolically and practically important). The second reason had to do with conflict between the Church and families. Whereas two people had always been able to marry by the exchange of vows before witnesses followed by sexual intercourse, in the twelfth century canon lawyers decided that the mere exchange of vows was sufficient to form a binding marriage without either witnesses or consummation. While one might expect this to lessen the Church’s role in marriages, the most important effect it had was to weaken the family’s role. Couples wishing to be married against their families’ wishes could do so with but a word, and the Church would support them against their families. Being used in this way, as leverage against reluctant relatives, strengthened the Church’s role in marriage overall.³³

Bossy also delivers an interesting discussion of sin and how it was conceived and explained by the Church. He explains that the primary tool for thinking about the Western moral system in this period was the Seven Deadly Sins. Ethicists generally divided these into two categories: the sins of aversion, including pride, envy and wrath, and the sins of concupiscence, including gluttony, lust and sloth (the place of avarice in this system was ambiguous). The sins of concupiscence were merely excesses of desires

³³ Ibid., 19-26.

which in themselves were necessary for the survival of the community. The natural desires for food, rest and sexual intercourse were only evil when they became exaggerated beyond need. The sins of aversion, on the other hand, turned one individual against another. These were regarded as the more serious because they were more destructive of the community. They were, furthermore, more ethically dangerous because the Church's system had a rival – the code of honor, with its requirements of vengeance – in which these sins “were actually regarded as virtuous or obligatory.” The code of honor demanded pride in one's group (family, clan, village, or any other group to which one belonged), envy of other groups, and wrath against those who insulted the group. Thus the church emphasized charity in its efforts to overcome the powerful spirit of partisanship and vengeance and the zero-sum “doctrine of the limited good.”³⁴

James A. Brundage's *Law, Sex and Christian Society in Medieval Europe* is, like Bossy's work, a great deal broader in scope both in time and in place than my study, but it too offers some pertinent insights. Brundage finds that Europe in the later Middle Ages showed an increasing tendency to regulate sexual behavior. Both the Church and local governments enacted harsh policies. Brundage notes the unusual marriage patterns prevailing at this time – people married in their mid-twenties, and many never married at all.³⁵ He suggests that since so many people were denied licit sex lives, the “sour grapes” effect may explain the harshness of morals laws and the misogyny found in the literature of these times. However, the courts in practice greatly mitigated the harshness of these laws. While adultery was theoretically a heinous crime, in practice the courts often

³⁴ *Ibid.*, 35-9.

³⁵ This insight was not original to Brundage, and it has been used by a number of social historians to draw very different conclusions; see the section on the social history of the family, pp. 33-5, 41-3, 47-8.

treated it the same as fornication. In the case of homosexual activity, the courts were again often more lenient than the law suggested, but here the leniency is a matter of having an offender whipped, fined and exiled rather than burnt to death. Brundage finds that the courts preferred to ignore masturbation altogether. Attempts to force priests to abide by the rules of celibacy were never completely effective, and the Church in this period was rarely inclined to press the issue.³⁶

Brundage suggests that a variety of attitudes existed – for instance, he argues that the great majority of canonists felt that sex was sinful even within marriage, and that at least some secular people agreed (he uses Margery Kempe as his example of the latter, although he admits she was hardly the typical medieval Englishwoman). At the same time, canon law generally regarded sexual relations as a vital part of marriage. And although the view was declared heretical in 1287, many people believed that fornication between two unmarried people was neither a crime nor a sin. This collection of contradictory attitudes is intriguing; one gets the impression that very harsh and very lenient attitudes existed simultaneously. However, Brundage fails to clearly identify who held which beliefs; he does not attempt to establish what sort of person held each type, or in what areas particular attitudes were dominant.³⁷

Eamon Duffy's *The stripping of the altars: traditional religion in England, c.1400-c.1580* explores what Duffy calls “traditional religion” – the religion of the average late-medieval Englishman. Duffy objects to the tack taken by earlier works such as A. G. Dickens' classic *The English Reformation*. He argues that Dickens made a harsh

³⁶ Brundage, *Law, Sex and Christian Society*, 494-539.

³⁷ *Ibid.*

(and unhistorical) distinction between medieval and humanist thinking. Dickens also argued that medieval Christianity had a “rather tenuous” connection to Jesus and the Gospels and that it had alienated the laity, especially with traumatic descriptions of the horrors of purgatory. Duffy emphasizes that late medieval English Catholicism was a system that worked and in which people were invested, whereas Lollards and Wycliffites, while they occasionally struck a chord, were essentially negative and could not offer a viable alternative. Duffy also stresses the connection between elite or clerical culture and the religion of the majority. He argues that “traditional religion” contained a common reservoir of ideas, symbols and speeches on which everyone drew.³⁸

R. N. Swanson, in his *Religion and Devotion in Europe, c. 1215-c.1515*, agrees with Duffy that no clear distinction can be made between “high” educated religion and “low” popular religion. He stresses the interaction between the clergy and the people who assimilated their teachings. However, unlike Duffy, Swanson finds that by the sixteenth century the Church was suffering from problems of complacency and institutional rigidity. Furthermore, whereas Duffy goes so far as to use the word “homogeneity” to describe the medieval Church, Swanson emphasizes its diversity. Swanson argues that medieval people were complex; they incorporated religion into their lives with a range of attitudes from deep piety to cheerful irreverence. He discusses variety within Church tradition, such as local variation in religious practices. Swanson creates an almost economic model of spirituality: people had spiritual needs which they

³⁸ Eamon Duffy, *The stripping of the altars : traditional religion in England, c.1400-c.1580* (New Haven: Yale University Press, 1992), 1-77.

expected the Church to meet, and the growing diversity of available religious elements meant that people could have a greater variety of needs met.³⁹

In 1993, Andrew Finch published an article in *Continuity and Change* following up on Helmholz's groundbreaking work on medieval marriage and divorce. "*Repulsa uxore sua: marital difficulties and separation in the later middle ages*" aims to update and clarify Helmholz's findings. Finch concludes that the "self-divorce" Helmholz describes was not uncommon, and was considered proper by a number of people who felt that marriage and divorce were private matters. Adultery and disputed marriages are also quite visible in the records. However, all these cases were relatively rare compared to the great majority of people who regarded their marriage vows as permanently binding. Finch finds that the Church courts took a very active role in attempting to reconcile dissatisfied couples – ordering couples to treat each other well, to refrain from abusing one another, and insisting that they "pay the marital debt" of sexual intercourse. He also points out the frequency with which courts ordered unmarried couples to abjure from one another *sub pena nubendi*. If the couple engaged in sexual intercourse after their oath, they would be legally considered to have entered a binding marriage.⁴⁰

One of the most groundbreaking recent works on the history of social control in medieval England is Marjorie Keniston McIntosh's *Controlling Misbehavior in England, 1370-1600*. While it addresses many of the same issues as the above works, *Controlling Misbehavior* is quite different from them in style and focus – crammed with charts and graphs and focusing on the local jurors rather than on the judges. McIntosh mainly uses

³⁹ R. N. Swanson, *Religion and Devotion in Europe, c. 1215-c.1515* (Cambridge: Cambridge University Press, 1995), 1-41, 235-56.

⁴⁰ Andrew Finch, "*Repulsa uxore sua: marital difficulties and separation in the later middle ages*," *Continuity and Change* 8 (1993): 11-38.

civil court records, so a study which focuses on the ecclesiastical courts must use her findings with caution. However, her work was so revolutionary, and has become so influential, that any study of this type must wrestle with it.⁴¹ McIntosh looks at judicial records from the leet courts of 255 communities of fewer than 3,000 inhabitants. She stresses the agency of local jurors, arguing that they actively assumed responsibility for matters which they had never been specifically authorized to deal with and carefully worded indictments to justify doing so. She finds that jurors' concern with the eleven types of misconduct she studies rises over the period, but not steadily or evenly; she sees a great deal both of local variation and of peaks and valleys over time. Villages which experienced economic problems and had a high level of immigration were inclined to be more concerned than more stable villages; harsh crackdowns on misconduct eventually proved more trouble than they were worth and were relaxed.⁴²

McIntosh studies eleven "crimes" reported by her rural judges, which she groups into three categories based on the major concern they exemplified. The "Disharmony cluster" concerns actions which were considered disruptive to the peace and cooperativeness of the village; this cluster comprises scolding (which included both using abusive language towards others and the spreading of malicious rumors), eavesdropping (usually accomplished by standing next to or lying under other people's windows, especially at night), and nightwalking (being out at night with no good reason – often in order to accomplish eavesdropping or theft). This sort of behavior caused arguments and hard feelings. The "Disorder cluster" concerns offenses which showed a breakdown in

⁴¹ Although McIntosh's findings have achieved wide acceptance, they were controversial when *Controlling Misbehavior* was first published. For an example of a scholar very critical of McIntosh's methods and claims, see Sherri Olson's review in *Speculum* 75 (January 2000): 216-219.

⁴² McIntosh, *Controlling Misbehavior*, 1-19, 46-53, 206-13.

discipline; it includes sexual misconduct, disorder in alehouses and inns, and vague charges of being “badly governed,” “of suspicious life,” or “of evil repute.” The “Poverty cluster” shows villages struggling with issues concerning poverty, including vagabondage or living idly, receiving subtenants (renting space to a person who had no fixed abode and was therefore automatically suspicious), and hedgebreaking (taking wood out of the hedge, which was public property). By comparing the rise and fall of indictments on these charges in communities, McIntosh demonstrates the shape of public anxiety in the late medieval and early Tudor periods.⁴³

Sandy Bardsley’s *Venomous Tongues: Speech and Gender in Late Medieval England* takes one of McIntosh’s eleven offenses – scolding – and addresses it at greater length. Bardsley’s work is not without its flaws – she makes a few too many assumptions about gender, occasionally generalizes from slender evidence, and sometimes forces a specific reading onto an ambiguous passage. However, this work does make a valuable contribution to our understanding of courts and scolding in the later Middle Ages. Bardsley finds that scolding as a crime did not exist in the early fourteenth century, but that by the early fifteenth century it had become a very common charge in some areas – although the extent to which the charge was brought varied very much from community to community. Bardsley argues that “men fought with their fists while women fought with their voices” – women participated in conflicts by using abusive language against other women or by raising the hue and cry on behalf of their men. She finds that women raised the hue as often as men in the fourteenth century, but that by the end of that century it was becoming increasingly frequent for women to be charged with false hue-

⁴³ Ibid., 1-19, 54-107.

raising. This was because of an increasing concern with women's voices which in many cases eventually took the form of concern with the new crime of scolding. Bardsley thinks that the category of "scold" was sometimes used to feminize men who talked too much or too disruptively, but that men charged with some types of disruptive speech – such as cursing or blasphemy – were not feminized. She also notes that men were often brought to court for disruptive speech – but argues that this speech was considered to be action rather than words by the courts. Men who used abusive speech were prosecuted for such crimes as assault, disturbance of the peace, rebelliousness, and muttering in court. A woman would have been charged with scolding for the same offense. This does, however, seem to weaken Bardsley's main point – if the effort to silence scolds in the fifteenth century was gendered and aimed primarily at women, how to explain that men were also frequently taken to court for the way they used their voices?⁴⁴

Social Historians and the History of the Medieval English Family

Whereas ecclesiastical and legal history have always been of interest to medieval historians, social history is a relative newcomer. Only in the past fifty years have books devoted to the medieval family emerged in any number. Even then, the earlier works to emerge tended to emphasize Tudor England over the late Middle Ages. Although each major new work of course offered new insights and took a unique view, the discussion has been dominated by comparison to our own age. Almost every work on the subject

⁴⁴ Sandy Bardsley, *Venomous Tongues: Speech and Gender in Late Medieval England* (Philadelphia: University of Pennsylvania Press, 2006), 1-25, 69-105, 141-151.

can be classified according to the question of whether its author concludes that the medieval peasant family was similar to our own families or something radically different.

Perhaps the first such history of note was Philippe Ariès' *Centuries of childhood: a social history of family life*, originally published in 1960 as *L'enfant et la vie familiale sous l'Ancien Régime*. At the time, Ariès was not a professional, but a self-described "Sunday historian." Inspired by the work of the *Annales* school, he developed an interest in the way that the modern family had developed from what he thought had been something very different. Ariès argues that the family as we know it is a recent invention. People in the Middle Ages and before obviously had marriage and children, but they did not have the same ideas about them; in fact, they had no real concept of childhood at all. Once people could walk and talk and survive independently of their mothers – that is, at around age seven – they were considered a part of adult society. They were treated simply as small people, albeit still developing. Even the family as we know it did not exist. There was no concept of privacy; people lived in very intimate settings and their homes were open to the community. Marriage was secular and very much public, even on the wedding night. The emotional connection between family members was not as close as it is for us. Love, as we see in the "courtly love" tradition, existed but had no necessary relation to marriage. The young who had not yet entered society were not considered real persons and adults felt that it was not wise to become too attached to them, on account of their very high rate of mortality. Once they did enter adult society they were soon sent off to apprenticeships or to school. Beginning in the fifteenth century and culminating in the eighteenth, people started to see children as different and precious and the family as small and private; this started in the middle

classes and eventually took over society as a whole. As people became more individualistic, this smaller, more private unit replaced the larger, more public life.⁴⁵

Ariès' work was groundbreaking, one of the very first attempts to divine the nature of the everyday life of the ordinary people of the Middle Ages. It diverted attention from the literate elites and forced people to consider that many of the social institutions we take for granted may not always have existed, or may have been very different at one time. Nevertheless, today it seems a fatally flawed study. Ariès uses a great deal of literary and artistic material, but very little of the other materials available, such as the court records used extensively by legal historians. What sources he does use he tends to take at face value. For instance, one of his main arguments for his contention that medieval people thought of children as little adults is the way that they are pictured in portraits, but this relies on the assumption that portraits are an accurate depiction of quotidian life and attitudes. Later historians have questioned this, but a number have, like him, assumed that books of moral instruction reveal the universal attitude of the community. Ariès also draws few geographic distinctions, seeming to assume that western Europe was a single coherent unit.⁴⁶

A few years later, in 1965, Peter Laslett published *The world we have lost*. Laslett was a well-known intellectual historian who developed an interest in the new and growing field of social history.⁴⁷ Despite its title, *The world we have lost* is not so much a nostalgic look backwards as a hard-headed attempt to debunk popular myths about family life in late medieval and early modern England. Laslett argues that, despite the

⁴⁵ Philippe Ariès, *Centuries of childhood: a social history of family life*, trans. Robert Baldick (New York: Vintage Books, 1962).

⁴⁶ Ibid.

⁴⁷ Obituary of Peter Laslett, in *The Guardian*, 17 November 2001.

testimony of Shakespeare, people did not marry in their early teens, but rather waited until their mid-twenties (he estimates an average age of 24 for women and nearly 28 for men). Rather than living in large, multi-generational households, pre-industrial English people already lived in small nuclear families (except for families with servants, who were considered part of the household). These two circumstances were linked; people did not marry until they could afford to move out and start a new household, which helps to explain the very high age of initial marriage. This system was only possible at all because housing was cheap and easy to build and because the short lifespans of the time meant that new opportunities opened up frequently. Laslett also tackles what he considers a widespread view that peasants were promiscuous and sexually irresponsible. He argues that while there were hypocrisy, indifference to religious sanctions, fornication, adultery and prostitution, the average villager obeyed the rules of his society and lived a “respectable” life. His main support for this argument is the rate of recorded bastardy, which he estimates at 3 to 4 percent.⁴⁸

Laslett emphasizes the personal scale of life in seventeenth-century England and the importance of the family, which was the basic economic and political unit (whereas the individual is the basic unit today). Business relations were personal. Since servants and journeymen were part of the household, their work lives were familial, personal, full of love and hate and emotions too powerful to express, in a way that our relationships with our bosses are not. Because the family was the basic unit of society, marriage represented entry as a full member in society – at least for the new head of household, who would “subsume” its other members into his own public personality. Laslett makes

⁴⁸ Laslett, *The world we have lost*.

much of the low average lifespan, hypothesizing that the remarriages and widowhoods which resulted explain the wicked stepmothers and old witches of fairy tales. His work touches that of Ariès on relatively few points – Laslett thinks that we do not have enough information to speak intelligently about how children were raised. Yet he agrees with Ariès that one of the defining traits of pre-industrial society was its physical youth. Laslett estimates that nearly half of the people in society were under twenty, and this must have had its effect – perhaps explaining in part its authoritarian nature. While Laslett is mainly concerned with the early modern period, he remains influential on medieval social historians, particularly in his finding that late marriage and the nuclear family household existed well before the industrial age in England.⁴⁹

Ten years later, Edward Shorter's *The Making of the Modern Family* offered perhaps the grimmest picture to date of the late medieval peasant household. Shorter calls the sixteenth and seventeenth centuries “the Bad Old Days.” He compares “the family in traditional society” to a ship which is unable to go anywhere because it is tied down, and which furthermore has holes in the sides so that people can walk in and out. Such a ship is, of course, not a ship at all, but this is Shorter's point; only after people discovered sentimental familial attachment could they sever the ropes, patch up the ship and sail away in what only then became what we would call a family. This is as clumsy and tendentious a metaphor as it sounds, but Shorter uses it to emphasize the extent, hard to imagine to day, to which relatives and the community bound the family and a person could have very little privacy from them. Shorter argues, much like Ariès, that this changed in the early modern period, as emotion increased in three formerly “cool” areas:

⁴⁹ Laslett, *The world we have lost*.

romantic love, the mother-child relationship, and the boundary between the family and the community. Before this time, he claims, peasant marriage was about lineage and property, with little affection between parents and children and none between husband and wife. People of the time lacked empathy and could not imagine what one another were feeling. The loss of a spouse was an inconvenience but also an opportunity to gain more property by remarrying; it occasioned little genuine grief. Like Laslett, Shorter notes the high average age at marriage but argues that little fornication went on. He even goes so far to claim that little masturbation went on, arguing that the intensity of sexual feelings is largely a product of a society's expectations. In a different society, people rarely experienced uncontrollable sexual urges. Furthermore, the same grim and exhausting life that left people so little energy for any emotions also sapped their sexual drives.⁵⁰

Shorter's view is extreme, and few today are willing adopt it unmodified. One reason for this may be the nature of his sources. He largely relied on the accounts of literate people writing about illiterate peasants. These were most often doctors, bureaucrats and "that variety of antiquarian scholar whom the French charmingly call 'les érudits locaux.'"⁵¹ The records he uses are mostly from late eighteenth-century France. Shorter is aware of the class bias of these authors, but he still considers them the best possible source, as the only intimate literate view of the late-medieval peasant. It seems likely that their prejudices colored his story despite his best efforts. French prejudice

⁵⁰ Edward Shorter, *The Making of the Modern Family* (New York: Basic Books, 1975).

⁵¹ *Ibid.*, 11.

today still considers the farmer a bit loutish or *rustre*; how much more so did they in that period when the upper classes often held the poor in open contempt?

Lawrence Stone's *The Family, Sex, and Marriage in England, 1500-1800*, of a couple of years later, expresses a more nuanced and more widely researched version of this opinion. Stone's unsentimental account presents late medieval peasants as rather alien to us, if not quite the unfeeling clods of Shorter's version. Stone's version of the tied-down, hull-less ship is the "Open Lineage Family," which he claims was the dominant model for the whole Middle Ages until the enormous changes of the sixteenth and seventeenth centuries. The Open Lineage Family was "open" to influence from kin, friends, neighbors and the community as a whole; its *raison d'être* was lineage, loyalty to ancestors and kin. Thus "neither individual autonomy nor privacy were respected as desirable ideals." The group was always more important than the individual. No happiness was expected in this world, only in the next; sex was not a pleasure but a "sinful necessity." Life was cheap, so it was best not to get too attached to specific people. Romantic love was not unknown, but was regarded as a mental illness.⁵²

Overall, Stone finds, "affective relations seem generally to have been cool," so that no love or hatred was very strong by our standards. Furthermore, affection was more evenly dispersed, so that people did not feel much more emotional closeness with their immediate family than with friends, neighbors, and more distant relatives. Love was not the basis of marriage, nor did spouses choose each other; rather, marriage was an economic relationship arranged by families. It was assumed that "any reasonably presentable member of the other sex" would do as an outlet for the sexual urges which

⁵² Lawrence Stone, *Family, Sex, and Marriage in England, 1500-1800* (New York: Harper & Row, 1977).

marriage channeled in constructive directions. Young people did not resent having older relatives choose their spouses because deference to their authority was ingrained in them. The household did not have well-defined boundaries; the community helped to raise children and resolve martial disputes. “The gigantic flood of denunciations of domestic moral transgressions that poured annually into the archdeacons’ courts between about 1475 (when good record-keeping began) and 1640 shows that little went on in the home that was not noticed and reported by the neighbours.” Where divorce is concerned, Stone echoes Helmholz, whose work was new at the time, in his claim that the average peasant “divorced himself” or ran off rather than seeking a legal annulment.⁵³

Stone’s later *Road to Divorce: 1530-1987* elaborates on the topic, identifying “five distinct ways in which the break-up of a marriage could be achieved in England in the early modern period, only two of which involved litigation.” However, this work ignores the Middle Ages and begins in the mid-sixteenth century. Of Stone’s five methods, three (divorce by act of Parliament, the “private separation” by contract, and the wife-sale) were not available in medieval England. As for the two which were (divorce *a mensa et thoro* and “self-divorce”), Stone adds little to Helmholz’s coverage.⁵⁴

This sort of family was not emotionally demanding, and most children left home between ages seven and fourteen to work. This system was replaced starting about 1530 by the “Restricted Patriarchal Nuclear Family,” in which the household became more closed off from the community and transferred its loyalty from its lineage to more “universalistic” entities such as Church and state. This system was itself replaced after

⁵³ Ibid.

⁵⁴ Lawrence Stone, *Road to Divorce: 1530-1987* (Oxford: Oxford University Press, 1990), pp. 1-27, 141-8.

1640 by the “Closed Domesticated Nuclear Family.” This era at last saw the rise of “Affective Individualism,” with family members autonomous and bound by ties of affection, valuing each other as individuals. Stone expresses a strong conviction that societies have changed more than they have remained the same, and he criticizes those who believe that the sex drive and the drives to nurture children are biologically determined constants. Like Shorter, Stone recognizes the perils of relying on documents written by the elite to describe ordinary life, yet falls prey to them anyway. For instance, he concludes, on the strength of the advice of a couple of guides of moral instruction, that all late-medieval parents endeavored to “crush the wills” of their children by physical brutality.⁵⁵

By contrast, Ralph A. Houlbrooke’s *The English Family, 1450-1700* stresses continuity over change. Houlbrooke criticizes Ariès and Stone for using evidence out of context and ignoring what did not fit their models. He argues that Stone’s schematic approach, with its stages of development, makes changes in the family seem quicker, more uniform and more complete than they were. Houlbrooke claims that in 1450 (and for some time earlier) the nuclear family not only existed but was already central to emotional life. Larger family groups were nebulously defined and had less influence than Stone had claimed. While servants were a part of the household, children had a special status and role which servants did not. Husband and wife had a special closeness. Houlbrooke agrees with Laslett that people married at a late age because they first needed to build up the money to set up a separate household; marriage thus usually followed a period of apprenticeship or service, and perhaps an inheritance. Marriage was a

⁵⁵ Stone, *Family, Sex, and Marriage*.

partnership to which both spouses brought resources and skills. Within the marriage, tasks were divided along traditional sex roles, but there was significant overlap. The family was held together by ties of affection as well as obedience. Church teaching aimed to enhance the strength of the family but also to temper the emotions that arose in it and urged people to love God more than their family. However, this effort was not completely successful. Here, Houlbrooke finds a plausible way to harmonize the very different views of medieval emotional life presented by Stone and Laslett. The emotional coolness which Stone noticed in manuals of moral instruction was an effort by the Church to moderate the cabin-fever passions which Laslett hypothesizes.⁵⁶

Church courts, Houlbrooke finds, filled a necessary role: they granted separations, ordered conjugal rights restored, punished infanticide, and provided for the needs of abandoned bastards. A concept of privacy certainly did exist, but it was significantly weaker than it is today. While Houlbrooke acknowledges the enormous changes taking place in England in this period, such as demographic and economic expansion, he finds that the family changed slowly. There was a slow shift towards an improvement in manners, causing wives to scold their husbands less and men to beat their wives less. While obedience and affection both still held families together, the emphasis was shifting from the former to the latter. However, these changes were slower and slighter than Stone had imagined. They were also very little affected by the Reformation or by humanist thought.⁵⁷

⁵⁶ Houlbrooke, *The English Family*.

⁵⁷ *Ibid.*

David Herlihy's *Medieval Households* was one of the first major works to tackle the issue purely from the perspective of a medievalist. While earlier authors had done valuable work in studying the late medieval family, most of them were more interested in the Reformation and the early modern period. Herlihy's work begins in late antiquity and ends before the Reformation. Rather than comparing medieval families to industrial-age ones, he mostly compares them to classical families. At the time of Herlihy's writing, a consensus seemed to be emerging that the nuclear family had already been dominant in the late Middle Ages, but historians did not know how long it had been so. Herlihy traces its rise to the eleventh century, a period of intense change in Europe. From that time on, he argues, Europeans lived in what we would recognize as families – nuclear families bound together by ties of affection. The ideal of partnership or helpmeet marriage, with marriage late for both sexes, was dominant in the High Middle Ages. Herlihy argues that this ideal was later weakened by classical influences, which reintroduced Greek and Roman misogyny and tended to widen the age gap in marriages. However, the partnership marriage continued and was strengthened again by the population losses of the fourteenth century. Although sources for the emotional lives of peasants are poor, Herlihy finds that parents have always loved and valued their children. Noting, like previous historians from Ariès on, that children often left the home at a young age to work as servants, he argues that this was medieval society's way of preserving connections between the upper and lower classes after the demise of slavery.⁵⁸

Alan MacFarlane, in *Marriage and Love in England, 1300-1840*, was another scholar to stress the similarity of medieval marriages to modern ones rather than the

⁵⁸ David Herlihy, *Medieval Households* (Cambridge: Harvard University Press, 1985).

differences. MacFarlane argues that the individualistic “Malthusian marriage system,” which fits so well with capitalism, had its roots in the Middle Ages in England. This system featured a late age at marriage; the importance of the consent of the parties to be married; monogamy; divorce (which, as Helmholtz shows, happened both formally and informally despite the doctrine of the indivisibility of marriage); and a “balanced” system of marriage payments rather than a high bride-price or dowry. English marriage from the Middle Ages on had four distinctive characteristics, which MacFarlane sees as a combination of Christian and “Teutonic” Anglo-Saxon customs. First, marriage primarily concerned the couple themselves rather than the whole family. MacFarlane identifies this as an early blend of Teutonic and Christian customs. Second, following Paul and Augustine, the Church considered marriage “second-best” to celibacy, thus optional rather than obligatory. Third, marriage provided partnership, companionship, and the strongest of all relationships; MacFarlane credits Teutonic “uxoriousness” supplemented by the Christian emphasis on marriage. Finally, romantic love was the basis of marriage. Many historians, following Ariès, attribute the rise of romantic love to the ideal of “courtly love,” and thus to the Troubadours, or at least to eleventh-century Languedoc. However, MacFarlane claims that its appearance was not as sudden as that; these sentiments appear earlier, but are still not universal long afterwards. Perhaps, he suggests, love marriage was always fairly common for the poor, and it was only the rich for whom this was a drastic change.⁵⁹

MacFarlane posits that the families of medieval Europe considered children optional, in large part because they were a mixed blessing; children had their own

⁵⁹ Alan MacFarlane, *Love and Marriage in England, 1300-1840* (Oxford: Basil Blackwell Ltd., 1986).

economic rights (based in Anglo-Saxon law), so that parents were obliged to care for their children, but adult children had few obligations towards their elderly parents. The nuclear family was also old in England. In part as a result of this marriage system, the transition to capitalism in England was much more gradual than Marx had believed, taking place over centuries and beginning in Middle Ages. All Western Europe shared these characteristics in the early Middle Ages, but the reintroduction of Roman law changed most countries. Thus by the sixteenth century, England was an island of Germanic law off a continent of Roman law. This could perhaps explain why the trend Herlihy had seen – the age gap in marriage increasing in the late Middle Ages – is not visible in England.⁶⁰

Barbara A. Hanawalt's *The Ties that Bound: Peasant Families in Medieval England* provided an exciting new look at the English medieval peasant family. Hanawalt deals with many of the same materials as her predecessors, but also makes new use of coroners' reports. These reports were made by royal officers who were appointed to investigate sudden deaths and thus are primarily accident or homicide reports. However, Hanawalt noticed that these reports were also rich in detail about the activities that people were involved in just before the deaths occurred. Thus she finds in these reports a source of rich detail on how people lived their everyday lives. The publication of this work in 1986 began a trend of social historians turning to legal documents for sources of information on the medieval family.⁶¹

⁶⁰ Ibid.

⁶¹ Barbara A. Hanawalt, *The Ties that Bound: Peasant Families in Medieval England* (Oxford: Oxford University Press, 1986).

Hanawalt argues that most historians have overemphasized the differences between medieval and modern families, making the peasant seem far more alien than he really was. She names Philippe Ariès, Edward Shorter, and Lawrence Stone as examples. She argues that medieval peasant families were indeed bound by affective relationships: “Babies were fussed over and bounced on the knees of proud parents. Youths flirted and married couples loved as well as argued.” She claims that Stone and Shorter have overstated the “porosity” of the family, and that the community spying which Stone finds in the beginning of the early modern period was rare in the Middle Ages. She does agree with Stone that the medieval family was different from our own, that family was not as sentimentalized for them as it is for us, and that the *paterfamilias* did not have the power he would wield in the nineteenth century; however, she finds that their families were ones that we would recognize as families in our own terms. Other historians, such as Alan MacFarlane, she believes to have understated these differences, and she stresses that the basic unit of society was the family rather than the individual. She calls the models constructed by all of these historians “straw families,” constructed in the dubious light of nostalgia or “antinostalgia.” She presents Stone and MacFarlane as two poles to navigate between – the one representing a view of the medieval peasant family as too alien and unsympathetic, the other presenting it as too modern and familiar. Although she does not mention his work, she seems to share Houlbrooke’s opinion that the family changed less than its circumstances did.⁶²

Hanawalt claims that the medieval English peasant family was a nuclear family, held together by emotional as well as economic bonds, which is recognizable as a family

⁶² Ibid. Quote is from p. 8.

under our own definition even though it was different from modern families. Families change slowly, and many factors are constant because many human needs are constant; “the very biological necessities of perpetuating our species ensures that many aspects of medieval life must be similar to our own.” Biology, however, does not determine everything; “While suckling a baby is biological, other aspects of family life, such as treatment of the aged, is [*sic*] cultural.” Peasant families used “a variety of economic strategies” to solve the problems confronting them. The fourteenth and fifteenth centuries were traumatic for peasants. Peasant society changed a great deal but the peasant family did not. This was because peasant families were flexible and adaptable units. When members died, people remarried or brought in more distant relatives. Stereotyped “traditional role structures” ensured that people knew their place in the world, and this made people to some degree interchangeable. Cultural roles followed up on and reinforced the biological: “Children must be nurtured, the sexual drives are strongest in youth, and the need for food and shelter forces mature men and women into economic activities to provide for themselves and their offspring.” Thus young people took part in “village fertility festivals” while married men held office and married women “officiated at births.” Peasant community were close-knit in the fourteenth century and unraveled to some degree in the fifteenth, but families stayed strong. Peasants showed a strong preference for the nuclear family household; this was possible because wattle-and-daub housing was so cheap. The peasantry was divided into upper, middle, and lower classes: the village oligarchs, who had the most land and dominated village offices; the secondary villagers, who had enough land to make it usually but relied on village

networks for support in hard times; and the cottars, who had little land and had to rely on wage labor or semi-skilled trade like thatching to survive.⁶³

The average couple, as described by Hanawalt, was busy working and did not reflect a great deal on their marriage. Marital disputes did happen, but serious disputes were not common and were actively discouraged by the community. Some instructional guides did instruct men to beat their wives, but others, such as “How the Wise Man Taught his Son,” emphasized getting along with one’s wife peacefully. Hanawalt condemns such works as *Before the Bawdy Court* and *Wanton Wives and Wayward Women* as “salacious;” she cautions the historian in studying court records that “[t]he cases that tend to stand out after a casual reading are those of brutality and adultery.” The vast majority of cases, however, show cooperation between spouses. There were, of course, incompatible couples and those that lived apart. On divorce, Hanawalt, like most scholars since 1974, follows Helmholz – most grounds for divorce were rarely used, except for precontract. It was the wife’s duty to obey and the husband’s duty to ensure that she did; it was acceptable for him to use force to this end. There was, of course, marital discord. We cannot know how much, but since one could expect a marriage to last twenty-five years or so, it was best to get along. Childbirth was dangerous, but most women survived and outlived their men; women were not constantly pregnant. Court cases overall show that many husbands showed solicitude to their wives; there are many examples of trust and some of affection. Overall, “The patriarchal model of marital

⁶³ Ibid., 3-11, 120-3, 265-8.

relationship is also not entirely applicable ... *Partnership* is the most appropriate term to describe marriage in medieval English peasant society.”⁶⁴

While Hanawalt’s work has been tremendously influential, no historian ever really gets the final word. Recent works have attempted to expand our knowledge of more specific subjects or to apply our understanding to new areas. An example of the latter is Mary S. Hartman’s *The household and the making of history : a subversive view of the Western past*. Hartman, seeing that scholars are more or less agreed about the distinctive nature of marriage at least in northwestern Europe, attempts to use this insight to explain how Europe came to dominate the world in the colonial era. Peter Laslett had made this observation, and he had been followed by Houlbrooke and MacFarlane, but Hartman was the first to write an entire book on the subject. She attempts to use this distinctive feature to explain many other unusual features of the cultures of northwestern Europe.⁶⁵

Hartman stresses the uniqueness of the late age of marriage for women in northwestern Europe. This system, she argues, blurred the traditional sharp distinction between the sexes. This “not only required women and men alike to be more actively engaged as partners in creating and maintaining their households, but regularly prompted women to resist men’s control.” It also diminished the role of biological sex as a marker of identity. Hartman argues that the typical marriage in agricultural societies in most times and places is quite unlike the northwestern European pattern: it feature young age at marriage, with brides seven to ten years younger than grooms; the families arrange the

⁶⁴ Ibid., 207, 219.

⁶⁵ Mary S. Hartman, *The household and the making of history: a subversive view of the Western past* (Cambridge: Cambridge University Press, 2004).

marriage; almost everyone gets married; and the newlyweds move in with groom's parents in a multi-generational, patriarchal household. Although northwestern Europe may have followed this pattern at one time, from the medieval era on it followed a very different one: people married late, with the bride and groom of similar ages; many people (she estimates 10-20%) never married; young people played the major role in picking spouse; the married couple moved out and created a new nuclear household. Hartman credits Laslett with discovering this, or at least with noticing that the pattern applied to the Middle Ages; before, historians had known of this change from a typical to a unique pattern but thought it the result of industrialization. She mentions that MacFarlane had tried to do what she is attempting – to link the unique European family structure to the rise of capitalism – but finds that he ultimately failed. Hartman claims that people still fail to realize how odd and impractical this system was. Even odder, the poor were the trendsetters – the rich clung to the typical pattern longer (Ariès had seen the big changes in the family spreading from the middle class to the upper classes and then the lower). This system made women more assertive and independent – in a two-person household, it matters less who is in charge than in a large one. Men and women had fewer differences; they did not, as in the more usual pattern, live in two separate worlds. Hartman explains the misogyny of 1500-1750 not by a resurgence in Roman traditions, as Herlihy had claimed, but by a widespread perception that women were getting the upper hand in marriage.⁶⁶

Stephanie Coontz's *Marriage, a history: from obedience to intimacy or how love conquered marriage* is written from the perspective of a modern American historian.

⁶⁶ Ibid; quote is from p. 4.

Coontz seeks to understand what marriage is like in the United States today by comparing modern marriages to medieval ones. Her portrait of medieval marriage is a synthesis of study to date. Coontz places the beginning of the “love marriage” in the seventeenth century, but she does consider medieval marriages to have been partnerships. Rather than two-career marriages or the man making money while woman raises the children (the latter situation she views as extremely unusual), “[m]ost people had a two-person, married-couple career that neither could conduct alone.” Although this would seem to put her more in agreement with Hanawalt and Houlbrooke, she also claims that marriage was negotiated by and for the larger family unit, agreeing with Stone.⁶⁷

Shannon McSheffrey’s *Marriage, Sex, and Civic Culture in Late Medieval London* attempts to find new insights into the subject by narrowing the focus – instead of all England, she looks specifically at London. She finds that while marriage usually happened late in life, in one’s mid-twenties, and the spouses made their own decisions to some extent, in the late fifteenth century there was a movement towards greater supervision. As society became more stratified, its elites got more settled and less permeable, and expressed a greater concern about disorder and misbehavior. The result was a movement towards more social control in general and greater patriarchy within marriage. Parents once again took a greater role in arranging marriage. McSheffrey argues that although by Church law a binding and irrevocable marriage could be made by the couple themselves, in practice the whole community was involved, authority figures had their say, and the canon law was sometimes bent in light of “social necessities.” Men

⁶⁷ Stephanie Coontz, *Marriage, a history: from obedience to intimacy or how love conquered marriage* (New York: Viking, 2005).

were supposed to rule their households, but they were expected to do so justly. Marriage was “intimate” but not “private” – people did not want their neighbors spying on them, true, but they had no expectation of privacy in their sex lives or intellectual lives (for instance, in regard to heresy). The marriage process was public and transparent; all sexual relations outside marriage were criminal and therefore very much the business of the community.⁶⁸

Sara Butler of Loyola University is a rising star in the history of medieval marriage and its vicissitudes. Butler has written several articles and a book about troubled marriages and the courts. Her 2004 article “The Law as a Weapon in Marital Disputes: Evidence from the Late Medieval Courts of Chancery, 1424-1529” digs into the Chancery Court records to see what can be learned from them about marriages gone bad. Butler concludes that, while a man had the right to use force to discipline his wife, the community recognized limits to the force he could use and those limits stopped well short of murder. If a man was felt to be abusing his wife, then it was the duty of her male relatives (as it had been under Roman law) to remonstrate with him. If they failed then the whole community might become involved. Only after this too failed would the courts be likely to get involved. She also concludes that many cases of “ravishment” which came to the courts were really attempts by abandoned husbands to reclaim goods that their wives had taken with them when they left. Under the rule of coverture, man and wife were considered a single entity which could not sue itself. Therefore the man whose wife had left him had to sue her accomplices for “abducting” her. In many cases this

⁶⁸ Shannon McSheffrey, *Marriage, Sex, and Civic Culture in Late Medieval London* (Philadelphia: University of Pennsylvania Press, 2006).

accomplice was a lover, but often it was a male relative – a father, brother, or son. A woman who had no close male relatives nor lovers might convince a sympathetic priest to help her, in which case even a genuinely celibate cleric might be sued for abduction. Further complicating matters, the same word – *raptus* – was used for rape as for abduction, making it very difficult at times to divine what was really going on.⁶⁹

Butler's subsequent articles have used some of the same ideas as they look at other marital problems in late medieval England. In "I will never consent to be wedded with you!": Coerced Marriage in the Courts of Medieval England," she addresses the issue of attempts to coerce marriage. She finds that some ruthless men attempted to force women to marry them– usually women who had substantial property, such as rich widows. In addition to social and economic pressure, some men resorted to kidnapping, rape, and the use of force and threats to make a woman recite the words of a marriage oath. Under the canon law actions made under strong duress did not create a binding marriage, but they could be the beginning of one if the victim stopped resisting. Butler finds that some women did resist determinedly and successfully, using the law sometimes quite cleverly.⁷⁰ In "Runaway Wives: Husband Desertion in Medieval England," Butler finds that juries were aware of the confusion surrounding the word *raptus* and sometimes did their best to amplify and explain that they were, for instance, talking about abduction rather than rape. This article amplifies Helmholz's theory of "self-divorce" by arguing that not only did some men desert their wives, some women deserted their husbands.

⁶⁹ Sara Butler, "The Law as a Weapon in Marital Disputes: Evidence from the Late Medieval Courts of Chancery, 1424-1529," *Journal of British Studies* 43 (July 2004): 291-316.

⁷⁰ Butler, "I will never consent to be wedded with you!": Coerced Marriage in the Courts of Medieval England," *Canadian Journal of History* 39 (August 2004): 247-70.

They did so despite the risks and disadvantages. They left for a variety of reasons and were often quite resourceful in how they went about it.⁷¹

Scholarship in these areas continues to grow more sophisticated. Historians constantly question the assumptions that their predecessors made. Broad generalizations about what “the medieval family” was like are becoming increasingly suspect. This study, focusing as it does on a narrow slice of time and space, demonstrates that villages within a day’s walk of each other in the same diocese differed significantly in their attitudes towards sex, marriage, and the Church’s role. Furthermore, two marriages within the same village could be very different. Some of the marriages mentioned in the register seem to have resembled Shorter’s “Bad Old Days;” others (perhaps the majority) were reasonably affectionate working partnerships like those Hanawalt describes; others featured strong-willed individuals seeking to maximize their personal freedom, as seen in the works of Helmholtz and Butler. This is not to say that everyone is right, but rather that everyone has underestimated the amount of individual variation that existed within the medieval community and the medieval family.

Although debate is still lively in the scholarly community, it is possible to discern a pattern in scholarly views of church courts and the medieval family. It seems very probable that the average late medieval English villager got married in his mid-twenties and formed a new nuclear household. His marriage was an economic partnership in which he shared duties and responsibility with his wife. His bond with her and with his children was composed of some combination of economic necessity, duty and affection.

⁷¹ Butler, “Runaway Wives: Husband Desertion in Medieval England,” *Journal of Social History* 40 (December 2006): 337-59.

Although some historians have argued for some precise formula for the balance of the three, the exact composition must have varied greatly by household. It was not infrequent for two people to disagree about whether they were married or not and to take their disagreement to court. There were many of these cases and they probably resulted from a variety of circumstances – the false promises of a seducer, the arguments of a dissatisfied spouse, or honest disagreement in an era where the boundary between betrothal and binding marriage was confused. On the other hand, *de facto* divorces, informal and extralegal, probably greatly outnumbered legal ones. Although people probably did want privacy, they had relatively little by our standards. While many marital problems were probably dealt with by community intervention which never entered anyone's records, some cases were always taken to court. This could be any court, but for villagers it was very often the episcopal or archidiaconal one. At the end of the Middle Ages, people showed a great deal of anxiety about disorder and misbehavior. They demanded that the courts act on these worries. The church courts attempted to address them. They may ultimately have failed to do so effectively, leading to their eventual decline. However, the evidence of Dean Chandler's register is that in early fifteenth-century Salisbury, the dean's court was fulfilling its function reasonably well.

Chapter Three

Adultery

On 18 October 1408, Dean Chandler visited Sherborne [Shirbourne], a village rich in ecclesiastics but also, apparently, in sinners. The abbot of the local monastery, Robert Browning [Brounyng] received him with such courtesy and fed him such an excellent meal that the dean forgave him the usual procuration fee. Vicar John Campedon, five chaplains and two clerks all paid their respects. Then the village's eight questmen appeared to inform the dean about the state of Church property in Sherborne, legal matters concerning the Church, the performance of the village's priests, and the sins of the community.⁷² They were probably heard not by the dean himself, but by his servant, Master John Shirburne [Shirburn].⁷³ From the evidence of his name, Sherborne may have been a "local boy made good," but in any case he was a careful judge and his actions in the village of Sherborne were very much typical.

The questmen of Sherborne were highly concerned about adultery in their village. Sins of adultery were the first matter they mentioned to the judge. It was also the matter they mentioned the most: they listed eight cases of adultery, as opposed to two cases of fornication, one of overlaying,⁷⁴ and one will proved. The questmen of the Salisbury

⁷² *Chandler Register*, no. 221 (pp. 84-5).

⁷³ Timmins, xxvii.

⁷⁴ Overlaying involved the death of an infant in his parent's bed during the night. People believed that a careless mother could easily suffocate her child if it spent the night in the bed with her rather than in a crib. Mothers accused of overlaying usually did penance, but it did sometimes appear as a crime in civil court. Ibot Horne's is the only no. of overlaying to appear in the register. The questmen seem to have regarded it

diocese reported a variety of sins, such as failure to attend church and infringing on the church's property, but by far the most common type of sin they reported was sexual immorality – adultery and fornication. Dean Chandler's register records 184 reports of adultery, making this the most commonly reported sin. Fornication was the second most common sin, with 150 reports, but no other sin came close in frequency of reporting.

When a case of adultery came before the dean's court, one of several outcomes ensued. One or both of the accused might successfully purge and be exonerated. Accused adulterers commonly cleared themselves by compurgation; defendants were able to do so in 87 of the 184 cases in Chandler's register. In Sherborne in 1408, Thomas Benet was accused of adultery with Agnes, the wife of John Rayman. Thomas and Alice both appeared before the court and denied the charges. Both of them must have been able to find enough oath-helpers, because the register notes that both of them purged successfully.⁷⁵

Sometimes accused parties were able to purge themselves even if they had trouble finding enough oath-helpers. Thirty-four of the 87 accused adulterers who purged themselves did so "with the court's indulgence," meaning that the court accepted their oaths of innocence although they were unable to produce the number of oath-helpers it had demanded, or even none at all.⁷⁶ Roger Brasyere, accused of committing adultery with Alice Balbecayres, denied the charge and was allowed to purge with the court's indulgence. So was John Lay, a married man who seems to have been notorious in the village as a "habitual lecher." Sometimes the court even granted its indulgence to one

as their duty to report Ibota, who had refused to do penance, but they also intervened to prevent her from being beaten. *Chandler Register*, no. 221 (pp. 84-5).

⁷⁵ *Ibid.*

⁷⁶ Timmins, xxx-xxxii.

party but not the other. When John Taverner [Tavernere] was accused of adultery with Juliana Kimbester [Kembestere], the court demanded that he purge himself six-handed, but allowed her to purge with a lesser number. The register never states why the court made it easier for some people to purge. It may have given the benefit of the doubt to the wealthier and more respectable people, but these were precisely those who would have had the easiest time finding compurgators. On the other hand, it may have given the benefit to the poor who seemed honest and in need of help. The register reveals little about wealth and status, and what it does say often seems to contradict both hypotheses. John Lay, for example, was described as a tailor, which should have made him neither rich nor poor by village standards. Furthermore, he seems to have had a bad reputation in town, which should not have inspired confidence in the judge.⁷⁷

In a handful of cases the record specifies that the court accepted a simple denial or allowed an individual to purge himself single-handed. In the rare case where the court records that an individual purged single-handed, as opposed to “with the court’s indulgence,” this seems to have occurred because the accused had a particularly high status. But in other cases where a bare denial was accepted the court seems to have had different reasons. In Sherborne, Stephen Scrivener [Scryvenere] was accused of adultery with two women – Joan Isen [Ysyn], the wife of John Isen, and Alice Kimbester. Stephen denied adultery with Joan “since last correction,” meaning that he admitted to adultery with her, but that he had already confessed and been punished, and had not returned to her since. He then confessed to adultery with Alice. This may have created an impression of honesty which led the court to accept his claim of limited innocence, or

⁷⁷ *Chandler Register*, no. 221 (pp. 84-5).

the court may simply have lost interest in a dubious prosecution for one sin when he so readily admitted to another. In any case, the entry notes his punishment for adultery with Alice, but contains no further reference to his affair with Joan.⁷⁸

Those who could not purge themselves, whether because they lacked friends or because their friends believed them guilty, were usually sentenced to beatings. These beatings were performed publicly, since their effectiveness depended as much on humiliation as on pain. The usual practice was three beatings through the local church or through the market and the church. As implied by the word “through,” these would be processions in which the guilty party was paraded or chased around rather than simply being beaten in place.⁷⁹ In exceptional cases the court might double the number of beatings to six or reduce it to one or two. The case of John Hold, accused of adultery with “Isabel, a married woman,” was typical. Whether because he had no hope of obtaining oath-helpers or out of genuine remorse, John confessed. He was sentenced to be beaten three times through the chapel. The register records nothing further in his case; presumably Master Shirburne trusted the clergy and people of Sherborne to carry out his sentence, and John Hold made no further effort to evade it.⁸⁰

Although a verdict of three beatings through the chapel was common, in practice few people were actually beaten; most paid a fine instead. In Dean Chandler’s register, 36 cases of adultery resulted in fines, whereas no more than twelve ended in actual beatings. The register rarely mentions the exact amount of the fine paid, but where it does, it gives a figure per couple of either sixpence or twelve pence.

⁷⁸ Ibid.

⁷⁹ Timmins, xxix. See also McIntosh, *Controlling Misbehavior*, 113-16.

⁸⁰ *Chandler Register*, no. 221 (pp. 84-5).

Of course not everyone was able to pay the fine. Of the twelve cases in which nothing beyond the sentence is recorded, some or all of them no doubt endured the prescribed beatings. However, not uncommonly a respectable member of society would pay a fine on the behalf of an accused person. This happened in thirteen cases in Dean Chandler's register, making it approximately as common as an actual beating. Those who paid others' fines were usually questmen or clerics, and they may well have been in some way patrons of those whose fines they paid. In other cases, particularly those involving an influential man who was able to stay out of court and a poor woman who was not, the party who paid the fine may have been acting as an agent. A wealthy man who had been carrying on an affair with an immigrant or servant (this was especially common in cases of fornication)⁸¹ might well have persuaded a cleric or questman to quietly pay a fine for his partner to minimize the scandal.

Chandler's visitation to Sherborne on 18 Oct 1408 did not produce any cases of third-party fine-paying, but it had happened several times in the two previous days. On Netherbury on 16 October 1405, the questmen reported several cases of adultery but then paid the fines of some of those they had accused. This might seem counterproductive – the two actions cancelling each other out – but it probably demonstrated to the sinners that they were under the watchful eyes of the town and the authority of the questmen. The questmen were, after all, selected from the elite of the town. Questman John Jordan paid the fine for accused adulterers John Brough and Agnes Ganelere. Questman Nicholas Gele paid the fine for accused adulteress Maud Bikebury [Bykebyry], but left her paramour, John Goswell [Goswyll], to pay his own. John Goswell was forced to

⁸¹ See the next chapter, particularly pp. 103-5.

abjure not only from adultery with Maud but also from attacking the vicar or other clergymen; his violent reputation may have been the reason that Nicholas was not inclined to help him. Perhaps it was suspected in town that he had abused Maud as well.⁸²

John Stamp was not a questman, but he must have been relatively wealthy and respected in Netherbury. He paid the fine for adultery on behalf of Joan Stork [Storke] and the fine for contumacy on the part of John Walsh [Walyssh] junior, who failed to appear before the court. Neither John Walsh's partner, Joan Caesar [Cayser], nor Joan Walsh's, Robert Bishin [Bysshyn] was cited. The register explains that Joan Caesar lived outside the jurisdiction, but does not indicate why Robert was not summoned. In the examples where questmen paid the fines, it seems likely that they were attempting to do their duty of correcting their neighbors without subjecting them to beatings, while simultaneously asserting their authority. If they had not wanted the cases to appear in court at all, they could probably have suppressed them. John Stamp lacked this power, and at least one of his clients seems to have had enough influence to avoid being summoned to court. Thus John Stamp's interventions may have been of the second sort; he may have been acting as an agent of other interested parties, such as Robert Bishin, when he paid the fines of Joan Stork and John Walsh.⁸³

In some cases, probably those in which a relapse seemed especially likely, the court ordered adulterers to abjure from their partners in sin. Abjuration was the swearing of a formal oath not to commit the same sin with the same person again. Anyone who

⁸² *Chandler Register*, no. 207 (pp. 80-1).

⁸³ *Ibid.*

broke such an oath would be subject to a penalty specified at the time of swearing. Even those who had successfully purged themselves could be ordered to abjure; this may have indicated that, legality aside, the dean's official believed them guilty, or at least suspected their character. In Sherborne on 18 October 1408, both couples who were ordered to abjure had successfully purged. Roger Brazier and Alice Balbecayres were ordered to abjure on pain of a twenty-shilling fine; Thomas Benet and Agnes Rayman were ordered to abjure on pain of forty shillings.⁸⁴ Usually both of the guilty party were ordered to abjure on pain of the same fine, but not always. In Netherbury on 16 October 1405, Maud Bikebury, who may have been under the protection of questman Nicholas Gele, was not ordered to abjure, but John Goswell, with no such protection and with a bad reputation to boot, abjured on pain of forty shillings. Nicholas and the court may have blamed John for the affair rather than Maud.⁸⁵

In several other cases, such as that of Stephen Scrivener in Sherborne, people accused of adultery denied it "since last correction."⁸⁶ These people may have already abjured. They did not claim to be entirely innocent, only to have obeyed their oaths of abjuration. In general Master Shirburne seems to have accepted such claims.

The questmen generally only reported to the dean's court those cases which had become infamous in the community or in which normal ecclesiastical discipline had failed. These were the most difficult of cases, and the court was not always able to resolve them. In 34 cases, the register records no action taken in a reported case of adultery. These are often cases involving men of high status or clergymen. In these

⁸⁴ *Chandler Register*, no. 221 (pp. 84-5).

⁸⁵ *Chandler Register*, no. 207 (pp. 80-1).

⁸⁶ *Chandler Register*, no. 221 (pp. 84-5).

cases, the dean's servant may have wished to avoid offending the powerful or persecuting his fellow clergymen. Sir William Golding [Goldyng, Coleyng], chaplain of Hungerford, provides an excellent example. Golding was accused of adultery several times over the years. On 22 September 1405, the questmen accused him of adultery with both Joan Simms [Symmes] and Margaret Domiton. Both women were summoned to appear before the court. Margaret purged herself with the court's indulgence, and Chaplain John Boteler paid a fine for Joan, perhaps acting as William's agent. William himself does not seem to have appeared before the court at all for these offenses.⁸⁷ On 20 July 1412, the questmen accused Sir William of adultery with Agnes Butkin [Buttekyn], but it seems that neither of them was summoned for this offense.⁸⁸

In some cases, such as that of Joan Caesar during the Netherbury visitation, the register records that the court did nothing because an offender had left the village, lived in an area outside of the dean's control, or was summoned and failed to appear.⁸⁹ Failure to appear could carry a penalty for those without the protection of status or of a patron with status, such as John Walsh Junior of Netherbury had.⁹⁰ Eleven accused adulterers were suspended (a form of minor excommunication) for failure to appear before the court. John Walsh Junior of Netherbury was one of them. However, unlike most of the others, he had a patron, John Stamp, who was willing to pay his fine. If Stamp expected

⁸⁷ *Chandler Register*, no. 88 (pp. 43-4).

⁸⁸ *Chandler Register*, no. 377 (pp. 127-8). Sir William was also accused in 1405 of fornication with Joan Tripps [Tryppes], resulting in the birth of a bastard. Again, it seems that Joan was called before the court (she purged with the court's indulgence) and Sir William was not. Sir William was accused of adultery with Alice Saucer in 1412; this time he actually appeared, but simply purged with the court's indulgence. In 1409 Sir William was accused of nothing worse than improperly retaining a missal; *Chandler Register*, no. 247 (pp. 90-1).

⁸⁹ *Chandler Register*, no. 207 (pp. 43-4).

⁹⁰ *Ibid.*

Walsh to return and face the charges, however, he was disappointed. Walsh left town, and the case was dismissed because it became impossible to summon him.⁹¹

Generally the register records only the names of the accused parties, with no other details. However, there are three situations in which an unusual social status was often recorded. Clerics were usually identified by title as vicar, rector, clerk, abbot, or monk. Even when they were not, the visitation record almost always begins with the names and titles of all the clergy of a village. Several men are given the title “Sir” in the register. In a few cases the register specifies that the individual referred to was a knight. Far more often, however, careful reading reveals that the man called “Sir” was instead a cleric. “Sir” in these cases was a title of courtesy for priests who had not achieved a bachelor’s degree. Since the same title was often used for knights, confusion can occur.⁹² In some cases, the register refers to a man as “Sir” and no further information is available. Because men bearing this title in the register are more likely to be clerics than knights, and because the register takes care to explicitly identify individuals as knights in so many cases, while clerics are only identified as such where their actual function in relevant, I have assumed in ambiguous cases that “Sir” indicates a priest.

In other cases, the register designates a person a servant. In almost all of these cases, it records the servant by first name only, followed by the full name of her employer (the great majority of servants mentioned in the register are female, especially where adultery is concerned.) Only a few non-servants are mentioned by first name only. The lack of identifying information implies that these people had no roots in the village.

⁹¹ Ibid.

⁹² Edward J. G. Forse, “Priest’s Title of ‘Sir’,” *Notes and queries* 168 (February 1935): 103-104. Some scholars have argued that “Sir” was a translation of the Latin title *dominus*, but Forse points out that *dominus* was the title of a bachelor of arts rather than that of a non-graduate priest.

These were likely recent immigrants, perhaps looking for work as servants. There were probably many such migrants of both sexes, in the country as well as the city, during this period, trying to earn enough money through employment to get married and raise a family.⁹³

Compurgation

In Sherborne in 1408, eight cases of adultery were presented to the court. Half of those were purged successfully, half with the court's indulgence. However, this pleasant symmetry did not prevail in 1405 or 1412. In neither of those years did anyone receive the court's indulgence, yet in both of them a greater percentage of accused adulterers managed to purge themselves than in 1408. In 1405, nine of twelve accused purged themselves normally. In 1412, three out of three did; not only did this year see far fewer people accused, but this was the only visitation of the three in which no one accused of adultery was punished.

Sherborne was more or less typical of the pattern of the register as a whole. Of the 184 cases of adultery in Chandler's register, in 86 the accused were able to purge themselves.⁹⁴ In 1405, the court was presented with 72 cases of adultery; 32 of the

⁹³ See, for example, Laslett, *The world we have lost*, Houlbrooke, *The English Family*. and Herlihy, *Medieval Households*.

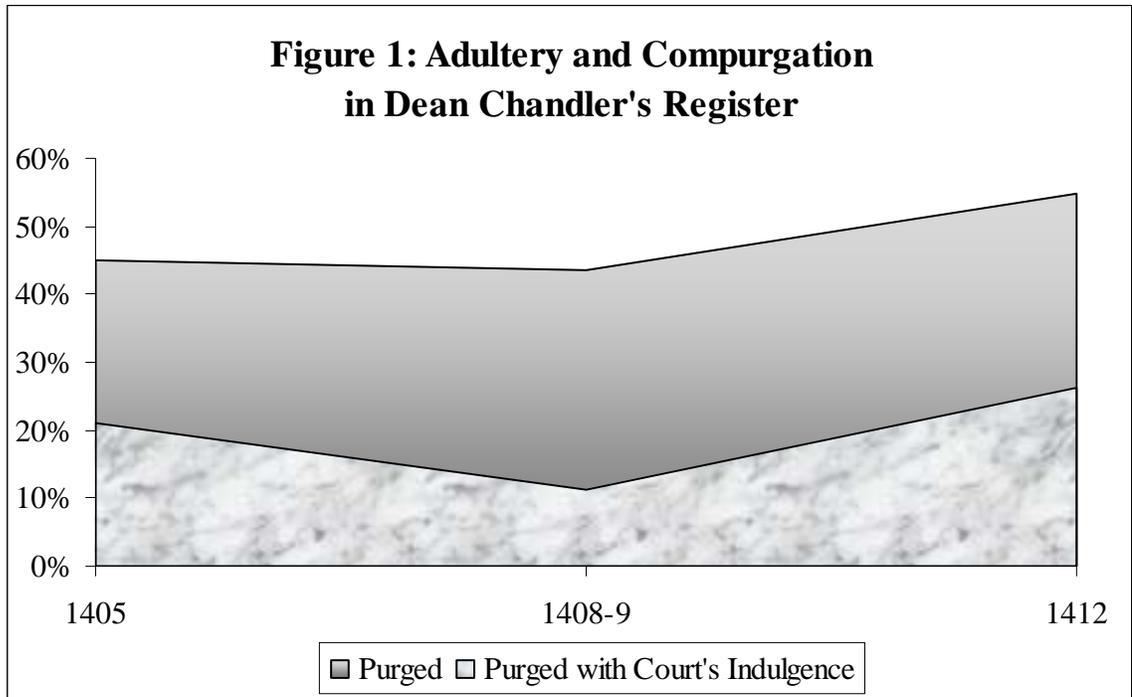
⁹⁴ Here and in other places where I compile statistics, I compare cases rather than individuals. Each of these 184 cases of adultery included two accused persons, a man and a woman, one or both of whom were married. However, the total number of accused adulterers is something less than 368, because some people were accused of adultery with multiple partners. Similarly, the 86 cases include more than 86 people who purged of adultery, but the number of individuals is less than 172 because of the multiple offenders and because in a few cases only one of the accused managed to purge. I have followed the same procedure in the chapter on fornication and in other places where I have employed statistical analysis.

accused purged themselves, 15 with the courts' indulgence.⁹⁵ The 1408-9 visitation shows similar numbers. Another 71 cases of adultery were presented, and 31 of the accused purged themselves. However, this time only 8 of those who purged themselves did so with the court's indulgence.⁹⁶ In 1412, fewer cases of adultery were reported - only 42. Twenty-three of those accused purged themselves, 11 with the courts' indulgence.⁹⁷ Thus the number of those accused who were able to purge themselves was always close to half the total. In 1405, 45% of those accused purged themselves, and the figures for 1408-9 are quite similar - approximately 43.7%. In 1412, the number of those who purged themselves is slightly over one-half rather than slightly under - 54.8% as opposed to 44-45%. In 1405, 46.9% of those who purged did so with the courts' indulgence. 1408-9 saw a dramatic drop in this figure - during that visitation, only 25.8% of those who purged themselves did so with the courts' indulgence. 1412, however, showed a return to the earlier pattern, with approximately 47.8% of those who purged receiving the court's indulgence.

⁹⁵ *Chandler Register*. For accused adulterers who purged themselves normally in 1405, see nos. 3, 13, 37, 81, and 115. For those who purged themselves with the court's indulgence, see nos. 5, 25, 71, 88, and 90.

⁹⁶ *Chandler Register*. For accused adulterers who purged themselves normally in 1408, see nos. 191, 201, 213, 221, 226, 236, 237, 247, 249, 255, 271, 277, and 286. For those who purged themselves with the court's indulgence, see nos. 204, 207, 213, 221, 261, 262, and 297.

⁹⁷ *Chandler Register*. For accused adulterers who purged themselves normally in 1412, see nos. 306, 308, 310, 324, 331, 346, and 374. For those who purged themselves with the court's indulgence, see nos. 297, 315, and 322.



Usually, then, approximately half of those accused purged themselves, and approximately half of those received the courts' indulgence. The dip in the grant of the court's indulgence might be taken to hint at an increase in severity on the court's part, but the minimal decrease in the number of people who were able to purge mitigates this perception. In this case, the increase in the number of people who were able to purge themselves without the court's indulgence corresponds almost exactly to the decrease in the number of those who were granted it, suggesting that grants of the court's indulgence were either poorly recorded that year or were less needed for some reason. The 1412 visitation stands out for two reasons: the much lower number of total cases of adultery reported and the significantly larger percentage of people who were able to purge themselves. Taken together, the two give an impression of laxness, as though adultery was pursued less vigorously in 1412 than in the earlier two visitations. However, the

reason might be better described as resignation than as laxness; it may be that the most recalcitrant of cases had already been reported in the two earlier visitations, and that the questmen in 1412 were generally reporting only new cases, in which the perpetrators tended to be less incorrigible than those in cases which had been going on for many years.

The court seems to have granted its indulgence more freely in some times and places than others. In the 1405 visitation the pattern is quite striking: in each village where accusations of adultery were made in 1405, either everyone in the village who purged did so with the court's indulgence or everyone who purged did so with a full complement of oath-helpers. In Harnham, Fordington, Sherborne, Faringdon, and Hurst, no one was granted the court's indulgence. Seventeen accusations of adultery out of 26 were purged. In Kingston, Beaminster, Ramsbury, Hungerford, and Beydon, fifteen of 25 accusations of adultery were purged – all with the court's indulgence. The most dramatic example is that of Hungerford, in which eleven couples were accused of adultery. Ten managed to purge themselves with the court's indulgence. Overall the apparent generosity of the court in allowing the accused to purge themselves resulted in conviction rates remarkably similar to those in which no indulgence was granted. In villages where the accused were able to purge themselves without the court's indulgence, 65.4% of those accused purged themselves; in villages where the court's indulgence was granted, 60% of those accused did so. In the remaining sixteen villages, 22 couples stood accused of adultery, and none of them managed to purge themselves.

In 1408, the court's indulgence was granted piecemeal and more rarely. In Lyme, Netherbury, Faringdon and Highworth, only one accusation of several was purged in each

village, and then only with the court's indulgence. In Yetminster [Yatmynstre, Yatmynstre] and Sherborne, with eight accusations each, roughly half of the accusations were purged, and roughly half of those with the court's indulgence. Seventeen other villages laid a total of 32 accusations of adultery. Eighteen of these accused couples purged themselves, but all of them apparently managed to produce the requested number of oath-helpers. Thus in villages where people purged themselves without the court's indulgence, 53.1% of couples were able to purge, while in those in which the court's indulgence was granted to a few, 41.9% could do so. The gap is wider than in 1405, but still not vast. Furthermore, as in 1405, villages where the court granted its indulgence still had a lower rate of successful purgation than those in which people purged without it.

The 1412 visitation saw a return to the pattern of 1405 in that the court's indulgence was granted to everyone purging in a village or to no one at all. The court granted its indulgence to all those who succeeded in purging themselves in Bere Regis, Chardstock [Cherdestoke], and Beaminster – eleven out of thirteen accused. In Charminster, Stratton, Fordington, Yetminster, Sherborne, Mere and Faringdon, everyone who purged seems to have done so normally – twelve out of sixteen accused. In the remaining seven villages, none of the thirteen of those accused purged. Where the court's indulgence was granted, 84.6% of the accused purged; where it was not, 75% did so. Not only is this a dramatic increase in the proportion of accused adulterers who managed to purge themselves, but the trend of previous years is reversed: for the first time, villages where the court's indulgence was granted had a greater purgation rate than

those in which it was not. This might be an indication that the court's indulgence, given sparingly in earlier years, was granted more liberally in 1412.

One might assume that grants of the court's indulgence represented laxity, that these were cases in which the court lacked the will to enforce the law strictly. Timmins, the editor and translator of the register, argues that "almost certainly it [compurgation with the court's indulgence] perverted justice."⁹⁸ To the modern mind, compurgation is already suspect, and relaxing its standards might seem equivalent to giving up on the effort to enforce the law at all. Yet in the register it seems that villages in which the court granted its indulgence did not see a great increase in the number of people who purged. This suggests that the power to relax the court's compurgation requirements was used with discretion. The important difference was not between villages in which purgation was made with and without the court's indulgence, but between villages in which purgation was made and those in which it was not. In villages in which purgation took place, a villager accused of adultery stood a good chance of purging himself – approximately 75% in 1405 and 1412, approximately 45% in 1408-9. Yet in many villages each time, no one successfully purged himself of adultery.

In the visitation of 1405, compurgation for adultery was made in Harnham, Kingston, Fordington, Beaminster, Sherborne, Ramsbury, Faringdon, Hungerford, Beydon, and Hurst. Of a total of fifty charges in these ten villages, compurgation was made in 33, that is to say in 64.7% of cases. But the number of cases actually punished was only eleven (eight fines, three beatings); in six cases the court seems to have taken no action. Thus only 23.1% of accusations of adultery in purgation villages were

⁹⁸ Timmins, xxxi.

punished. In the non-purgation villages of Combe, Byre, Tonerspudde, Preston, Netherbury, Beaminster Secunda, Yetminster, Winterburn Dauntseye, Durnford, Chasingbury, Crofton, Highworth, Brewick, Sonning, and Alfeldcross, a total of twenty-one accusations of adultery were made. However, these accusations resulted in only five finings and a single beating. Even though no compurgation was made in any of these cases, only 28.6% of those accused were punished for adultery. Most of the rest either failed to appear before the court or were able to use their influence to avoid being formally summoned. Two of those in the former group were suspended for contumacy, but in nearly two-thirds of the cases – thirteen out of twenty-one – the register shows no action taken by the court. The lack of compurgation in these villages, then, made punishment of the accused somewhat more likely, but the difference is not what a reader skeptical of the institution of compurgation might expect.

In the visitation of 1408-9, purgation occurred in more villages, even though it was not more frequent overall. There were 63 accusations of adultery in the seventeen villages where purgation was made that year. Thirty-one accusations were successfully purged, or approximately 49.1%. There were fourteen finings and three beatings, for a punishment rate of approximately 27% – similar to the figures for 1405. Another six adulterers who failed to show for their hearings were suspended, but this was a punishment for contumacy rather than for adultery *per se*. There were only six villages in which no purgation was successfully made in response to accusations of adultery. Although these villages were few and represented only eight total accusations, in 1408-9 they were unusually effective at punishing their wayward citizens. Of eight accusations, five resulted in fines and one in a beating, for a punishment rate of 75%. In the other two

cases, the accused failed to appear and was suspended for contumacy. This handful of villages seem to have been unusually strict in 1408-9. Their remarkably high punishment rate (which would equal 100% if suspensions for contumacy were counted as punishments) gives this visitation the appearance of being the hardest of the three on adulterers.

In 1412, purgation again occurred in most villages in which accusations of adultery were made, and again the minority of villages in which no purgation was made had much higher punishment rates, although the difference was not as dramatic as in the previous visitation. The ten purgation villages reported 29 cases of adultery, of which 23 were purged. There were four finings and a beating in these villages, for a very low punishment rate of 17.2%. In the seven villages in which no purgation was made, the questmen made thirteen accusations of adultery. The results were remarkable – no fines at all, but four beatings. This unusual feature aside, the overall punishment rate was relatively high at 30.8%. As in the visitation of 1408-9, but unlike that of 1405, the villages in which no purgation was made proved much stricter than those in which it was. The unusual 100% rate of beatings of those punished in the non-purgation villages also adds to the appearance of harshness there in 1412.

Overall, then, it seems that, despite the results of 1405, villages in which compurgation was made were less likely to punish offenders than those in which it was not. This may have been because the questmen of those villages were more concerned about sin and more determined to punish sinners. This possibility seems less attractive, however, when one notes that only one village (Bishopston) was a non-purgation village in both the 1408-9 and the 1412 visitations. On the other hand, mere coincidence also

seems an inadequate explanation, given the large numbers of the accused who purged themselves in most villages and the sometimes large numbers of those who failed to in the exceptions. In Combe, for instance, none of the three cases of adultery resulted in purgation in 1405; nor did either of the two in 1412. Yet in 1408, both accusations resulted in successful purgation. And this sort of all-or-nothing pattern can be seen in many other villages. A cynic might argue that Shirburne simply felt more merciful on some days than others, but this would be missing the vital point that compurgation did not normally happen at once. The accused usually had a few weeks or even months to collect his oath-helpers. Thus any lack of mercy would have to be attributed to the whole village rather than to Shirburne. This, in the end, seems the best answer possible given the data in Chandler's register. Certain villages in certain years (influenced by their questmen, no doubt, but also by other factors) were less inclined to help accused adulterers to purge.

Sentences of Fustigation

Of course, not everyone was able to purge. The court usually sentenced those who failed to clear themselves to a number of beatings. Often, confronted with the public knowledge of their sins, the accused confessed. In Sherborne in 1408, Master Shirburne sentenced two accused adulterers "to be beaten thrice through [the chapel]." These were Stephen Scrivener, who confessed to adultery with Alice Kembester, and John Hold, who confessed to adultery with "Isabel, a married woman."⁹⁹ However, most of the time the guilty party paid a fine in lieu of suffering a beating. Things so often happened in this

⁹⁹ *Chandler Register*, no. 221 (pp. 84-5).

roundabout way because the court was not allowed to fine sinners directly – perhaps because this would have seemed too much like selling licenses to sin. The court could, however, impose penances and then accept fines in lieu of carrying them out.¹⁰⁰ Thirty-seven fines for adultery were paid in Chandler’s register, while at most twelve cases were actually punished with beatings. In the case of Sherborne in 1408, Stephen paid a fine, but John did not and was probably beaten.¹⁰¹

The process of fustigation which the court ordered was usually described in the register as “three beatings through the church.” In one case, that of Agnes Knoll of Fordington, the register goes into slightly more detail. It orders her “to be beaten thrice in front of [the] procession through [the church].”¹⁰² This was probably the standard procedure. Most likely the guilty party walked in front of the procession which was a regular part of church services, being beaten with a rod in front of the whole community. The blows of the rod were not intended to cause injury and humiliation, rather than pain, was the principal deterrent. While three was the standard number of beatings, the court occasionally ordered only one or two and sometimes ordered six. It might also order that beatings proceed through the marketplace as well as the church. In these cases a cleric probably beat the guilty party through the market on market day for maximum exposure.¹⁰³

The dean’s visitation to Byre on 9 October 1408, shows the variety of possible outcomes when beatings were ordered. This visitation featured seventeen cases of

¹⁰⁰ Timmins, xxx.

¹⁰¹ *Chandler Register*, no. 221 (pp. 84-5).

¹⁰² *Chandler Register*, no. 13 (pp. 8-9). Although this case involved adultery, Agnes was not herself an accused adulteress. Rather, she was punished for spreading rumors that another woman, Denise Stury, had committed adultery.

¹⁰³ Timmins, xxix.

adultery or fornication, resulting in a total of fifteen sentences of fustigation. Ultimately, however, most of the offenders paid fines, and none of the sentences was actually carried out. The standard sentence of three beatings through the church was handed down in twelve cases, all of fornication. However, three people faced beatings on two counts of fornication each, which is to say that they had multiple partners: Edith Walters [Walderes], John Shine [Shyne], and Roger Bachelor [Bachelere]. In these cases it is not always clear whether the multiple offender faced three beatings or six. Edith confronted two sentences of three beatings each. Both of the men paid up, and so she escaped both beatings. John, on the other hand, had both his lovers mentioned together, apparently in the same indictment. He had to pay a fine for all three of them to escape his beatings. However, the total number of beatings mentioned is three, suggesting that, had he not paid, all three of them would have been beaten together for a total of three times each.¹⁰⁴

Roger's sins were also lumped together into a single case in the register. Like John, he paid a fine for all three parties. However, the register suggests that had he not paid, the outcome would have been very different: he would have been beaten six times, and his lovers might not have been beaten at all. This may indicate that the court blamed Roger for the two affairs more than it did the two women. Perhaps the details of the case made them feel that Roger's behavior was more exploitive than John's. Yet it was John, not Roger, who seduced a servant. Roger's case stands alone as the only case from this visitation in which fornicator received a sentence harsher than the usual three beatings.¹⁰⁵

¹⁰⁴ *Chandler Register*, no. 190 (pp. 72-4).

¹⁰⁵ *Ibid.*

The two adultery cases on this visitation, however, both featured threats of harsher beatings. Joan Bryce and John Cerles were sentenced to be beaten thrice through market as well as church. One of them paid a fine for them both to escape this sentence; by the grammar of the words in the register, it was Joan who paid, although this would have been so unusual that it seems just as likely that the clerk was imprecise in his wording. Richard Healy [Helye] was sentenced to six beatings for adultery with “one Isabel.” Isabel’s lack of a last name may indicate that she lacked roots in the community. She may have been a recent immigrant, or even a migrant who had already passed through town (in which case she would have been unable to answer the summons.) In any case, she did not come before the court and was suspended. The court may have sentenced Richard to a double sentence in her stead, but it may also have increased his punishment to register disapproval at a citizen’s adulterous involvement with a rootless wanderer.¹⁰⁶

As the example of Byre in 1408 shows, sentences of beating were rarely carried out. In Dean Chandler’s register, 36 cases of adultery resulted in fines, whereas no more than 12 ended in actual beatings. Thus threatened beatings were averted by the payment of fines at least 75% of the time. The number of actual beatings may be even lower, because most of the cases I have counted as beatings list nothing further after the sentence of fustigation. I have assumed this to mean that the sentence was carried out, but some of these may simply have been cases of sloppy bookkeeping.

In 1405, seventy-one accusations of adultery resulted in thirteen fines (18.3% of accusations) and four beatings (5.6%). In 1408-9, seventy-one accusations resulted in

¹⁰⁶ Ibid.

nineteen fines (26.8%) and three beatings (4.2%). In 1412, only forty-two accusations were made, and fines were paid in only four cases (9.5%), but it seems that five beatings were actually carried out (11.9%). In most ways these results match previous findings. The visitation of 1408-9 produced similar results to that of 1405, but was significantly stricter in terms of fines levied. Although 1408-9 appears less strict than 1405 in terms of beatings administered, the difference is only one beating. The visitation of 1412, which seems in many ways laxer than the previous two, not only produced fewer accusations overall, but a smaller percentage of those who were accused were fined. However, in apparent contradiction to the picture of relaxed discipline otherwise presented by the 1412 visitation, this year produced the greatest number of beatings. Since this year also featured the smallest number of accusations, the percentage of accused adulterers actually beaten is much greater than in previous years – over twice the frequency of 1405 and over three times the frequency of 1408-9.

There are several possible explanations for this. Some of them preserve the idea that the 1412 visitation was a relatively easy-going one. The result may have been a mere statistical fluke – after all, the total number of beatings concerned is very small. Or the laxity of the 1412 visitation may have extended to the clerks, who simply failed to record the final resolution of several cases. Where a beating was assigned and no further note made, it may have been because of clerical laziness rather than because the beating was actually carried out.

Other possible interpretations discard or modify the notion that the court was less harsh in 1412. The first two visitations may have been so successful at eliminating the hardened sinners that those accused in 1412 were more likely to confess. However, in

1412, 21.4% of accused adulterers failed to appear in court, as compared to 29.2% in 1405 and 22.5% in 1408-9; while the decrease continued, it was much more pronounced between 1405 and 1408-9 than between 1408-9 and 1412. On the other hand, the first two visitations might have demonstrated to the questmen the futility of accusing clerics, and they may have chosen in 1412 to accuse more persons of lower status who could neither purge nor pay fines. In 1405, the questmen indicted twenty-five clerics (34.7%) and fourteen female servants (19.4%). In 1408-9, the questmen indicted sixteen clerics (22.6%) and eight female servants (11.3%). In 1412, they accused eleven clerics (26.2%) and three female servants (7.1%). The rather consistent drop in both categories, both cleric and servant, lends ambiguous support to this idea. If anything, it would seem to support the previous hypothesis that the dean's clerks were simply less careful in 1412, and thus the status of the accused was recorded less often.

This is not to say that an individual's status had no relation to his chance of being punished. On the contrary, those of notably high status were almost certain to escape punishment. Of the 52 accusations of adultery involving clerics, none resulted in beatings. Only three resulted in fines, and these seem to be the exceptions that prove the rule. The vicar of Netherbury, Thomas Hardington [Hardyngton] paid a fine on behalf of Sir John Prankardehole and his paramour Alice Willhouse [Wylhouse]. Most likely the fine was more necessary for Alice than it was for John.¹⁰⁷ Robert, the clerk of Preston, paid a fine for himself and Margery Mitchell [Michell], but then he was a mere village clerk, a very low-ranking clergyman.¹⁰⁸ The case of Richard Richville [Richevyle],

¹⁰⁷ *Chandler Register*, no. 25 (pp. 15-16).

¹⁰⁸ *Chandler Register*, no. 203 (pp. 78-9).

chaplain of Faringdon, is more puzzling. The register records that Richard was accused of adultery with Agnes Phelps [Phelpes]. He denied it, was purged with the court's indulgence, abjured on pain of 100s., then paid a fine for both of them before being dismissed. If he successfully purged himself, why did he pay a fine? Again, it may have been solely for Agnes' sake that he paid, but the court then forced him to pay two fines anyway.¹⁰⁹

It seems intuitively likely that low status corresponded with a greater likelihood of being beaten. Anyone who had money was likely to pay it to avoid the pain and humiliation of a public beating. Those who had little money but who had earned some goodwill might be able to persuade a wealthy patron to pay their fines. Thus, in theory, only those poor both in purse and in friends should be beaten. However, the small amount of information available from the register does little to confirm this idea. Of the 184 accused adulterers in the register, only twenty-six are easily identified as of low status – 25 female servants (or women identified only by a personal name) and one male servant. Of these, only one, a Lucy living in Faringdon, was beaten. This gives lesser individuals a beating rate of 4%, compared to the overall beating rate of 6.5%. Servants, and women referred to in the same manner as servants, were actually less likely to be beaten for adultery than the average. This may have been because the court considered them less responsible for their acts than non-servants. However, it may also have been because the men who committed adultery with female servants tended to be wealthier – these were the men who could afford servants, or had friends who could. Such men were

¹⁰⁹ *Chandler Register*, no. 261 (pp. 95-6).

able to pay their fines, but if they did so, they were apparently expected to pay the fines of their partners in sin as well.

Fines Paid in Lieu of Fustigation

The amounts of the fines which guilty individuals paid in lieu of fustigation are rarely mentioned, but where they are, the fine for an adulterous couple seems to have been either sixpence or twelve pence. In Chisenbury [Chesyngbury] on 12 September 1405, John Giles was accused of adultery with Alice, the servant of Thomas Giles. Perhaps John was carrying on an affair under the guise of visiting his father or brother, although in such a case Thomas should have been indicted as well. On 14 April 1406, in the cathedral at Salisbury, he paid a fine of sixpence for both of them, and the case was dismissed.¹¹⁰ In Faringdon on 19 September 1405, two adulterous couples had their fines paid by prominent members of the community. Questman Henry Bailey [Bailly] paid a fine for John Curtis [Curtays] and Maud Willy. Chaplain William Bourton paid for William Spor and his servant Joan. In both cases the fine was twelve pence.¹¹¹ In all three of these cases, the fine covered both sinners. Where fines were levied, this was usually the case, but not always.

It seems that the normal procedure was for either the adulterous man or the generous member of the community to pay a fine which covered both of the guilty parties. The register records this happening in half of the cases (18 adultery fines out of 36). It may well have also happened in another five cases in which the record does not

¹¹⁰ *Chandler Register*, no. 59 (pp. 30-1).

¹¹¹ *Chandler Register*, no. 81 (pp. 39-41).

specify whether the fine a man paid was for the couple or for himself alone, but no fine for the woman is mentioned. However, in a just over a third of cases (13 out of 36), the register makes it clear that fines were paid by or on behalf of individuals rather than adulterous couples.

Just under half of these cases (6 of 13) seem to involve an unequal distribution of blame, in which one partner was fined but the other was not. These are distinct from the cases in which a man paid a fine for his partner in sin as well as himself; in those cases, both parties appeared before the court, and both were considered sinful, but the man was the one with the money and so he was the one who paid the fine. In these cases, by contrast, one of the parties was held responsible and the other either did not appear before the court at all or was allowed to purge. In four of these cases, the register specifies that the woman paid a fine or had it paid for her, but does not mention any appearance in court by, or penalty to, the man. Two of these men, John Lude of Tonerspuddle and Sir William Golding of Hungerford, were chaplains.¹¹² Their clerical status may have protected them, as clerics were rarely punished on Dean Chandler's visitations.¹¹³ The register provides less information about the other two men, Richard Lucas of Byre and Robert Bishin [Bysshin] of Netherbury, but they may have been men of some wealth and secular status.¹¹⁴

Only one man suffered such an unequal fate – John Cokeswell, junior, of Chardstock [Cherdestoke]. That he was punished in two cases where his partner was not hints that his case was unusual, and indeed an unusual factor is evident. John was a

¹¹² *Chandler Register*, nos. 9 (p. 6) and 88 (pp. 43-4).

¹¹³ See pages 76-7 and 103 of this document for details on how rarely clerics were punished for alleged adultery or fornication.

¹¹⁴ *Chandler Register*, nos. 4 (pp. 3-5) and 207 (pp. 80-1).

rough character who made threats against the clergy; he promised to cut off the tail of the horse of anyone who cited him for any of his sinful liaisons. This may explain why the court treated him more harshly than it did his partners. John was cited for affairs with two married women. The first was Christine King [Kyng], who does not seem to have appeared before the court at all. The second was Katherine Atmill [atte Mulle], who was accused of abandoning her husband and being a common prostitute (*communis leno*). Katherine was allowed to purge with the court's indulgence on an astonishing six counts of adultery. She was allowed to purge herself of adultery with John even though John was found guilty and sentenced to be beaten for adultery with her. However, John may have reached some sort of settlement with the court in which he paid a single fine for "all charges against him."¹¹⁵

In three cases, the register notes that one party was geographically outside the court's jurisdiction. In Beaminster, Alice Hayside [Haysyde]'s lovers, John Bonwill [Bonwyll] and William Wilkins [Wylkyns], had already left town.¹¹⁶ In Netherbury, John Walsh [Walyssh]'s lover Joan Caesar [Cayser] lived "outside the jurisdiction." Even though John Stamp (probably a respected villager) paid his fine for contumacy, he seems to have gone to join her rather than returning to Netherbury.¹¹⁷

In four cases, fines were paid for both sinners, but payment was made by different parties. In Netherbury, Questman Nicholas Gele paid a fine for Maud Bikebury, but left John Goswell to pay his own fine.¹¹⁸ Similarly, in Yetminster, Reeve John Merchant [Merchaunt] paid a fine for Alice Dorling [Dollyng], but left Alan Uphulle to pay his

¹¹⁵ *Chandler Register*, no. 315 (pp. 112-3).

¹¹⁶ *Chandler Register*, no. 25 (pp. 15-16).

¹¹⁷ *Chandler Register*, no. 207 (pp. 80-1).

¹¹⁸ *Ibid.*

own.¹¹⁹ Two women paid their own fines but not those of the men with whom they had been linked: Maud Twily [Twyly] of Faringdon and Marion Poke [Powke] of Charminster. In Maud's case, it seems that her paramour, John Curtis [Curteys] may have been reluctant to pay his fine. Maud appeared before the court first, confessed, and immediately paid her fine. The record omits mention of a sentence of fustigation, which technically the court would have had to impose before she could pay a fine. John showed up later and seems to have paid more grudgingly. Maud may have been eager to avoid a beating and may not have trusted John to pay her fine. In Marion's case, the register shows that she and Robert Button [Bouton] appeared together, confessed, were sentenced to six beatings, and "both paid a fine" to have the case dismissed. In this case, much of the blame seems to have been placed on John Button [Bouton], perhaps Robert's father or brother. John confessed to inciting the couple to adultery; he was sentenced to three beatings. Marion and Robert were ordered to abjure on pain of 13s. 4d., and John was ordered to abjure from inciting them on pain of an even larger fine of 20s. Perhaps Robert was young and naïve, and the court blamed his lover and his father as much as him.¹²⁰

Of the fines paid in the register, over one-third (13 out of 36) were paid not by the adulterous parties but by a third person. This person was usually either a clergyman or a questman. The visitation to Faringdon in 1405 is typical; a questman paid the fine for one couple while a clergyman paid the fine for another. Of the thirteen cases in which a third party paid the fine, clerics paid in eight cases. Named questmen paid in three cases.

¹¹⁹ *Chandler Register*, no. 213 (pp. 81-2).

¹²⁰ *Chandler Register*, nos. 261 (pp. 95-6) and 306 (pp. 109-10).

In the other two cases the same individual, John Stamp of Netherbury, paid the fine. Although Stamp is never named as a clergyman or questman, it seems most likely that he was a respected layman similar to the questmen of his village and part of their social circle.¹²¹

While guessing the motivations of individuals based on the terse lines of the register is a tricky business, a couple of trends do seem clear. In some cases, those who paid the fines seem to have been motivated by pity or Christian charity. The very individuals who were responsible for bringing the guilty to the Church's attention were shielding the guilty from the blow. Perhaps they felt they had a responsibility to report sin, but at the same time felt sympathy or compassion for some of those they accused. This seems particularly likely in a case like the visitation of Netherbury in 1408, in which influential secular individuals paid fines on behalf of five of the nine accused adulterers.¹²²

Many of these cases involved inequality in fining. In only a minority of these cases (five out of thirteen) was a fine paid for both parties. Four of thirteen cases involved clergy or high-status individuals. In three of these cases the man was not fined and the woman was. In the fourth, a clergyman paid a fine on behalf of both parties, but the man was of high status and probably would not have been forced to pay in any case. In two more cases, a third party paid a fine for the woman but the man was not fined; in these cases the record does not show why the man was not fined. Richard Lucas of Byre seems to have been well-connected, since five years later he was the executor of the will

¹²¹ *Chandler Register*, no. 207 (pp. 80-1).

¹²² *Ibid.*

of John Bell [Belle], the village vicar. His connection with Byre's vicar may explain why he was not held responsible for the affair, as Edith Taylor [Taylour] was. Furthermore, Richard seems to have been a man of some property. In 1410, his wife Katherine, perhaps forgiving his infidelity, left him "all her hereditary lands and tenements in city and county of York for ever." Whether a squire of good family or a charming rogue who married above him, Richard was or became a man of property.¹²³ The other unpunished man, Robert Bysshyn, is more mysterious. He could possibly have been Robert Busch [Busshe, Bussch, Buyssh], prior of Yatesbury, but there is little other than the similarity of names to support this.¹²⁴ In one case, the man, John Walsh, junior, was fined, but the woman, Joan Caesar, was not; in this case, the record states specifically that the woman lived outside the court's jurisdiction.¹²⁵ Where the man escaped being summoned to court but the woman did not, perhaps a questman or priest saw the injustice of this and acted to rectify it by paying her fine. However, it is also possible that the man who paid her fine was acting on behalf of the man who had committed adultery with her, who was seeking to minimize his embarrassment.

Finally, in two cases the intervening party paid the fine for a sinful woman but left the man to pay his own fine. This may have been because the man who paid blamed the man and wanted to cause difficulty for him. However, these two men may have resisted the pressure of their society and declared their intention to pay only their own fines, not those of their partners in sin. In the case of John Goswell and Maud Bikebury, John

¹²³ *Chandler Register*, nos. 4 (pp. 3-5), 561 (p. 161) and 566-7 (p. 162).

¹²⁴ *Chandler Register*, no. 207 (pp. 80-1). Compare nos. 100 (p. 46), 272 (p. 99), 363 (p. 122), 389 (p. 133), and *Hallum Register*, no. 649 (p. 80). Note, however, that the questmen of Yatesbury never complained of any sexual improprieties on Busch's part.

¹²⁵ *Chandler Register*, no. 207 (pp. 80-1).

seems to have been a violent man, as he was forced to abjure from harming the vicar or other servants of the church. This may have made Questman Nicholas Gele less eager to aid him. On the other hand, it may simply indicate the sort of antisocial attitude which would cause him to refuse to pay Maud's fine. From the high rate at which men found guilty of adultery paid the fines of their paramours, it seems likely that social pressure encouraged them to do so, but John Goswell might have been just the man to resist that pressure.¹²⁶

Abjuration

When the dean's court visited Byre on 15 July 1405, it heard a large number of complaints. Several of these concerned Joan Grokles, a woman of infamous reputation who seems to have exasperated Byre's questmen. Everyone in the community knew that Joan had committed adultery with John Lucas, because she had publicly admitted it. However, the questmen believed that she had not limited her dalliances to John, and accused her of adultery with "strangers" as well. Perhaps they believed that she was in the habit of making liaisons with travelers passing through town, for fun or profit. They knew that she was in the habit of abandoning her husband for long periods. She often quarreled with her neighbors, prompting them to call her a scold as well. The court sentenced her to three beatings through the chapel. Given the lack of any record that she paid a fine instead, this sentence was probably carried out. However, concerned that such a hardened sinner might too quickly forget the pain and humiliation of that public

¹²⁶ Ibid.

beating, the court ordered her to abjure. Should she commit adultery again, she would suffer another three beatings through the church.¹²⁷

Given the number and nature of the complaints against Joan Grokles, this must have seemed like a reasonable measure. Yet Henry Taylor [Taylour], accused of adultery in Sonning [Sunnyng] on 26 April 1409, seems to have been otherwise reputable. The register describes him as “John Taylour’s son,” implying that his father may have been well-respected within the village. Henry is the only individual described in the register as purging himself “with his own hand.” This implies that he was not asked for compurgators, not by the court’s indulgence, but because his status was high enough that none were needed. Yet despite the high status which the register hints at, the court still forced him to abjure from Felicity Smith [Smyth]. It would seem that Master Shirburne was worried that Henry would return to Felicity’s arms at some future date. Perhaps he did not wish to embarrass the influential John Taylor by demanding more oath-helpers than Henry’s status demanded, but nevertheless felt a need to preserve Henry’s soul as best he could. It may have been as a part of this compromise that he took the unusual step of making Henry’s penalty lower than Felicity’s; if the adulterous couple reunited, Henry would be fined 20s., but Felicity would be fined 100s.¹²⁸

In cases of fornication or adultery where the court feared a relapse, or even long-term concubinage, it often ordered people to abjure from one another. In theory those who successfully purged were exonerated. However, the court often issued orders to abjure to accused adulterers who successfully purged. Dean Chandler’s register records

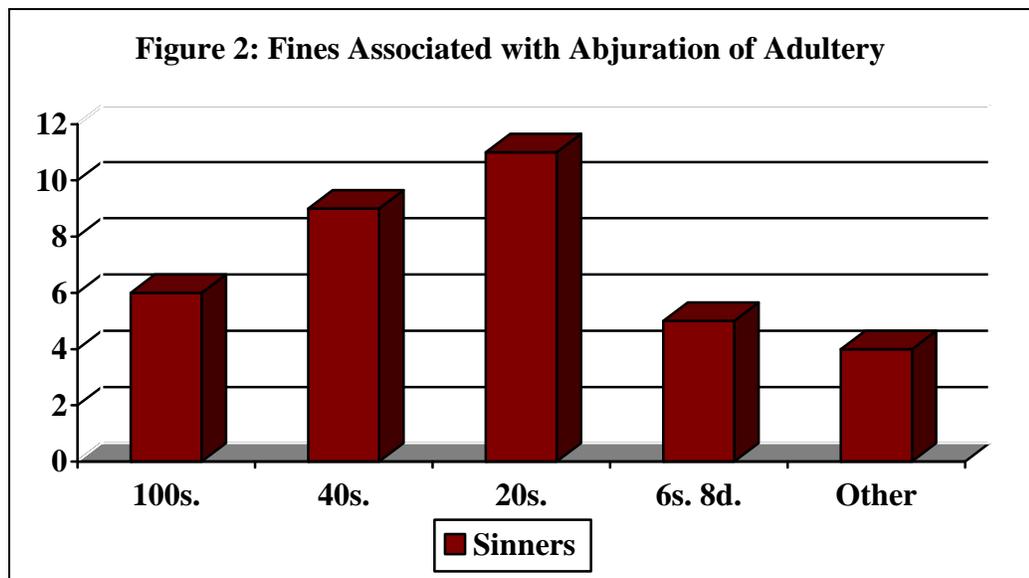
¹²⁷ *Chandler Register*, no. 4 (pp. 3-5).

¹²⁸ *Chandler Register*, no. 249 (p. 92).

33 cases of adultery in which the court demanded formal abjuration. Of these, 14 abjured successfully (42.4%), 13 paid fines or had someone pay a fine for them (39.4%), and six were beaten (18.2%). This gives the impression that the court issued its orders to abjure with no regard for the other outcomes of the case. This would contradict the common-sense assumption that those who were punished (by fines or beatings) would be treated as less trustworthy than those who had established their innocence (or at least their respectability) by purging.

However, the impression given by these figures is somewhat misleading. Viewing them in a slightly wider context reaffirms the intuitive assumption. While a person who was ordered to abjure was slightly more likely to have purged than to have been fined, purgation as an outcome of a trial was over twice as likely as fining, which in turn was three times as likely as fustigation. Thus the figures need to be considered with the likelihood of a particular outcome in mind. Accused adulterers who purged successfully were only 16.1% likely to be forced to abjure; those who incurred fines had a 36.1% chance; those who were beaten had a 50% chance. Thus those who purged do seem to have been regarded with more trust than those who were fined, and those who were fined with more trust than those who were beaten. However, the tendency was not absolute. Dean Chandler and Master Shirburne seem to have had a realistic view of the purgation process in that they did not assume that a person who purged was automatically innocent. Even though they treated a person who purged as legally “not guilty,” they were aware that the process was imperfect and not infrequently chose to follow even a successful purgation with a warning and a threat.

A person who violated his oath of abjuration would be subject to a penalty. These penalties were usually financial. They varied, but not infinitely. In Dean Chandler's register, there are four common levels of penalty: 100 shillings, 40 shillings, 20 shillings, and six shillings eight pence. There are a few other penalties which are threatened only once each: 10 pounds, 13s. 4d., six beatings through market and church, and three beatings through the church. The frequency of each penalty is shown on the chart below. The total number of fines adds up to 35 instead of 33 because in two cases the two parties were given different penalties.



The court may have assigned penalties based purely on the ability of the individual to pay, but its reasoning may have been more complicated. Clergymen who were forced to abjure were threatened with some of the highest penalties. Vicar John Wells [Wellys] of Fordington was distinguished in 1408 by the highest fine in the register

associated with an order to abjure from adultery. His paramour, Denise Stury [Steury, Sturys, Styry] was ordered to abjure on pain of 100s., already at the top of normal fees, but John was ordered to abjure not only from adultery but from “meet[ing] her in suspect places,” including his house, on pain of £10.¹²⁹ The court may have been especially anxious to keep the vicar from involvement with Denise because the Sturys had proved quite litigious about the matter in the past. In the 1405 visitation, rumors had circulated about Denise’s adulterous relationship with John Knoll. Denise had purged herself and abjured from John on pain of 20s., but the Sturys had also launched a legal counterattack, accusing William Maskell of “making trouble between Henry Styry and Denise, his wife” (William purged himself) and John Knoll’s wife Agnes of defaming Denise (she was beaten.)¹³⁰ Clearly this couple was trouble.

Other clergy ordered to abjure from adultery include Robert, the clerk of Preston (40s.) and Richard Richville [Rychevyle], chaplain of Faringdon (100s.).¹³¹ The status of secular men is more difficult to determine, but Henry Taylor of Sonning, who seems to have come from a prominent family, was ordered to abjure at a lower rate than his lover Felicity Smith (he abjured on pain of 20s., she on pain of 100s.) It seems in this case that his family’s (probable) wealth resulted in a lower fine as well as to purge single-handed.¹³²

If high status did not necessarily result in a high fine, neither apparently did low status automatically mean a low fine. Several women who were apparently unable to pay their fines were ordered to abjure as well as being beaten. However, no pattern is

¹²⁹ *Chandler Register*, no. 201 (pp. 77-8).

¹³⁰ *Chandler Register*, no. 13 (pp. 8-9).

¹³¹ *Chandler Register*, no. 203 (pp. 78-9); 261 (pp. 95-6).

¹³² *Chandler Register*, no. 249 (p. 92).

apparent in the nature of the penalties associated with their abjuration. Edith Taylor, who apparently could not pay a 6s. fine for adultery, was ordered to abjure from it on pain of 40s. On the other hand, Joan Grokles could not pay either, and she was ordered to abjure on pain of three more beatings.¹³³ Alice Dorling, who could not pay, abjured on pain of 6s. 8d., the lowest of fines.¹³⁴ Edith and Alice had sponsors to pay their fines for them, and Joan did not, which might account for the difference between the fine and the beating. But why the difference in amounts between Edith and Alice? It seems likely that factors other than the ability to pay were important. These factors were not preserved in the register, but they probably had to do with how each woman presented herself and with the attitude which the questmen and local clergy displayed towards her. Such details could have greatly influenced Master Shirburne, but would not have been recorded.

¹³³ *Chandler Register*, no. 4 (pp. 3-5).

¹³⁴ *Chandler Register*, no. 213 (pp. 81-2).

Chapter Four

Fornication

Accusations of fornication were handled in the same way as accusations of adultery and had the same possible results. An accused party could purge himself (or herself), with or without the court's indulgence. He might be beaten but was more likely to pay a fine instead. An influential person might pay a fine on behalf of the accused. If the accused failed to appear before the dean's court he might be suspended, unless an influential patron paid a fine for his contumacy. On the other hand, nothing might happen at all, especially when the accused was himself influential. Regardless of whether purgation was made, the court might still demand that a fornicator abjure his partner, with a penalty to be imposed if he sinned again with the same person. Although the same elements were present in the prosecution of fornication as in that of adultery, the likelihood of a particular outcome differed.

Most of the typical scenarios can be seen in the dean's visitation of Byre on 15 July 1405. Eight cases of fornication were reported to the court. Several of these featured multiple offenders. Alice, the servant of John Boner, was reported for fornication with deacon Robert Pychard. She was also reported for an affair with a married man, Richard Lucas, but no punishment is listed here; it seems she was only sentenced once. She was sentenced to be beaten (the usual three beatings through the church), but ultimately paid a fine instead. The record does not list any punishment for

the erring deacon. On the other hand, Robert Bachelor [Bachelor] was cited for two cases of fornication and had to answer for them both separately. He confessed to fornication with Katherine Bagges and paid a fine rather than be beaten. However, he denied fornicating with Alice Tilly [Tylye] and purged himself with the court's indulgence. Neither woman appeared before the court, but Robert paid fines on behalf of both of them. Alice's fine was for contumacy rather than fornication; the record leaves it unclear for which offense Katherine's fine was. This persuaded the court to allow the chaplain to absolve Katherine (whom it had already suspended) and to refrain from suspending Alice (whose case it dismissed).¹³⁵

Alice Stokes was cited for fornication with "John, middle son of Robert Turbulvyle, knight." The court noted that she had left but did not suspend her for contumacy. As for John, no one seems to have expected him to appear before the court in the first place. Andrew Cerles [or Cerle] was not described as the relative of a knight, but he seems to have also been influential enough to avoid being summoned to court.¹³⁶

As in Cerles' case, some of the citations for fornication involved what I have called "disputed marriages." Joan Hynebest was cited for fornication with Andrew Cerles and William Skidmore [Skydomour], but the text specifies that she contracted marriage with both men and that both were still living. This sort of case raised questions of terminology. If the questmen took both marriages seriously, they should have charged Joan with bigamy. If they took the first marriage seriously but not the second, they should have charged her with adultery. She was charged with fornication, indicating that

¹³⁵ *Chandler Register*, no. 4 (pp. 3-5).

¹³⁶ *Ibid.*

the questmen found neither marriage legitimate. The court seems to have acceded to this interpretation. Joan was ultimately fined and dismissed. William purged himself of fornication with the court's indulgence and denied the contract. Andrew was not called before the court at all. Thus the only result was Joan's fine. No one seems to have been eager to enforce either of the alleged marriage contracts.¹³⁷

Thomas Bagge was accused of fornication with his servant Joan. He was sentenced to a beating, paid a fine, and was dismissed. This sort of case was fairly routine. Single men seem to have taken advantage of their female servants fairly commonly. As Joan's employer, Thomas could easily have brought economic pressures to bear, but the record gives few hints about the details of what may have been a complex relationship.

Davy Perleisman was cited for fornication with Alice Benet, but it is not clear whether he appeared before the court. Alice failed to appear and was suspended for contumacy. Later she appeared and paid a fine for contumacy. She was then allowed to purge with the court's indulgence for the fornication itself.¹³⁸

Many of the patterns visible here are the same as for citations of fornication. Men seduce female servants, their own or other men's. Clergy and nobles are usually not punished. Other men may be allowed to purge, or they may be sentenced to beatings. If the latter, they usually pay fines instead of taking the beating. However, in two respects fornication is treated quite differently from adultery. The first is that the two fornicators are treated separately. While adulterous couples usually appeared together and received

¹³⁷ Ibid.

¹³⁸ Ibid.

the same sentence, in Byre in 1405 fornicators usually appeared separately and were handled as individuals rather than as couples.

The second feature, which may explain the first, is that women accused of fornication resisted appearing in court. Of eight citations for adultery, the woman failed to appear before the court, at least initially, in at least six. Three of these eventually came in and paid their fines. Three never did: two because their partner paid their fines, and the third because she had left town. The remaining two women were servants. Alice, John Boner's servant, confessed and paid a fine. Joan, Thomas Bagges' servant, seems not to have been called before the court at all, perhaps because Thomas was held solely responsible for the affair. At any rate, it seems that single women were harder to control than married ones. The court had more difficulty making them appear to answer charges than it did with their married sisters.¹³⁹

A broader view reinforces this impression. Dean Chandler's register contains 150 cases of fornication. Sometimes the record specifies exactly what both accused parties did and what penalty each suffered, but often it gives details only about one party and leaves the reader to guess about the other. Often register reports that the accused man appeared before the court, that confession was made and a sentence delivered, and then that the accused man (or another man) paid a fine for both parties. This sort of entry obscures the presence and actions of the accused woman at court. A lazy scribe may have meant to indicate that both of the accused appeared, confessed, and were sentenced, but had not bothered to specify. On the other hand, the woman may never have appeared, and the court, satisfied with receiving its fine, may have obscured this embarrassing

¹³⁹ Ibid.

detail. Nearly half of the cases in the register – 71 out of 150 or 47.3% – are ambiguous about the woman's appearance. A substantial number – 41 out of 150 or 27.3% – are instead ambiguous about the man's appearance. However, in some of these cases – such as those of seven clerics and two sons of knights – the male offender was probably spared a court appearance thanks to his status.

If the record is more often ambiguous about women than about men, where it is specific it seems clear that women were less likely to appear before the court when summoned. Of accused men, in 89 cases (59.3%) the register states that they appeared for the scheduled hearing of their cases. Only 42 cases (28%) explicitly mention that the accused woman appeared on time. The register makes it clear that certain offenders never appeared; 28 of these were women (18.7%), and only 19 were men (12.7%). Another nine women (6%) failed to appear initially but eventually submitted to the court's authority; only one man did likewise.

Compurgation

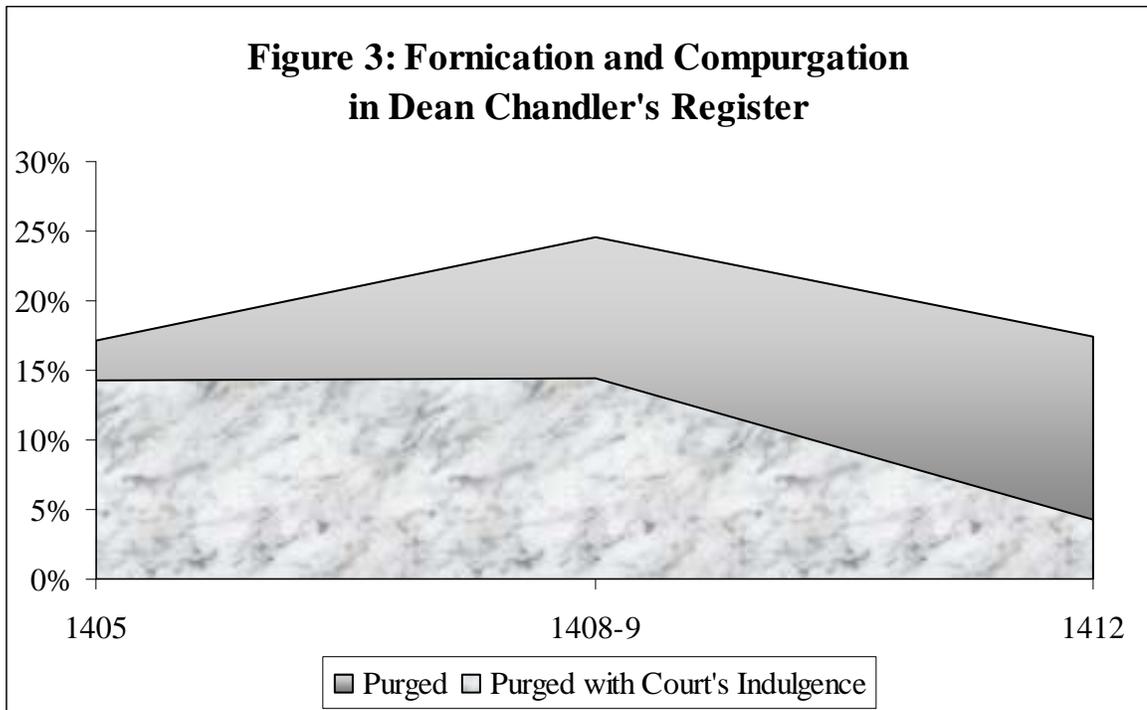
In Dean Chandler's register, persons accused of fornication were much less likely to purge themselves successfully than those accused of adultery. Whereas nearly half of accused adulterers (47.3%) purged themselves, only about one in five (20.6%) of accused fornicators did so. Adulterers may have been more successful at compurgation because married people tended to be of higher status than unmarried people. Some social historians argue that, in contrast to other groups, the upper classes – the nobility, the gentry, and the wealthy urban elites – tended to marry young. The less fortunate frequently spent their youths as servants or apprentices – often not in the village of their

birth – and did not marry until they had acquired the financial resources to set up their own households. Thus single people who were accused of fornication were likely to be servants or apprentices, many of them with few roots in the community. Naturally, this sort of person had little in the way of money, reputation, or social networks. Married persons had a greater chance of having these, which must have made it easier to find oath-helpers.¹⁴⁰ Fornicators who did purge themselves were more likely than adulterers to use the court's indulgence to do so (54.8% of fornicators who purged did so with the court's indulgence, as opposed to 39.1% of adulterers), furthering the impression that fornicators had a great deal of difficulty finding oath-helpers.

In 1405, the dean's court heard 35 accusations of adultery. Of those, only six (17.1%) purged themselves. Five of these six (83.3%) did so with the court's indulgence. In 1408-9, nearly twice as many cases (69) were reported to the court. Seventeen of them, or 24.6%, purged successfully. Of those, ten (58.8%) needed the court's indulgence. In 1412, 46 cases of fornication were reported. Only eight of the accused purged (17.4%), but only two of those (25%) required the court's indulgence. Thus the pattern of prosecution for fornication is very different from that for adultery. In the adultery prosecutions, 1412 saw the lowest number of cases prosecuted and the highest percentage of compurgation, creating an impression of laxness in that year. For fornication, the raw number of accusations is highest in 1408-9 but is still higher in 1412 than it was in 1405. The visitation with the highest percentage of successful purgation is also the one with the highest number of accusations. The most dramatic trend is the

¹⁴⁰ For discussion of this period of service or apprenticeship for the young, see Hanawalt, *The Ties That Bound*; Hartman, *The Household*; McSheffrey, *Marriage, Sex and Civic Culture*.

decrease in the number of those purging with the court's indulgence. Did the court crack down on fornication by making it more difficult to purge, or did single people get better at finding oath-helpers? The similar rates of successful compurgation in 1405 and 1412 suggest the former.



Another pattern, however, is similar to that for adultery: the court's indulgence seems usually to have been granted (or withheld) by village rather than on a case-by-case basis. Of twenty-three village visitations in which people purged themselves of fornication, in eleven everyone who purged did so with the court's indulgence. In ten, no one was granted it. Only in two visitations (Faringdon in 1409 and Hungerford in 1412) did some people purge with the court's indulgence and others without. This trend

becomes less dramatic if one counts only the five villages in which multiple persons successfully purged themselves of adultery. Still, in two of those five cases (Byre in 1405 and Highworth in 1409) all three purgations in each village were made with the court's indulgence, while in Calne in 1409 three purgations were made without it.¹⁴¹

As with adultery, the rate of grants of the court's indulgence in a year shows surprisingly little relation to the likelihood of the accused overall to purge themselves. In 1405, the court granted its indulgence to 83.3% of those who purged, while in 1412 it granted it to only 25%, yet the rate of successful compurgation for fornication was very similar in those two years (17.1% in 1405, 17.4% in 1412). The 1408-9 visitation had an intermediate rate of grants of the court's indulgence (58.8%) and a higher rate of successful purgation (24.6%) than either of its bookends. While the spike in 1408-9 is significant, it seems very small compared to the dramatic differences in grants of the court's indulgence. The overall impression is that the court had an idea of how many accused fornicators should be able to purge (about one in five) and was more or less generous with its indulgence depending on how closely the reality matched this standard.

As with adultery, some villages seem to have been better places to make purgation than others, but the difference was not as extreme for accused fornicators. Overall, in villages where any purgation at all was made, 31 out of 74 (41.9%) purged.

In villages where compurgation was made for fornication in 1405, eleven accusations resulted in six purgations (54.5%), six fines, and no beatings. The overlap is due to two cases in Byre, those of Roger Bachelor [Bachelor] with Alice Tilly [Tylye] and of Davy Perleisman with Alice Benet, in which the accused woman did not appear at

¹⁴¹ *Chandler Register*, nos. 261 (pp. 95-6); 377 (pp. 127-8); 4 (pp. 3-5); 262 (pp. 96-7); 263 (pp. 97-8).

court and was fined for contumacy rather than fornication *per se*. Roger purged with the court's indulgence and paid a fine for Alice Tilly; Alice Benet eventually showed up and purged with the court's indulgence but was fined for contumacy anyway.¹⁴² In villages where accused fornicators failed to purge in 1405, 24 accusations resulted in ten fines (41.7%) and three beatings (12.5%). Thus the total rate at which accused fornicators were punished was very similar (54.5% compared to 56.2%) whether purgation was made in a village or not.

In the compurgation villages in the 1408-9 visitation, 44 accusations resulted in 23 fines (52.3%) and three beatings (6.8%). In the non-compurgation villages, 25 accusations resulted in 11 fines (44%) and 4 beatings (16%). As in 1405, the percentage punished was very similar whether or not purgation was made in a village (59.1% as opposed to 60%), although again the non-compurgation villages featured more beatings and fewer fines.

In villages where compurgation was made in 1412, 19 accusations resulted in three fines (15.8%) and three beatings. In those where no compurgation was made, 27 accusations resulted in 12 fines (44.4%) and 7 beatings (25.9%). The overall punishment rate in 1412 was 54.3%, consistent with that for other years, but unlike in other years, the non-purgation villages appear laxer than those in which purgation was made. Thus a pattern emerges which is similar to that for adultery but which does not develop in quite the same way. In the adultery cases of 1405, the difference in punishment rates between compurgation and non-compurgation villages was small. However, in the later two visitations the gap was much larger. For cases of fornication, in the first two visitations

¹⁴² *Chandler Register*, no. 4 (pp. 3-5).

the punishment rates are remarkably consistent, but in 1412 the difference is great. The overall impression is that in 1405 compurgation did not warp the course of justice, but by 1412 it did. Of course, other explanations are possible. It may be, for instance, that villages were diverging in their attitudes towards sexual sins, some increasing their concern while others decreased, and that compurgation was one way in which the more liberal villages differed.

Sentences of Fustigation

Sentences of fustigation (beating) for fornication were handled in the same way as those for adultery. If the accused confessed, he was sentenced to a beating, typically three times through the church. He could avoid this humiliating penance by paying a fine instead. Most people who could afford it seem to have done so. The visitation to Wantyng on 18 July 1412 shows the variety of possible results. Nine accusations resulted in four sentences of fustigation, of which three seem to have been carried out.¹⁴³

One case turned out to be a case of clandestine marriage rather than fornication *per se*. William Bentley [Bentele] and Joan Howleys were presented for fornication. The couple appeared and confessed, but explained that they had contracted a clandestine marriage. Since both of them agreed that they had willingly spoken and consummated their vows, and there did not appear to be any impediment, the court contented itself with ordering them to solemnize the wedding. As long as they did so within the next six and a

¹⁴³ *Chandler Register*, no. 375 (pp. 125-6).

half months (by 2 February), they could avoid punishment. Recognizing that this was not really a case of fornication, the court did not order a beating.¹⁴⁴

Another case seems to have involved men of influence. Roger Burymulle was cited for fornication with Maud Sippestere, but the record shows no hint that he appeared before the court, nor that he was punished for failure to do so. Since accused fornicators are so often suspended for contumacy, it seems likely that Roger had enough influence to avoid being held to account. Maud did not have such influence herself, but a chaplain named Henry paid a fine for her. If Roger really was a man of influence, he may have asked Henry to pay the fine as a favor. As usual when a clergyman paid the fine for the accused, no mention is made of a sentence of beating.¹⁴⁵

The case of Margery Bemamen is similar but has some interesting differences. Roger Burymulle was cited for fornication, but the onus of the sin fell on Maud. Margery's lover Edmund Bedeman, on the other hand, was never even cited. The same chaplain paid Margery's fine as had paid Maud's, but in this case he was too late to avoid a sentence of three beatings through the church to be recorded. He was, however, in time to prevent it from being carried out.¹⁴⁶

In contrast to William and Joan, whose only crime was excessive informality in their wedding arrangements, and Roger and Maud, who may have had friends in high places, Richard Merssh and Emma Brook [Broke] come across as scofflaws. Neither appeared before the court when summoned. Emma seems never to have done so. Both were suspended. Richard eventually submitted. He was sentenced to be beaten. Since

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

no further mention is made of the matter, it seems that he had neither the money nor the influence to avoid fustigation.¹⁴⁷

Christine Pyllys was cited for fornication with two men, John Renacles and Robert Shank. John, like Roger Burymulle and Edmund Bedeman, but unlike Richard Merssh, seems to have avoided appearing without suffering any consequence. However, unlike Roger and Edmund, he was not chivalrous enough to have Henry the chaplain pay the fine for his paramour, and she was sentenced to three beatings through the church and the marketplace. Christine and Robert Shank attempted to purge themselves of fornication with each other. Shirburne gave them until after his dinner to collect four oath-helpers each. They must have failed to do so, because they did not appear before him after dinner. They were “both convicted.” The record does not say whether they were sentenced to be beaten or not. It seems likely, but Christine would have been beaten regardless.¹⁴⁸

Another woman, known only as Gretekytte (probably “Great Kit,” perhaps a nickname for a large woman named Kate), likely a transient or recent immigrant, was also cited for fornication with two men – John, the servant of John Sare, and John Bawler. All three were told to purge themselves four-handed after dinner. Only John the servant did so. The other two did not appear. John Bawler was convicted. Again, he may have been beaten, but the record does not mention a sentence. It is not clear whether Gretekytte was convicted along with him. She was suspended for contumacy, but later she appeared and purged herself of fornication at least with John Sare’s servant.¹⁴⁹

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

Finally, John Bottler [Boteler] was cited for fornication with Margaret Brown [Broune]. He appeared, confessed, and was sentenced to three beatings through the church. No one seems to have interceded for him, and he was probably beaten on schedule. Margaret, on the other hand, seems to have skipped town and escaped the dean's jurisdiction.¹⁵⁰

The visitation to Wantyng on 18 July 1412, then, records nine charges of fornication involving nine men and seven women. Three of the men did not appear and were not punished for it. Two men were sentenced to be beaten, and the sentences seem to have been carried out. Two more were convicted *in absentia*, but the record does not mention their punishment. Only one purged himself. One couple appeared before the court, explained their circumstances, and were given the chance to make their marriage official. Two women had their fines paid by a chaplain. Two women never seem to have appeared before the court, although unlike men who did not appear, their failure to appear was noted disapprovingly, and one was suspended. One woman purged herself (although she may have been convicted for fornication with a different man). One woman was beaten.

As with adultery, more people paid fines (or had them paid for them) than were actually beaten. Sixty-five fines were paid but only twenty beatings administered, meaning that only 23.5% of those subject to beatings actually received them. These figures are consistent with those for adultery, for which 25% of those subject to beating received them. In 1405, thirty-five accusations of fornication resulted in sixteen fines (45.7% of accusations) and three beatings (6.7%). In 1408-9, sixty-nine accusations

¹⁵⁰ Ibid.

resulted in 34 fines (49.3%) and seven beatings (10.1%). In 1412, forty-six accusations were made, and fines were paid in 15 cases (32.6%), but it seems that ten beatings were actually carried out (21.7%). The total percentage of accused fornicators remains rather steady, with a mild spike in the middle (52.4% in 1405, 59.4% in 1408-9, 54.3% in 1412). The relative numbers of fines and beatings remains relatively steady between the first two visitations, but 1412 sees a shift from fines to beatings – the same pattern as for adultery. Whether clerical sloppiness or questmen’s focus on new offenders, the same causes seem to have been working here.

As in the case of adultery, status was an effective shield against beatings. None of the sixteen clerics and three lords’ sons cited for fornication was beaten. Those of low status were not protected, but neither were they more likely than the average to be beaten. Of the 23 servants cited for adultery, only three seem to have been beaten. This gives a rate of 13%, remarkably consistent with the 13.3% for the population at large.

Fines Paid in Lieu of Fustigation

As the 1412 visitation to Wantyng shows, it was not unknown for a person’s fine for fornication to be paid by someone else. However, this was less common in cases of fornication than in cases of adultery; ten out of 65 fines for fornication were paid by third parties, for a rate of 15.4%, as opposed to thirteen out of 36 for adultery (36.1%). As with the lower rate of compurgation and the higher rate of punishment, this may have been because of the lower social status of fornicators as compared to adulterers. This seems especially likely because in many cases where a fine was paid by a third party, it was paid only on behalf of the woman. Where a woman had her fine paid by a

clergyman or questman and the man was never summoned at all, it seems likely that the man possessed and used a moderate degree of influence. He was able to prevent the court from summoning him, but not from summoning his paramour.

The most influential men, such as the questmen themselves, were either sexually continent or able to keep their affairs entirely out of the court. No jury of questmen in the register ever accuses one of its own members. In other cases, where the accused man may have had substantial influence but was not a questman, the questmen report a sin but the record shows no action taken by the court. For instance, the record of the visitation of Stokely [Stokkely] on 7 May 1409 shows that “John Morris [Morys] fornicates with Ellen, Thomas Morris’ [Moris’] servant.” The record stops there, without any indication that John and Ellen were called before the court or that the court took any other action. John was very likely related to Thomas – perhaps the son of a rich man, dallying with the hired help – and Thomas may have acted to protect him.¹⁵¹ Sometimes the register even records the court’s decision not to take action. In the visitation to Bere Regis on 6 June 1412, the questmen reported “Richard, the lord’s son, for fornication with Joan Hundes; neither cited.”¹⁵² Richard was so confident in his father’s protection that he even appeared before the court to pay the fines (for fornication) of William Loupe and Juliana atte Merssh.¹⁵³

Below the men who were able to keep the entire case out of court, but above those who actually had to appear to answer charges against them, were the men who were able to stay out of court themselves but who were not able to extend this protection to their

¹⁵¹ *Chandler Register*, no. 268 (p. 99).

¹⁵² *Chandler Register*, no. 297 (pp. 107-8).

¹⁵³ *Chandler Register*, no. 301 (pp. 108-9).

partners. Such men often paid the fines of their partners. In other cases, clergymen paid the fines for women whose partners were not summoned before the court. They may have done so out of charity, but they may also have been acting as intermediaries for the men involved. The men may have paid (or arranged for the payment of) these fines out of a sense of obligation or to keep the matter as quiet as possible. This seems to have been more common for adultery than for fornication (again, this is in keeping with the idea that adulterers in general had a higher status than fornicators); the two cases listed in the Wantyng visitation of 1412 are the only two cases of fornication in which this happens, but it seems to have happened in at least four cases of adultery.

Abjuration

Like adulterers, fornicators were sometimes ordered to abjure. This action seems to have been ordered where the court feared long-term concubinage. If a couple seemed likely to repeat their tryst without getting married, abjuration and its associated penalties might give them reason to hesitate. The process, including the wording of the oath, was probably very similar to that for adulterers. In Dean Chandler's register, abjuration was used more frequently in cases of adultery than in cases of fornication. Thirty-three adultery cases out of 184, or 17.9%, incurred abjuration; for cases of fornication the rate was twenty cases out of 150, or 13.3%.

In cases of fornication, it was less common for the court to impose abjuration on those who managed to purge themselves. This happened in only two cases, and both times for good reason. John Hay and Juliana Spinster [Spynnestere] of Bishopston [Bysshopeston] were accused on 15 July 1412 of fornication. Both of them denied it

“since their last correction,” purged and abjured “in common form” (that is, *sub pena nubiendi*, q.v.) The denial “since their last correction” indicates that the couple had already been in trouble for fornication. This must have made it seem more likely that they were guilty this time. If so, then they were carrying on an unsanctioned, permanent relationship. The likelihood of this must have made imposing abjuration seem reasonable even though in theory the couple had proved their innocence.¹⁵⁴

The other individual ordered to abjure from fornication in spite of a successful purgation was Alice Saucer of Hungerford, on 20 July 1412. Alice was accused of fornication with Chaplain William Golding [Goldyng, Coleyng]. Despite the wording of the indictment, which says the two were “defamed,” the court treated the accusation seriously. Alice was ordered to abjure on pain of a very high penalty of 100s. William was not, but the court forced him to appear before the court and purge himself, a step it rarely took with clerics.¹⁵⁵ The accusation may have seemed plausible because both Alice and William had been reported to the court before. On 22 September 1405, the questmen reported that Alice had been involved in a public brawl with Juliana Farman, although they blamed Juliana. They reported William for three affairs, two with married women and one which had resulted in the birth of a bastard.¹⁵⁶ On 28 May 1408, Alice appeared before Bishop Hallum’s court in Salisbury as part of a complicated case of disputed marriage (q.v.). During the course of this case she admitted that she had become pregnant out of wedlock. The court found against her even though her affair with William Roper was both prior to and contemporaneous with his marriage to another

¹⁵⁴ *Chandler Register* no. 369 (p. 123).

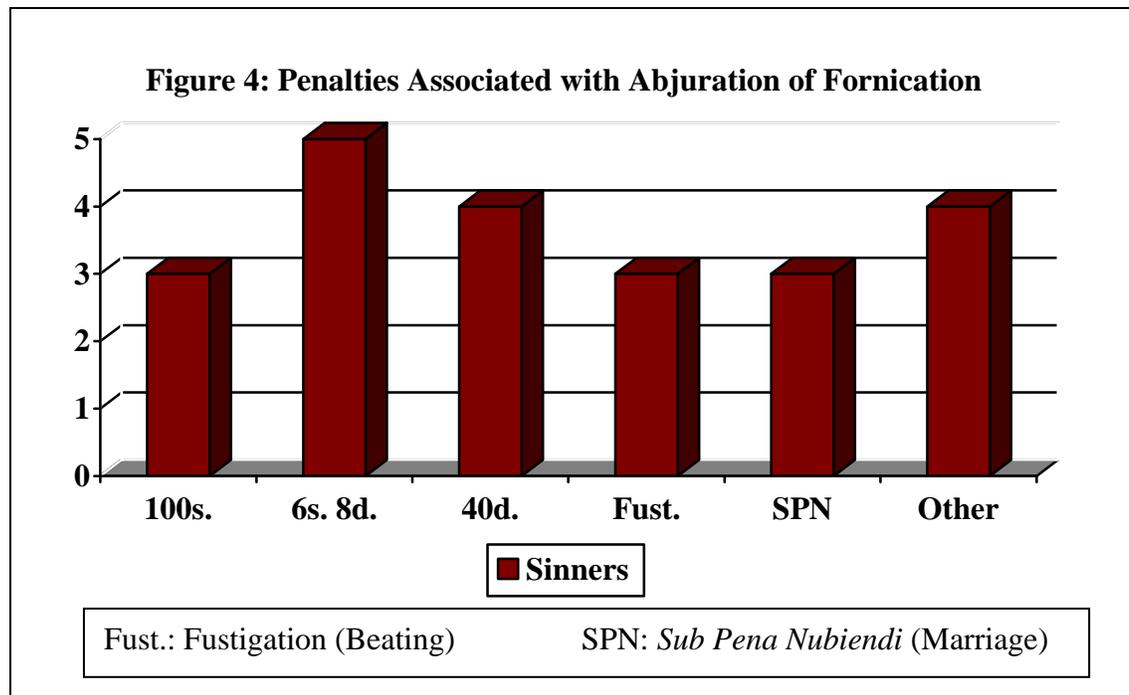
¹⁵⁵ *Chandler Register* no. 377 (pp. 127-8).

¹⁵⁶ *Chandler Register* no. 88 (pp. 43-4).

women, making Alice *ipso facto* an adulteress. Ultimately, the bishop ordered her excommunicated for contumacy when she failed to appear at later court sessions.¹⁵⁷ With all this history, little wonder that the court treated Alice's denials skeptically, oath-helpers or no.

Perhaps because of the lesser wealth of single people, the fines threatened in association with abjuration of fornication were much lower than those associated with abjuration of adultery. The most common penalty associated with abjuration was 6s. 8d., which was the threatened fine in a quarter of the twenty cases. The 40d. fine was almost as common, occurring in a fifth of cases. In contrast to these relatively modest fine, a fine of 100s. was threatened in three cases. Another three cases involved abjuration *sub pena nubendi* (q.v.). Abjuration on pain of fustigation was threatened on only one visitation, but in three cases, all involving the same man but different women (the precise penalty was six beatings through the market and the chapel.) Appearing once only were the unique penalties of £10, 40s., 20s., and 8s.

¹⁵⁷ *Hallum Register*, no. 1128 (pp. 213-4).



In imposing abjuration on fornicators, the court had another option which was not available in cases of adultery. Rather than threatening a fine or beating, the court might impose abjuration in a form which Helmholz calls “*sub pena nubiendi*” (“on pain of marriage”).¹⁵⁸ This system, the origin of which remains obscure, was introduced into England in the thirteenth century by synodal statutes, including one by the synod of Salisbury.¹⁵⁹ In Dean Chandler’s register it is called *abjuratio sub forma communi* and is imposed three times, all of them during the 1412 visitation.¹⁶⁰ This form required both partners to be present, for both of them had to swear for it to be valid. Each of them swore that should the couple have sexual intercourse again, that act would constitute the consummation of a binding and permanent marriage. Helmholz gives the following as a

¹⁵⁸ Helmholz, *Marriage Litigation*, 172-81.

¹⁵⁹ *Ibid.*, 173.

¹⁶⁰ *Chandler Register*, nos. 301 (pp. 108-9), 369 (p. 123), and 370 (pp. 123-4). See also Timmins, xxix-xxx.

typical formula: “I here take you [name] as my legitimate wife if I know you carnally from this time forward” (“*Hic accipio te in uxorem meam si ex nunc cognoscam te carnaliter.*”) The woman’s oath would use “similar words.”¹⁶¹

The first of these cases in Dean Chandler’s register, which arose during the Blocksworth [Blokkesworth] visitation on 6 June 1412, gives the formula of the oath. Richard Stoke and Joan Rawlins [Raulyns] were accused of fornication. They eventually confessed and were forced to abjure. Richard swore: “If it should happen for me, Richard, to have sexual intercourse with you, Joan, in future, I take you as my wife from now as from then and from then as from now.” Joan’s oath was similar: ““If I, Joan, shall allow you, Richard, to have sexual intercourse with me in future, I take you as my husband from now as from then and from then as from now.”¹⁶² This formulation is obviously similar to that which Helmholz gives, but it differs in two aspects.

The first is the phrase “from now as from then and from then as from now.” Dean Chandler’s court may have been uneasy about the ability of a conditional oath to bind when the swearing of the oath and its application might be separated by a long stretch of time. This may have led the court to create an oath which specifically addressed the issue by identifying the two times. Helmholz discusses the unease of church courts with these oaths. The use of marriage as a punishment fit poorly with the Church’s view of matrimony as a divinely established institution. More importantly, the idea of forcing people to make marriage vows contradicted a long-standing Christian tradition of regarding the free consent of both parties as absolutely necessary to the

¹⁶¹ Helmholz, *Marriage Litigation*, 172.

¹⁶² *Chandler Register* no. 301 (pp. 108-9).

validity of a marriage. Canon law allowed that a marriage contracted due to “force and fear,” if those elements were “sufficient to move a constant man,” was invalid, and the courts could hardly argue that the threat of excommunication – which implicitly lay behind the legal sanctions imposed by church courts – was not a serious one. For these reasons, Helmholz argues, abjuration *sub pena nubendi* was already falling out of favor and was used “only fitfully” in the fifteenth century.¹⁶³ Timmins notes that several cases in the 1408 visitation involve recidivist fornicators, both of whom were present at court, which would have made these cases in theory ideal candidates for this type of abjuration. Nevertheless the court, which must have been aware of the procedure, did not use it until the 1412 visitation.¹⁶⁴ When the court did impose it, it insisted on a formula which explicitly identified the time of swearing and the time of consummation. This formula seems a conscious attempt to bind the swearer’s future self as well as his present self, and thereby to weaken possible objections.

The second point of variation is the difference between Richard’s oath and Joan’s. The court could have imposed identical oaths on both of them, with only the names (and the roles “wife” and “husband”) changed. Yet the court specified different wording for Joan’s oath than for Richard’s. Richard’s oath does not mention volition at all – if intercourse “should happen,” he will be bound. Joan’s oath, on the other hand, is very specific about the role of the will – she will be bound if she allows Richard to have intercourse with her. This may have happened simply due to prevailing ideas about sexuality – an assumption that the primary will to intercourse will be the man’s and that

¹⁶³ Helmholz, *Marriage Litigation*, 176-81.

¹⁶⁴ Timmins, xxx.

the woman's role is as a sort of gatekeeper, able to say yes or no but not to initiate. The court may have changed the oaths because it viewed the woman's role in sexual intercourse as essentially passive. However, the court may have had other reasons than mere stereotypes. Helmholz mentions that some unwilling spouses claimed that they had been unable to consent to intercourse, due, for example, to drunkenness. The phrase "if it should happen" seems designed to take such a possibility into account. Richard would be bound by intercourse no matter how it happened.

Joan, however, would be bound only if she "allowed" intercourse. The court seems to have assumed that intercourse was unlikely to take place without the man's consent, but to acknowledge that it could take place without the woman's. The court may have used the phrasing it did in part to provide legal protection against rape. Although rape is rarely mentioned in Dean Chandler's register, it is present and clearly a concern. As Sara Butler has shown in her article "I will never consent to be wedded with you!": Coerced Marriage in the Courts of Medieval England," rape was sometimes even committed in an attempt to create a binding marriage.¹⁶⁵ In these cases, intercourse did "happen," but the woman did not "allow" it. Thus a woman's oath of abjuration *sub pena nubiendi* could not be used by a ruthless man to force her unwilling into a marriage. Seduction by either party, however, could. Both Helmholz and Butler point out that voluntary sexual intercourse counted as consummation of a marriage under all circumstances, even where the initial contract was made by force and fear.¹⁶⁶

¹⁶⁵ Butler, "Coerced Marriage."

¹⁶⁶ Helmholz, *Marriage Litigation*, 179; Butler, "Coerced Marriage," 251.

Chapter Five

Disputed Marriages

R. H. Helmholz, in his seminal study *Marriage Litigation in Medieval England*, observed that what he called “suits to enforce marriage contracts” were remarkably common in Church courts. These suits far outnumbered suits for divorce or annulment. Their frequency is probably related to the canon-law definition of marriage. By canon law, a couple could create a binding and indissoluble marriage simply by verbal contract. The contract did not require the presence or participation of a priest. It did not need sexual intercourse to make it binding. It did not require family consent. It did not even need to be witnessed. The result was that private and unverifiable acts could create a binding and indissoluble legal relationship. Naturally, certain difficulties resulted.¹⁶⁷

An earlier view in the canon law, that of the school of Bologna and of Gratian, had held that a marriage was made by verbal contract, but did not become indissoluble until consummated. Subsequently, the view of Peter Lombard and the Parisian school replaced it. The Parisian system agreed with the Bolognese in regard to contracts made using *verba de futuro*; both held that a marriage contract phrased in the future tense became indissoluble only once consummated. However, they differed with respect to contracts phrased with *verba de presenti*; the Parisian school held that a present-tense contract was immediately binding and indissoluble. In the twelfth century, Pope

¹⁶⁷ Helmholz, *Marriage Litigation*, 25-7.

Alexander III formally decided in favor of the Parisian system over the Bolognese. The difference was only academic when the couple followed the whole procedure established by canon law – posting the banns, getting the permission of their families, having a public ceremony at which a priest presided, and consummating the marriage immediately afterwards. But Helmholz finds that many marriages were made by verbal agreement in private homes, and quite a few were even made clandestinely.¹⁶⁸

In practice, then, this system had several potential problems. It contradicted older ideas, both in canon law and in popular practice. It allowed young people to defy their elders and marry whomever they chose, opening the door to familial strife. It provided a golden opportunity for seducers, manipulators, and loophole-seekers. It made it possible for even honest people to be confused about whether they were really married.

In the Middle Ages the Church's control of marriage was incomplete. Its courts held primary, if not exclusive, dominion over matrimonial cases, but not because marriage was an entirely religious affair. Rather, marriage was a contract, and the role of the Church courts was like that of secular courts in judging a dispute over any other contract. This became less true over the course of the Middle Ages, as the Church asserted its control over marriage more tightly, but still in the fifteenth century a great many people married themselves without enlisting or even informing a priest. Furthermore, many people still followed local custom, which varied greatly, or Gratian's system. Often a person who had made a contract using *verba de presenti* regarded himself or herself as only betrothed and free to break off the engagement. If the other

¹⁶⁸ Ibid., 26-31.

party followed Peter Lombard's system or simply did not want to be abandoned, a suit to enforce the contract often followed.¹⁶⁹

Another reason for clandestine marriage might be family disapproval. While scholars disagree about the extent to which medieval marriages were arranged, it is clear that economic factors played an important role, and it seems likely that in many cases the family had a great deal of influence. While the case of Romeo and Juliet is fictional and no doubt more dramatic than most, it shows how clandestine marriages (with or without the aid of a sympathetic priest) were sometimes made to thwart older relatives. It was probably fairly common in medieval English villages for the daughter of a wealthy peasant to fall in love with a cottar's son – a nice enough boy, but he has no land. The posting of the banns and public ceremony prescribed by canon law gave families plenty of opportunity to exert influence over their wayward youths, but the Church considered that a marriage made without any of these could still be valid, even though the couple sinned in omitting them.¹⁷⁰

Moreover, the rigidity of the system provided plenty of opportunity for cynical manipulation. A seducer might explain to an innocent that their verbal contract, made in an isolated and private place, constituted a valid marriage and that there was therefore no sin in consummating it. Then he might later deny or distort his words (or he might phrase his initial promise in a way that he thought would not be legally binding). On the other hand, an abductor or rapist with an ultimate end of marriage (perhaps for financial reasons) might force his victim to recite a marriage oath.¹⁷¹ Or a father might use death

¹⁶⁹ Ibid., 25-32.

¹⁷⁰ Ibid., 27.

¹⁷¹ See Butler, "Coerced Marriage."

threats to force a man to marry his daughter.¹⁷² A man or woman who wanted a marriage which the other party did not might simply bring a false suit to the Church courts – a strategy which could be especially effective if its user had power or a number of friends willing to support his or her claims. Conversely, a man or woman who had tired of a particular marriage might find it easy to dissolve by suddenly recalling a prior contract made by *verba de presenti*; again, this strategy was most effective when backed up by additional witnesses (especially the putative earlier spouse). It is difficult to know how often people used the Church courts so cynically, but even scholars who argue that the average peasant took the Church's laws very seriously, such as Helmholz and Bossy, admit that it did happen.¹⁷³ In a world where even those with no such intentions could be honestly confused about whether they were married, it could be quite effective.

An intensive study of a particular place, then, should show a relatively large number of disputed marriages. These should show a mixture of genuine confusion over the legal nature of marriage, flouting of family wishes, and cynical manipulation of the law. If Marjorie Kensington McIntosh's findings hold true, evidence should emerge that the questmen, like her jurors, took the initiative to frame offenses which troubled them in ways that enabled the court to deal with them.¹⁷⁴ *The Register of John Chandler, Dean of Salisbury 1404-17* contains one of the most complete sets of medieval Episcopal visitation records to have survived. Archdeacon Chandler's register features some twenty-two disputed marriages. This study will look intensively at each one.

¹⁷² See McSheffrey, *Marriage, Sex, and Civic Culture*, 1-4.

¹⁷³ Helmholz, *Marriage Litigation*, 111; Bossy, *Christianity in the West*, 19-26.

¹⁷⁴ See McIntosh, *Controlling Misbehavior*, 1-19.

On 15 July 1405 Dean Chandler visited the village of Byre [also spelled Beere, Biere, Bire, and Byeere]. Byre seems either to have been an unusually sinful village or to have had especially zealous questmen. In the Dean's first round of visitations, that of 1405, Byre reported eight cases of fornication, the most of any village on the circuit. In the second round, the visitations of 1408-9, Byre reported twelve cases of fornication, again the largest number reported by any village. However, on Chandler's third visitation, that of 1412, the village made no presentments and reported that all was well. While it is of course possible that there was an unusual amount of such activity going on in Byre, it should be noted that other zealously reporting villages, such as Sherborne [Shirbourne] and Hungerford, reported more cases of adultery and fewer cases of fornication. This causes one to wonder whether the questmen of Byre before 1412 were inclined to label questionable matters as fornication rather than by some other category. Closer investigation of the case of Joan Hynebest strengthens and refines this impression. The questmen presented Joan for fornication first with Andrew Cerles and then with William Skidmore [Skydomour]; they reported that she had contracted marriage with both men. William denied both the fornication and the contract. Strictly speaking, even if all the charges were true, Joan should not have been regarded as having fornicated with two men, but rather to have contracted a surreptitious marriage with Andrew and then to have committed adultery with William. The manner in which the questmen presented the case makes it seem either that they regarded neither marriage as valid (despite the presence both of vows and of consummation in each case) or that they defaulted to the use of the term "fornication" to describe what they regarded as illegitimate sexual intercourse. However, in the same visitation both Joan Grokles and Richard Lucas were

accused of adultery. Furthermore, one of the women with whom Richard committed adultery (a servant named Alice) was later accused of fornication with the deacon Robert Pychard. The questmen do seem to have made the distinction between fornication and adultery, which makes it seem most likely that they did not regard either of Joan's marriages as valid even though both fulfilled the requirements (for validity if not for complete licitness) of canon law.¹⁷⁵

The outcome of the case of Joan, Andrew and William is, as so often in these records, not entirely clear. The records do not tell whether Andrew was called or appeared before the court at all. Joan was cited for her relations with Andrew. She did not answer her first summons and was judged contumacious, but the penalty was reserved. Eventually she did come before the court, paid a fine, and was dismissed. The records do not show that she was cited in the second case, but William was. He denied both the fornication and the contract; he purged himself six-handed and was dismissed. There is no mention of the Dean's court considering either marriage binding, nor is there any record of an order to abjure.¹⁷⁶

On 18 July 1405, Dean Chandler visited Preston. The questmen of Preston had a number of complaints about their vicar, rector and parish clerk but presented only one villager for immoral behavior. They accused John Benvill and Joan Jaynes of adultery. John and Joan regarded themselves as married, but apparently the questmen disagreed. It was common knowledge in the village that Joan had been previously married to a Spaniard. Joan admitted it but explained that her Spanish husband had vanished

¹⁷⁵ *Chandler Register*, no. 4 (pp. 3-5).

¹⁷⁶ *Ibid.*

seventeen years ago, “without trace.” Apparently after such a long interval without hearing anything from her husband she had felt that she had the right to remarry, but the questmen disagreed. The court initially demanded a certificate of divorce, which Joan was unable to produce. Most likely she had not sought a legal solution to her problem at all. If she had, she might have been able to have her husband declared legally dead. Instead, she seems to have sought an extra-legal solution – a long wait followed by a private remarriage. This sort of solution may have been followed often, but it seems that in Joan’s case the community was unwilling to tolerate it. The dean’s court, however, ultimately proved more willing to compromise. John asked the dean’s office to write an official letter to “those parts” (presumably the Spaniard’s home town) inquiring whether anyone there wished to pose an impediment to the marriage. Although the register is not specific, it seems that this was done. Since the phrasing of the letter required no response unless an impediment was registered, most likely Shirburne intended that they be allowed to continue their lives normally. As it happens, further complications arose, likely as a result of Shirburne’s conscientious insistence on attempting to contact the first husband, but this does not seem to have been his intent.¹⁷⁷

Since Joan’s first husband had been a foreigner and had been gone so long, why did the questmen even care? The appearance of this case before the Dean’s court implies that the community was unable to resolve the problem itself. Perhaps John or Joan or both already had a bad reputation for other reasons, which made the questmen unwilling to look the other way as they might have for more reputable people. Or perhaps they

¹⁷⁷ *Chandler Register*, no. 20 (pp. 11-12). For further discussion of this case, including later complications, see the chapter on abandonment and “self-divorce,” pp. 142-6 of this document.

were troubled by the situation and needed an official solution, one which involved official documents and churchmen ranking higher than their own (in whom they seem to have placed little trust).¹⁷⁸

Two days later another tricky marriage question presented itself in the village of Lyme. Two women – Isabel Scotere and Agnes Crogge – claimed marriage to the same man – one Thomas Richman [Rycheman]. Isabel’s claim seems to have been the earlier, but it was problematic. According to her testimony, Thomas had sworn before witnesses, “If you are bought out of Ralph Stykelane’s service by your friends I wish to have you as my wife.” She had agreed, and sexual intercourse had followed. The vows which Agnes recounted were much more straightforward: “I take you as my husband,” “I take you as my [wife],” again before witnesses and followed by sexual intercourse. Agnes produced four witnesses; Isabel only had one in town but was eventually able to get depositions from two more. Thomas confirmed Agnes’ story and denied Isabel’s. Unfortunately, the entry is unfinished and the final outcome unknown. It is impossible even to say what the outcome should have been under canon law without more information than the register gives us about the sequence of events. I have assumed that Isabel’s claim was the prior one and that she was eventually bought out of servitude, because without these two factors her case would likely be too weak to consider. However, this still leaves critical gaps in the story. Did Thomas marry Agnes before or after Isabel left Ralph’s service? If after, did he have intercourse with Isabel after she left service? It seems that Thomas knew what he wanted – to be married to Agnes rather than Isabel. Did he change his mind at some point, or was he a seducer cynically manipulating the system to get what he

¹⁷⁸ Ibid.

wanted from Isabel and then abandon her? While it is impossible to know for certain, the record seems to favor the latter interpretation. His conditional phrasing of his contract with her suggests that he was leaving himself an escape route; the unconditional phrasing of his contract with Agnes seems to indicate an effort to assert the validity of this promise over the earlier one. His denial of his contract with Isabel, despite her testimony and those of her witnesses, suggests that he was willing to say whatever it took to get the result he wanted. Furthermore, Isabel's status as a servant left her vulnerable to precisely this sort of exploitation.¹⁷⁹

In Beaminster [Bemynstre] Secunda on 22 July 1405, the Dean's court faced a similar but less complex problem. Nicholas Chyneu and Joan Trylles were charged with fornication. Joan alleged that vows were exchanged before intercourse – “I wish to have you as my wife” and “I wish to have you as my husband.” Nicholas admitted to fornication but denied that any vows were made. The register does not record the final outcome of the case. Neither party produced witnesses; the case seems to have come down to what he said versus what she said. If Nicholas was lying, he may have made false promises in order to seduce Joan; he may have intended to marry but changed his mind later; or he may have thought that the vows “I wish to have you” were only a betrothal rather than a marriage, but been uncertain that the court would see it his way.¹⁸⁰

¹⁷⁹ *Chandler Register*, no. 21 (pp. 12-13).

¹⁸⁰ Although the alleged vows were phrased in the present tense, the word “wish” (usually translated as *volo*) was recognized as a tricky one by the canon lawyers. There was disagreement even among the most learned as to whether a present-tense contract using *volo* was binding in the absence of sexual intercourse. The majority would have considered Nicholas' vow “I wish to have you” (*volo te habere*) as *verba de presenti*. However, Nicholas confessed to sexual intercourse, and so by canon law would have been considered married whether his wish was treated as a present or future expression. If he considered himself only betrothed, then, this opinion would have been based on local practice and without basis in canon law, hence the possibility that he might lie about the details in order to shore up his no.. Denying that any vow at all was made would have been his only way out. See Helmholz, *Marriage Litigation*, 33-40.

On the other hand, it is also possible that Joan was lying, either to trap Nicholas into marriage or to preserve her own reputation in the face of a charge of fornication. The lack of witnesses makes this a strong possibility; if Joan had had any doubts about Nicholas' seriousness, the logical thing for her to do would have been to obtain witnesses to their vows. Again, the term "fornication" is used, but it may have resulted from a lack of vocabulary; perhaps none of the questmen knew how to refer to a marriage which may or may not have been valid.¹⁸¹

Beaminster Prima, meanwhile, presents the reader with two mysterious cases. Two couples were presented for fornication, but each couple shared a last name: William and Agnes Corben [Corbyne] and Sir John and Margaret Child [Chylde]. While it is possible for a couple to share the same last name without being related, this seems less likely in a medieval village, and to suppose that it happened twice at the same time and place puts too much strain on the engine of coincidence. More likely the couples had married themselves some time ago. The questmen had doubts about the legitimacy of their marriages but were still in the habit of calling the woman by her married name. None of the four showed up in court, perhaps because they were more afraid of having their marriages declared invalid than of the penalty for contumacy. In both cases the vicar of Netherbury, John Jordan – apparently a man of deep sympathies and deep pockets – paid fines and had the case dismissed. In the case of William and Agnes, the register provides no further hint about the impediment to their marriage. However, Sir John Child was very likely a cleric.¹⁸² This would explain both why the questmen did not

¹⁸¹ *Chandler Register*, no. 26 (p. 16).

¹⁸² For reasons addressed in the discussion of the priest's title of "Sir" in the adultery chapter, q.v. (p. 62, fn 91).

consider his marriage valid and why the vicar of Netherbury paid Margaret's fine but not his. As mentioned in the chapters on adultery and fornication (q.v.), priests were so rarely fined that it was fairly common for a benefactor to pay a fine only for the mistress of a priest.¹⁸³

The confusion caused by this sort of clandestine vow may explain the court's severity in a case at Yetminster [Yatmynstre] the next day. Robert Fowke and Elizabeth Taylor [Taylour] were brought before the court for marrying without posting the banns and without the vicar's consent. However, their marriage was not furtive – they seem to have had a public wedding, presided over by a chaplain (William Dook), but outside of the parish. Not only were Robert and Elizabeth sentenced to be beaten publicly, but so were three of their wedding guests – Richard Dedeman, Richard Smale, and Walter Bower. All five, as was often the case, paid fines rather than be beaten.¹⁸⁴ This record hints at a significant division within the community. Robert and Elizabeth were able to put on a wedding, presided over by a chaplain, attended by several guests. They and their guests could afford to pay fines, so they were probably not among the poorest residents of the village. Yet they found it necessary to hold the ceremony outside the village, were unable to secure the permission of the vicar, and were indicted by the questmen. It seems that their wedding was supported by their friends but opposed by the village elite. The elite may have been united against a few troublemakers, or a handful of influential people may have convinced the vicar and questmen to take this stance. Could this be a case in which a love marriage was opposed by the family of the wealthier spouse? Or is it

¹⁸³ *Chandler Register*, no. 25 (pp. 15-16).

¹⁸⁴ *Chandler Register*, no. 31 (pp. 18-19).

merely a case in which the village elite aided the Church in its efforts to take control of the institution of marriage? The latter would seem more convincing if the dean's court had often harshly enforced the Church's control of weddings, but this happens rarely in the register.

A similar case, albeit less involved, was mentioned in the visitation to Netheravon [Netheraven] on 12 September 1405. The chaplain married William Felawe to one Joan (possibly Joan Souter, whom the chaplain was accused of raping, but probably not) without the vicar's permission. Here the class lines are easier to see, as Joan was described as the servant of one John Griffith. The town elite seem not to have approved of the marriage, possibly because of John Griffith's influence. On the other hand, William and Joan are not accused of fornication; the complaint is levied against the chaplain for performing the wedding, not at them for being married.¹⁸⁵

While some questmen may have disapproved of marriage between the classes, others found it preferable to concubinage. The visitation to Crofton of 16 September 1405 shows a case in which an unmarried couple had been ordered to abjure one another – Roger Shepherd [Shephurde] of Hungerford and Christine, described as the servant of Thomas Stoke of Bedewynde. The couple stood accused of having fornicated again in violation of their oath. Christine, however, alleged that the couple had made a marriage contract. She specified the formula, which employed *verba de presenti* and took as explicit a form as could be asked: “I, Roger, take you, Christine, as my lawful wife,” and “I, Christine, take you, Roger, as my lawful husband.” This wording was perfectly suited under canon law to establish a binding marriage, especially followed by sexual

¹⁸⁵ *Chandler Register*, no. 58 (pp. 29-30).

intercourse. It seems quite likely that the couple made the words of the vow as explicit as they could in order to avoid the punishment for breaking their oath of abjuration. If so, they may have spoken them as reported or Christine may have made them up for the court's benefit, hoping that Roger would support her story. In any case, they may have avoided punishment; the dean seems to have treated them as guilty of clandestine marriage rather than of violating their oath, and merely ordered them "to have [the] marriage solemnized within a month on pain of excom[munication] if no canonical impediment existed."¹⁸⁶

The visitation to Ramsbury on 17 September 1405 shows another clandestine marriage punished. Nicholas Thatcher [Thecher] was accused of fornication with Alice Piper [Pyper], and both were sentenced to be beaten publicly. The couple claimed to be married, paid a fine, and were dismissed. Since people routinely paid fines rather than be beaten, it is difficult to know whether claiming to be married would have improved the case of a pair of casual fornicators. Thus it is entirely possible that they were telling the truth, but that either their clandestine marriage had been a scandal to the community or the dean's court had specifically asked the questmen for any examples of dubious marriages. The situation might have been much more complicated had not *Benedicta de Shryvenham* recently died, since Nicholas was charged with fornication with her as well.¹⁸⁷

¹⁸⁶ *Chandler Register*, no. 64 (pp. 32-3).

¹⁸⁷ *Chandler Register*, no. 71 (pp. 35-6). Timmins (xxx) interprets this case as an unusual one in which an admitted contract was not enforced; my interpretation is that the court did regard Nicholas and Alice as married, but since they did not contest the marriage, it contented itself with accepting a fine to punish them for their clandestine marriage.

When the dean's court reached Faringdon [Farendon], on 19 September 1405, it found a large number of complaints waiting for it, including several disputed marriage cases. While some of the young men who denied having made marriage vows may have been honest, Andrew Fisher [Andrewe Fisshere] seems to have been a serial seducer. Andrew was presented for fornication with two women – Joan Algar and Alice Langele. Both Joan and Alice swore that Andrew had made vows of marriage with them. Joan specified that they had made vows before witnesses in the present tense (“I take you...”) followed by sexual intercourse. Alice's claim is not presented in detail, but she too claimed to have witnesses. Andrew was also presented for “adultery and contract” with Joan Cotiller – presumably meaning that he had betrothed or wedded her even though one of them was married. Normally, if a man was presented for fornication with two women and adultery with a third, the reader would assume that all parties involved were unmarried except the third woman. However, the record shows that Andrew made a contract with Joan Cotiller and that rumor had it that he had abandoned a wife back in Buckinghamshire. It seems unlikely that Joan would have arranged a marriage contract if her husband were in the village; its invalidity would have been obvious, and being a bigamist was no better than being an adulteress. It is possible that her husband had abandoned her. However, it seems more likely that the questmen, knowing of the rumors that Andrew was already married, were confused as to whether he should be charged as a fornicator or an adulterer. Deepening the mystery, Andrew's witness in the case of Joan Algar was one Philip Cotiler. Could he have been a relative or even the husband of Joan Cotiller? Andrew, more willing to do penance than to settle down, admitted to fornication in all three cases but denied the contract in Joan Algar's case and probably in

the others as well. The court arranged for Joan Algar and Alice Langele to bring in their witnesses to the cathedral; perhaps in the interest of efficiency, both women agreed to bring in their witnesses at the same time.¹⁸⁸

The second disputed marriage involves the nearby village of Highworth [Hyworth or Hyworthe] as much as Faringdon. The questmen of Highworth presented John Boucher and Agnes Bestenale for fornication (habitual, it is implied). They were sentenced to be beaten three times through the chapel – a typical punishment, relying as much on public humiliation as on the pain of the beating for its deterrent effect. No mention was made of a marriage contract.¹⁸⁹ However, the questmen of Faringdon on the same day claimed that the vicar of Highworth, Richard Havyngdon, was maliciously preventing the couple from solemnizing their marriage and that he had raped Agnes in his garden around Whitsunday of the previous year.¹⁹⁰ It seems that the questmen of Highworth, who had few complaints about their vicar, disapproved of the couple, while those of Faringdon, who were quite critical of their own vicar as well as Highworth's, supported them. It is possible that a certain anti-clerical mood in Faringdon helped John and Agnes gain support there. However, most likely one of the pair had roots in Faringdon and a good reputation there, while the other was from Highworth and had a less admirable reputation. The historian must remember that people often manipulated or manufactured their stories for the courts and that John and Agnes' tale might not be true.

¹⁸⁸ *Chandler Register*, no. 81 (pp. 39-41). The final outcome of this case is not recorded in Dean Chandler's register. An entry in the dean's consistory records from six months later (no. 386, p. 131) hints that it was still going on. This case records a matrimonial action brought by Joan Algar against Andrew F.... (Timmins believes this may be a different Joan Algar, but I disagree.) Unfortunately, this account too is inconclusive. Joan failed to appear and the hearing was postponed, but neither she nor Andrew appears in the register again.

¹⁸⁹ *Chandler Register*, no. 79 (pp. 38-9).

¹⁹⁰ *Chandler Register*, no. 81 (pp. 39-41).

However, if it was a lie, it was intended to be credible. Church officials must have sometimes used the movement towards Church control of marriages to their own benefit. While the register does not reveal whether John and Agnes ever managed to be married, it implies that Richard Havyngdon was not harshly punished; he retired five years later on a pension with praise from the dean.¹⁹¹

Hungerford [Hungerforde], which the dean visited on 22 September 1405, seems to have been large and prosperous, a town rather than a village. This may explain the large number and complicated nature of the morals cases which its questmen reported to the dean's court. The vicar had been ordered to solemnize the marriage of William Roper [Ropere] and Alice Saucer. Such an order to solemnize usually meant that a clandestine marriage or a betrothal followed by intercourse had occurred. However, Juliana Farman had "snatched" the order and torn it up. Juliana seems to have objected very strongly to the marriage, as she was also presented for assaulting Alice. Juliana seems to have been one of the town's chief troublemakers; she was also cited for adultery with John Smyth, and William Ferrour smashed her pew, perhaps as the result of some grudge. Juliana may have been an aggressive woman who wanted William Roper for herself.¹⁹²

If so, then both she and Alice were ultimately disappointed, as Bishop Robert Hallum's register shows. By 28 May 1408, the situation had become even more complicated, and had resulted in "certain violent attacks and injuries." A woman calling herself Agnes Roper claimed that she was William's wife. William admitted having married Agnes, but claimed that the marriage was invalid because of his previous

¹⁹¹ *Chandler Register*, no. 563 (pp. 161-2).

¹⁹² *Chandler Register*, no. 88 (pp. 43-4).

contract with Alice, and that for this reason he had obtained a divorce. However, two days later William claimed that he had never made a contract with Alice and that he had only gone through with the divorce because he had been threatened by “certain people.” Alice insisted that she and William had indeed made a contract in the present tense, with William saying “I William take you as my wife, on account of the scandal you have endured, being pregnant by me.” Alice, however, was unable to produce any firsthand witnesses and failed to attend later court sessions. The court seems to then have sided with Agnes. The testimony given implies that William likely (but not provably) exchanged vows with Alice, but (after Juliana tore up the order) never solemnized them; later he exchanged vows with Agnes, and these he did solemnize; later still, he acquired a decree of divorce from Agnes and moved back in with Alice. Violence and threats were involved somewhere, perhaps as relatives of each woman attempted to put pressure on William. Alice lost in the end; she could produce no witnesses and failed to attend later sessions of the court (if force really was at play in this case she may even have been physically restrained from doing so). William does not seem to have known what he wanted. He changed his story and failed to produce the documents the court demanded, eventually so frustrating Bishop Hallum’s commissary that the official ordered “that he should be punished according to the form of law.”¹⁹³

Dean Chandler made his next visitation in 1408. He began at Byre, which provided on 9 October the visitation’s first examples of disputed marriages. The questmen cited Adam Stoke for fornication with Alice (no last name was given, but neither was she identified as anyone’s servant). He claimed that they were married (a

¹⁹³ *Hallum Register*, no. 1128 (pp. 213-14).

claim about which the questmen apparently had their doubts) and was given three months to prove it. Again, the questmen may have presented the couple because they were concerned about their fellow villager marrying a migrant. On the same day, Stephen Dykere, “an apostate monk,” was cited for fornication with Emma (no last name or master). They claimed that they were married. The questmen seem to have believed that Stephen was still bound by his vows despite having informally left his monastery, and that therefore he could not be married. The court ordered the couple “to purge themselves of apostasy with 6 hands” that same day. The register does not record whether they succeeded.¹⁹⁴

The case presented in Charminster [also spelled Chermynstre] two days later was more involved. Maud Cheseman, John Goodrich [Gouderich], and Thomas Roth [Wrothe] appeared before the court. They do not seem to have been accused by the questmen, but to have appeared before the court in need of a definitive answer. Maud alleged that she had made a marriage contract with John, in the present tense, followed by sexual intercourse, but without witnesses; John affirmed this story. Thomas alleged that he had made a contract in the present tense with Maud, followed by intercourse, and that he did have witnesses. Maud admitted it but claimed that she did not consent to intercourse with him and that it was forced on her. Precise dates are given for neither marriage, nor are any assertions about their order recorded. The register notes that the case was continued on 27 November, when William and Alice Cheseman (presumably Maud’s relatives) were admitted as witnesses. It states that no one objected to their

¹⁹⁴ *Chandler Register*, no. 190 (pp. 72-4).

testimony and that the case was “concluded with [the] consent of [all] parties” – yet neglects to provide any details either about the testimony or the conclusion.¹⁹⁵

As Helmholz and others have noted, people sometimes used the marriage laws to their advantage, and in this case all parties may have done so. Maud’s story of being raped and married under duress is not unique. Men seeking a particularly desirable marriage – such as to a rich widow – were known to resort to such despicable tactics. If the victim consented to intercourse, or even lived with the man for too long, the marriage would become legal even if it had originally been made unwillingly.¹⁹⁶ Maud may have already privately married John before being assaulted by Thomas, but alternately she may have contracted marriage with John to strengthen her case against Thomas. Since divorce was impossible or nearly so, people sometimes made up preexisting contracts to escape an unhappy or undesired marriage.¹⁹⁷ Women in such straits often found a male protector to help them escape, and there were sometimes legal advantages in doing so.¹⁹⁸

The dean’s 1408 visitation to Yetminster did not turn up any couples accused of irregularity, but it did turn up an accomplice. John Martin of Lye was accused of forging bann certificates for couples who had not actually published their banns. With a forged certificate, a couple could marry despite a known impediment. Thus people who were related within the fourth degree, had close spiritual ties, or even who were already legally married to other people, could wed. They might even be able to find a priest to officiate. Relatives and neighbors who knew of an impediment, or who found the marriage undesirable for some other reason, would be denied their chance to object. A forged

¹⁹⁵ *Chandler Register*, no. 197 (pp. 75-6).

¹⁹⁶ See Butler, “Coerced Marriage.”

¹⁹⁷ Helmholz, *Marriage Litigation*, 57-66.

¹⁹⁸ See Butler, “Runaway Wives.”

bann certificate put all the power in the hands of the couple and denied both community and church their chance to influence matters. However, John Martin was not punished, but denied the charge and was purged.¹⁹⁹

The visitation of 1408-9 was interrupted by a six-month hiatus between 30 October 1408 and 23 April 1409, no doubt as the roads became impassible in winter. On 26 April 1409 the dean visited Earley [Erlegh or Erleigh] St. Nicholas. Here John Boterstake and Edith, the daughter of John Fryday, had married without posting the banns. Worse, they had fornicated within the chapel. It seems likely that the couple immediately consummated their marriage after they made their vows, but the chapel itself was not the normal place to do so. Indeed, it seems that their act polluted the sanctity of the chapel, since the dean suspended services there. The questmen accused Thomas Merey, himself a questman at neighboring Earley [Erlegh] St. Bartholomew, of authorizing the marriage. He denied it and was allowed to purge six-handed. As in the case of John Boucher and Agnes Bestenale, it seems that the authorities of one town approved a union which those of another town opposed; as a questman of Erlegh St. Bartholomew, Thomas reported on that same day that all was well.²⁰⁰

That day saw two more disputed marriage cases, one from Wokingham [Wokyngham] and one from Hurst [Hurste]. The case at Wokingham involved Richard Beach [Beche] and Alice Barefoot [Barefot]. This couple seems to have defied the bishop's authority. At some time in 1408 they must have been summoned to appear before the bishop "for the correction of their souls." On 20 January 1409 Bishop Hallum

¹⁹⁹ *Chandler Register*, no. 214 (p. 83).

²⁰⁰ *Chandler Register*, nos. 251-2 (p. 93).

found them guilty of contumacy, as it had been over forty days since they had been summoned. He excommunicated them and ordered their arrest.²⁰¹ Three months later, Dean Chandler made his visitation to Wokingham, and the questmen there complained that the chaplain, Sir Stephen Cartwright [Cartwryght], had, without posting of the banns, solemnized the marriage of the same Richard and Alice. Again, the register provides little information about the sequence of events. Was this marriage without banns the reason that the couple had been called before the bishop in the first place, or did the chaplain marry a couple who were excommunicate and whom the bishop had ordered arrested? It may be impossible to say, but the first seems more likely. The chaplain does not seem to have been punished, as one might expect had he defied the bishop so openly as to marry a couple who were excommunicate precisely because of their questionable relationship. Furthermore, no charges were brought against Richard and Alice; it seems unlikely that they were living in open defiance of the bishop and yet the questmen were willing to overlook it. This is, however, just possible; certainly the questmen seem to have held a grudge against Sir Stephen, whom they also accuse of negligence in saying Mass, misappropriating Church property, quarreling with parishioners, revealing confessions, and having a “suspicious” interview in his room with the wife of a parishioner.²⁰²

In Hurst, the chaplain actually was punished for a similar offense. William, the chaplain, was presented for having married John Solyhurst with the daughter of Wowome (no other name given). The marriage took place without banns; furthermore, it took place

²⁰¹ *Hallum Register*, no. 1069 (p. 198).

²⁰² *Chandler Register*, no. 255 (pp. 93-4).

at night, reinforcing its clandestine nature. William confessed and was fined. As in Wokingham, the questmen presented the clergyman who performed the ceremony, but not the parties who were married. The Solyhursts may have fled their disapproving community. On the other hand, the community may have already dealt with the couple to its satisfaction but remained disgruntled with their chaplain.²⁰³

In Blewbury [Blebury] on 29 April 1409, the questmen presented Andrew Baron for contracting marriage with Joan Tanner [Tannere] after having already married the widow Alice Peking. If he had done so, he must have known that the marriage had no legal standing, for both he and Joan denied it. With both parties having officially denied it, this marriage posed no legal challenge to Andrew's marriage to Alice, and so the court dismissed the case.²⁰⁴

Dean Chandler made his third visitation in the summer of 1412. This time he was presented with significantly fewer cases, including only three disputed marriages. The questmen of Charminster, on 7 June 1412, presented Richard Lombe and Edith Smythe for fornication. They explained that the banns had been posted, but the couple refused to marry. This may imply that the villagers, even the respectable questmen, found sexual intercourse after the banns were posted to be proper, or at least acceptable, so long as marriage followed soon afterward. If the couple failed to marry, however, what had been acceptable became fornication. Richard explained to the court that he was unable to marry Edith because to do so would violate the Church's incest rules. He had had sexual intercourse with Edith's mother, which under the Church's rule counted much the same

²⁰³ *Chandler Register*, no. 257 (p. 94).

²⁰⁴ *Chandler Register*, no. 260 (pp. 94-5).

as a direct blood relation. While it is entirely possible that Mrs. Smythe was a fifteenth-century “Mrs. Robinson,” one must keep in mind that people were well aware of the loopholes in Church law. It is possible that Edith’s mother was willing to sacrifice her reputation to extricate her daughter from a marriage that she and her fiancé no longer desired.²⁰⁵

While questmen seem commonly to have reported questionable liaisons as fornication, those of Highworth on 16 July 1412 reported one as adultery. John Cole was cited for adultery with a woman known only as “one Magota.” His defense, however, was to claim that they had already solemnized their marriage. This implies that their relationship had at one point been an informal affair or a clandestine marriage, but that it had since been made official. No mention is made of a previous spouse for either partner, leaving it a bit mysterious why they were presented for adultery rather than fornication. The court gave them until 23 December to show a marriage certificate at the cathedral. Master Shirburne seems not to have taken the charge of adultery too seriously and to have been willing to take a marriage certificate at face value.²⁰⁶

In Wantyng [Wantyngg] on 18 July, the questmen presented a large number of offenses to the dean’s court. Among the eight cases of fornication they presented was one in which the couple claimed to have married: that of William Bentele and Joan Howleys. They were ordered to solemnize their union by 2 February on pain of excommunication. Although they may still have been beaten twice through the chapel,

²⁰⁵ *Chandler Register*, no. 306 (pp. 109-10).

²⁰⁶ *Chandler Register*, no. 370 (pp. 123-4).

they had plenty of time to make their marriage official, which presumably would set matters right with the community and the Church.²⁰⁷

Despite a couple of cases in which the court punished couples for marrying without posting the banns, the impression created by the disputed marriages cases found in the register is not an oppressive one. Despite the conclusion of some scholars that the church courts were in decline in this period²⁰⁸, the dean's court seems to have been wanted and needed by the villagers of early fifteenth-century Salisbury. The questmen seem to have conscientiously presented to the court the dubious marriages of their villages. The court seems to have taken the issues seriously and to have sought the best solution for all parties. It may have been too lenient for the questmen at times, but it was able to tackle and resolve some of the thorniest marital problems of the Salisbury diocese's villages.

²⁰⁷ *Chandler Register*, no. 375 (pp. 125-7).

²⁰⁸ See, for example, Wunderli, *London Church Courts*.

Chapter Six

Abandonment and “Self-Divorce”

Divorce as we know it today did not exist in fifteenth-century England. Canon law made it very clear that marriage was indissoluble. In this it had a solid biblical foundation. The Mosaic law provides for divorce, allowing a man to send his wife away with a bill of divorce, and for both partners to remarry afterwards (Deuteronomy 24:1-4). However, the teachings of Jesus, as given in a sermon recorded in Mark and Matthew, explicitly overturned this law. Jesus taught that a married couple became “no more twain, but one flesh. What therefore God hath joined together, let not man put asunder” (Matthew 24: 6; Mark 10: 8-9). Since a marriage could not be legitimately dissolved, anyone who divorced and remarried became an adulterer (Matthew 19: 9; Mark 10: 11-12). Matthew’s text does include an exception which might have allowed a man to divorce an adulterous wife, but canon law did not embrace it.²⁰⁹

In theory, then, medieval marriages should have been completely indissoluble. In practice the law was not so absolute. Two forms of divorce were allowed under the canon law of this period: the annulment, or divorce *ab initio*, and the legal separation, or divorce *a mensa et thoro*.²¹⁰

²⁰⁹ In this the canon lawyers seem to have had a good sense of the text. New Testament scholars generally agree that Mark’s text is the older and that the author of Matthew drew on it in composing his own gospel. See, for example, Bart Ehrman, *The New Testament: A Historical Introduction to the Early Christian Writings* (New York: Oxford University Press, 2003), 85-6.

²¹⁰ Helmholz, *Marriage Litigation*, 74-6.

The annulment completely dissolved the legal existence of a marriage, wiping the slate clean. These could be granted for a number of reasons, but all of them were difficult to prove. If a prior valid marriage existed, then the later marriage could not be valid and would be annulled. If a marriage were incestuous, it could also be annulled – and, given the complexity of the canon law’s definition of incest, it was entirely possible for a couple to live together for some time before discovering that they were in violation of it. If the marriage could not be consummated due to male impotence, it could be dissolved – although proving this point could be especially tricky.²¹¹ A marriage contracted by “force and fear” could be annulled if one party had been forced to utter the words of a marriage oath by threats sufficient to move a “constant man” (or a “constant woman.”) A marriage arranged by parents between minors could be dissolved by the principals once they reached adulthood.²¹² In most of these cases, consensual sexual intercourse after the impediment was known made annulment impossible. For instance, a marriage initially contracted by “force and fear” could become binding if a woman initially forced into a marriage later consented to intercourse.²¹³

These categories are relatively narrow. However, the question arises of how often people used the law cynically to get a divorce from partners of whom they had simply tired. Maitland, for instance, thought that “spouses who had quarreled began to investigate their pedigrees and were unlucky if they could discover no *impedimentum*

²¹¹ The church courts tended towards skepticism of claims of male impotence. Usually only the husband and wife could provide firsthand testimony on the matter, and they were precisely that people who had the greatest motivation to perjure themselves. So difficult did the medieval English courts find it to resolve these matters that they sometimes resorted to empirical testing. The court would deputize “honest women” to make their best effort to arouse the man; the women (and female witnesses) would then testify as to their success or failure. Helmholz, *Marriage Litigation*, 88-90.

²¹² *Ibid.*, 74-100.

²¹³ Butler, “Coerced Marriage,” 247-70.

dirimens.”²¹⁴ Other historians have agreed, but Helmholz does not. He finds that suits for divorce were not especially common in English courts, nor were they always granted. Annulment on the grounds of consanguinity may have been used as a tool by the nobility, but their circumstances and attitudes were very different from those of the majority. Helmholz argues that, as absurd as the Church’s consanguinity rules might seem to us, medieval people took them seriously and considered themselves morally bound by them. Thus most people conscientiously investigated the possibility of incest before marrying.²¹⁵

This is not to say that no one ever used the system cynically to divorce from a spouse of whom he (or she) was tired. Helmholz finds, however, that people who went looking for an excuse to be divorced were more likely to remember or invent a preexisting marriage contract. Since marriages were indissoluble, a binding contract made previously would render the current marriage invalid. Some people may have made such a precontract before getting married in order to have an escape route ready; some made arrangements with adulterous lovers to swear to a contract which had not actually existed; but most commonly, people created stories about precontracts on the parts of their spouses. This method, while more difficult to arrange with witnesses, created a superior legal claim, since the plaintiff could claim that he had only just learned of this contract and had not engaged in intercourse with his spouse since then. Some

²¹⁴ F. W. Maitland and F. Pollock, *History of English Law*, 2 vols. (1898; reprint, Cambridge: Cambridge University Press, 1968), 2: 393.

²¹⁵ Helmholz, *Marriage Litigation*, 77-87.

people, then, attempted to manipulate the system to get annulments. However, Helmholz claims, informal “self-divorce” was probably much more common.²¹⁶

Divorce *a mensa et thoro* (“from table and bed”) was fairly rare. It allowed the couple a legal separation, freeing them from the obligation to live together and from their sexual obligations to each other. However, it did not dissolve the marriage bond and the individuals could not remarry. This type of divorce was allowed for behavior which could be considered intolerable, but which did not touch the validity of the marriage bond. These included heresy, adultery, and cruelty (*saevitia*). The third was the most commonly alleged, but the judge imposed a much higher standard of marital abuse²¹⁷ than would a judge today. He generally attempted to persuade the couple to remain together and behave better towards one another, granting the divorce only when the violence was severe and the parties irreconcilable. Notice that abandonment itself was not sufficient cause for any sort of divorce. Even when it was combined with adultery, the church courts made every effort to reunite and reconcile the couple. The courts considered divorce *a mensa et thoro* a last resort, even though it did not dissolve the marital bond, and agreed to it only reluctantly.²¹⁸

Although the average medieval Englishman seems to have had a great deal of respect for the Church and its law, nevertheless sometimes he asserted control of his marriage in an informal and extralegal manner which Helmholz terms “self-divorce.” Helmholz finds that it was rather common for people to leave their spouses and contract new marriages without the benefit of any clerical or legal authority. They usually had or

²¹⁶ Ibid., 74-87.

²¹⁷ See the chapter on marital abuse, pp. 157-68 of this document.

²¹⁸ Helmholz, *Marriage Litigation*, 100-107.

could summon reasons which accorded vaguely with canon law, but these were often rationalizations for what the individual already wanted to do. These cases enter the historical record when the abandoned party objects and the one who left is forced to present his or her rationale for leaving in court.²¹⁹

Social historians have found the concept of “self-divorce” useful, and it has become something of a sub-field of its own. In the next decade, historians added the complementary concept of “voluntary abduction.” Sue Sheridan Walker finds that some cases of “ravishment” (meaning abduction rather than sexual assault, although the distinction was not entirely clear in the law) happened by agreement between an unhappy woman and a male ally. A case prosecuted as ravishment might really be an elopement, with the woman’s family prosecuting the man whom she had chosen against their wishes. In other cases, unhappy wives fled their husbands with the aid of lovers, relatives, or priests. Sometimes they left in order to make marriages they liked better; sometimes they seem to have been desperate to escape abusive husbands. Husbands might sue for return of the woman’s dowry and any possessions she had with her when she fled, or they might sue in canon law court for the enforcement of the marriage contract.²²⁰

Sara Butler took up this phenomenon and expanded upon it in her recent article, “Runaway Wives.” Butler looks at manorial and common-law as well as ecclesiastical courts and comes up with 121 cases in which abandoned husbands sued to get their wives back. She reasons that the actual number of “runaway wives” must have been much higher, not only because her study is incomplete and many records have not survived, but

²¹⁹ Ibid., 59-66.

²²⁰ Sue Sheridan Walker, “Punishing convicted ravishers: statutory strictures and actual practice in thirteenth and fourteenth-century England,” *Journal of Medieval History* 13 (1987): 237-50.

because not all husbands sued. Some husbands may not have wanted their wives back very much, and others must have been ashamed to bring the matter to public attention. Nevertheless, wives had many reasons to stay even in deficient marriages – social, spiritual, legal, and economic – and those who left were exceptional. Butler emphasizes the risks taken by the abductor who, as a “rapist,” was in theory eligible for capital punishment. However, juries, always reluctant to enforce such harsh rules, rarely convicted the “rapist” in what were obviously consensual situations. The criminal onus so often fell on the male accomplice rather than the wife who left, Butler explains, because under the law of “coverture,” man and wife were legally considered a single entity which could neither steal from nor sue itself. Butler posits that some of these “runaway wives” found themselves in desperate poverty, some rejoined their families, and others remarried.²²¹

Some husbands let their wives, too, moving to a new town and starting over with a new wife. Lawrence Stone asserted that such bigamy was “both easy and common” in the Middle Ages²²², but later historians such as Martin Ingram have pointed out how little evidence there is to support his claim.²²³ Andrew Finch, in his study of marital difficulties and separation in the later Middle Ages, found that informally separated couples were very much in the minority, but that such separations were nevertheless a regular occurrence. Many Englishmen may have thought that a man had the right to repudiate his wife for adultery and to remarry thereafter (in the text from Matthew, at

²²¹ Butler, “Runaway Wives.”

²²² Stone, *The Family, Sex and Marriage*, 40.

²²³ Ingram, 149.

least, they had some biblical foundation for this assumption.)²²⁴ The practice of “selling” a yoked wife in the public market, though fascinating and controversial, cannot be traced to any period earlier than the sixteenth century.²²⁵

The register of John Chandler contains ten cases of spousal abandonment. This number is quite small compared even to the number of troubled marriages in the register, never mind the total number of marriages in the villages which Chandler visited. On the other hand, the number is large enough that the cases do not seem to be a mere fluke. Considering that many cases may never have come to official attention, and that most of those that did were probably resolved at a lower level, it seems that self-divorce may have been well-known in fifteenth-century Salisbury diocese, even if practiced only by a minority.

During the 17 July 1405 visitation to Fordington [Fordyngton], the questmen reported that “Thomas Cornysch left his wife Edith.” Apparently Thomas did not simply leave, he actually skipped town; the register reports that the court took no action “because he left.” Presumably his whereabouts were unknown – or if they were known, they laid outside of the court’s jurisdiction.²²⁶

The case the court faced in Preston the next day, however, was one in which it showed itself willing to take action. John Benvill was presented for adultery with Joan Jaynes. His defense was that he had married Joan and so their intercourse was entirely proper. However, it was “commonly said” in Preston that Joan had married a Spaniard, which made her marriage to John invalid and her actions with him adulterous. John

²²⁴ Finch, 11-38.

²²⁵ Stone, *Road to Divorce*, 143-8.

²²⁶ *Chandler Register*, no. 13 (pp. 8-9).

apparently protested that Joan was no longer married to the Spaniard, prompting the court to demand to see the certificate of divorce. This could not be produced because there had been no formal divorce; the Spaniard (never named in Chandler's register) had simply left town some seventeen years earlier, and Joan had not heard from him since. After a long absence, Joan had simply "self-divorced" and acted as though she were no longer married. Yet despite the plain nature of the abandonment, the court could not simply ignore the previous marital bond – again, simple abandonment was not grounds even for divorce *a mensa et thoro*, which did not allow remarriage, much less for annulment.²²⁷

Master Shirburne, Dean Chandler's judge, seems to have felt some sympathy for Joan, but he also had to make every effort to ensure that things were done properly. He arranged for the dean's office to send a letter to the home of Joan's first husband asking whether anyone there objected to her remarriage. In essence, this would be "posting the bans" for the current marriage. The register does not record any order for Joan and John to abstain from their married life together, giving the strong impression that unless an answer was received from the official letter, the marriage would stand. Shirburne may have considered this the most merciful action to take, showing respect for the sanctity of marriage by simultaneously attending to the rights of the first husband and refusing to dissolve the current marriage unless the need arose. Perhaps everyone was hoping that there would be no response and that things could quietly continue as they had been going.²²⁸

²²⁷ *Chandler Register*, no. 20 (pp. 11-12).

²²⁸ *Ibid.*

However, a commission of 5 September 1410, preserved in the register of Robert Hallum, shows that the matter did not proceed so smoothly. In this document Joan's husband is named, and he is called not a Spaniard but a Portuguese – one Alfonso of Lisbon. The commission explains that Joan “has now received information that her first husband may still be alive” and orders the official of the archdeacon of Dorset and the rector of Broadway [Brodewey] to investigate the matter. Given the findings of Helmholz and others on the use of precontracts by dissatisfied spouses and those of Butler that determined women sometimes did find it possible to walk away from a marriage, the reader might suspect that Joan was taking advantage of her previous marriage. Perhaps five years later she had tired of life with John and was using her previous marriage as grounds to escape. However, details provided in this document which were not recorded in Chandler's register hint that Joan was laying the groundwork for a case to have her marriage to Alfonso annulled. If so, then she may have been prompted by local authorities or even by her own conscience to assist in the investigation of her first husband even though she wanted to preserve her current marriage.²²⁹

The commission explains the same story that was preserved in the register, but it adds some new details. Joan was married to Alfonso “at a tender age.” This mention of Joan's age at the time of the first marriage probably comes from the version of the story which she provided to diocesan officials. This detail hints that Joan may have been forced into the marriage by her family without her full consent. She may even have been below the age of puberty, in which case the marriage might not have been consummated before Alfonso left. These factors would have made an annulment possible if Alfonso

²²⁹ *Hallum Register*, no. 857 (pp. 112-3).

had proved alive, on grounds that the marriage had been made by force and fear or *infra annos nobiles*. If the marriage had never been consummated due to Joan's youth, her case would have been much stronger. Joan does not explicitly make any of these claims, but she seems to be making an effort to leave them open as possibilities.²³⁰

Alfonso left and, after he had been gone many years, Joan, "thinking him dead," had married John Benvill [here Benevyle]. Joan's story in Chandler's register might have been taken to imply that she had thought her first husband dead, but this detail is not explicitly recorded there; here it is. Again, Joan managed her story much more carefully in 1410 than she had in 1405. She was not necessarily lying, but she seems to have made an effort to include as many favorable details as she could in the record. Finally, she adds the detail that she had "sons and daughters" by John. If the court annulled her marriage to John, it would make these children bastards. In making this point, Joan implicitly asks the court to weigh the welfare of her children against an abstract point of law and the rights of a husband who had abandoned her long ago.²³¹

This concatenation of details suggests that, while Joan may have wanted the matter of her previous husband resolved officially, she favored a certain outcome and shaded her story to make her marriage to John appear valid and her marriage to Alfonso invalid. She may have been simultaneously laying the groundwork for an annulment if the first decision were not made in her favor. Of course, there is no way to be sure that all these details came from Joan, nor that she gave them out as part of a plan, but such is the impression which the document creates. Joan may have spent many lonely years after

²³⁰ Ibid.

²³¹ Ibid.

her husband abandoned her. After she remarried, she may have lain low, hoping that the townsfolk would not report her. When that failed, she may have relied on Shirburne's kindness. But by 1410, she had children to protect and her mind was made up. By this time she seems to have learned something about canon law – enough to attempt to use the legal system to get the result she wanted.

Like Bertrande de Rols, abandoned by Martin Guerre for eight years or more, Joan Jaynes probably went through a long period of waiting, her life and her status as a woman in a sort of limbo. Natalie Zemon Davis, in *The Return of Martin Guerre*, shows how Bertrande maneuvered within the bounds of her society to maximize her freedom and satisfaction without sacrificing her reputation. She argues that Bertrande knew perfectly well that her returned husband was an imposter, but she chose to remain in a marriage which may have been legally a hoax, but which was far more satisfying than her marriage to the real Martin Guerre. For Joan, however, no husband returned, either real or false. She had to make the choice which Bertrande almost managed to avoid – between her reputation as a faithful wife and the real substance of marriage. She chose to make a real marriage for herself in spite of the rumors which marked her as an adulteress. Bertrande at last returned to the real Martin, but only when the imposter's case was clearly lost, and she had her excuses ready. Joan was under less pressure, and so she cleaved more tightly to the husband she wanted. Like Bertrande, she did not dare to defy the law when evidence surfaced that her previous husband was alive, but made a strong effort to control the story and justify herself. Unfortunately, neither Chandler's register nor Hallum's records the ultimate outcome of Joan's case. The outcome of the investigation ordered in Hallum's register apparently was not recorded or did not survive.

Given the witness of Joan's determination by these two records, it seems likely that more legal actions would have resulted if the bishop had ordered her to separate from John and declared her children bastards. Thus, on balance, it seems more likely than not that she ultimately got her way. However, this remains no more than a guess.²³²

Joan's case may have been one in which Shirburne felt a conflict between duty and compassion. But other cases were more clear-cut. The questmen of Farendon on 19 September 1405 reported two wife-abandoners, both of whom seem to have been scoundrels. Andrew Fisher [Fisshere] was reported for seducing three women – Joan Algar, Joan Cotiller, and Alice Langele. In all three cases he seems to have done so by making insincere vows of marriage. If this were not enough, the questmen reported that “[r]umor says that he left his wife in Buckinghamshire.” Andrew seems to have been not merely a dissatisfied husband but a cad who left his wife in order to chase women more freely. His case was a complex one of disputed marriage (q.v.) which passed to the cathedral court.²³³

The questmen also reported William Spore [Spor] for “adultery and incest with his servant, Joan.... Same man left his wife.” Here the terseness of the record leaves the case unclear, but some guesses are possible. Since Joan is recorded as his servant, not his wife or cousin, she was probably not a close relation. She may have been a distant cousin; they may have been linked through bonds of affinity (if, for instance, William had also had intercourse with her sister or even her cousin); or they might have been linked by spiritual ties (if, for instance, William was the godfather of one of her children).

²³² See Natalie Zemon Davis, *The Return of Martin Guerre* (Cambridge, MA: Harvard University Press, 1983).

²³³ *Chandler Register*, no. 81 (pp. 39-41). Fisher's case is discussed more fully in the section on disputed marriages, on pp. 125-6 of this document.

William may have left a wife in another town, but, unlike in Andrew's case, the questmen do not specify the town, nor do they specify that their report is only "rumor."

Furthermore, William must have had roots in Farendon if he had property, servants, and enough ties to be open to a charge of incest. On the other hand, if the wife he abandoned was still in Farendon, why did the questmen not name her, and why did she not appear before the court? Perhaps she had died, or had left town to live with relatives; perhaps she did not particularly want William back. In any case, the court seems to have done nothing in this case.²³⁴ Four years later, William was cited again for adultery and paid a fine. His abandonment of his wife was not mentioned this time, leaving it unclear whether he returned to her. If so, doing so had not improved him much as a husband. More likely he had not done so and was continuing to live with the partner he had chosen after "self-divorcing."²³⁵

The 1408-9 visitation received only one complaint of abandonment, at Highworth on 2 May 1409. The questmen of Highworth reported Isabel Gras of Lechelade "for not living with her husband." Lechelade was a village only about five miles to the north, but it was located in the diocese of Gloucester, out of Dean Chandler's jurisdiction, much less that of Highworth's questmen. If they reported Isabel to him, then, they must have had some reason to feel they had the authority to do so, and they probably felt that they could reasonably expect her to appear before the court. Most likely Isabel was living in Highworth after abandoning her husband back in Lechelade. This would also explain why the husband is never named and does not appear before the court himself; the

²³⁴ *Chandler Register*, no. 81 (pp. 39-41).

²³⁵ *Chandler Register*, no. 261 (pp. 95-6).

questmen of Highworth did not know him, and he lived in Lechelade. Isabel, living in Highworth, fell under their jurisdiction, and they reported her to the court, hoping perhaps that it could make her return to her husband and treat him as a wife should. Isabel, however, seems to have had other ideas. She did not appear before the court and was suspended. Presumably she preferred this punishment (the usual result of contumacy for those who had no special connections) to risking being returned to her husband. If so, she likely had strong reasons to leave him, but ones that she felt would not hold up in court.²³⁶

The visitation of 1412, on the other hand, included five reports of marital abandonment, all of them occurring in a period of just over a month. The report of the questmen of Fordington on 7 June 1412 contains an intriguing detail, yet the court does not seem to have treated it as seriously as one might expect. Amice Kete, the questmen reported, had left her husband and now operated a brothel. They supplied no further details. The reader can only wonder whether Amice's habit of procuring created an intolerable marital friction or whether she opened the brothel to support herself after she left her husband. A court which concerned itself so much with fornication and adultery might be expected to take an interest in the operation of a brothel within its jurisdiction, but apparently it did not. This may indicate that her brothel was licensed and regulated, as were those in the city of Salisbury.²³⁷ Amice managed to purge herself (of both accusations) and that was apparently the end of the matter as far as dean's court was

²³⁶ *Chandler Register*, no. 262 (pp. 96-7).

²³⁷ For examples of legal regulation of the brothels of Salisbury during this period, see David R. Carr, ed., *The First General Entry Book of the City of Salisbury 1387-1452*, Wiltshire Record Society vol. 54 (Salisbury: Wiltshire Record Society, 2001), nos. 291 (p. 143), 372 (pp. 192-3), 440 (pp. 231-2), and 451 (pp. 240-1).

concerned. The whole accusation could have been slander if, for instance, Amice was operating a tavern without her husband and some people in town found this improper. On the other hand, Amice might have been able to muster the support of five of her regular customers even if she were guilty. If the court showed little interest in the brothel, the questmen were partly to blame. Although they cited other residents of the community for adultery and fornication, they never connected any of these cases to the brothel, leaving it strangely abstract in the record – a brothel with no prostitutes and no clients.²³⁸

Three days later, in Chardstock, the questmen reported Katherine Atmill for having “left her husband [John] and wasted his goods.” This example seems to match Butler’s “runaway wives” in that not only did Katherine run away, she took movable property with her. She may have felt that she had a right to the things she took (if they were, for instance, part of her dowry or the fruits of her labor), but if so her husband seems to have disagreed. Or she may have taken things to which she had no right in order to survive. In either case, Katherine likely “wasted” the goods by selling them in order to survive. When they ran out, she may have turned to prostitution. The questmen cited her as a “common prostitute” (*communis leno*).²³⁹ Unlike Amice, Katherine was also accused of specific acts which presumably occurred as part of her trade – namely,

²³⁸ *Chandler Register*, no. 310 (pp. 110-11).

²³⁹ The word *leno* is an unusual one, which Timmins renders “prostitute.” It is clearly related to more common words such as *lenocinium* and *lenones*, which refer to pimps, and may even be a back-formation from these words. Ruth Mazo Karras, in her *Common Women: Prostitution and Sexuality in Medieval England* (New York: Oxford University Press, 1996), chooses to translate words such as *meretrix* as “whore” rather than “prostitute.” She argues that these words often referred to a fornicatrix or adulteress who was considered “indecent” but did not necessarily sell her favors, or simply as a gendered insult which was not necessarily meant literally. In this no., considering Katherine’s apparent financial difficulties and her large number of partners, I have assumed that she actually did prostitute herself, and am using the word “prostitute” rather than Karras’s alternative, which can be distracting.

adultery with William Pas, Richard Jambe, John Bere, William Paydy, Thomas Shawe, and John Cokeswell, junior. This list of partners is unusually detailed, implying that Katherine's affairs were quite well known. However, this information does not seem to have come directly from Katherine, as she denied all charges – those of abandonment, prostitution, and adultery.²⁴⁰

Note that, while Katherine was accused of being a prostitute in general, the specific acts for which she was cited (other than the abandonment itself) were called adultery rather than prostitution. The questmen generally chose the wording of their citations deliberately, and in this case they must have felt that the court had a clearer interest in, and jurisdiction over, adultery than prostitution. The court seems to have agreed; it took action on the accusations of abandonment and adultery, but did nothing in response to the charge of being a *communis leno*. If Master Shirburne did not feel that his authority extended to prostitution, this may also explain why he did nothing about Amice's brothel.²⁴¹

So Katherine denied all charges, and the court did nothing about one of them. However, the court took decisive action in regard to her abandonment of her husband. It ordered her to return to him; she was “sworn to stay and look after him on pain of 100s. and 6 beatings through market and ch[urch].” The phrase “look after him,” not found in similar cases in the register, may imply that John suffered from some physical infirmity which might have contributed to her leaving, but it may have simply been a way of instructing her to fulfill her uxorial duties. The fine of 100s. was probably intended as a

²⁴⁰ *Chandler Register*, no. 315 (pp. 112-13).

²⁴¹ *Ibid.*

mere threat, since the court could never levy such a fine on Katherine without punishing John too. The beatings, however, could easily be administered only to Katherine and were probably meant seriously. Six beatings through market as well as church added up to a substantially more severe beating than the court usually ordered (most common was a set of three beatings through the church only). The court probably stipulated an unusually harsh fustigation to emphasize the seriousness of its intent.²⁴²

In contrast to this severity, however, the court allowed Katherine to purge herself with the court's indulgence on her citation for adultery with six different men. In this Master Shirburne showed his usual sensitivity. To find Katherine guilty would have further embarrassed her husband. To fine her would probably mean fining him, since he was still responsible for her debts. To beat her would further shame him. Any of these actions would hurt John Atmill, whom the court seems to have seen as the victim in this situation. They would also make the couple's reconciliation more difficult. It seems, then, that the court was willing to overlook Katherine's sins as long as she returned to her husband and "sinned no more." The court may have been lenient with the six men for the same reason. However, the questmen cited Katherine and only one of the men (John Cokeswell, whom they disliked for other reasons as well.²⁴³) It seems likely that the questmen – and perhaps the court as well – blamed Katherine rather than her clients for these liaisons.²⁴⁴

In Sherborne on 14 June 1412, the court ordered another wife to return to her husband. Isabel Poterne was simply told to "return" to her husband, not given a specific

²⁴² Ibid.

²⁴³ See the adultery chapter, pp. 79-80 of this document.

²⁴⁴ *Chandler Register*, no. 315 (pp. 112-13).

order to “take care of him,” but she too was threatened with harsh punishment – in this case, excommunication – if she failed to return. The court gave her three weeks to comply. The court may have intended to check on the situation three weeks later, although there is no indication in the record that it did. This case is unusual in that no citation by the questmen is recorded, only the court’s action. This may be the result of simple laziness or ignorance on the part of the scribe. Still, it could possibly indicate that the court received its information on Isabel’s situation from some less official source (Shirburne may well have been a native of Sherborne), yet still felt moved to act due to its concern to preserve marriages.²⁴⁵

In Harnham, after dinner on 21 June 1412, the questmen reported Margaret Berley for refusing to live with her husband. Although this time no adultery was mentioned, the court took action similar to that it had taken in Chardstock. It ordered Margaret to live with her husband on pain of 6 beatings through the market and church. This was precisely the same fustigation with which Katherine Atmill had been threatened, although the fine of 100s. was not mentioned in this case. Since this case lacked the elements of prostitution and adultery which had characterized Katherine’s case, this order to return on pain of six beatings through market and church may have been some sort of standard in case of “runaway wives.” If so, then the case of Isabel Poterne may have been exceptional in some way. Perhaps Shirburne doubted her willingness to reform or (if his information did indeed come from an unofficial source) doubted the community’s willingness to punish her.²⁴⁶

²⁴⁵ *Chandler Register*, no. 331 (pp. 115-16).

²⁴⁶ *Chandler Register*, no. 349 (p. 118).

The case of abandonment which confronted the court in Ramsbury on 13 July 1412 involved a husband abandoning his wife. The questmen used descriptive language to emphasize the badness of the husband's behavior. Not only did John Yatley leave his wife, he denied her the basics of life. The questmen even made certain that the court understood that he could have afforded to support her, denying him any excuse for his behavior: "John Yatley left his wife and denies her food but sells his goods and spends the money elsewhere." The questmen's outrage may have been the result of what they saw as marital abuse (q.v.)²⁴⁷ in the form of neglect. John denied the charges, but the court was not content. It ordered him to "treat his wife well on pain of 20s."²⁴⁸

These ten cases include six abandoning wives and four husbands. Of these, three wives and one husband were ordered to perform marital duties on pain of a penalty. One man and one woman failed to appear. One man and one woman were not interfered with. One woman was treated sympathetically and one man was dealt with as a different type of case rather than primarily as an abandoner. Thus, although more wives were ordered to return to their husbands than husbands were to their wives, it is not clear whether this is significant. More telling is the difference in what erring husbands and wives were ordered to do, what duties of theirs were emphasized.

Comparing the order given to John Yatley to those given to Katherine Atmill, Margaret Berley and Isabel Poterne reveals some interesting differences which may have been related to the ideas which the court and the questmen held about the roles of wife and husband. Isabel and Margaret were ordered only to live with their husbands.

²⁴⁷ See the chapter of marital abuse, pp. 157-68 of this document.

²⁴⁸ *Chandler Register*, no. 361 (pp. 120-1).

Katherine was ordered to live with her husband and take care of him. John was sworn to treat his wife well. This may sound similar to Katherine's injunction to take care of her husband, but the citation makes it clear that the questmen were concerned more with John's failure to feed his wife than with the couple's emotional relationship. Katherine's order, on the other hand, may have related to her husband's infirmity but certainly related to her sexual behavior. Both women were ordered to live with their husbands, whereas John Yatley was not specifically ordered to do so. It seems that the questmen in general were most concerned with making sure that wives stayed home and that husbands supported them financially. The courts seem to have pursued these same goals as best it was able.

Where the court was able, as in the four cases discussed above, it acted to force spouses to do their duty to one another. In the case of Joan Jaynes, it understood that the husband who fulfilled his duties was the real husband if not the legal one and attempted to reach a compromise which respected both the letter of the law and the unity of the family that actually existed (the problem which arose later, it seems to me, was one which Shirburne had hoped would not.)

The actions which the court took in these five cases show its attitude towards marriage and its duties. They show the court's conscientiousness in its duties and its concern with the welfare of marriages and families. However, in other cases the court was able to do little. Isabel Gras did not appear when cited; she was suspended for contumacy, but the record does not show that this persuaded her to return to her husband. Thomas Cornish did not appear, but was not suspended because he had not been in the area and therefore could not have been cited. Amice Kete, accused of abandoning her

husband to run a brothel, purged herself, and the court did nothing. William Spore was not even required to purge himself; the court seems to have done nothing at all. The case of Andrew Fisher was treated primarily as a disputed marriage, not as an abandonment.

Thus the court was only able to take action in half the cases of abandonment it faced. In two cases the accused parties never showed. In another two the court seems to have lacked the will to take action. In the fifth, it was less interested in a rumored wife outside its borders than the two or three wives which the scoundrel had accumulated within them. A fifty percent rate does not seem impressive, but the reader must remember that the cases the court faced were those which had already resisted local efforts at a lower level. In these cases, that means that relatives, neighbors, and the local clergy had already failed before the dean's court was informed. As the last resort of frustrated communities, the court acquitted itself well.

Chapter Seven

Marital Abuse

The social historian has a responsibility to maintain a sense of perspective about the customs of times past. To judge people by a set of standards which did not even exist in their times is both unfair and fruitless. Yet it can be very difficult to put one's feelings aside and understand customs which are considered repellent by the standards of one's own society. The issue of marital abuse challenges the historian because it persists today, and we consider marital violence, with good reason, one of the great evils of our society. How, then, do we approach a society in which husbands were expected to use force to correct their wives as a matter of course?

Historians differ in their ideas about how frequently and how brutally medieval husbands beat their wives. Even the most optimistic, however, admit that some authorities encouraged husbands to discipline their wives with force. This much seems clear from sermons and moral teachings that have survived. They also admit that certain husbands were brutal, even maiming or killing their wives; court cases and coroners' reports attest to it. However, there remains room for considerable disagreement as to how to interpret the evidence that exists. The task is further complicated by the certainty that a great deal of individual variation existed. Whether a historian depicts the typical medieval marriage as grim and brutal or as a more-or-less-equal partnership, he or she

has to acknowledge the existence of both extremes and the range of marriages in between.

All available sources seem to agree that a husband had the right and duty to chastise his wife, but that this right had limits. Both canon law and books of moral instruction instruct husbands to discipline their wives. However, moral instruction usually emphasizes the desirability of kindness or at least harmony within the marriage. Canon law placed limits on a husband's discipline, but these limits were "complicated and contested." Some sources concluded that a husband could keep his wife indoors and force her to fast, but not beat her; others had it that the only real limit on a husband's power was that he must not kill his wife. Still, since canon law did allow divorce *a mensa et thoro* for cruelty, there clearly was in practice a limit short of murder.²⁴⁹

Lawrence Stone is distinguished by his unsentimental, even unsympathetic view of the peasant of late medieval and early modern times. In his *The Family, Sex and Marriage In England 1500-1800*, he posits a family short on affection and long on violence. Stone argues that "married life was brutal and often hostile, with little communication [and] much wife-beating." The historiographer may place him on one extreme, but even Stone admitted that many marriages became affectionate over time, if still cool by twentieth-century standards. He did not think that every marriage was such a nightmare as his more summary descriptions indicate.²⁵⁰ Edward Shorter's view may be even more extreme. Shorter finds that in "traditional society" marital affection, and even a basic level of empathy that modern people take for granted, were quite rare. Precisely

²⁴⁹ James A. Brundage, "Domestic Violence in Classical Canon Law," in *Violence in Medieval Society*, ed. Richard W. Kaueper (Suffolk: The Boydell Press, 2000), 183-95; McSheffrey, *Marriage, Sex, and Civic Culture*, 138-45.

²⁵⁰ Lawrence Stone, *The Family, Sex and Marriage*, pp. 102-5, 116-9.

because of this, the husband had no other way to make his wife perform her economically important roles than by force. Thus a certain amount of wife-beating was routine.²⁵¹

Barbara Hanawalt took a more optimistic view in *The Ties that Bound*. She described the medieval English marriage as a “partnership marriage.” She recognizes two strains of medieval thought on the subject. The first was the “war between the sexes,” as seen in Chaucer’s *Wife of Bath’s Prologue*, carvings found on misericords, and Noah’s Wife in guild-sponsored Flood plays. In this view, women manipulated men by emotional and sexual blackmail, pushing men to retaliate with violence. Often the women of these depictions were as guilty of beating their husbands as *vice versa*. However, Hanawalt argues, this view is found primarily in comic art, indicating that domestic conflict, including violence, was somewhat exceptional and regarded as undesirable. Like the absurdly self-centered and clueless Homer Simpson today, Uxor Noe was not intended as an accurate depiction of the average spouse. On the other hand, Hanawalt points out a number of books of advice which counsel domestic harmony, such as Myrc’s *Instructions for a Parish Priest* and “How the Wise Man Taught His Son.”²⁵²

Hanawalt makes a strong case that domestic harmony was an ideal. Of course, that ideal differed from our own version, and of course it was not always achieved. Still, Hanawalt points out the very low rate at which cases of marital violence appear in court and coroners’ records. She does not claim that the actual rate was as low as this, but rather reasons that the family and community were usually successful in regulating

²⁵¹ Shorter, *Making of the Modern Family* 56-65.

²⁵² Hanawalt, *The Ties that Bound*, 205-7. Hanawalt uses Myrc’s *Instructions for a Parish Priest* and “How the Wise Man Taught His Son.” as examples of the sort of instructional literature that existed in the late Middle Ages. Both seem to originate in late medieval England, probably not long before Chandler’s time, although their exact dates of composition are not known.

violence within marriages. Of course, these were not perfect mechanisms, but Hanawalt downplays this: “It is entirely possible that a wife or husband took a hard knock from a spouse from time to time, and that the neighbors would not complain as long as the situation was not routine.” Thus marital violence did exist, but the regulatory efforts of family and community were largely effective.²⁵³

In a later work, “Violence in the Domestic Milieu of Late Medieval England,” Hanawalt makes a strong argument that such violence was relatively rare. She points out the very low rate at which cases of marital violence appear in court records. While she admits that many cases no doubt never came to court, she takes issue with historians who classify all corporal punishment of wives as “violence.” Many parents today feel that they have not only the right but the duty to apply “physical correction” to their children, so long as they avoid excess and cruelty; medieval people had the same idea about wives. She argues that in the medieval “partnership marriage,” wives made a very large economic contribution to the household, which made them too valuable for the sensible husband to abuse. Drawing on the works of anthropologists such as David Levinson, she finds four factors in the peasant village which mitigated martial violence: the people of the village lived close together; family members had close affective ties; so did the women of the village; and the value system (as seen in preachers’ *exempla* and other works of moral instruction) encouraged domestic harmony.²⁵⁴

Sara Butler’s recent work addresses the subject in greater depth. Butler draws on the work of social historians like Hanawalt and legal historians like Helmholz to create

²⁵³ Ibid., 207-14.

²⁵⁴ Hanawalt, “Violence in the Domestic Milieu of Late Medieval England,” in *Violence in Medieval Society*, ed. Richard W. Kaueper (Suffolk: The Boydell Press, 2000), 197-214.

the fullest treatment yet of the subject. She emphasizes the cultural, social and legal frameworks that controlled violence within marriage. Manly behavior included controlling one's wife; undisciplined behavior on her part reflected badly on her husband. He was allowed to "chastise" her in order to accomplish this discipline. However, the people of medieval England regarded excessive or abusive chastisement as unmanly. Thus manly behavior as a husband required striking a golden mean in which a man disciplined his wife without cruelty. This was easier with some wives than others, and men accused of abuse often blamed it on the shrewishness of their wives. Of course, everyone had his or her own idea of where the line lay between acceptable chastisement and brutality. However, the medieval idea of abuse included not only physical violence but "spiritual, economic, psychological, perhaps even verbal" forms. Thus a harsh beating would be regarded as abuse, but so would economic deprivation or even emotional cruelty.²⁵⁵

Butler sees an established multi-level system in place in late medieval English society for dealing with marital violence. Family, friends and neighbors all shared responsibility for monitoring a couple's life. If a husband had a heavy hand, they would use their influence to moderate his behavior. In a world so connected, and where reputation was so important, this influence could be quite effective. Guilds and confraternities may have played a similar role. Furthermore, their plays demonstrated how men and women should and should not act. Parish priests performed a similar role with their sermons, and also used their authority to intervene in troubled marriages. If a

²⁵⁵ Butler, *The Language of Abuse: Martial Violence in Later Medieval England* (Leiden, The Netherlands: Brill, 2007).

marriage became intolerable, the community might turn a blind eye towards a self-divorce or consensual abduction. In other cases, an abused wife might apply for a divorce *a mensa et thoro* on grounds of *saevitia* (cruelty). Butler finds that in general this system was effective. The genuinely abusive husband was exceptional.²⁵⁶

However, Butler also acknowledges a great deal of diversity of attitudes in late medieval England. Laymen differed from priests; the laity had a lower standard for the level of cruelty required to justify a divorce, but also acted to protect murderers from the fatal consequences of crimes of passion. The north of England differed from the south; the south manifested a greater tendency to use the secular courts to achieve the sort of social control shown in McIntosh's *Controlling Misbehavior*. Men differed from women; women complaining of cruelty were likely to stress physical abuse, but male jurors and judges showed more concern about economic and spiritual deprivation and about adultery.²⁵⁷

The register of John Chandler contains only four examples of marital abuse. As Hanawalt observed for secular courts, such cases are rare in the court records. Nevertheless these cases do show the court and the community struggling with issues of how much husbandly discipline was too much.

On 17 July 1405, the questmen of Frome Whitfield [Frome Whytefeld] reported that "John Warham beat his wife [Joan] so that she gave birth to a still-born child and died immediately after, intestate." The mention of the still-born child implies that those in the community who disapproved blamed John for both deaths. The last word of the

²⁵⁶ Ibid.

²⁵⁷ Ibid.

accusation is important because the questmen also presented John for conspiring with John Jordan, the parish chaplain, to forge a will. Money was an issue, then, and perhaps some of the people who said these things about John had expected to be included in Joan's will. Alternately, they may have been relatives hoping to reclaim Joan's dowry. Rarely did a married woman control enough property for her will to be an issue. If Joan's was, then she probably came from a wealthy family. Her family may have blamed John for her death shortly after childbirth and been suspicious of her will. If they were wealthy, they likely had the influence to make the questmen take their complaints seriously.²⁵⁸

Whether or not John caused his wife's death, he must have shown no remorse in court. If Master Shirburne took the accusation seriously, he may have confronted John and tried to make him confess. If Joan did have an influential family who blamed John, they may have done the same. All this is speculation, however, and for all the record shows there may have been no courtroom drama at all. In any case, John denied all charges. He was given time to collect oath-helpers and four months later he successfully purged. In the end, then, the court did nothing. There was little it could do against an accused who kept his head and produced oath-helpers. The combination of a cool head, high status, and plenty of friends may have allowed John to get away with murder. On the other hand, the suspicions of the community would likely have been very difficult to prove. Death in childbed, while not as common as Stone and Shorter would have it, was common enough, and who could prove that it was related to a particular beating? Only the coroner, and he was a royal not a Church official. John might even have been

²⁵⁸ *Chandler Register*, no. 16 (p. 10).

accused unjustly by a greedy family, or by a grieving family lashing out. The court seems to have made no effort to take action against John's alleged accomplice, John Jordan, the parish chaplain. This was typical; Chandler's court rarely punished clergymen or even forced them to purge.²⁵⁹

The outcome of John's case tells us more about the system of purgation in general than about the court's approach to cases of marital violence in particular. A case in Beaminster five days later demonstrates more about the court's approach to cases of marital violence specifically. The questmen reported that "Robert Colyngdon ill-treats his wife, stripping and beating her with rods and binding her with iron chains." In John Warham's case, the court was only told that he "beat his wife" and the fatal result. This citation, by contrast, is detailed enough to give us an idea of what sort of behavior was severe enough to qualify as abuse by the standards of village questmen. Robert not only beat his wife, he beat her with rods. Perhaps the questmen would have overlooked the occasional blow delivered with the bare hand, but the use of a stick (on a regular basis, the text implies) was beyond the pale. The reference to "stripping" her might mean simply that he stripped her before each beating, emphasizing his cruelty. However, in light of Butler's observation that men were more concerned with allegations of neglect than of abuse, it seems possible that this detail was included to emphasize the former. The image of Robert stripping his wife emphasizes his depriving her of the basic necessities of life, which may have been more important than the beating to the questmen and the court. Likewise, the allegation that he chained her up implies deprivation. The chaining was both cruel and humiliating, but these aspects may have mattered less to the

²⁵⁹ Ibid.

men of Beaminster than others – that it kept her isolated from family and Church, or that she may not have been able to obtain food and shelter while chained.²⁶⁰

Like John, Robert denied the charges. Unlike John, however, he had a wife who was still alive to testify. She affirmed all the charges. John did not purge himself. The court may have denied him the opportunity because of his wife – either because her testimony contradicted his, or out of concern for her well-being. But he may simply have been unable to obtain enough oath-helpers. If, as Butler claims, a reputation as a wife-beater made one unmanly, this may have discouraged potential oath-helpers. In any case, the court treated Robert as guilty, but it was not interested in punishing him or dissolving the marriage. Instead, the court forced him to swear – on the gospels – to treat her well. If he failed to do so, he would pay a penalty of 40 shillings – half to go to the dean and half to the upkeep of the chapel.²⁶¹

Shirburne did not order that Robert be beaten. Perhaps he felt that such treatment would only increase Robert's hostility towards his wife. However, if Hanawalt and Butler are correct that the wife-abuser was a rare individual, Shirburne may have felt that the average man of the community did not need a deterrent. If the culture was already effective in preventing most marital violence, then it may have seemed obvious to the average husband that treating his wife cruelly was more trouble than it was worth, as it would cause him trouble both with her and with his neighbors. In any case, it seems that Shirburne's only concern was to prevent further abuse by Robert and that he felt that a sacred oath backed by the threat of a crippling fine was the best way to do so.²⁶²

²⁶⁰ *Chandler Register*, no. 25 (pp. 15-16).

²⁶¹ *Ibid.*

²⁶² *Ibid.*

The case of John Winter [Wynter], presented by the questmen of Harnham on 27 October 1408, reinforces Butler's point that neglect of a wife was of more interest to men or officials than beating. The indictment stated generically that John "ill-treats his wife"; the only detail given was that he "refuses her food." Whatever else he did to her, starving his wife was the thing that stood out as the most dramatic or the most important of his offenses. The questmen mentioned it either because it impressed them or because they expected it to impress the court. John, like the previous two, denied the charge. However, unlike in Robert's case, there is no record of his wife testifying. She may have refused to do so or been unavailable for some other reason (perhaps she was too weak from hunger). The lack of her testimony may be why John was given the chance to purge. The register, which usually does not mention the number of compurgators required, in this case specified that John must purge six-handed. This may have been the usual practice, so this detail may be unimportant, but it may have been included to remind the court, when he appeared to purge, that he was not to be granted the court's indulgence. If so, this may be an indicator that the court took these charges more seriously than most. It would make sense for the court to do so; the very rarity of reports of marital violence in the register hints that in the cases which do appear, the questmen were quite certain that the husband's behavior went well beyond the bounds of acceptable discipline. Unfortunately, the register does not record what came next, and so we do not know whether or not John Winter managed to purge.²⁶³

²⁶³ *Chandler Register*, no. 237 (pp. 87-8).

The case of John Yatley, reported by the questmen of Ramsbury [Remmesbury] on 13 July 1412, involves abandonment and is discussed in that chapter.²⁶⁴ However, this case bears such similarities to other cases reported as abuse that it seems appropriate to this chapter as well. The citation stated that “John Yatley left his wife and denies her food but sells his goods and spends the money elsewhere.” Although the questmen mention the abandonment, they clearly put more emphasis on the denial of food. This is the detail that makes the case important. They even make it clear that John could have fed her if he had wished. When a poor couple separated, each of them might have trouble making ends meet without the benefits of a “partnership marriage.” But the citation explains that John is making money (perhaps as a merchant) but spending it on things other than food for his wife. This implies that feeding his wife should be a man’s first financial priority (again, this is in accord with Butler’s account of medieval English ideas of manliness). John’s priorities are wrong. His abandonment, like John Winter’s other offenses (whatever they were), and perhaps even like Robert Colyngdon’s harsh beatings, was secondary. The graver sin was his failure to provide for his wife.²⁶⁵

Like the other three, John Yatley denied all the charges. But, as in Robert Colyngdon’s case, his denial was not accepted. This time, however, there is no indication that his wife testified. Still, either he was unable to purge or the court did not allow him to. Like Robert, he had to swear to “treat his wife well” on penalty of a very large fine, in this case twenty shillings. Despite a lack of dramatic details such as rods and iron chains, then, John Yatley’s case was treated almost exactly like Robert Colyngdon’s.

²⁶⁴ See pp. 153-4 of this document.

²⁶⁵ *Chandler Register*, no. 361 (pp. 120-1).

Yatley was not ordered to return to his wife, as wives who abandoned their husbands were, but to “treat his wife well.” While this may have been meant to include such details as payment of the marital debt, in the context of the accusation it reads primarily like an instruction to support her financially.²⁶⁶

Although four cases provide little enough to base an analysis on, a few patterns do seem clear. All four husbands denied the charges. If men regarded wife abuse as shameful and unmanly, this would be what we should expect. In two of the cases, compurgation was possible; in the other two, it seems not to have been. Where compurgation was not made, in both cases the court made the offender swear to treat his wife better on pain of a fine. The fine was twenty shillings in one case, and twenty shillings to each of two entities in the other, suggesting that twenty shillings may have been the standard fine, doubled in an especially egregious case. Indictments by the questmen tended to emphasize a husband’s failure to care for his wife properly over other factors, even physical violence. The court took allegations of abuse seriously and acted to correct abusers. The court’s actions in this area are consistent with those in other areas such as adultery and abandonment: it took action where it could, and its motives were largely to strengthen marriage and to make husbands and wives perform their duties to one another.

²⁶⁶ Ibid.

Chapter Eight

Conclusion

Over the three visitations recorded in Dean Chandler's register, the dean's court visited one hundred ten villages. In the fifty-eight villages which had business for the court, it judged some three hundred fifty cases of adultery, fornication, disputed marriages, abandonment, and marital abuse. By the numbers alone, it seems clear that the court formed an important part of the villages' system of social control. Dean Chandler's court was often the last step of a process of social control which probably began with subtle changes in the attitudes of fellow villagers and escalated through a series of interventions by relatives, friends, community leaders, and local clergy. If the community found itself unable to correct a sinner by these means, it then turned to the dean's court, which had greater authority and power.

The court had its limitations. Dean Chandler was an ambitious politician as well as a priest, and he had no interest in offending the powerful. The court seems to have made little effort to pursue indictments against the influential, the wealthy, or priests. It even dismissed some cases at the insistence of powerful individuals. The court used the system of compurgation, which depended on reputation rather than on circumstantial evidence or eyewitness testimony. Thus a guilty person might be exonerated on the strength of a few trusting friends, while those who had few friends or poor reputations were vulnerable to false charges. Furthermore, the court faced limitations on its

jurisdiction and powers. It never covered all the villages of Salisbury diocese in the first place, as its authority was based in the dean's control over the prebends, and it had no power outside of the diocese. Thus some cases were dismissed because the offender had left the village. The court could only hear certain types of cases – those relating to Church property, fulfillment of religious duties, sexual incontinence and marriage. Its power to punish was limited to the imposition of penance or, in more extreme cases, suspension or excommunication.

Master Shirburne's actions as judge of the court show that where there was a will, there was often a way to circumvent these limitations. The court was ineffective at prosecuting influential individuals because Dean Chandler did not wish it to do so, and it seems to have refrained from attempting to exceed the borders of its jurisdiction. Still, it was often effective despite its limitations. Shirburne seems to have found ways to compensate for the faults of the compurgation system and for the limited nature of the court's powers.

The system of abjuration offered Shirburne a way to admonish even sinners who managed to purge themselves. Over 40% of those whom the court forced to abjure from adultery had successfully purged themselves. Shirburne may have felt that, oath-helpers or no, these parties had most likely sinned and would likely continue to do so. Even though the nature of the form of trial which the court used prevented him from punishing their past sins, he could still act to prevent them from repeating their sins in the future. How effective abjuration really was in practice is another matter, one which is unfortunately beyond the scope of this study. The significant point here is that Shirburne found a way past the limitations of the compurgation system.

If this method of trial could be too lenient towards those who had easy access to oath-helpers, it could be too harsh on the rootless, the friendless, and those whose reputations were already tarnished. Here Master Shirburne, who seems to have taken the Church's teachings on mercy seriously, was even more active in manipulating the system to achieve the results he wished. By granting the court's indulgence, he could make it much easier for an individual to purge by accepting an oath backed by fewer compurgators than usual. He seems to have used this power liberally to achieve his idea of justice. However, the details on which he must have based his decision to grant the court's indulgence rarely made it into the register. In the 1405 and 1412 visitations, he seems to have granted the court's indulgence (or withheld it) by village rather than by individual, for reasons which remain obscure. Nevertheless, he does not seem to have used this power arbitrarily, but judiciously, both to achieve justice and to temper it with mercy.

The court's power of punishment was also limited. It could impose suspension, a minor form of excommunication, or it could impose penance. It used its power of suspension mostly on those who failed to appear before the court when summoned, denying the benefits of membership in the Christian community to those who failed to abide by their responsibilities towards it. It imposed penance on those who confessed or who tried and failed to purge. The penance which Shirburne usually imposed was no mere matter of prayer and charity, but was a public shaming and beating. This probably did have a real power of deterrence. However, the court often accepted fines in lieu of fustigation. This allowed it to collect fines from those it convicted even though it had no power to levy fines directly.

Thus despite its limitations, Dean Chandler's court often found an effective way to solve the problems which the village questmen brought before it. Chandler and Shirburne allowed the court significant latitude to pursue its goals. These goals included the cure of souls, the administration of justice, and the advancement of the Church. Yet the goal which stands out most clearly from this study is the protection and nurturance of marriage. As judge, Shirburne acted consistently to promote marital harmony and to cause husbands and wives to fulfill their duties to one another.

Although the register is a darker glass with which to see them, other parties were also active in using the system, even manipulating it, to achieve their goals. The village questmen acted to fulfill their duties to their villages and to the Church. Sometimes they had problems which they knew were the court's business, but they were unsure how to present them. In these cases they presented sinners for whatever charge seemed the most appropriate, provided relevant details, and let the courts sort it out. In some villages, questmen even paid the fines for the sinners whom they themselves had presented. In these cases, they may have been acting as patrons, or they may have been trying to resolve a conflict they felt between their duty to report recalcitrant sinners and their sympathy for those they reported. However, questmen were not motivated by pure duty. No group of questmen ever reported one of its own, and it seems likely that their closest friends and family were afforded a certain degree of protection. Meanwhile, those who clashed with the questmen – whether thugs who threatened them or local clergymen who took too many liberties – often found themselves reported for multiple offenses and had a difficult time obtaining oath-helpers.

The accused were also interested parties, and they used a variety of strategies when presented to the dean's court. Some people – especially women accused of fornication – simply did not appear. Some of these left the village permanently; others were eventually persuaded (or coerced) to appear; in some cases they may have remained in the village but managed to remain out of court permanently. Some of the accused appeared before the court and confessed immediately, while others denied the charges and sought to purge themselves. Some of the latter may have pleaded their poor and friendless condition in an attempt to obtain a grant of the court's indulgence. Most of those who were convicted paid a fine rather than suffer a humiliating public beating. At every stage, those accused must have aimed their testimony to obtain the most favorable result. As other historians have shown, ordinary English peasants often showed a remarkable understanding of the law under these circumstances. The case of Joan Jaynes, abandoned wife with a disputed second marriage, demonstrates how an ordinary villager could make resourceful legal arguments when pressed.

In studying court documents, the historian can see the interaction of several groups, all of them interacting while each seeks its own ends. Although these documents often lack the details one might wish, the study of the works of other historians often allows one to fill in the gaps, albeit with speculation. Such a picture can only be tentative, but to a degree which scholars only recently thought impossible, the historian today can show how medieval villages, in conjunction with their ecclesiastical and legal authorities, acted to control the sexual behavior and regulate the marriages of their villagers. Individual villagers helped to regulate each other while acting both without and within the system to maximize their own freedom.

LIST OF REFERENCES

Primary Sources

Carr, David R., ed. *The First General Entry Book of the City of Salisbury, 1387-1452*. Wiltshire Record Society, 54. Trowbridge: Salisbury Printing Company, 2001.

Horn, Joyce M., ed. and trans. *The Register of Robert Hallum, Bishop of Salisbury 1407-17*. Canterbury & York Society, 72. Devonshire: The Canterbury and York Society, 1982.

Timmins, T. C. B., ed. and trans. *The Register of John Chandler, Dean of Salisbury 1404-17*. Wiltshire Record Society, 39. Devizes: Alan Sutton, 1984.

Secondary Works

Ariès, Philippe. *Centuries of childhood: a social history of family life*. Translated by Robert Baldick. New York: Vintage Books, 1962.

Bardsley, Sandy. *Venomous Tongues: Speech and Gender in Late Medieval England*. Philadelphia: University of Pennsylvania Press, 2006.

Bossy, John. *Christianity in the West, 1400-1700* Oxford: Oxford University Press, 1985.

Brundage, James A. *Law, Sex and Christian Society in Medieval Europe*. Chicago: University of Chicago Press, 1987.

—. “Domestic Violence in Classical Canon Law.” In *Violence in Medieval Society*, edited by Richard W. Kaueper. Suffolk: The Boydell Press, 2000.

Butler, Sara. “The Law as a Weapon in Marital Disputes: Evidence from the Late Medieval Courts of Chancery, 1424-1529.” *Journal of British Studies* 43 (July 2004): 291-316.

—. “‘I will never consent to be wedded with you!’ Coerced Marriage in the Courts of Medieval England.” *Canadian Journal of History* 39 (August 2004), 247-70.

- . “Runaway Wives: Husband Desertion in Medieval England.” *Journal of Social History* 40 (December 2006): 337-59.
- . *The Language of Abuse: Martial Violence in Later Medieval England*. Leiden, The Netherlands: Brill, 2007.
- Capes, W. W. *The English Church in the Fourteenth and Fifteenth Centuries*. Vol. 3 of *A History of the English Church*. 1900. Reprint, New York: AMS Press, 1967.
- Christie, Francis A. Review of *A History of the English Church Vols. I-III*. *The American Historical Review*, Vol. 7, No. 2 (Jan. 1902): 342-6.
- Coontz, Stephanie. *Marriage, a history: from obedience to intimacy or how love conquered marriage*. New York: Viking, 2005.
- Davis, Natalie Zemon. *The Return of Martin Guerre*. Cambridge, MA: Harvard University Press, 1983.
- Duffy, Eamon. *The stripping of the altars: traditional religion in England, c.1400-c.1580*. New Haven: Yale University Press, 1992.
- Ehrman, Bart. *The New Testament: A Historical Introduction to the Early Christian Writings*. New York: Oxford University Press, 2003.
- Finch, Andrew. “*Repulsa uxore sua*: marital difficulties and separation in the later middle ages.” *Continuity and Change* 8.1 (1993): 11-38.
- Forse, Edward J. G. “Priest's Title of 'Sir'.” *Notes and queries* 168.9 (February 1935): 103-104.
- Hanwalt, Barbara A. *The Ties that Bound: Peasant Families in Medieval England*. Oxford: Oxford University Press, 1986.
- . “Violence in the Domestic Milieu of Late Medieval England.” In *Violence in Medieval Society*, ed. Richard W. Kaueper. Suffolk: The Boydell Press, 2000.
- Hartman, Mary S. *The household and the making of history: a subversive view of the Western past*. Cambridge: Cambridge University Press, 2004.
- Helmholz, R. H. *Marriage Litigation in Medieval England*. London: Cambridge University Press, 1974.
- . “Usury and the Medieval English Church Courts.” *Speculum* 61.2 (April 1986): 364-80.

- Herlihy, David. *Medieval Households*. Cambridge: Harvard University Press, 1985.
- Houlbrooke, Ralph A. *The English Family, 1450-1700*. New York: Longman, Inc., 1984.
- Ingram, Martin. *Church Courts, Sex and Marriage in England, 1570-1640*. Cambridge: Cambridge University Press, 1987.
- Karras, Ruth Mazo. *Common Women: Prostitution and Sexuality in Medieval England*. New York: Oxford University Press, 1996.
- Kennedy, W. P. M. "Fines under the Elizabethan Act of Uniformity." *The English Historical Review* 33 (October 1918): 517-528.
- Laslett, Peter. *The world we have lost*. New York: Charles Scribner's Sons, 1965.
- MacFarlane, Alan. *Love and Marriage in England, 1300-1840*. Oxford: Basil Blackwell Ltd., 1986.
- Maitland, F. W., and F. Pollock. *History of English Law*. 2 vols. 1898. Reprint, Cambridge: Cambridge University Press, 1968.
- McIntosh, Marjorie Keniston. *Controlling Misbehavior in England, 1370-1600*. Cambridge: Cambridge University Press, 1998.
- McSheffrey, Shannon. *Marriage, Sex, and Civic Culture in Late Medieval London*. Philadelphia: University of Pennsylvania Press, 2006.
- Olson, Sherri. Review of *Controlling Misbehavior in England, 1370-1600* by Marjorie Keniston McIntosh. *Speculum* 75 (January 2000): 216-219.
- Rashdall, Hastings. Review of *A History of the English Church Vol. III: The English Church in the Fourteenth and Fifteenth Centuries*, by W. W. Capes. *The English Historical Review*, Vol. 16, No. 63 (July 1901): 558-9.
- Shorter, Edward. *The Making of the Modern Family*. New York: Basic Books, 1975.
- Stone, Lawrence. *Family, Sex, and Marriage in England, 1500-1800*. New York: Harper & Row, 1977.
- . *Road to Divorce: 1530-1987*. Oxford: Oxford University Press, 1990.
- Swanson, R. N. *Religion and Devotion in Europe, c. 1215-c.1515*. Cambridge: Cambridge University Press, 1995.

Walker, Sue Sheridan. "Punishing convicted ravishers: statutory strictures and actual practice in thirteenth and fourteenth-century England." *Journal of Medieval History* 13 (1987): 237-50.

Wunderli, Richard M. *London Church Courts and Society on the Eve of the Reformation*. Cambridge, Mass.: The Medieval Academy of America, 1981.

APPENDICES

Sins Reported in Dean Chandler's Register

		Total	184	150	10	4	22
#	Location	Date	Adultery	Fornication	Abandonment	Domestic Abuse	Disputed Marriage
2	Combe	13 July 1405	3	1			
3	Harnham	13 July 1405	1	2			
4	Byre	15 July 1405	3	8			1
5	Kyngeston [Kingston]	15 July 1405	2	1			
9	Tonerspudell	15 July 1405	2				
13	Fordyngton [Fordington]	17 July 1405	4		1		
16	Frome Whytefeld	17 July 1405				1	
20	Preston	18 July 1405	1		1		1
21	Lyme	20 July 1405		1			2
22	Cherdestoke [Chardstock]	21 July 1405		2			
24	Netherbury	22 July 1405	1				
25	Beaminster Prima chapel	22 July 1405	5	4		1	
26	Bemynstre Secunda	22 July 1405	1				1
31	Yatmynstre [Yetminster]	23 July 1405	1				1
32	Clyfton	23 July 1405		1			
37	Shirbourne	24 July 1405	11	1			
41	Pymforde	24 July 1405		1			
52	Wynterburn Dauntseye	9 Sept 1405	1				
57	Durmeforde	11 Sept 1405	1				
58	Netheraven	12 Sept 1405		1			1
59	Chesyngbury	12 Sept 1405	1	1			
62	Bedewynde	16 Sept 1405		1			
64	Crofton	16 Sept 1405	1				1
71	Ramsbury	17 Sept 1405	6	2			1
79	Hyworthe [Highworth]	19 Sept 1405	1	2			
81	Farendon [Faringdon]	19 Sept 1405	7	4	2		2
88	Hungerforde	22 Sept 1405	11	1			1
90	Beydon	22 Sept 1405	1				
99	Brewyk	6 Oct 1405	1				
101	Blebury	10 Oct 1405		1			
102	Sonnyng	12 Oct 1405	1				
113	Sonnyng	13 Oct 1405	1				
114	Alfeldcros	13 Oct 1405	2				
115	Hurste [Hurst]	13 Oct 1405	1				
190	Byre	9 Oct 1408	2	15			2
191	Kyngeston	9 Oct 1408	1				
192	Andreston	9 Oct 1408		1			
197	Charminster	11 Oct 1408	1	2			1
200	Grimstone	11 Oct 1408	1				
201	Fordyngton	11 Oct 1408	4	1			
203	Preston	12 Oct 1408	1	2			
204	Lyme	14 Oct 1408	3	5			
207	Netherbury	16 Oct 1408	5				
213	Yatmynstre In Ecclesia	17 Oct 1408	8	1			
214	Yatmynstre Superior	17 Oct 1408					?
219	Halnestoke	17 Oct 1408		1			
221	Shirbourne	18 Oct 1408	8	2			
225	Thornforde	18 Oct 1408		2			
226	Bere	18 Oct 1408	1				
236	Coumbe	27 Oct 1408	2	1			
237	Harnham	27 Oct 1408	1			1	
243	Netheravene	30 Oct 1408		1			
245	Chuyte	23 April 1409		1			
246	Shaldeburne	23 April 1409		2			
247	Hungerforde	24 April 1409	8	3			
249	Sunnyng	26 April 1409	3				

		Total	184	150	10	4	22
#	Location	Date	Adultery	Fornication	Abandonment	Domestic Abuse	Disputed Marriage
252	Erlegh St. Nicholas	26 April 1409					1
255	Wokyngham	26 April 1409	2				1
256	Sandhurst	26 April 1409	2				
257	Hurste	26 April 1409					1
260	Blebury [Blewbury]	29 April 1409		1			1
261	Farendon [Faringdon]	1 May 1409	4	2			
262	Hyworthe [Highworth]	2 May 1409	3	6	1		
263	Calne	7 May 1409		5			
264	Berewyk	7 May 1409		1			
268	Stokkeley	7 May 1409		1			
271	Whitley	7 May 1409	1				
276	Bysshopeston	8 May 1409	1	1			
277	Remmesbury	9 May 1409	5	1			
278	Boydon	9 May 1409		1			
286	Mere	20 Oct 1408	4	3			
287	Hornynghesham	20 Oct 1408		3			
291	Heytesbury	12 Feb 1409		4			
297	Bere Regis	6 June 1412	3	3			
298	Kyngeston	6 June 1412		1			
300	Andreston	6 June 1412		2			
301	Blokkesworth	6 June 1412		4			
306	Chermynstre	7 June 1412	2	2			1
307	Stratton preb.	7 June 1412		1			
308	Stratton chapel	7 June 1412	1				
310	Fordyngton	7 June 1412	4	2	1		
311	Frome Whytefeld	7 June 1412		1			
313	Preston	7 June 1412		1			
315	Cherdestoke	10 June 1412	8	1	1		
317	Netherbury Ecclesia preb.	11 June 1412	1	1			
322	Bemynstre Chapel	11 June 1412	2				
323	Maperton	11 June 1412		1			
324	Yatmynstre In Ecclesia	13 June 1412	1	1			
331	Shirbourne	14 June 1412	3	1	1		
344	Halnestoke	14 June 1412		2			
346	Mere	16 June 1412	2				
348	Combe	21 June 1412	2				
349	Harnham	21 June 1412			1		
350	Rotheffen	10 July 1412		1			
351	Netheravene	10 July 1412	1				
353	Burbache	12 July 1412	5				
361	Remmesbury	13 July 1412			1	1	
362	Calne	14 July 1412		1			
364	Great Okeburn	15 July 1412		1			
369	Bysshopeston	15 July 1412	1	1			
370	Hyworthe	16 July 1412	2	4			1
374	Farendon	17 July 1412	3	3			
375	Wantyng [Wantyngg]	18 July 1412		9			1
377	Hungerforde [Hungerford]	20 July 1412	1	2			

Adultery in Dean Chandler's Register

#	Total	Location	Date	184	87	34	36	12	37	11	33	13	25	47	
				Adultery	Purged	Court's Indulgence	Fined	Beaten	Nothing	Suspended	Abjured	Threatened Fine	Fine Paid by Another	Female Servants	Clerics
2	3	Combe	13 July 1405	3	1				2	1			3	1	
3	1	Hamham	13 July 1405	1											
4	3	Byre	15 July 1405	3			1	1	1		2 40s.; another beating	1	1		
5	2	Kyngeston [Kingston]	15 July 1405	2	2									2	
9	2	Tonerspudell	15 July 1405	2			1		1			1	1	2	
13	4	Fordyngton [Fordington]	17 July 1405	4	4						1 20s.				
20	1	Preston	18 July 1405	1				1							
24	1	Netherbury	22 July 1405	1			1				1 20s.				
25	5	Beamminster Prima chapel	22 July 1405	5	1	1	4					2		1	
26	1	Bemynstre Secunda	22 July 1405	1			1				1 40s.		1		
31	1	Yatmynstre [Yetminster]	23 July 1405	1				1						1	
37	11	Shirbourne	24 July 1405	11	9		1	1			2 20s.; 6s. 8d.			1	
52	1	Wynterburn Dauntseye	9 Sept 1405	1				1						1	
57	1	Durneforde	11 Sept 1405	1				1						1	
59	1	Chesyngbury [Chisenbury]	12 Sept 1405	1			1							1	
64	1	Crofton	16 Sept 1405	1					1					1	
71	6	Ramsbury	17 Sept 1405	6	1	1			5					1	
79	1	Hyworthe [Highworth]	19 Sept 1405	1					1					5	
81	7	Farendon [Faringdon]	19 Sept 1405	7	2		2	2	1			2	1	3	
88	11	Hungerforde	22 Sept 1405	11	10	10	1		2			1	5	2	
90	1	Beydon	22 Sept 1405	1	1	1								1	
99	1	Brewyk	6 Oct 1405	1					1						
102	1	Sonmyng	12 Oct 1405	1	1									1	
113	1	Sonmyng	13 Oct 1405	1						1					
114	2	Alfeldcros	13 Oct 1405	2					2						
115	1	Hurste [Hurst]	13 Oct 1405	1	1										
190	2	Byre	9 Oct 1408	2			2						1		
191	1	Kyngeston	9 Oct 1408	1	1									1	
197	1	Charminster	11 Oct 1408	1			1								
200	1	Grimstone	11 Oct 1408	1				1							
201	4	Fordyngton	11 Oct 1408	4	3						1 100s.; £10			2	
203	1	Preston	12 Oct 1408	1			1				1 40s.			1	
204	3	Lyme	14 Oct 1408	3	1	1	1	1			1 6s. 8d.				
207	5	Netherbury	16 Oct 1408	5	1	1	4			1	2 40s.; 40s.	4			
213	8	Yatmynstre In Ecclesia	17 Oct 1408	8	5	2	2			1	3 6s. 8d.; 20s.; 20s.	1	2		

#	Location	Date	184	87	34	36	12	37	11	33	13	25	47
Total			Adultery	Purged	Court's Indulgence	Fined	Beaten	Nothing	Suspended	Abjured	Fine Paid by Another	Female Servants	Clerics
221	Shirbourne	18 Oct 1408	8	4	2	1	1	2		2 20s.; 40s.			
226	Bere	18 Oct 1408	1	1								1	1
236	Coumbe	27 Oct 1408	2	2						1 20s.		2	
237	Harnham	27 Oct 1408	1	1									
247	Hungerforde	24 April 1409	8	2		1		3	3				2
249	Sunnyngge	26 April 1409	3	2			1		1	2 20s./100s.; 6s. 8d.			
255	Wokyngham	26 April 1409	2	1								1	
256	Sandhurst	26 April 1409	2						2				1
261	Farendon [Faringdon]	1 May 1409	4	1	1	4				2 100s.; 100s.			1
262	Hyworthe [Highworth]	2 May 1409	3	1	1	1							1
271	Whitley	7 May 1409	1	1									
276	Bysshopeston	8 May 1409	1			1				1 20s.			
277	Remmesbury	9 May 1409	5	1				1 3 (vicar)				1	4
286	Mere	20 Oct 1408	4	3			1						1
297	Bere Regis	6 June 1412	3	3	3								2
306	Chermynstre	7 June 1412	2	1		1				1 13s.4d.			1
308	Stratton chapel	7 June 1412	1	1									
310	Fordlyngton	7 June 1412	4	4						1 6s.8d.			2
315	Cherdestoke [Chardstock]	10 June 1412	8	6	6	2							
317	Netherbury Ecclesia preb.	11 June 1412	1				1			1 100s.			
322	Bemynstre Chapel	11 June 1412	2	2	2								
324	Yatmynstre In Ecclesia	13 June 1412	1	1									
331	Shirbourne	14 June 1412	3	3						3 40s.; 40s.; 40s.			
346	Mere	16 June 1412	2	1				1					
348	Combe	21 June 1412	2				2			1 Another beating			
351	Netheravene	10 July 1412	1					1				(male)	
353	Burbache	12 July 1412	5					5				(solicited)	5
369	Bysshopeston	15 July 1412	1				1			1 20s.			
370	Hyworthe	16 July 1412	2						1	1 20s.			1
374	Farendon	17 July 1412	3	1		1	1			1 100s.	1	2	
377	Hungerforde [Hungerford]	20 July 1412	1					1					1

Fornication in Dean Chandler's Register

#	Total	Location	Date	150	31	17	65	20	24	25	20	16	3	17			
				Fornication	Purged	Court's Indulgence	Fined	Beaten	Nothing	Suspended	Abjured	Abjuration Fine	Paid By Another	Servants	Clerics	Lord's Son	Disputed Marriage
2	Combe	13 July 1405	1	1													
3	Harnham	13 July 1405	2				2			2	1 40d.			1			
4	Byre	15 July 1405	8	3		3	6		1	2				1		1	1
5	Kyngeston [Kingston]	15 July 1405	1	1		1									1		
21	Lyme	20 July 1405	1				1				1 40d.						2
22	Cherdestoke [Chardstock]	21 July 1405	2							3							
25	Beamminster Prima chapel	22 July 1405	4				2		2				2				2
32	Clyfton	23 July 1405	1				1										
37	Shirbourne	24 July 1405	1				1										
41	Pymforde	24 July 1405	1						1						1		
58	Netheraven	12 Sept 1405	1						1								1
59	Chesyngbury	12 Sept 1405	1						1								
62	Bedewynde	16 Sept 1405	1						1								
71	Ramsbury	17 Sept 1405	2				1		1								1
79	Hyworthe [Highworth]	19 Sept 1405	2				1		1								
81	Farendon [Faringdon]	19 Sept 1405	4					2	1	1							2
88	Hungerforde	22 Sept 1405	1	1		1									1		1
101	Blebury	10 Oct 1405	1				1										
190	Byre	9 Oct 1408	15	1			14			1	1 6s. 8d.			2		1	2
192	Andreston	9 Oct 1408	1					1		1				1			
197	Charminster	11 Oct 1408	2				2	1		1							
201	Fordyngton	11 Oct 1408	1						1								1
203	Preston	12 Oct 1408	2	1		1	2										
204	Lyme	14 Oct 1408	5				5						1				
213	Yatmynstre In Ecclesia	17 Oct 1408	1	1		1											
219	Hainestoke	17 Oct 1408	1							1						1	
221	Shirbourne	18 Oct 1408	2	1		1	1										
225	Thornforde	18 Oct 1408	2	1		1			1								
236	Coumbe	27 Oct 1408	1					1									
243	Netheravene	30 Oct 1408	1	1		1										1	
245	Chuyte	23 April 1409	1						1							1	
246	Shaldeburne	23 April 1409	2				2										
247	Hungerforde	24 April 1409	3				2									1	
260	Blebury [Blewbury]	29 April 1409	1							1							1
261	Farendon [Faringdon]	1 May 1409	2	2		1									1	1	

#	Location	Date	150	31	17	65	20	20	24	25	20	Abjuration	0	10	23	16	3	17
Total			Fornication	Purged	Court's Indulgence	Fined	Beaten	Nothing	Suspended	Abjured	Abjuration Fine	Paid By Another	Servants	Clerics	Lord's Son	Disputed Marriage		
262	Hyworthe [Highworth]	2 May 1409	6	3	3	2	1	1	1			1		1	2			
263	Calne	7 May 1409	5	3		2									1			
264	Berwyk	7 May 1409	1				1								1			
268	Stokkeley	7 May 1409	1				1								1			
276	Bysshopeston	8 May 1409	1	1	1	1												
277	Remmesbury	9 May 1409	1				1								1			
278	Boydton	9 May 1409	1				1											
286	Mere	20 Oct 1408	3				1	2										
287	Hornynghesham	20 Oct 1408	3	1	1	1	1		1	1 8s.					1			
291	Heytesbury	12 Feb 1409	4	1			3			3 6 beatings					1			
297	Bere Regis	6 June 1412	3				2	1	1							1		
298	Kyngeston	6 June 1412	1			1			1	1 6s. 8d.								
300	Andreston	6 June 1412	2			2						1						
301	Blokkesworth	6 June 1412	4			3	1			1 nubiendi								1
306	Chermynstre	7 June 1412	2															
307	Stratton preb.	7 June 1412	1			1									1			
310	Fordyngton	7 June 1412	2	1	1	1				1 6s. 8d.								
311	Frome Whytefeld	7 June 1412	1				1											
313	Preston	7 June 1412	1			1			1						1			
315	Cherdestoke	10 June 1412	1			1				1 6s. 8d.								
317	Netherbury Ecclesia preb.	11 June 1412	1			1						1						
323	Maperton	11 June 1412	1	1	1											1		
324	Yatmynstre In Ecclesia	13 June 1412	1	1											1			
331	Shirbourne	14 June 1412	1				1											
344	Hainestoke	14 June 1412	2			2				1 6s. 8d.					1			
350	Rothefen	10 July 1412	1				1											
362	Calne	14 July 1412	1				1								1			
364	Great Okeburn	15 July 1412	1				1								1			
369	Bysshopeston	15 July 1412	1	1														
370	Hyworthe	16 July 1412	4				2		2	1 nubiendi								1
374	Farendon	17 July 1412	3	1			1		2	2 40s.; nubiendi					1			
375	Wantyng [Wantyngg]	18 July 1412	9	1		2	3		4	1 100s.				2	1			1
377	Hungerforde [Hungerford]	20 July 1412	2	2	1					1 100s.								