Crime and Marriage in Three Late Medieval Ecclesiastical Jurisdictions: Cerisy, Rochester and Hereford

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Contents

Tables and maps

A map showing the origins of those involved in violence within the officiality may be found between pages 186 and 187. Other maps, showing the general vicinity of the officiality and of the region as a whole, have been placed towards the end of the work, immediately following the appendices.

Abstract

This work is based primarily on the register of the abbatial peculiar of Cerisy in Normandy (1314-1486), the Act book of the Consistory court of the diocese of Rochester (1347-1348) and the visitation returns for the diocese of Hereford from 1397. Material is also taken from the civil register of the officiality of Paris (1384-1387) and visitation returns for the diocese of Barcelona from 1303.

All the sources highlight several aspects of the disciplinary concerns of the church. They are also valuable sources both for historians of crime and social historians in general. Their potential is great and in the context of this sudy it has only been slightly exploited in the case of the Hereford visitation returns. Further work on this particular document would be greatly enhanced by the production of a new edition of the text complete with the necessary critical apparatus and including the omissions made by the original editor.

The material relating to violence within the Cerisy register is of particular significance. The cases of physical assault are striking both for their exceptionally large numbers - for a church court - and their descriptions of the nature and effect of the injuries sustained by victims. These are outlined with care and increasingly graphic detail. Certain themes stand out. Violence was very much a masculine preserve. It was characteristically spontaneous, generally without motive, and often of a petty nature. Most men appear only once in the court record either as agents or victims of violence. Rape was very much a crime of violence and

proved to be an important factor in motivating attacks on women. Women were also particularly vulnerable to domestic violence.

The other business of all three main sources is very much as to be expected for the 'bawdy courts'. At certain times, crimes against sexual morality predominate at Cerisy, as they do generally at Rochester. The Hereford visitation was also primarily concerned with sexual morality, but this material has not been utilised in the course of this study. Fornication was more common than adultery, and the two courts adhered to a canon-legal hierarchy of sin in determining the appropriate punishments. Adultery was considered to be a more heinous offence than simple fornication. Rape was usually placed at the top of the hierarchy. The court employed different approaches in punishing these crimes. At Rochester public penitential beatings were the order of the day, while at Cerisy, pecuniary penalties were used. This perhaps represents the general commutation of penance.

Material from Cerisy, Hereford and Rochester sheds light on the church's desire to control and regulate the process whereby marriages were formed and lay habits in this area. Instance litigation, ex officio prosecutions for clandestinity and informal separations, point to a view among certain of the laity that marriage was a private contract rather than an indissoluble sacrament. The church itself sought to promote individual consent, but was willing to sacrifice the principle under certain circumstances.

Acknowledgements

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Abbreviations and Conventions

Bannister (1929) and (1930) — Bannister, A.T. (ed.), 'Visitation Returns of the Diocese of Hereford for 1397', English Historical Review, xliv (1929), pp.279-89, 444-53; xlv (1930), pp.92-101, 444-63.

Bessin — Bessin, G., Concilia Rothomagensis provinciae, 2 vols. in one (Rouen 1717).

Chobham, Summa — Thomas of Chobham, Summa Confessorum, ed. F. Broomfield (Analecta Medievalia Namurcensia, xxv Louvain 1968).

Dufresne, 'Cerisy' — Dufresne, J.L., 'Les comportements amoureux d'après les registres de l'officialité de Cerisy (xiv^{e}-xv^{e} s.), Bulletin philologique et historique du Comité des travaux historiques et scientifiques for 1973 (1976).

'Montivilliers' — 'La délinquance dans un région en guerre: Harfleur - Montivilliers dans la première moitié du xv^{e} siècle', Actes du 105^{e} congrès national des sociétés savantes (Caen 1980), vol. II: Questions d'histoire et de dialectologie Normande (Paris 1984), pp.179-214.

Esmein — Esmein, A., Le Marriage en droit canonique, 2 vols. (1891), reprint (New York 1968).

Helmholz, Marriage Litigation — Helmholz, R.H., Marriage Litigation in Medieval England (Cambridge 1974).

l.t. — livre(s) tournois.

Mansi — Mansi, J.D., Sacrorum conciliorum nova et amplissima collectio, 31 vols. (Florence and Venice 1757-98); new impression and continuation, ed. L. Petit and J.B. Martin, 60 vols. (Paris 1899-1927).

O.P. — Petit, J. (ed.), Registre des causes civiles de l'officialité épiscopal de Paris, 1384-87, (Paris 1919).

Pontal, I and II — Pontal, O. (ed.), Les statuts synodaux français du XIII^{e} siècle, 2 vols. (Paris 1971 and 1983).

R.I.	Dupont, M.G., Registre de l'officialité de Cerisy, 1314-1457, Mémoires de la Société des Antiquaires de Normandie, 3e ser., x (Caen 1880).
R.II.	Le Cacheux, P. (ed.), 'Un fragment de Registre de l'Officialité de Cerisy (1474-1486), Bulletin de la Société des Antiquaires de Normandie, xliii (1935), pp.291-315.
R.H.H.	Registrum Hamonis Hethe, Diocesis Roffensis, 1319-1352, ed. C. Johnson, 2 vols. (Canterbury and York Society, xlviii, xlix, London 1914 and 1948).
s.t.	sou(s) tournois
X 1.1.1	Decretales Gregorii IX, Liber 1, tit. 1, canon 1.

Names found within the Cerisy registers have been treated in the following manner. On the whole first names have been anglicised where possible. A number have been left as they appear in the document, though usually bereft of their Latin ending. Second names have been left in the original form except where they obviously refer to a place or local feature. If the place can be identified and a modern spelling exists then this has been used; if the name refers to some local, unidentified feature such as a bridge or a wood, it has been underlined and usually left in its original case. The names Anglicus and l'Englois (and derivations of these) have been rendered as 'English' throughout. The names which appear within the Paris register have been treated in a similar fashion. The practice of the original editors has been followed in the case of the Rochester Act book and the Hereford visitation return. The attentive reader may, however, find exceptions to these rules.

All dates are given in the new style. The court year at Cerisy ran from one Easter to the next, though this is not always specified within the register. For ease of reference most court sessions are expressed in terms of the year in which the greatest part of the business would fall.

I call Gold, Gold is mute.
I call Cloth, Cloth is mute.
It is Mankind that matters.

A man without a past,
Is like a tree without roots.

(Two West African Proverbs)

CHAPTER ONE

Context

(i) The register.

The major portion of what survives from the fourteenth and fifteenth century sections of the register of the officiality of Cerisy was published in 1880. The editor, M.G. Dupont, appears to have used transcripts supplied to him by L. Delisle rather than the original manuscript which was held in the departmental archives at St. Lo. His edition was followed, after an interval of fifty-five years, by the publication of a fragment of the late fifteenth century register by P. Le Cacheux. In his introduction, Le Cacheux refers both to his predecessor's editorial method and to two additional manuscripts. The more substantial of these was a document of ninety-six folios, bearing the title Registrum causarum curie domini officialis Cerasiensis. This spanned the years 1514 to 1516. The second was a fragment of a parallel register which bore the dates 1497 and 1507. No editions appear to exist for these two, later manuscripts, and it must be assumed that they were lost in 1944 together with the entire archive at St. Lo.(1)

The chronological span of the late medieval register edited by Dupont is broad, beginning in 1314 and extending until 1458. The late fifteenth century fragment provides further information on the activities of the court between 1474 and 1486. It is, however, far from complete: only isolated patches of information survive at random intervals between these two dates.

The more substantial section of the register is itself broken up into several distinct parts. These differ from each other in the extent of their completeness and in the nature of the information which came to be recorded in them. The first spans the years from 1314 until c.1346. After this, the register enters a period of confusion in which the record is fragmentary and sporadic. The regular recording of court business resumes after 1370. Some of the material dated to c.1369 by the editor can be clearly shown to belong in the first few years after the register has resumed. The record is then largely complete until the beginning of 1414, after which a long period of silence ensues. The record reappears briefly in the middle years of the century between 1451 and 1458. It then fails again until the later fifteenth century fragment fleetingly illuminates the darkness.

It is difficult to explain the causes of these extensive lacunae in the text. The military and demographic upheavals of the mid-fourteenth century - the Black Death and the English campaigns - may account for the break in the text at that time. Dupont made an explicit connexion between the arrival of the English in 1346 and the interruption in the record. Likewise the second period of silence within the register closely matches the period of the Lancastrian occupation.(2) Yet all this may be simply coincidental, for snippets of court business do survive from the fourteenth century hiatus, and the arrival of the English in the following century did not interrupt the register of the officiality of Montivilliers. This was another abbatial peculiar in the Caux region which was an area very seriously affected as a result of the invasion. Furthermore, such external factors do not explain the loss of much of the register in the latter half of the fifteenth century

at Cerisy. Less dramatic explanations for these breaks may be found in the activities of cost-conscious scribes, the omnivorous natures of rats, and other ravages of time.

The content of the earliest part of the register is different from those following the hiatus. It is, on the whole, simply a list of individuals defamed during visitations and of excommunicants. These lists are nevertheless interspersed with the miscellaneous recordings of the daily business of the court, in particular the sentences reached in civil and criminal actions. After 1370, the register rapidly becomes a simple log of fines and excommunications as a result of which the direct recording of civil actions and visitations ceases altogether. Likewise, the later fifteenth century fragment is also largely a list of fines imposed as a result of actions ex officio. At all periods the information which can be gleaned from the document, in common with other ecclesiastical act books, is terse and laconic.(3) The Cerisy register also tends to be disorderly and untidy when compared with its contemporaries from Rochester and Paris. The changing patterns in the nature of the court's business will be discussed elsewhere.

(ii) The communities of the officiality.

A rough estimate can be made of both the minimum population within the officiality and of the relative sizes of the four villages which were subject to visitations. This can be obtained through the use of data contained within a hearth-tax return of 1386 for the area around Bayeux.

From this document, Dufresne estimated that Cerisy was a large town (sic) with more than two hundred hearths, and that Littry was a

large village with over one hundred and fifty. Deux Jumeaux came a poor third with forty or more.(4) These estimates were based on figures which were derived from the returns from St. Laurent-sur-Mer and Couvains in which both the tax paid and the number of hearths assessed are recorded. The former paid 4l. on a total of twenty-nine hearths and the latter 45l. on one hundred and eighty hearths. It seems clear that Dufresne used the figure derived from St. Laurent-sur-Mer (0.14) to produce a rough estimate of the number of hearths at Deux Jumeaux, and that from Couvains (0.25) for the other two villages.(5) This serves to keep the results in proportion to each other and can also be justified on geographical grounds. Using these figures a total of fifty hearths is produced for Deux Jumeaux which paid 7l. Littry, which paid 40l., would then have 160 hearths, and Cerisy 212, on a return of 53l.

These figures can then be used to produce crude estimates of the likely minimum population of the officiality. Considerable debate exists on the most desirable multiplier to be used when calculating the average sizes of medieval households. It is not intended to enter into this debate in detail. What can be said briefly is that the choice lies between a factor of 3.5 on the one hand, and of 4.5, or even 5, on the other.(6) The smaller figure has found least favour with recent demographic historians.(7) For the sake of even-handedness both these multipliers will be used in conjunction with the known or supposed hearths within the villages. Those results produced from the less favoured lower figure will be placed in brackets. The results are as follows: Cerisy, 954 (742); Couvains, 810 (630); Littry 720 (560); Deux Jumeaux, 225 (175); and St. Laurent-sur-Mer, 131 (102). These would place the lowest estimate of the officiality's population in the region of two to

three thousand individuals, though one cannot help but feel that such estimates ultimately rest on sand.

Occasional glimpses of the range of economic activities which took place within the officiality are provided by the register. These were by no means restricted to working the land or to keeping livestock. There is some evidence of a local woollen industry. A fulling mill was in operation, probably in the vicinity of Cerisy, during the second half of the fourteenth century.(8) Mention is also made of a man undertaking 'mechanical work' at the turn of the century, which may have been connected with this mill.(9) Earlier in the century wool had been stolen from a house at Cerisy, together with belts and two linen cloths. Sheep are also mentioned in 1412.(10) Before the civil wars of the sixteenth century destroyed the commercial circuit, merchants from Paris would come to Normandy to buy wool. This would then be sent to either Paris or Rouen.(11)

Labour was hired annually and an individual contracted to serve for a specified period of time for a lump sum of money and sometimes items of clothing. Details of three such contracts survive from the second half of the fourteenth century. Richard Vernon of St.Quentin made a contract with John and Louis Riquert. His hire as a wheelwright for fourteen months was nine _francs d'or_, a good woollen tunic (_burelli_) and a pair of shoes. He brought with him his own tools (_superlitibus_) which would be repaired for him if necessary. Any gain would accrue solely to John and Louis, but they would further add to his skill (_artem_).(12) In 1378 Guillerme Bergret hired Louis le Vietu for 15_l.t._ for a whole year. Louis was to serve him in all the tasks and jobs with which he was familiar. His money was to be paid in three instalments: the first of 60s. at Christmas; the second of 8_l.t._ in October and the last instalment again at

Christmas. Another man was only able to command 6l. pro serviendo for a full year.(13) A number of artisans, whose services would have been required by both urban and rural communities, appear in addition to the wright. A smith and a cobbler make appearances in the early fourteenth century and carpenters are referred to on four occasions in the register as a whole.(14) In the sixteenth century, ploughshares were sent from St. Lô to the Cotentin.(15)

However, the majority of references are either to crops or livestock. Men owned land, or in some sense possessed it, and sometimes entered into disputes over it.(16) Grass was cut for fodder and was used as a floor covering in the churches. Rushes served this purpose as well.(17) An orchard is mentioned and the abbey had its own cultura.(18) Chick pea was stolen in the later fifteenth century.(19) Wheat and oats were grown and there were, at least, two mills in the area, one of which belonged to the abbey.(20) In sixteenth century Cotentin, at least, wheat did not constitute an important cash crop. Only a small proportion of the harvest was sent to market, the remainder being consumed by the grower, his dependents and his labourers. A far more valuable source of income was livestock, especially pigs.(21) Within the officiality, swine can be found grubbing up the corpses in the graveyard at Deux Jumeaux or grazing in the Bois l'Abbé, no doubt in search of beechmast.(22) The rights to such pannage were lucrative. Once slaughtered and salted down, such animals might find their way to Paris.(23) A cow was stolen and an ox became the subject of a court action.(24) The ox would have been used for ploughing. Ganders and a chicken also fell victim to thieves.(25) Such produce would have been sold closer to home in markets such as that held at Cerisy. References to this event appear throughout the fourteenth

century. On at least one occasion men from the outlying villages attended it and it seems to have been held on a specific day, possibly a Wednesday. In 1457 a group of people from Cerisy travelled to market at St. Lô on a Friday.(26)

There are a few references to institutions and buildings, mainly churches. There is mention of a rector scolarum at Cerisy during the fourteenth century and to one at Littry in the later fifteenth. Littry also possessed a leprosarium which was in a state of disrepair in 1314, and which had fallen to the ground by 1377 on account of its neglect.(27) The fabric of the church of Deux Jumeaux was also subject to a slow deterioration during the fourteenth century. In 1316, the building was without a roof and subsequent visitations later in the century noted that the lights would not burn on account of the wind and the rain blowing through the roof and broken glass. At the beginning of the fifteenth century many repairs were still required.(28) At Littry, in the period before 1346, the main concern was with the ornaments, vestments and books, rather than the fabric. Most of these problems were rectified by 1342.(29) However, the state of the building was such that by 1374 the priest was unable to stand at the altar while celebrating mass on account of the wind and the rain. The Host would simply not remain upon the chalice because of the strength of the contrary winds. The treasurers and bonis gentibus ville were to ensure that repairs were effected so that the priest would be able to stand at both the High altar and the altar of St. Mary.(30) Despite the threat of a 40l.t. fine, nothing had been done to remedy the situation by 1377, and the priest was still unable to serve at either altar.(31) The late fifteenth century fragment also records a litany of repairs which were required on the roofs, glass and fabric

of the churches of Deux Jumeaux, Littry and St. Laurent-sur-Mer.(32)

The most important, and no doubt imposing, ecclesiastical building would have been the Benedictine abbey of St. Vigor at Cerisy with its walled precinct and associated cultura and wood. The mid-thirteenth century archiepiscopal visitations of Eudes Rigaud record that it was a community of thirty-two monks in 1267, and that a number of priories were dependent upon the abbey, one of which was probably at Deux Jumeaux. The house was in good condition with sufficient supplies and had had an annual income of 2,000l. at the last visitation eleven years before.(33) The register gives few indications that laymen or members of the secular clergy were allowed to penetrate into the abbey itself. Most of these references are associated with some form of illicit activity. During the fourteenth century a fight broke out within the abbey gates and in the same period flour and pastries were stolen from inside the abbey.(34) Later in the century, a man and a woman scaled the abbey walls to engage in what the court euphemistically described as 'mutual frequenting' (ad frequentandum invicem).(35) Finally, the prosecution of a layman for breach of a court order was conducted in the parlour of the great hall of the abbey.(36)

Members of the monastic community came into contact with outsiders through the workings of the court or other means. One brother served a term as official and a number of others appear as vice-gerents. Certain cases were heard by the abbot in person, sitting with other local dignitaries. Other contacts were less formal. The cantor of the abbey had wine thrown in his face while in a public place in Cerisy while on other occasions the sub-prior of Cerisy and the almoner of the abbey were subjected to slanderous comments.(37)

A few details survive concerning the nature of ordinary dwellings within the officiality and of the kinds of social and economic activities which went on inside them. Two references from opposite ends of the chronological scale give an impression of the quality of their construction which might be very flimsy and insubstantial. In 1314, four men demolished a woman's house during the course of a rape. They broke down the door and then quite literally tore the building apart, walls and roof alike. A century and a half later another group of four men beset the house of Peter du Bosc. The door was broken in with a halberd and the roof was damaged by stones, but otherwise the building appears to have survived more or less intact.(38) Other details refer to houses with walled gardens and others with alleyways between them.(39) Livestock was kept in and around the home and it could be the centre of other agricultural activities. One man had ganders taken from his stable by thieves, and another had his cow stolen from his home. A man was fined for threshing grain in his house on a feast day.(40) Sometimes clothes of considerable value were kept within houses, as well as goods and foodstuffs.

A number of private dwellings were kept as taverns or brothels and men seem to have ordinarily met by night in the houses of others to drink. Business might be conducted there as is shown by the making of a loan at St. Lo in taberna penes Mauteint.(41) They sat at tables by the fireside and usually drank ale or mead. Red wine is referred to once.(42) A rare reference to affection is afforded by a homely vignette from the mid-fourteenth century. William le Deen, the priest of Littry, was sitting by the fireside with several others in the house of his brother-in-law, Stephen de Molendino. He took Stephen's daughter in his arms and said to her: 'My beautiful

niece, kiss me'. He then kissed her, and promised that he would give her a tunic of woollen cloth (burelli) when it had been made.(43) On another occasion a group of men gathered by night for a wedding feast (prandium nupciarum) in a village house, at a time when most other villagers were in their beds. The wedding itself had also taken place at the house.(44) Other details of the structure of households appear. One married woman seems to have been living with her husband's kin, and a spinster lived away from home with her lover.(45) Several households had male or female servants within them.(46) Further social networks in the areas of marriage, concubinage and violence will be revealed in the general course of this study.

Individuals might also meet beyond the home in the village street, the market-place at Cerisy or in the surrounding fields and woods. The streets themselves, from one early fifteenth century reference, were littered with stones, pieces of wood and carts.(47) Another place of congregation was the local churchyard where men met to argue and even fight.(48) Apart from drinking, other recreational activities took place. In 1399, two men were fined for going to the races (iverunt ad quadrigarium) on the feast of the Annunciation.(49) Men played real tennis - around the church at Littry on two occasions - and played at cards (quartas) and dice.(50) Dancing is mentioned once and a priest appeared in the comedy section of his local Mystery play (farsis) dressed in a costume which was both indecent and improper.(51) Other examples of social life, such as names and nick-names and snippets of conversation, will be given due consideration in the chapters which follow.

Contacts were maintained with other areas both inside and

outside the diocese of Bayeux. Though sporadic these references do tend to alleviate Muchembled's picture of gloomy and near total insularity for rural communities at this date.(52) During the early fourteenth century, several lepers from the officiality had to undertake penitential pilgrimages to the leprosarium of St. Nicolas-de-la-Chesnie on the eastern outskirts of Bayeux.(53) A man accused of assault was ordered to absolve himself before the penitentiary of the church of Bayeux, and a woman left the officiality to give birth in the domus dei at Bayeux.(54) Penitential activity could take an individual even further afield. One women was to journey to Mont St. Michel and another was to go to 'All Saints''.(55) At least one individual made the journey to Bayeux with a companion on his own personal business.(56) People also travelled to St. Lo, possibly in connexion with the market referred to in the mid-fifteenth century.(57) Other contacts existed between the official of Bayeux, who had agents and constituents of his court within the peculiar, and his counterpart at Cerisy. As will be seen these were sometimes less than cordial. A wider panorama is revealed by the presence of anonymous and apparently transient strangers within the officiality and by the occasional reference to a region beyond Normandy.(58) One woman had a child by a Breton and in the early fifteenth century men made the journey into Brittany to consult diviners. In 1327, a man was found to have falsified letters of attorney from Paris.(59)

It is now necessary to move away from this local context to take a broader view of the traumatic events of the fourteenth and fifteenth centuries - in particular the Hundred Years' War - and to assess what effects these may have had upon this region of Normandy. Apart from a possible connexion between the disruption of the record

and the arrival of the English in both the mid-fourteenth and early fifteenth centuries, the register bears few indications of a state of war. In the second half of the fourteenth century, possibly in 1371, a reference appears to three collectores redemptionis Anglicorum de Trieryo, who had unjustly seized a cleric's goods. Just over eighty years later in 1452, soon after the end of the Lancastrian occupation, a man stood in his parish church dressed as a foot-soldier to win a wager.(60) The continuing disrepair of at least two of the churches within the officiality may also have been linked to the effects of the war, though this is a phenomenon which is not solely restricted to this particular period. Despite the register's silence, other sources show the reality of, at least, the threat of war within this area since it is known that considerable sums were spent in fortifying the church at Cerisy - as was happening elsewhere in France - to serve as a refuge for its parishioners.(61)

On the whole the social and economic effects of the war were greatest after 1410, and the worst affected region was eastern Normandy, Rouen and the pays de Caux, rather than the Bessin. These effects were considerably exacerbated by a number of widespread epidemics in 1418, 1421 and 1422 and bad harvests in 1420 and again in 1436 and the following year. In the archdiocese of Rouen the fifteenth century witnessed a sharp decline in ecclesiastical revenues which led to financial hardship among the priesthood. The number of newly ordained clergymen entering the church also began to fall. Together these factors led to a decline in religious observance and the life of the parish. Furthermore, the Caux region experienced serious depopulation, especially after the revolt of 1435-6.(62) The area around Bayeux, on the other hand, probably

suffered more as a consequence of the pan-European depression which followed the Black Death than effects of the war. The after effects of the plague were similar to those produced by war, with the region witnessing the dislocation of persons, the disruption of parish life and falling ecclesiastical revenues.(63)

These scattered references gleaned from the register itself and secondary works show that the court controlled a largely rural area, the economy of which was based upon agriculture and pastoralism, but which may have possessed a local cloth industry as well. The area was less dramatically affected by the war (an event upon which the register is almost wholly silent) than others, especially the Caux region. Signs of financial strain are revealed in the deterioration of the fabric of the churches of Littry and Deux Jumeaux during the fourteenth century, which is particularly striking at the former after 1370.(64) However, such dilapidations cannot be solely attributed to the effects of war or, indeed, the plague. At Deux Jumeaux they form part of a long-term trend and churches in the diocese of Canterbury were suffering from similar defects at the end of the thirteenth century.(65)

(iii) The court: personnel, jurisdiction and competing jurisdictions.

By virtue of its foundation charter which was confirmed in 1042 by William the Bastard, and by his son Henry and two kings of France, the area granted to the abbey of Cerisy became an exempt jurisdiction. As a result of this the abbot possessed the same rights of surveillance, administration and ecclesiastical jurisdiction as the bishop of Bayeux within his own diocese. In

matters of jurisdiction, an appointed delegate, the official, presided over the court of the officiality as the abbot's alter ego.(66)

The official exercised jurisdiction over civil and criminal actions if they fell within either one of two categories. In the first the right to hear the action existed because of the matter at hand (ratione materiae). This encompassed civil suits involving questions arising from marriage and divorce, as well as certain forms of slander, and a variety of criminal offences, such as fornication, rape, heresy, usury, blasphemy and sortilege. The identification and confinement of lepers also formed part of the court's remit. In the second category, the official was granted jurisdiction because of the ecclesiastical status of those involved (ratione personae). Any person in holy orders would be subject to the official's jurisdiction within the limits of the officiality. Consequently, the court was able to try matters, such as assault and theft, which would normally have appeared before a secular court. While a few priests do appear in connexion with such crimes, it is clerics - men in the lowest grade of holy orders - who brought the court most of its business in this field.

Clerics, though required to wear appropriate clerical dress and be tonsured, effectively lived as ordinary laymen and were able to marry. They were subject to ecclesiastical rather than secular discipline, and were exempt from certain forms of levy. Benefit of clergy could be forfeited under certain circumstances: if the cleric was a bigamist - that is if he took a widow as his wife or as a widower he remarried, if as a married cleric he did not maintain his dress and tonsure or if he was degraded for some serious offence.(67) Clerics are of particular importance when considering

the business of the court at Cerisy, since there were unusually large numbers in Normandy during this period. At Montivilliers in the Caux region, forty-two clerics received the tonsure in 1386; and in Normandy between 1409 and 1413, 14,484 men acquired clerical status.(68) This was to escape royal taxation, but within the officiality of Bayeux many of the criminals and delinquents were clerics, and at Cerisy, their disproportionate numbers may have influenced the nature of the offences which were brought before the court after 1371.(69)

The official did not exercise his rights in isolation, even within the area of the officiality. Local and external courts, both ecclesiastical and lay, existed and were willing to challenge his jurisdiction in certain matters. Beyond the bounds of the officiality was the king's court at Bayeux, which returned a cattle thief to Cerisy via the official of Bayeux in 1319, and the seneschalsy of Mondreville (Mondrainville?).(70) In the officiality itself, the court of the seneschal of Cerisy formed a rival, local secular jurisdiction with its own officers and prison. The official of the bishop of Bayeux controlled an external ecclesiastical jurisdiction which cooperated with the Cerisy court on at least two occasions. One, involving the return of a cattle thief, has been noted. In the second it heard an appeal from the Cerisy court in a marriage suit.(71) A number of persons living within the officiality, possibly in the parish of Littry, were subject to the bishop's jurisdiction, and this was to be an occasional source of discord between the two courts.

Most jurisdictional disputes, however, arose with the local seneschal's court. These were generally concerned with the ability of an individual to claim benefit of clergy. On two occasions in

1314, the secular judge came in person before the official, to ask that a man be removed to his jurisdiction. His attempts to prove that the cleric concerned was now a layman were ultimately unsuccessful.(72) On another occasion, a thief, who was claiming benefit, was returned to the official, apparently without dispute.(73) Clerics themselves could be prosecuted for appearing in the seneschal's court, or for giving pledges or evidence there without licence from the official.(74) All such examples date from the later fourteenth century and where they are recorded the fines involved were either of 5s. or 10s. Three men were fined for their attempts to cite clerics before the secular court, one of whom had to pay 40s. for his presumption in 1322.(75) Another man was fined 100s. for citing a cleric before the seneschal of Mondreville eleven years later.(76) The official also acted to punish or forestall attempts to remove actions from his jurisdiction. In the early fourteenth century, a cleric was threatened with a fine of 10l.t. and excommunication if he presumed to enter into litigation with another man before the seneschal's court. Another cleric, in 1412, was forbidden to pursue an action for assault outside the official's jurisdiction on pain of 40l.t.(77) A man was fined 10l.t. in 1322 for causing another man to be placed in the seneschal's prison as a result of an action initially moved before the official, and in 1340 another man was fined for initiating what appears to be a counter-action in the rival court.(78) There is one further interesting example of tension between the two courts. In 1324, the priest of Littry and five other witnesses stated that John de Molendino had said publicly, in Littry church, that no layman should litigate against a fellow layman before the official. John may have been giving greater publicity to a point of law or was simply

attempting to poach business from the official's court.(79)

The court was also troubled by the activities of the official of Bayeux and his deputies. In 1341, a man was fined 100s. after he had cited individuals from the Cerisy peculiar on behalf of the Bayeux official. This occurred once more in 1363 and yet again in 1405, when a local curate was fined 10s. and bound over in the sum of 10l.t.(80) Two further incidents occurred in that year. William Sanson of the parish of Bruil was bound over in the sum of 10l. after he had summoned plures gentes jurisdictionis episcopi baiocensis to appear in the churchyard at Littry. He was acting in accordance with a mandate of the official of Bayeux. Another man was fined for citing a man to appear before the church at Littry under similar circumstances.(81) In 1485, the chaplain of Deux Jumeaux was ordered not to execute such mandates within the peculiar without permission. The parishioners were ordered never again to appear in a cause before another ecclesiastical court.(82) One man who summoned his wife before the court at Bayeux in 1341 was fined 100s. and placed in prison. In a similar case from 1474, the culprit escaped more lightly. He was fined only 20s. after he had attempted to have the plaintiff in a causa reclamationis called before the rival court.(83)

The court was clearly sensitive to encroachments on its jurisdiction by other courts in the vicinity, especially that of the local seneschal. In order to achieve this end it was willing to impose harsh penalties and extract sizeable pecuniary pledges. The efficiency with which the court exercised this jurisdiction and whether it did so in a fit and professional manner are naturally more difficult questions to answer. Several examples which suggest a degree of professional conduct and integrity on the part of the

court can be found within the register. The court had access to books of law and concordances, and a series of form letters can be found at the end of the printed edition.(84) It consulted jurisperiti during the course of several civil actions, and at least one of the officials was specifically said to hold a law degree.(85) The services of medici were called upon twice during the fourteenth century. On the first occasion they examined the corpse of a suspected homicide, while on the second a medicus gave the court a detailed description of a mortal wound inflicted during a fight, together with the treatment he had administered to the victim and a prognosis of his condition.(86) This concern for precise anatomical detail is also apparent in the court's descriptions of the injuries sustained during assaults and brawls.

The court was also concerned with security and sought to discourage perjury. The official's seal was of particular importance and a sigillifer acted as its custodian. A new seal was issued in 1314, the event being duly recorded in the register. The previous seal was old and had become cracked and sullied through use.(87) In 1413, Robert des Cageux spent three weeks in prison and was fined 100s. after he had forged an absolution. His method was both audacious and enterprising: he removed the wax impression of the official's seal from his summons and attached it to a forged letter of absolution written for him by a priest.(88) Perjury could be treated as a serious offence, though the court was not always vigorous in exacting the full penalty. Several individuals were not amerced the full amount charged against them, possibly on account of their economic circumstances, and others had their penalties remitted at the behest of a third party.(89) However, one reference from a visitation to Littry shows that the court was willing to

carry out its own investigations if it was dissatisfied with the jurors' report.(90)

Ten of the officials who presided over the court can be identified from the register. A complete succession of officials can be reconstructed for the early fourteenth century. The first of these, Jacob Louvet, entered the office in July 1314 and carried out his last visitation in March 1319.(91) He was succeeded by Luke Pictor who visited the three parishes during February and March 1320.(92) This was at the close of the court year which had begun after Louvet's visitation in the previous March. The third official, William de Bitot, took up his duties in February 1322 and held his position for less than two years.(93) He was replaced by Andrew de Burone who first appears in a visitation of Deux Jumeaux in March 1324 and who was one of the longest serving officials. He last appears in May 1333 and a brief interregnum followed before John Govin took up office in the June of the following year. Govin still held the post when the record ceases in 1346.(94)

When the record resumes, only tantalizing glimpses are afforded of the officials. Most surface briefly in one or two passing references and then disappear back into obscurity. Only Mathew Guerot's term of office can be fixed approximately. In 1402 a summary of his career was entered into the register. This had begun in April 1392 and during that time he had served three successive abbots. He undertook visitations in 1402 and the following year after which he is once more consigned to historical oblivion.(95)

Brief biographical details may be found. Five of the officials were specifically described as priests and in three instances their livings are identified. Jacob Louvet was rector of the greater portion of the church of Coleville-sur-Ouln, while John Govin was

the rector of St. Martin de Bazoque.(96) The last known official, John Trexot held the rectorship of the parish church of Balleroy.(97) The last two places lay within the officiality, but the identification of Coleville is difficult unless it is present day Coleville-sur-Mer. Six officials were also identified as magistri with John Trexot specifically identified as holding a law degree.(98) The second of the fourteenth century officials, Luke Pictor, was something of an exception since he was a brother of the abbey.(99) Several of the incumbents had had previous experience of the workings of the court. Andrew de Burone had held office at some date before 1314.(100) Nicholas Sabine who is is identified as official in 1476, served several times as a witness during the 1450s, and had been named as promotor in 1457.(101) Luke Pictor accompanied Jacob Louvet on visitation in the year before he became official.(102)

The official was aided in his task by a vice-gerent who undertook visitations and other court duties in his absence. From the surviving evidence it would seem that these men were drawn exclusively from the monastic community. Luke Pictor may have accompanied the official in this capacity. Thomas Hamon supervised two visitations as vice-gerent during 1334 and Robert Rossel visited Littry in 1336 on behalf of John Govin.(103) In 1372 and again in 1373, men refused to recognise the authority of the vice-gerent, Radulf Maurice, a monk and rector of Baynes, in the actions over which he was presiding.(104)

The early fourteenth century officials exercised a good part of their criminal jurisdiction through a system of general inquisitions. The remit of these inquiries was broad, covering heresy, usury, the identification and isolation of lepers,

fornication, rape and 'other crimes'.(105) They were based on the questioning of chosen sworn-men (jurati) from the parish under scrutiny. A form letter describes them as 'good men and true' (bonos homines et fideles).(106) These men were expected to inform the court of the reputed misdemeanours of their fellow parishioners.The visitation of Littry in 1314 shows that the court did not always trust them in their allotted task. On this occasion, the jurors reported that there was nothing to correct within the parish, besides a few things lacking in the church, a woman making charms and a couple keeping a brothel. The official was clearly not satisfied with this as a long list of defamations for a variety of crimes are appended. Among these, a charge of usury was brought against a juror.(107)

In this period fifty such general inquisitions, usually accompanied by an inspection of the church fabric and its contents, were recorded in the register. The first was to Littry in September 1314 as was the last in June 1346. Twenty-three visitation returns survive for this village and parish. Cerisy follows closely with eighteen between 1315 and 1341, and then Deux Jumeaux with nine in the period 1314-1333. The visitations usually took place during Lent, which was both the penitential season and the end of the court year; but one visitation occurred at the start of a new court year and a further nine during the summer or early autumn.(108) No particular pattern concerning the progress of the official emerges, except that the visitations of Cerisy and Littry followed on from each other with that of Deux Jumeaux being undertaken first or last for reasons of obvious convenience.(109)

The actual process of visitation may be seen in an account of the inquiry made at Littry in September 1314. The official notified

the parish priest of the intended visitation by sealed letters four days before the event, saying that he wished to inspect the church and the priest's dwelling. The priest was further required to ensure that those of his parishioners who could provide the relevant information should be present at the church on the morning of the visitation. They would be questioned so that the truth could be learned and crimes punished.(110) The official attempted to carry out the visitation on the appointed day, but only the church and the manse could be inspected since the parishioners were at mass and could not be disturbed. On the following Sunday the official was able to return and examine the probos homines of the village and discover what offences needed to be corrected.(111)

Dufresne considers that such general inquisitions ceased after 1370 and that the court's remit in this area shrank to include only the inspection of churches and the regulation of priestly behaviour.(112) It is true that the court record after this date does reflect the growing importance of the promotor, who first appears in the document in 1338, as the chief instigator of criminal actions.(113) However, a few, scattered references can be found which suggest that general inquisitions survived into the fifteenth century. At Littry in 1374, as well as a visitation of the church, a general inquiry was made of the local jurors concerning heresy, sortilege, leprosy, fornication, rape and incontinence among other, unspecified, crimes. Three years later the same list appears. In 1402, when Mathew Guerout was taking stock of his career as official, which had begun in 1393, he noted that he had made visitations to the churches of Littry, Deux Jumeaux and St. Laurent-sur-Mer during which he had corrected many misdemeanours. He had also made plures inquisitiones within the village of

Cerisy.(114) All that remains from the rest of the century are the scattered recordings of church visitations and inquiries into the conduct of priests. Two survive from Littry, three from St. Laurent-sur-Mer and four from Deux Jumeaux.(115) In conclusion it may be the changes in the nature of the register - discussed earlier - that are causing the decline in the number of recorded visitations, at least in the period before 1400.

(iv) Comparative Material

During the course of this study comparative material will be drawn from a number of other ecclesiastical jurisdictions. In this task greatest use will be made of two particular caches of material: a fourteenth century Act book from the diocese of Rochester and a set of visitation returns form the diocese of Hereford for 1397. These merit some form of separate introduction. The Rochester Act book is largely silent on matters of context and the description which follows is simply an outline of the principal characteristics of the document and the jurisdiction. The visitation returns do, however, provide a considerable amount of contextual detail which has been given extended treatment below, though on a lesser scale than that attempted for the Cerisy peculiar.

(a) The Rochester Act book (1347-48)

This is a record of the legal proceedings which passed before the consistory court of bishop Hamo Hethe. The record begins on 9 April 1347, and ends on 4 November 1348.(116) Both the office and instance business which was transacted before the official is

recorded. The sittings were held every third week alternately in the cathedral church at Rochester and the parish churches of Malling and Dartford. The official himself usually presided over these proceedings, but on two occasions his place was taken by his commissary, the dean of Malling. A number of actions were also presented to the commissary to complete, and in a few special cases hearings were conducted before the bishop in person.(117)

As at Cerisy and Paris, the descriptions of the actions are terse. However, unlike Cerisy, one is struck by the order and completeness of the record. This completeness allows an insight into the range and quality of business transacted before the court during a specific period. However, the very brief time span covered by the document is insufficient to allow any long-term trends or changes to emerge. In the specific instance of sexual morality, the effect is that practically nothing can be stated concerning the duration of the unions.

It should also be remembered that this was not the only ecclesiastical jurisdiction in operation. The bishop himself could, and did, hear petitions in his own court of audience which possessed its own separate record.(118) Moreover, evidence from the Act book itself shows that the court of the official of the Archdeacon of Rochester exercised jurisdiction over the sexual lapses of both laymen and clergy alike, and could force couples to abjure in forma communi.(119) Proceedings may also have taken place before the chapters of the rural deaneries.(120)

(b) The Hereford Visitation return

The record of bishop Trefnant's visitation of the diocese of Hereford during 1397 was edited by A.T. Bannister earlier this century. The edition is, however, incomplete. Examination of the original document shows that Bannister was inconsistent and inaccurate both in his reading of the manuscript and the recording of the material contained within it. Bannister's edition does not follow the format of the original and it is on occasion highly misleading. In many of the cases relating to sexual morality or marriage, which form the bulk of the presentments, details of the actions taken are often not recorded in the edition. In those cases relating to adultery the abbreviation for conjugatus/ta has been generally misread as committit. Furthermore, a dozen or more cases of adultery or fornication were either omitted entirely or misassigned. A number of the folios have deteriorated since Bannister examined them, as a result of which some of the material noted by him is no longer extant.

The document contains an extensive, though incomplete record of the visitation undertaken of the diocese during the early Summer of 1397. Returns do not survive for a number of the northern parishes in Shropshire or for the eastern deaneries. It is not clear whether this is due entirely to their loss or their omission from the visitation. Despite this it is of exceptional historical interest and worthy of a degree of detailed study beyond the scope of this present work. Visitation returns are rare survivals from the administrative structure of the church in medieval England and this is even more true for Wales. The paucity of such records from the Principality is striking. Only an unpublished archiepiscopal visitation survives for the diocese of Bangor in 1504. Beyond this

are only the feint echoes of an imperfect and infrequent system. Visitations were made in the diocese of Llandaff on three occasions during the fourteenth century, but these were not general visitations, but rather specific inquiries into the rights of churches. In 1501, the non-exempt religious of Dyffryn Clwyd were visited by David Yale on behalf of Bangor.(121) Given this, the Hereford returns act not only as a valuable window on the social and marital behaviour of the English laity, but also their Welsh counterparts.

The nature of the document is such that it allows comparison with material from Cerisy and to a lesser extent Rochester. Its form and content bear greatest resemblance to the early visitations carried out at Cerisy before 1346. It lacks the instance business of the Rochester act book, but this is in some way compensated by the presentments concerned with marital difficulties, consanguinity and clandestine marriages.

The first return is dated 30th April at Burghill and the record ceases on 5 July. Trefnant dealt with a matrimonial suite at Burford on 8 July and at Wenlock on the following day.(122) Neither gives any indication of whether the visition was still in progress. During this time visitations were carried out on all but nine days. The retinue must have resembled a demented snail during these weeks since if the itinerary is to be believed, several of the visits could only be accomplished by substantial backtracking.(123) The visitations themselves were probably carried out by Trefnant's registrar, but the bishop himself did progress around the diocese and he was consulted as the need arose. He continued to conduct other business while on visitation.(124) The bishop of Llandaff also attended the visitation of Newland in his capacity as rector of the

church. His presence may well have had some connection with an earlier dispute between Hereford and Canterbury over the fruits of the church while the see of Llandaff was vacant during 1396.(125)

The mechanism of visitation can be uncovered. There was an obvious degree of pre-planning present. Procurators were sent out to cite a chosen number of parishioners to appear at a particular church within a deanery. These numbered fifteen men at Newland.(126) On other occasions individuals were ordered to appear before the bishop or the visitation at a specified time and place. The chosen parishioners were expected to inform the visitor of the state of repair of their church, the payment of parish dues and tithes and the sexual and marital delicts of their co-parishioners and clergy. This was probably in response to a given set of questions, similar in scope to those isssued in the dioceses of Lincoln and Coventry and Lichfield in the thirteenth century.(127) On forty-four occasions they reported that all was well and no further action was taken. In other cases action might be taken to assign penance, correct the fault or leave the matter pending further investigation. On three occasions the visitor met with resistance. At Magna Dene while the parishioners reported that all was well, the procurator swore that he had not dared to cite them. Three individuals, including the parish priest were subsequently presented. At Longhope a similar report was made, but a single case of fornication was reported.(128) There is evidence to suggest that this was not the first disciplinary investigation to be undertaken in the diocese. A reference exists to the assigning of penance in a previous visitation and to an abjuration made before the commissary general.(129)

The diocese lay across a racial divide, characterised by an

often considerable degree of suspicion, hostility and, in fact, incomprehension in certain parts. At Garway, the priest was unable to minister adequately to his flock since he could not speak Welsh and many of his parishioners did not know English.(130) As will be seen, such differences as well as those of culture and law may have affected the marital habits of both groups.

The region was largely given over to pastoralism and agriculture. Grass was cut for hay and at Coddington the rector used the bell tower of the church as a store for it.(131) Wheat and oats are recorded as well as maslin which was usually a mixture of wheat and rye. The rector of Ullyngwyke winnowed his wheatcorn in the cemetery.(132) Straw was used as a floor covering in church.(133) Cows and pigs appear on several occasions and they may well have remained close to the villages. At Werley, the vicar denied placing horses, cows and geese to graze in the cemetery, while at Leominster the vicar pastured his cows within the sacred precincts. Other incumbents allowed their pigs to root about in the cemeteries. Firewood was taken from the cemetery at Birch St. Thomas and trees were sold at Bishop's Frome.(134) Within the Cerisy peculiar, cemeteries were regarded as a valuable areas of grazing land and sources of raw materails. Sheep are mentioned and they may have been raised primarily for their wool. Geese and chickens were also kept.(135)

This produce could find outlets through any one of a number of local markets. At Leominster, a priest was presented as a communis mercator of animals and eggs, buying and then selling these for gain. The parochial chaplain was guilty of a similar offence, having bought eggs at 5s. for two score and then resold them.(136) Markets were also held at Ross, Ludlow and Monmouth. Four parishioners from

Richard's Castle travelled to Ludlow on Sundays and other feasts to sell scarves (focalibus) and other things.(137) At Monmouth the market was held outside the town and proved such an attraction that one merchant chose to exercise his craft on holy days and two men absented themselves from divine service to attend.(138) The parochial chaplain like his brethren from Leominster also bought and sold diverse goods for profit there. At Staunton Lacy, the parochial chaplain did likewise.(139) Other individuals showed a similar entrepreneurial spirit. At Bromyard, a woman carried out business in the church, selling a veil or a canopy while at Attferton a man sold his goods in a cart in the market place to passers by.(140)

The presentments and register contain a number of references to a variety of occupations. These are unfortunately too few in number and too miscellaneous to form the basis of a systematic account of the social and economic complexion of the diocese. A butcher, appropriately called Flessewer, appears in the returns for Staunton juxta Pembridge.(141) At Burghill a carpenter and a tiler appear, and at Vowchurch a carpenter was employed to carry out repairs to the church.(142) A sawyer is mentioned at Ross-on-Wye, together with a master forester at Waterden and bailiffs at Burton and Monmouth.(143) Leominster could boast of an apothecary in 1399.(144) Thirty servants or former servants are to be found scattered in just over a score of different places. All but nine of the servants were female, ten of whom had been engaged in illicit sexual activities with their master or his son. The greatest concentration was in the town of Monmouth where eight households each had a servant.(145) At both Ledbury and Westbury two households contained a single servant each while at Worthen a manservant and a maid shared the same household.(146) Each of the remaining seventeen places had a single

household with one servant.

CHAPTER TWO

Marriage litigation

Since marriage was a sacrament, matters concerning its formation or dissolution came within the exclusive jurisdiction of the ecclesiastical courts. Within the classic doctrine of canon law, marriage was a purely consensual union: any two legally entitled adults could contract marriage by words of mutual consent. A two-fold distinction existed in the nature and intent of these words. On the one hand, a binding and immediately effective union was created through the exchange of words of present consent (per verba de presenti). Neither publicity, nor church solemnisation, nor indeed consummation added anything to the validity and permanence of such a contract. The exchange of words which could be construed as indicating present consent created a perfect, valid union which, even if clandestine and therefore irregular, could be upheld in an ecclesiastical court and which might only be dissolved under the most rigorous of conditions. On the other hand, a promise to marry was expressed by words of future consent (per verba de futuro) which might be broken by the mutual consent of the parties or by a subsequent de presenti contract. If, however, a de futuro contract was followed by intercourse, it took upon itself the legal mantle of a de presenti contract, and what was initially only a promise to marry was transformed into a binding marriage.(1)

Although the church was willing to recognise the validity of those contracts which lacked publicity and due solemnization, it none the less attempted both to discourage them and to regulate the procedures by which marriages were formed. Local and provincial

councils had long sought to prevent such clandestine unions, and much of this existing legislation was given general effect by Canon 51 of The Fourth Lateran Council. Marriage was now to be preceded by the publication of the banns on three successive Sundays or feast days to allow members of the local community to raise any legal objections to the couple's intended union. Those ignoring this requirement were to be excommunicated, and any priest blessing an unpublicised union could be suspended for up to three years.(2)

The presence or absence of the banns became the generally applied test as to whether a contract was clandestine or not. Consequently the term came to cover a multitude of sins. In its least specific sense a clandestine contract could be one which did not involve a lack of publicity, but rather an absence of the proper requirements of canon law with regard to the time and place of the banns. Even those unions which were fully witnessed or solemnized by a priest were considered as clandestine if they occurred without the proper publication of the banns. In its narrow sense a clandestine contract was the exchange of consent, such as would constitute a valid marriage by two persons, totally without witnesses or prior formalities.(3) This was a truly clandestine contract, unwitnessed and possibly unwanted by one of the parties involved. Much of the time spent on matrimonial affairs by the English ecclesiastical courts was devoted to resolving claims for marriage arising from contracts of this kind.(4)

(i) Cerisy marriage litigation

Several problems present themselves when attempting to discover the nature and scope of the matrimonial litigation which passed

before the court at Cerisy. Firstly, the available sample is small. Less than fifty references to some aspect of marriage litigation survive in the register as a whole. Secondly, this sample is itself chronologically limited with the bulk of the evidence being restricted to a narrow band of time between 1314 and 1322. Finally, the actual amount of information which can be gleaned from the record is limited because for the most part it is the definitive sentence - one of the least informative parts of the court record - which has survived. Other actions are known only because of an indirect reference made to them, arising out of a procedural complaint or a question of jurisdiction. Nevertheless, despite these limitations, it is still possible, by concentrating almost exclusively upon the rich, though isolated band of material from the early fourteenth century, to gain some impression of the size and nature of the litigation itself, and also of the social practice of marriage within the officiality.

Matrimonial litigation formed an important part of the civil business which has survived from the first half of the fourteenth century. In the period up to 1346, out of fifty references to causae, twenty-six were concerned with some aspect of the marriage bond and one with defloration. The majority of these were brought to establish the existence of a marriage rather than to procure its dissolution. In the later fourteenth and early fifteenth centuries, the function of the register gradually changes from a general record of the court's business to a log of excommunicants and fines. The direct, regular recording of instance suits gradually ceases and what remain are the scattered and usually indirect references to matrimonial and other causae. No impression can therefore be gained of the nature and extent of this particular aspect of the court's

business during this period. A few references to matrimonial matters have also survived from the later fifteenth century, but these too cannot be resolved into a coherent whole.

The content of this aspect of the matrimonial business of the court can be briefly summarized. Nineteen definitive sentences or other indications of marriage suits survive from the earliest part of the register, all of which date from 1322 or before. While the majority are purely civil actions, three had their origins in allegations made ex officio and one petitory suit ~~suit~~ arises out of an inquiry into fornication. Ten of the references are to multi-party suits in which the validity of an existing marriage or espousal was being challenged by a third party. The remaining nine are for the most part petitory actions where the plaintiff was seeking the recognition of an alleged contract with the defendant. Several scattered references appear in addition to these. A multi-party suit was brought through malice in 1316 while an appeal was made to the see of Bayeux in a petitory action during 1335, and a fleeting reference to a defloration suit survives from 1315.(5) In 1318, the court prosecuted a breach of a prohibition pendente lite, and two inquiries ex officio into sponsalia were made during 1321.(6)

What then were the contracts which were at issue among the earliest examples of matrimonial litigation? Despite the pessimism of one noted writer on the subject, several of the sentences do clearly state what form the alleged or admitted contract took.(7) Further, even in those cases which do not, the actions of the court in adjudging a couple to be man and wife and ordering them to solemnize, or alternatively granting them a licence to marry, leads to a strong presumption in each case of an exchange of either

present or future consent. The nature of the alleged contract in seven of the nine petitory actions appears to be as follows.(8) Four were concerned with words of present consent and one with sponsalia alone. Two others rested on allegations of consent followed by intercourse. In one a promise of marriage which was fulfilled by subsequent carnal relations is clearly at issue, but in the other the nature of the words is not clear.(9) In the remaining two suits, in which the nature of the words is also obscure, the plaintiff was seeking to have the defendant adjudged as virum vel sponsum.(10) In the multi-party suits the court upheld two de presenti claims brought by plaintiffs against the de futuro contracts of the defendants. It upheld existing de presenti contracts in three others. The plaintiffs' grounds in two of these are unclear, but in the third, sponsalia were alleged ex officio.(11) The court also upheld the defendants' claims of de futuro contracts in a further five suits. The plaintiff's case was based on an allegation of sponsalia in one, an alleged breach of an abjuration sub pena nubendi in another, and in the remaining three it is unclear.(12) In addition to these, the suit which was brought through malice was based on an allegation of future consent followed by intercourse. The woman admitted that she had brought the action because the defendant had refused to lend her some money. Taken with the interest in pursuing claims of marriage, this is perhaps an indication of a fairly widespread knowledge among the laity of a rural world of what would constitute a valid marriage within the terms of canon law.(13)

It seems reasonable to assume that the majority of these contracts at Cerisy lacked the requirements of publicity which the church regarded as necessary for their proper formation. A strong

presumption of clandestinity, without banns and the required form of church ceremony, though not necessarily totally without witnesses, exists in all cases. The tag de facto is often attached to both those contracts which were being challenged and those which were being alleged. Where the couple were adjudged by the court to be man and wife, and where they were then ordered to solemnize in facie ecclesie, it seems likely that they had already contracted a valid, though clandestine marriage. Likewise, where a couple were adjudged as in sponsos, and given licence to marry, then betrothals which lacked a priestly presence - a requirement of some synodal legislation - had no doubt occurred.(14) The court is therefore concerned with either regularising existing, valid marriages, or in giving wider publicity to, and exerting greater control over, the initial stages in the formation of marriage.

As the register is turned more and more into a simple log of fines, the direct recording of matrimonial, and other instance suits, becomes increasingly sporadic. Three multi-party suits are recorded in the second half of the fourteenth century. In two, the plaintiffs' grounds are unknown. Philipot Aubelat brought a causa matrimoniali in 1371 against Denise, daughter of John Ligier and Robert le Goupil. His objection was quashed and the couple were adjudged in sponsos by the court, and given licence to marry. Eight years later another cause is referred to briefly. This had arisen between Moreta daughter of Simon Ravenel, and Thomas le Potier and the daughter of Colin le Cordier. The couple were wishing to contract, but beyond this nothing can be learned of Morata's opposition or the final outcome of the action.(15) The third case was brought in 1371 on the grounds of a spiritual affinity formed by the man's pre-marital intercourse with a third party. Joanna la

Rate, now the wife of Vincent de Landis, opposed the marriage of John de Ponte to Guillermeta, called la Senescalle. She claimed that John had had a child by her 'in the time of her youth', which she asserted had been raised by Guillermeta from the font. The court, however, dismissed this allegation of an impediment arising from Guillermeta's rôle as a god-parent, and declared the defendants to be man and wife. John was ordered to solemnize marriage with her in facie ecclesie at a suitable time, and after the customary publication of the banns.(16)

One other multi-party suit survives from a century later. In 1474, John Savary reclaimed the banns of Guillelmina, daughter of John Feugier and oh Maubert, who had been betrothed per manum sacerdotis. Savary claimed that he had also betrothed Guillelmina, and stated that he could prove this. The court ordered the woman not to strengthen the pacts of marriage which she had with Maubert in any way, while the action was pending. However, when the case was reconvened nearly two months later, it was found that she had broken this prohibition and had formed a fully consummated union with Maubert. Her father was fined 20s. for an earlier jurisdictional offence, and he appears to have born his daughter's penalty of 60s. as well.(17) An earlier example of a couple acting in such a fashion to prejudice the outcome of a multi-party suit can be glimpsed briefly. In 1452, Joanna daughter of John Poullian was fined 20s. for committing fornication cum affidato suo, before their marriage had been celebrated. This had taken place while an action brought by Radulph Tronquoy was still pending. Interestingly Radulph was also fined for fornicating with Joanna.(18)

Two petitory actions are known through indirect references made to them during 1413. In the first, a man was fined 2s. for

attempting to subvert the female defendant in the action; and in the second, a woman was fined for her attempts to pursue a claim against her partner in fornication, for pacts of marriage made within the officiality, in another court.(19) A petitory action also survives from 1474, when Jemma, daughter of William le Roux claimed that Robert Marquier had carnally known her with a 'pact of matrimony'. He confessed to the fornication under oath, but denied the marriage pact. He subsequently gave an undenum to the woman pro satisfactione. An earlier suit arose out of an inquiry on the part of the promotor into a man's alleged fornication. In 1456, Thomas Vairignon swore under oath that he had not fornicated with Basira, widow of Colin Tronquoy. She appeared, and claimed that he had not only fornicated with her, but that this had been carried out with a pact of marriage. She then entered into a petitory action to enforce her claim. Thomas, who was now under considerable local pressure for his act of perjury, confessed to the fornication, but denied the contract of marriage. He was fined for both his perjury and his fornication; Basira was fined for allowing Thomas to fornicate with her.(20)

Our final reference to marriage in this period is also an indirect one, arising out of a criminal prosecution for a breach of an abjuration. In 1451, William le Touzé admitted breaking the terms of a pledge which he had made in respect of the daughter of Dennis le Piquenot. This was not all, for William had betrothed her. This initial betrothal had then been followed by a betrothal per manum sacerdotis, and then intercourse to form a valid marriage. He was ordered to take her as his wife within six weeks, after the customary publication of the banns on three successive Sundays proceeding the marriage. William pledged himself in the sum of

100l.t. to do this, and the woman was bound in the sum of 50l.t. The Lord abbot was present, with the priors of Deux Jumeaux and Benevast, three magistri and a priest, as well as 'many others'.(21)

These references to various aspects of the formation of marriage are too scattered and remote to be resolved into a pattern with any certainty. A few observations may be made though. The actions from the second half of the fourteenth century most closely resemble those from the preceding period. As a whole these isolated examples demonstrate that the court continued to deal with disputes over contracts until well into the late fifteenth century; and in most cases, it is still a canonically valid, but clandestine marriage, which is at issue. The procedure by which marriage was formed is also demonstrated by a number of the late fifteenth century examples. One of these betrays an interesting mix of lay and ecclesiastical practices in the formation of betrothals. A number also show the problems which the court expected to encounter in its attempts to maintain its jurisdiction over matrimonial actions and to prevent couples from acting to pre-empt its decisions. This is a theme which will be dealt with briefly before this particular area of matrimonial litigation is abandoned.

References to jurisdictional and procedural matters relating to marriage are scattered throughout the register. Two office inquiries into the illegal termination of betrothals survive from opposite ends of the chronological spectrum. In 1315, Guillemeta la Begaude was fined 10s. for breaking her betrothal to Robert Fiquet, sine judicio ecclesie by conceiving a child by John de Fayaco. This did not prevent her from subsequently challenging ~~Richard's~~ Robert's intended marriage to another.(22) Much later, in 1476, the court noted that Marc le Loup and Jemna, daughter of Simon Engueuran had mutually

broken the betrothals they had made before a priest. What appears to be at issue is that the betrothal had been followed by carnal intercourse, and so would have been transformed into a binding contract.(23) In the early case, the court probably took exception to Guillemeta acting without its warrant, and the manner by which she unilaterally broke her betrothals with Richard. Ordinarily a couple could mutually agree to end a simple de futuro contract.

There are also several other examples of prohibitions pendente lite, which were imposed by the court to ensure that the outcome of an action was not prejudiced. In 1318, Simon de Tournieres contracted sponsalia with the daughter of Thomas de Alnetis, in facie eccelesie per verba de futuro. However, a diriment impediment was alleged, and Thomas was enjoined to keep his daughter in his house, and to prevent her from becoming more strongly bound to Simon, until the matter was resolved. He gave a pledge of 50l.t. that he would do this. Afterwards, Thomas knowingly allowed his daughter to be bound by a stronger tie to Simon, even though the matter was still pending and he had acted without the court's permission. He seems to have forfeited his pledge and the matter was dealt with by the abbot in the parlour of the great hall of the abbey. During the middle years of the century a woman was questioned closely on the nature of the contract that she had made with German de Furno who was the defendant in a petitory action brought by the daughter of John Riqueut. This was to ascertain whether their promises of future consent had been followed by intercourse. The woman swore that this had not happened and she was enjoined on pain of one hundred silver marks not to strengthen her bond to German while the issue remained undecided. At the very end of the century, in 1399, German de Roqua was fined 30s. for solemnizing marriage

with another before his de futuro contract with Thomassia, daughter of Arnulph English, had been annulled by the court. The priest who had officiated at the ceremony was fined 10s. for acting without the court's permission.(24)

The court also dealt with a number of legal abuses which fall within the wider definition of clandestinity in which the legal requirements of publicity and due publication of the banns had been infringed. In 1340, the court noted that the priest of Littry celebrated the sponsalia of strangers, for 5s. or 10s., thereby committing a double offence. Another priest of Littry was fined 5s. for marrying Laurence de Bapaumes of Cerisy to a Littry woman in 1373, without the customary certification of the banns from the incumbent at Cerisy. Such behaviour not only 'scorned and prejudiced' the rights of the church of Cerisy, but, as the court observed, great danger could arise from it.(25) A similar incident took place in 1412. John le Hullot, a priest was fined 100s. for celebrating clandestine sponsalia between Peter le Touzé and Cardina, eius uxor. This had taken place, in defiance of a synodal mandate, in the chapel of St. Mary of the Thorn, before the triple publication of the banns had been accomplished. The couple were fined 40s. for allowing themselves to be joined in such a fashion, and three men were excommunicated and fined 10s. each for being present at the ceremony, and for ensuring that it would be clandestine. The couple appear to have acted to pre-empt possible litigation against them, since the second reading of their banns was challenged by William le Touzé. His opposition was ignored, and the couple hurried to have their marriage solemnized.(26) Another example of banns being reclaimed is recorded in 1392. In this case, it was the court's jurisdictional rights which were infringed.

Radulph Davi, priest of Littry, was fined 25s. for exceeding his legal powers after the banns of Laurence le Vennour and the sister of William Letouze had been challenged by the son of Richard le Poller. The priest had called all three into his presence and had made them swear on the Gospels. He then settled the matter according to his own will, without authority from the official.(27)

These few examples demonstrate that the court, where it was able, sought to exercise a close control over all the stages in the process whereby a marriage was formed. This was especially true in those cases where the validity of a contract came under question. They also tend to reinforce the impression gained from the early fourteenth century material that those who contracted clandestinely, in whatever fashion, were not ordinarily punished unless some other illegal act had occurred. This is perhaps a little surprising in view of the concern expressed over clandestine marriages in the synodalia of the preceding century, at least. Conversely, these examples also show how individuals could act to force the court's hand and ensure that, in their own terms, a satisfactory outcome was reached.

Dufresne touches briefly on the question of marriage within the officiality.(28) His treatment, however, is crude, superficial and without reference to, or a proper understanding of, canon law. The emphasis lies, not unexpectedly given the subject of the article, in the use of promises of marriage as means of seduction, which appear to have occurred in at least one case. His suggestion that an anxiety to enforce the rules of canon law offered many possibilities for divorce is without foundation within the context of the register and perhaps results from a misunderstanding of the form and content of the multi-party suits. Furthermore, the belief in the possible

survival of marriage more danico within Normandy is unlikely (and quite possibly unduly romantic). The Scandinavian plantation was largely that of a military elite with patches of dense agricultural settlement in some areas, but apparently not in the marginal lands around Bayeux. Whatever their numbers, these northmen had shed both their language and many of their Scandinavian customs by the eleventh century at the latest.(29)

(ii) Rochester instance litigation

Because of the nature of the Act book what remains in the area of matrimonial litigation are the brief notes made which chart an action's progress through the court. Whereas at Cerisy the definitive sentence has usually survived, but here other elements of the legal process, such as the inception of a cause, adjournments, and the production of witnesses have been recorded together with a final sentence in most cases.

Sixteen causes which were concerned with some aspect of the marriage bond were heard or initiated during the period covered by the document. Thirteen were either multi-party or petitory actions which sought to establish the existence of a valid contract of marriage. These arose out of either a challenge to a proposed match or a simple claim for breach of promise. However, one petitory action developed from an initial office inquiry into fornication. Sentences were pronounced in ten of the thirteen, one petitory action was transformed into an alimony suit, and two others reached no conclusion within the register. In addition to these contract suits, the court also dealt with three petitions for divorce. One of these was inconclusive and another became the subject of

arbitration.

Seven of the marriage causes resolved themselves into multi-party suits, six of which came before the court as a result of the defendants' banns being reclaimed. Thomas Board forbade the banns of Adam Pope and Agatha daughter of John Slipes. He claimed that a prior betrothal had taken place between his son Simon, who was aged twelve, and Agatha. Against this, Adam alleged that he had betrothed Agatha and had then contracted marriage with her per verba de presenti. Agatha for her part expressly denied this and though Adam was able to produce two witnesses to support his claim, the court held that their evidence was insufficient and absolved Agatha from his petition.(30)

The matter did not end here, for a few weeks later Adam Pope in his turn reclaimed the banns of Simon and Agatha. He alleged that it was common knowledge (laborat publica vox et fama) that Simon's brother, John, had precontracted with Agatha and had had carnal intercourse with her. Adam was able to produce four witnesses, including John Bard, to testify to this. The court considered that Adam's objection was justified on the basis of their evidence, and prohibited Simon and Agatha from ever contracting marriage together.(31)

In the third case, John Thebaud reclaimed the banns of John, son of George atte Noke, and Joan, daughter of Simon atte Herste, in March 1348. All parties appeared before the official and John Thebaud alleged that he had contracted marriage with Joan at the beginning of December, 1347. Joan denied that this had ever happened and claimed that she had contracted marriage with John, son of George, and that the union had been consummated. As John was able to produce only one witness, the court absolved Joan from his petition,

but left her to her conscience regarding her contract with the son of George. This would suggest that an element of doubt existed in the mind of the court on the matter.(32)

Marion, the maidservant of John Martyn, challenged the banns of John Hanecok and Margaret, daughter of Felicia Peucompe. She claimed that John had contracted with her per verba de presenti, but could produce no more than one witness to counter his denial. John was released from her petition, but was left to his own conscience as to his forthcoming marriage to Margaret. Following this John and Margaret admitted that they had contracted marriage and had followed it with carnal intercourse. Significantly they were ordered to cease such relations until their marriage had been solemnized and they were to be beaten three times around their parish church.(33)

Marion, daughter of William Taylour, exercised her right of challenge against Richard Sampson and Margaret, daughter of John Helere. She alleged that Richard had contracted marriage with her and had then lain with her, wherefore she claimed him as her legitimate husband. Richard denied the existence of the marriage, but admitted to fornicating with Marion some seven or more years previously. This crime had been punished by he official at the time. Subsequent to this he had contracted marriage with Margaret per verba de presenti. As Marion was unable to produce witnesses, Richard was absolved but left to his own conscience with regard to his contract with Margaret.(34)

Finally, Alice Cothen reclaimed the banns of Hamo Cadel and his prospective bride, Margery Patrich. She claimed that Henry had promised to take her as his lawful wife and had then slept with her. She had only a single witness. Hamo denied the promise of marriage and any intercourse with Alice since his punishment before the

archdeacon of Rochester. He was therefore able to purge himself and joined the ranks of those men who may have been wrestling with guilty consciences.(35)

Only one multi-party suit was brought under different circumstances. In April 1347, the court gave judgement in a long-standing action between John Wychard and Joan de Okle. Her proctor appeared and admitted before the court that Joan's marriage to William atte Forde had been preceded by a contract of marriage with John. As a result of this admission, the court upheld John's petition, declaring his marriage to Joan to be lawful.(36)

The remaining six suits were petitory actions, though not all reached a conclusion in that form. In April 1347, Joan Akerman initiated a causa matrimoniali against Reginald Webbe which was to continue for a little over a year. By July, it had been suspended until September sub spe pacis.(37) However, the parties next appeared in May of the following year when an award was made to Joan in a causa alementacionis prolum. Reginald admitted that he had got two children by her and he agreed to support the elder of the two. He also promised to give Joan half a mark for the maintenance of the younger by midsummer. If he failed he would be excommunicated.(38)

The nature of the contract is clearer in most of the remaining suits. In October 1347, Ollaria Seuare successfully sued Walter Pak on the grounds of a de presenti contract followed by intercourse. Walter had initially admitted to the intercourse but not the contract when proceedings had started in September. Ollaria had produced Christina Seuare as a witness and the session had been adjourned for several weeks to allow the plaintiff to produce a second witness. However, when it resumed both parties freely admitted to the contract and both swore on the Gospels to have the

union solemnized in facie ecclesie before the beginning of November under pain of excommunication.(39)

An office action from June 1348 against Richard Homfrey and Isabella Rogers super fornicacione et contractu matrimoniali was transformed into an instance suit, when Isabella alleged that a de presenti contract had taken place. Richard denied this, together with the crime of fornication. Isabella also denied this charge. The plaintiff then produced three witnesses who were admitted and examined. However, no conclusion had been reached when the last reference is made to the cause in November of that year.(40)

Two of the petitory actions involved claims relating to alleged infringements of prior abjurations sub pena nubendi. In April 1347, John Boghyere appeared personally before the court seeking to have Walter Rokke adjudged as her lawful husband. She claimed that they had previously abjured in forma communi following which Walter had again carnally known her in the house of Robert Homan. On 7 May, the plaintiff delivered her articles which the defendant denied and both parties took the oath in support of their claims. The defendant then answered a series of questions put to him by the court. He admitted the abjuration and then said that he had lain naked in a bed with Joan and others. However, he denied having intercourse with her. Joan then produced five witnesses, Robert Homan and his wife, Robert Kynt and Robert and Walter Boghiere, to prove her contention. On 28 May, she produced two more witnesses and the cause was left, pending further action on her part.(41) In the second action, which was initiated in January 1348, Alice Melleres alleged that John Turgys had forsworn her eleven years previously in forma communi ecclesie before the archdeacon of Rochester. He subsequently returned to her and had two children by her. John admitted to a previous abjuration

before the official of Rochester rather than the archdeacon, but denied any subsequent intercourse. Alice produced one witness who was admitted and the proceedings were adjourned for her to produce a second. Though Alice was able to do this and the evidence of both witnesses was not challenged, the court found against her in July, due to insufficient proof. However, it added the caveat that John should be left to his own conscience as far as the alleged contract was concerned.(42)

The final petitory action was fought over the conditions of the dowry rather than the specific existence of a marriage contract. It was begun in April 1347 when Juliana Marchaunt brought a causa matrimoniali against William Vyngerlith, and it reached its conclusion that September when William consented to marry the plaintiff, if her parents provided an adequate dowry. Her parents and a friend of the family, John Sampson, who were present, immediately promised to pay him ten marks before Whitsuntide. Her mother and John Sampson promised to pay a further 40s. each on the wedding day and John promised another mark before 1 May. William accepted these promises and the official inquired into the couple's consent and if each would have the other as spouse. As they agreed they were to solemnize the match before All Saints' Day.(43)

(iii) Clandestine marriages in the Rochester ex officio business

In addition to those clandestine marriages which were revealed through instance litigation, the court itself took positive measures to uncover a further thirty-three such unions, by means of a slightly smaller number of office actions.(44) These took the form of an inquiry into either an alleged contract of marriage - with or

without an accompanying charge of fornication - or a couple's fornication, in which one or both parties then confessed to the existence of a clandestine contract. On a single occasion, a clandestine marriage was discovered through an inquiry into an unfulfilled penance for adultery.

The majority of the contracts at issue had been formed through words of present consent which had then been followed by intercourse. On four occasions, however, a contract per verba de futuro was alleged or admitted, but in all cases it had been followed by sexual congress between the parties and so had been transformed.(45) A conditional de futuro contract also appears. Robert Webbe promised Juliana atte Wode that he would take her as his wife (duceret in uxorem) if his parents gave their assent. This promise had been followed by intercourse. When called before the court neither party could say why marriage should not be celebrated between them and they were ordered to solemnize.(46) Another man alleged that he had first betrothed a woman and had then taken her as his wife on Palm Sunday. This, like several other contracts, had been done without witnesses.(47)

In eighteen cases both parties admitted contracting clandestine marriages. In a further nine, men confessed that the union had been formed. In three of these their alleged partners were successful in their attempts to deny the existence of a contract. On three other occasions, it was the woman who had admitted that the marriage had occurred, and only one of these was successfully challenged by the man. Finally, in one case, both the man and the woman denied that the marriage existed and were then punished for their fornication. If the contract was admitted or held to be proven, the couple were ordered to solemnize after they had abjured their sin and undergone

a suitable penance. This took place in all cases except those in which the allegation had fallen due to insufficient evidence in the face of the one party's denial or when an impediment was produced by either the court or the couple themselves.

Five of the alleged contracts were denied by the second partner, four of whom were successful in this. Two men who claimed to have contracted clandestine marriages with their partners in fornication were unable to prove their allegations. One had no witnesses to his alleged contract and the other could produce no more than one. Both were ordered not to take any other woman as wife while their alleged spouses lived.(48) The women were, however, released from the men's petitions, but in one case the woman was left to her own conscience regarding marriage with another. A third man alleged that he had promised to marry his partner and had followed this with intercourse. This was also unwitnessed and the man's petition again failed in the face of the woman's denial. Both parties were left to their own consciences with regard to the execution of the contract.(49)

Two of the clandestine marriages which were alleged by women were subject to denials by their partners, though only one was partially successful in this. One woman had no witnesses to the contract which the man refused to recognise. The court forced both to abjure in forma communi.(50) The other woman confessed to both the charges of fornication and of contracting clandestinely on which she and her partner had been summoned. The man initially confessed to the fornication alone, but when placed on oath he admitted giving the woman promises of marriage which had been followed by intercourse.(51) In a further seven cases, an impediment was produced against the contract by either the court or the parties

themselves. Three were founded on the alleged existence of other, unsolemnized contracts. After John Taylour and Sarah Longefrith confessed to a clandestine marriage, it was alleged ex officio that Sarah had also made a binding contract with Robert Pertrich. She admitted this and the proceedings were adjourned to discover with which of the two she had contracted first. When the case resumed Robert was represented by his proctor. John and Sarah asserted that their marriage had been contracted and confirmed by carnal intercourse before All Saints' 1346. The proctor and Sarah admitted that her contract with Robert was not made until after the following Easter. Neither party could produce witnesses, but judgement was given in favour of the earlier contract.(52) In the second case of this type, Alice Prois and John de Stokesbury confessed to a clandestine marriage which had taken place around St. Andrew's day 1346 and had been confirmed by intercourse. However, Alice then admitted that she had contracted marriage with Ralf Lamb around Christmas of the same year and that this had also been consummated. John and Alice were ordered to have their union solemnized as soon as possible under pain of excommunication and Alice was never again carnally to mingle with Ralf under the same penalty.(53)

The third case involves several unions which enjoyed various degrees of legality and seniority. At the end of February 1348, John Lindestede and Denise Vayre were called to answer charges relating to a clandestine contract between them. Both confessed that they had contracted sponsalia which had been followed by intercourse. John then stated that he had made a prior contract with Amicia wife of John Teysey, while her husband was still living. The precise nature of the contract is unclear, but whatever its form it was tainted by the impediment of crime. John and Denise were therefore ordered to

have their marriage solemnized after Easter.(54) However, at the beginning of April, John again appeared seeking absolution from a sentence of excommunication which had been imposed on him for failing to carry out the penance for his adultery. He was also questioned upon the nature of his intentions towards both Amicia and Denise and also a woman called Joan Croxes. He now confessed that he had in fact precontracted with Joan before either of the others and had consummated his union. He was made to abjure the sin with the other two women and was to solemnize his marriage with Joan.(55)

The remainder of the objections raised were based on the grounds of affinity or incest. The first was brought ex officio against Stephen Robekyn and Joan Cokes who had confessed to having formed a clandestine marriage. It was alleged that Joan had been carnally known by a consanguine of Stephen before their marriage. Stephen denied the kinship and an inquisition was held which discovered that the men were related to each other in the third degree of consanguinity. The contract, tainted with affinity, was annulled and they were forbidden to solemnize it.(56) Another couple, who appeared on a charge of fornication, stated that they would willingly marry but for the fact that the man had had prior knowledge of a consanguine of the woman. They were therefore forbidden to marry. Following this, the woman was awarded a penny a week to sustain her offspring from the union.(57) A third couple who were called to answer charges of fornication and of forming a clandestine marriage alleged under oath that the woman had been known by a consanguine of the man, in the fourth degree, prior to the contract. They too were forbidden to solemnize and, as in the other cases, abjured the sin and were beaten three times around the church.(58) Another case involved what must technically be termed

incest. John Beneyt and Joan daughter of Jacob atte Sole were called to appear on a rumour that they had contracted marriage. They admitted this, and also that they had published the banns. They were ordered to solemnize. After this John and Alice Bussch, a consanguine of Joan, confessed to fornication which had taken place after the formation of the marriage. They abjured and suffered the usual penalty for fornication.(59) Finally, William le Herde and Agnes Munde confessed to having made a clandestine contract and to fornicating. They alleged that they could not, however, marry for they had recently heard that they were related within the prohibited degrees. They themselves were not aware of any such impediment and asked the court to investigate the matter. The resulting inquisition found that they were in fact related in the fourth degree. They were forbidden to contract and were beaten three times around the church.(60)

(iv) Matrimonial affairs in the Hereford visitation return

Sixty-one presentments were made during the course of the visitation relating in some way to marriage or its proper formation. Two further examples may be found within Trefnant's register for that year. There is no evidence that these particular cases came to his attention through the visitation, though others certainly did. These two isolated examples can be dealt with before proceeding to the more numerous, but less detailed presentments.

The first, a causa divorcii seu nullitatis matrimonii, was brought by Roger ap Jevan and Sybilla Herdeman of Montgommery against Margery, daughter of David Dehenbarth. Roger appeared and alleged that he had contracted a de facto marriage with Margery

through words of present consent. This had been subsequently solemnized in facie ecclesie after the customary publication of the banns. Sexual intercourse followed. He now claimed that this contract could not stand since he had entered into a de presenti contract with Sybilla some considerable time before (diu ante). He added that he was willing to prove this claim, which may indicate that the contract, though clandestine, had had some degree of publicity. Definitive sentence was given in his favour on the grounds that he had proved his case. Margery could find no grounds on which to counter his claims. He was ordered to solemnize his de facto marriage in facie ecclesie, while Margery was given licence to marry elsewhere.(61)

The second is more unusual. Thomas de Worthyn and Johanna, daughter of Thomas de Whytton, domini ville de Whytton, appeared before the bishop at Burford. Trefnant at the behest of the woman's father and those present, asked Thomas de Worthyn if Johanna was in fact his wife. He replied without compulsion (libero animo et benivolo) that she was. Johanna replied in similar vein. Thomas was then asked for how long this had been the case and he stated that it was sixteen years and more. Johanna when asked replied that it had been seventeen years. They then left mutually agreeing to treat one another as man and wife. The witnesses included four priests, one of whom had the title magister and a cleric from the diocese of St. Asaph who was a public notary.(62)

It is now necessary to return to the visitation return itself and outline the relevant material within it. Much can be learned concerning the formation of marriage and the church's attempts to administer and regulate the process. A start will be made with those casesin which an impediment of consanguinity had been raised.

Twelve of the sixteen were concerned with incest between the parties. The blood relationship was usually within the fourth degree, but two English couples were related within the third degree of kinship.(63) The knowledge of an impediment led in at least one case to the formation of a clandestine marriage outside the diocese by a Welsh couple.(64) The remaining four marriages were tinged by an affinity of blood created by either pre-marital intercourse or remarriage. Nicholas and Maiota Roberts were related in the third degree of affinity, since the woman had formerly been married to a consanguine of Nicholas.(65) Likewise Howell Kycheyvokes and his wife Gwenllian were related within the fourth degree because her late husband had been a relative of Howell.(66) An affinity existed between Thomas Symondes and Mathilda due to her pre-marital intercourse with a man related in the fourth degree to her husband as was the case between Jankyn ap y Toppa and his wife.(67) The woman's pre-marital partner had been Cadwalader ap Jevan, a relative of Jankyn within the third degree.

Fourteen presentments were made in which individuals were said to have abandoned an existing contract in order to form another. Men were the usual culprits, but in two it was the woman's ability to marry which was being called into question.(68) In four instances, the first contract was said to have been put aside (superstitem).(69) One other involved an allegation of the impediment of crime since it was claimed that the man had married his second wife during the lifetime of his first. This was subsequently dismissed.(70) Another was clearly the result of an unfortunate misunderstanding. John ap Tommi and Agnes Robynes were illegally joined on account of Agnes' precontract with Richard Hamonde and their solemnization of marriage in facie ecclesie.

However, the parties claimed that the previous marriage had been annulled on the grounds of Richard's impotence after which John had taken Agnes in marriage and had sons and daughters by her. The case appears to have been referred to Hereford.(71)

The knowledge of a pre-existing contract or a reclamation had led those concerned to form some kind of clandestine contract in a number of the examples. In some instances, the original contract itself appears to have been clandestine. Three of the cases show both the levity with which the marriage bond could be held and also the lengths to which couples would go to avoid the proper publication of the banns. John Smythe had not only abandoned his wife of sixteen years standing at Hereford, but he had also deserted a second unnamed spouse. He compounded this existing bigamy by proceeding to marry Maiota Young of Norton Canon. Their marriage had been celebrated clandestinely at Cushop by John Davy.(72) Richard Marys, having set aside his wife, had a marriage celebrated between himself and Matilda Flesher of Staunton quam tenet pro uxore. This had been conducted in Sarnestone church by a chaplain from Wales without licence from the local curate.(73) Gruffyth Sawyer had also set aside his wife at Bridstow and had then married a woman from Madley in the church there. The ceremony had been conducted by the vicar, but the banns had not been published at Bridstow. Gruffyth was now resident at Madley.(74)

A further four couples acted to pre-empt any possible legal action after their banns had been challenged. The vicar of Eardesley celebrated marriage between a couple after the initial reading had been reclaimed on some unspecified grounds. The banns were published just once.(75) William Kyde of Diddlebury went to another church to have his marriage celebrated.(76) David Vawr of Knighton undertook a

clandestine ceremony 'outside' the diocese, and a Monmouth man acted in similar fashion, crossing into Llandaff diocese. Both were reacting to allegations of pre-contract made against their banns. The parishioners also stated that David had carnally known the prospective plaintiff.(77)

Three other couples acted in a similar fashion, but no details are given concerning the motives for their actions. David Smythe of Whitchurch and his wife, Gwenllian, travelled to Generrywe parish where their banns were published. The marriage itself was celebrated by the imposingly named Maurice ap Jevan ap Jorworth, a priest of the diocese of Llandaff, living in St. David's diocese.(78) He charged the couple 12d., which he may have exacted because of the illegal nature of the event or as his degwm rhoddi: the tithe of investiture, a customary fee paid in Wales for the celebration of a marriage and probably elsewhere under a different name.(79) David Goche also of Whitchurch and his wife Gwenllian had their marriage celebrated in Llandaff diocese in the church of Pen-y-Clwyd by an unnamed priest. The banns were not published.(80) Finally, Llewelyn Cledde and Dydgu Galle went outside the diocese to solemnize their marriage.(81) The system of banns and the necessary conditions for due solemnization must have been both in existence and enjoying a wide degree of currency. Reclamation itself could be used maliciously. David Benhir reclaimed the banns of a Welsh couple in the hope that he might be able to extort some gift from them.(82)

These nine marriages not only infringed the church's notion of how the proper formation of marriage should be conducted, but they represent an abuse of the system of the banns since they sought to be as secret as possible while maintaining some pretence at legality. Despite their obvious resemblance to the previous

examples, ulterior motives need not have lain behind these last three clandestine marriages. Given that the couples involved were all Welsh and that in two cases they travelled to Welsh parishes, this may simply reflect a desire to be married by a priest speaking in a familiar tongue or in the home parish of one or both parties. David Goche, whatever his motives may have been, received penance. He was to be beaten around his parish church on three Sundays while carrying a candle, and thrice through the market place.(83) William Kyde was cited to appear at the next session of the visitation.(84)

The remaining five cases probably lacked even this false air of legality. A Diddlesbury man formed a de futuro contract with a local woman and then travelled to the parish of Clunbury to take a woman as his de facto wife.(85) At Clun, the parishioners reported that the 'one called Mab Philkyn' had contracted per verba de presenti with Wellian Goghe and had then gone on to marry another.(86) John Estham and Agnes of Richard's Castle were said to be illegally joined since John had another wife. He denied this and the matter was deferred.(87) A similar charge was brought against Alson de Orcote at Lingen. Master R. Andrew was commissioned to examine witnesses upon the existence of the first contract.(88) Finally, at Alberbury, a Welsh couple were said to be joined illegally because the man had abandoned his first wife.(89)

Other examples of clandestine marriages may be found in the cases of fourteen couples who were presented for failing to have their marriages solemnized. There is no reason to suppose that these were anything but valid marriages in canon-legal terms: the contracts were usually followed by intercourse and in two case it was specifically stated that words of present consent had been exchanged.(90) In one case, however, an over long engagement was at

issue as the couple had contracted de futuro but had not gone on to solemnization.(91)

The factors leading to this reluctance to undertake the legal requirement of a church ceremony can be established or guessed at in just over half the cases. Tensions of one form or another may account for the reluctance in several. One couple simply refused to have their contract solemnized, while Gruffyth ap Joris refused to solemnize marriage with his wife, who seems to have been English, though he lived with her.(92) This may have been due to the potential tensions arising from a mixed marriage or different legal and social customs. Having been called before the visitation they agreed to have the contract solemnized and they were dismissed. A tension of a different kind may have been present in the third example. A Monmouth man was found both to have fornicated with his servant, Edith and to have exchanged words of present consent with her.(93) The woman's status may have discouraged him from proceeding further either because of his own prejudices or motives or because of a possibly hostile public reaction.(94) In two further examples the causes of the delay were felt to lie with the woman concerned.(95) However, in one case it was found that the woman's fiance was absent, and the possibility of a prosecution was envisaged, possibly on behalf of the woman.(96) No particular reasons are given for these delays, but they may lie simply in a reluctance to engage in an unwanted contract. Other more tangible factors lay behind the remaining examples. One couple had contracted marriage before the man's promotion to Holy Orders, but had not had the union solemnized. Despite his new status the man still treated her as his wife.(97) Philip West appeared and alleged an unspecified impediment against his union with Johanna Walisshe. The matter was

to be brought before the deacon at Bromyard.(98) Finally, William Dogens was accused of fornication with Mathilda, daughter of Thomas Taelour. It transpired, however, that the couple had contracted marriage and would have gone on to solemnize it, but for the fact that William had suffered a seizure (subito captus est). As a result, he had lost his powers of touch, movement and speech. The couple would have been placed in a legal limbo by this and it was noted that consideration was being given as to what should be done.(99)

Another thirteen marriages came to light in a similar fashion, following presentments for fornication. In four other cases, and possibly a fifth, those concerned were ordered to solemnize their marriages, indicating that they had formed clandestine contracts.(100) Among these one couple were enjoined to forego sexual relations until after solemnization and this may have been an unwritten requirement made of the others. In a further seven cases the couples were said to have been joined in matrimony.(101) Most give no indication of the duration of the union, but a Welsh couple living at Worthen claimed that they had been married for twenty-four years.(102) They were dismissed without further ado. No further action against the other couples and this would indicate that they had formed valid and legal contracts which did not fall into the category of clandestinity. Finally, one couple were found to have contracted marriage in facie ecclesie.(103) The appearance of these presentments arising out of charges of fornication shows a degree of confusion and lack of detailed knowledge on the part of the informants. Those cases in which clandestine marriages were uncovered suggest that marriage and long-standing concubinage possessed more than a passing resemblance to each other, and that

their effects were similar in, at least, the minds of the participants. The presentment of the eight couples who appear to have formed both valid and legal marriages indicates an ignorance of local affairs on the part of the informants. This could have been due to the recent arrival of the couples in a particular area and to language problems since four of the eight are certainly Welsh.

(v) Conclusion

It now seems desirable to draw together this material and outline what individual and general patterns emerge from it. The focus here will be upon the nature of marriage and the aims and aspirations of the church in this area. This will be will followed by an appraisal of the views of one noted canon-legal historian on the specific issue of clandestinity.

Although the surviving sample from the Cerisy peculiar is relatively small and incomplete, it is still worth attempting to fit it into the wider context of surviving English and French marriage litigation. During the early fourteenth century instance suits alleging a canonically valid marriage predominate. Six involved the exchange of present consent, two consent followed by intercourse, and another the breaking of an abjuration sub pena nubendi, which was effectively a conditional de futuro contact fulfilled by subsequent intercourse.(104) This pattern most closely resembles that which is emerging from studies of the English court records, where the main concern was with contracts of this type and especially those involving present consent. However, it sets the Cerisy court apart from its most closely related French equivalent, the register of the officiality of Paris. There the major staple of

matrimonial business were suits concerned with disputes arising from betrothals. These were mostly simple promises to marry, but in roughly one-fifth of the cases these were alleged to have been followed by intercourse.(105) This is the familiar pattern emerges from the civil litigation at Rochester. As with other, English courts such as Ely, the bulk of the litigation is concerned with establishing the existence of a valid marriage. Where stated, the disputed contracts were formed by present consent (with or without future intercourse), future consent transformed into present consent by carnal intercourse, or the breach of an abjuration sub pena nubendi, which was in effect a conditional de futuro contract. The multi-party suits which came to the court's attention through reclamations also reveal that four of the couples whose banns had been forbidden had already entered into binding contracts. The patterns of marriage existing between different courts is a theme which we shall have cause to return to later.

Control and regulation were the watchwords of the jurisdictions under scrutiny here. The procedure whereby the church thought that marriage should be formed, and of which the banns formed and essential part, can be reconstructed from English and French synodalia of the preceding century. It was threefold in nature. The first step was the formal affidation of the couple before a priest. This was followed by the publication of the banns, and finally a solemn exchange of consent before a priest in facie ecclesie.(106) Traces of the elements of this system can be found within the Cerisy register. From 1318 and the following year, come references to sponsalia made in facie ecclesie, and in 1341, the priest at Littry and his sexton (custos) were defamed for demanding money before they celebrated sponsalia or made wills.(107) Several other references to

affidacionem per manum sacerdotis appear elsewhere in the register.(108) A number of the couples who had contracted clandestinely were ordered to have their unions solemnized in facie ecclesie, following the due publication of the banns, 'as is the custom'.(109) The court also initiated several actions against contracts in the later fourteenth century which had been solemnized before a priest, but which infringed the regulations concerning the proper publication of the banns.

Yet this desire to resort to clandestinity indicates that this system was in real and effective operation. Esmein considers that ~~that~~ the requirement of the banns was already present in the Gallician church by the end of the thirteenth century, but that their implementation and application was intermittent.(110) Evidence from the late thirteenth and early fourteenth centuries suggests that the system was present in a working form in several English dioceses.(111) At Cerisy, sponsalia of strangers took place without due certification. A couple had a clandestine marriage celebrated after their banns had been reclaimed and in another case a priest exceeded his powers by settling such a dispute by himself. The Hereford returns provide the most detail on this matter. A system of banns and licensing was in operation within the diocese and individuals with a guilty conscience would go to considerable lengths to avoid the proper publication of the banns or to give an aura of legal respectability to their unions. The banns were clearly a formidable deterrent and something of their gravity can be discerned form the desire of couples to leave the diocese to have their banns published illegally and their malicious use both at Hereford and Cerisy. Reclamations or simply their threat were driving people to undertake clandestine ceremonies or as at Hereford

to move into areas where the system may have been less rigorously enforced.

At Cerisy the court took sporadic action against those who terminated their betrothals without its consent, broke its prohibitions pendente lite or infringed the requirements of due certification and publication of the banns. Though these wider infringements of publicity merited punishment, clandestine contracts were treated as valid marriages. This was also the case in the instance suits at Rochester, though the result of one such suit betrays an attitude of mind found in the court's office business where clandestinity was treated as little more than sworn fornication. This is a theme that will be examined in greater detail below.(112)

All three sources provide evidence for an attitude to marriage among the laity in which it was viewed as more of a private contract than a sacrament. Such an attitude can be seen as lying at the heart of the suit which was brought against Joan Okle at Rochester as well as many of the other cases there. In this particular case, Joan finally admitted that she had initially contracted marriage with the plaintiff, John Wychard before she married William atte Ford. This lax attitude to the permanence of the marriage bond is further reinforced by the examples of separations and repudiations which occur in all three sources and those cases of bigamy noted in the Hereford visitation return. Those who resorted to such measures evidently did not regard their marriages as indissoluble. Further evidence can be presented concerning a distinct pattern in the formation of marriages which lends support to this non-sacramental view of marriage. At Rochester, couples would contract a valid marriage by the proper exchange of consent which would then be

followed by solemnization in facie ecclesie. This often occurred after a period of cohabitation which might extend over several years. The two suits surrounding Thomas Bard and the Pope family indicate that in the ordinary course of events, either the exchange of present consent or the church wedding proper could be preceded by a period of betrothal. A similar pattern of clandestine contracts emerges from Cerisy. The church could also take more active steps to uncover clandestine contracts. The process of visitation at Hereford and the office actions at Rochester discovered couples who were reluctant to take the necessary steps towards solemnization and needed to be prodded into compliance. At Hereford, the possible influence of Welsh secular law with its contractual view of marriage and its complex regulations relating to divorce needs to be borne in mind. As such the church's desire to control and regulate marriage would not represent the imposition of order upon disorder, but rather the gradual erosion and replacement of an existing system of law and custom by another.

In the Cerisy material a notable feature of the early marriage suits is the near monopoly which women held in pursuing claims. All but two of the ten multi-party suits were initiated by women. One of the exceptions was brought by a man, and in the other, the couple had confessed to forming a clandestine marriage, but an allegation was then made ex officio that the man was already betrothed to another. This transformed an inquiry into clandestinity into a multi-party suit. Seven of the nine suits which involved simple claims for marriage were also initiated by women. The first of the exceptions had begun life as an inquiry ex officio into the consent of the couple, and the possibility that an impediment existed through the man's betrothal to another. The woman alleged that the

man had promised to marry her and had then slept with her. The man initially denied this, but then confessed, saying that he had done this in order that the woman would allow him to have intercourse with her. In the second exception, both parties admitted to exchanging words of consent which had been followed by intercourse. The man, however, claimed that the impediments of crime and consanguinity existed against the union. In addition to these instance suits, an appeal was made to the see of Bayeux by a woman in response to the failure of a causa matrimoniali before the official's court.

Men on the other hand variously sought to hinder the court, deny the existence of a contract or produce impediments which would render it null. They were obviously dissatisfied with the judgements of the court on occasion. One man was fined for refusing to tell the truth in a marriage case. As we have seen one man used promises of marriage to seduce a woman and another alleged that impediments existed to the marriage he had confessed to forming. two other men did likewise. Perhaps the most striking example of this reluctance on the part of men to enter into a binding relationship is that of John de Mara. In October 1314, he confessed to a relationship with Nicola, the widow of Herbert Jupin, which had lasted eight years. Yet when Nicola claimed that they were married, he denied it. two months later, he confessed that he had in fact contracted marriage with Nicola, and he was ordered to solemnize. He had still not done this in February 1315.(113) A similar attitude was displayed by henry le Portier, who confessed to having broken the terms of an abjuration sub pena nubendi made with Thomassia, daughter of Richard le Guilleour. This was in March 1315, and in the May of the following year his petition for a divorce on the grounds of an unspecified impediment was disallowed. He was ordered to solemnize.

His father was opposing the match as well.(114)

Men could also show their dissatisfaction with the judgement of the court if this was in the plaintiff's favour. One definitive sentence records that, while the woman was present to hear the favourable decision of the court, the defendant was absent. The mirror image of this is to be found in an action which went against the female plaintiff. Here, the man was present and the woman absent. Men also sought to escape from earlier contracts made with other women. It is unclear what effect the status of the women concerned had, since widows, daughters and women without kin-designations are present in roughly equal numbers. Much must have depended upon individual predilections and circumstance. However, what seems clear is that personal motives aside, we are presented with a system in which contracts could be broken at will, and where men - at least those represented in the register - showed a marked reluctance to enter into binding marriages, and where those women who also appear in the register showed a contrasting desire to enter into binding unions.

At Rochester too there is an overall bias in favour of women appearing as plaintiff's in civil suits. Nine women as against four men found themselves suing in court to establish the existence of a marriage. As at Cerisy, marriage seems to have been viewed as a particularly desirable state and even those women who were enjoying long-standing but irregular unions sought to give them the mantle of legality. To achieve this end women were willing to engage in troublesome and expensive litigation, appearing either in person or by proctor over a period of many months in the hopeful pursuit of what were often legally futile actions. The petitory suit which was finally resolved by an agreement on the dowry would indicate that

the marriage market was loaded against women and that a man might hold out for better terms or a more desirable alliance. In the office actions the apparent bias towards men in confessing to the existence of a clandestine contract is perhaps misleading. Men were summoned more frequently than women and their allegations were not usually met with opposition from their partners. However, there does appear to have been at least an equal reluctance to acknowledge certain contracts among both sexes and the pattern is different form that found in the instance suits. There are also slight indications that the court's treatment of those who failed to prove their allegations varied according to sex. Two of the men who failed or only partially succeeded in their claims were forbidden to contract marriage with any other woman while their alleged spouses remained alive. The women were not bound by any such requirements, though one was left to her own conscience in the matter. However, in the one instance suit where a woman failed to prove her claim, the couple were ordered to abjure in forma communi.

The vulnerability of marriage contracts can also be gauged. At Cerisy the most serious, recognisable threat to a marriage came from an allegation of pre-contract. This might be produced ex officio or, more usually, as the result of civil litigation. All ten of the early multi-party suits were brought on these grounds. Only in one late example from 1371 was spiritual affinity alleged as an impediment to a couple's intended marriage by a third party. In most of the early suits, the plaintiff's claims followed on from the defendants' betrothal, which may have been the first public declaration of their intentions. Allegations of pre-contract were made against seven de futuro contracts, but against only three de presenti. The allegation of spiritual affinity was also made after

the betrothal of the defendants, as was the claim for promises of marriage followed by intercourse in the suit which was brought maliciously.

In the petitory actions, a slightly different pattern emerges. Four of them bear no indication of the defendant's case in each, and a fifth involves a straight denial of the contract. However, in the remaining four, consanguinity formed a major part of the man's defence. In one case, the plaintiff's position was dismissed on the grounds of spiritual affinity, and in another because of an unspecified impediment due to consanguinity. One defendant, while acknowledging that the contract with the woman did exist, went on to allege that it was tinged with the impediments of crime and consanguinity. Finally, a man claimed that he had pre-contracted with a woman related in gradu to the plaintiff. This brief survey shows that contracts were at their most vulnerable in the earliest stage of their formation. While the most serious threat was the unwanted clandestine contract, a defence based in some way on an impediment of consanguinity was the preferred course in petitory actions.

The instance business of the Rochester Act book also demonstrates that divorce was a less serious threat to the marriage bond than the allegation of a prior contract (though given the evidence of this small sample it may have been a threat more apparent than real). The sole action in which the impediment is named also casts an interesting sidelight on possible attitudes to pre-marital intercourse and virginity. One of the multi-party suits also involved a clear-cut case of affinity, but it was fought on the grounds of a brother's precontract with his prospective sister-in-law, though one impediment would naturally lend support to

the other. The solitary example of an investigation into an informal separation also shows that when it was no longer mutually agreeable for a couple to remain together they would part and possibly seek solace elsewhere. That the bishop in person dealt with he case would indicate the seriousness with which the court regarded such matters.

Those cases in which impediments were produced serve as a reminder of the potential threat posed by consanguinity to contracts, although the general observation that in instance suits it was the unsolemnized pre-contract which fulfilled this role still holds. The Rochester material clearly demonstrates the problems posed by affinity to certain persons who were engaged in pre-marital and plural relationships in closely knit communities. The presence of a known or rumoured impediment of this kind may have accounted for the reluctance of certain couples to proceed to solemnization.

Likewise those presentments for consanguinity and affinity at Hereford are indicators of the problems which pre-marital intercourse and remarriage could cause. Here a tendency towards endogamy would seem to have been strenghtened by factors of race, language and culture peculiar to the March.(115) The presentments for consanguinity or affinity appear in clusters of either English or Welsh couples. Six English couples were presented at Kingston. At Brunley, two Welsh couples appear, one for an affinity caused by remarriage, with a further two at Church Stoke. One of these latter two was presented for an affinity caused by pre-marital intercourse. Solitary Welsh couples appear at Michaelchuch on Arrow and Presteigne. Marriage between the two groups was clearly not common. Fifty-four marriages may be identified from both the visitation return and Trefnant's register. In forty-nine the racial background of the spouses can be established with certainty and of these only a

fifth appear to have been between English and Welsh. A similar pattern emerges from the presentments for fornication, which may have been regarded as a preliminary to marriage, but not those for adultery. As late as the sixteenth century, it was noted that the 'meaner sort of people' of the two nations did not usually join in marriage. If anything the propensity for endogamy along racial lines would have been stronger a century or more before.(116)

CHAPTER THREE

Divorce, separation and repudiation

Before examining the formal and informal methods for dissolving marriages within the register, it will be necessary to give a very brief outline of canon law on the subject. Two types of legal dissolution were available: annulment or divorce a vinculo and separation or divorce a mensa et thoro. Both were allowed only under certain restricted circumstances and each had a different effect on the condition of the marriage bond.

In the former a marriage was declared to have been invalid from its very inception, because of the presence of a diriment condition. The conditions most commonly alleged in the English records, at least, were: lack of consent due to nonage or duress; pre-contract; too close a blood-relationship or an affinity set up through intercourse or spiritual ties; the impediment of crime or the impotence of the husband. Other conditions were specified in canon law, but these appeared less frequently or not at all.(1)

While under most circumstances an annulment left both parties free to remarry, a divorce a mensa et thoro merely allowed them to live apart. The essential validity of the marriage bond was in no way altered. Such a separation could be granted on the grounds of adultery, 'spiritual' fornication, that is the heresy or apostasy of one of the parties, cruelty (saevitia), and unnatural intercourse. Reconciliation subsequent to the act of cruelty or adultery, or the plaintiff's own adultery, barred the separation.(2)

(i) Formal divorce and separation

Three actions for divorce survive in the Rochester Act book. The final sentence was recorded in only one. In May 1347, John Tomasyn brought an action for divorce based upon a impediment of affinity. He stated that he had contracted marriage with Alice, daughter of Gwydo le Theschere, and had consummated the union. He had subsequently discovered that prior to her marriage Alice had been carnally known by William le Webbe, a blood relation of John. Alice appeared and admitted the fornication, but denied all knowledge of the consanguinity. John produced two witnesses who were able to testify to the kinship, their attestations being published in the vernacular. The court found in favour of John's petition and annulled the marriage. Future sexual intercourse between the couple was forbidden under a heavy penalty.(3) The first of the remaining actions was initiated in February 1348 and finally committed to arbitration in September of that year.(4) The second appears only briefly before being curtailed by the register's cessation in November 1348.(5)

As with the contract litigation the majority of the actions for divorce brought before the court at Cerisy survive from the very earliest years of the register. Though an insight can be gained into the type of divorce suit being pleaded before the official, little of a systematic nature can be done, especially with the evidence surviving after 1320. However, it is clear that divorce suits formed only a small part of the matrimonial business which passed before the court. Five such actions were brought between 1315 and 1320 while in the same period the court dealt with fourteen suits brought to establish the existence of the marriage bond.

Only a limited selection of the possible grounds for annulment

are represented. In 1315, the court disallowed a petition for divorce brought by Enguerrand de Moleto. The grounds on which the suit was based were not noted.(6) Another case brought by Henry le Portier on some unknown impediment against his wife, Thomassia, was also dismissed in the following year. Something of the background to this case can be learned and it appears to show resistance on Henry's part to the court's policy of forcing couples to abjure sub pena nubendi. In March 1315, Henry was found to have broken a prior abjuration made with Thomassia and they were adjudged to be man and wife. By the following March, Henry appears to have begun an action against his wife though the exact meaning of the register is not clear. However, in May 1316 his petition for a dissolution super impedimento matrimonii was dismissed and he was ordered to solemnize his marriage. His father also seems to have been opposed to the match as he was ordered not to impede it further.(7)

The remaining suits are much more informative on the nature of the alleged impediments. Actions for annulment on the grounds of impotence were brought by two women during 1317. That of Thomassia Blancvilain against her husband, Thomas Osmeul, contains the greatest detail. Thomassia appeared in late November declaring that she was legally married to Thomas and that for a long time both had been attempting to consummate the union. While she was 'fit and ample' for virile embraces, Thomas was impotent and, though he had tried, unable to fulfil his matrimonial obligations. Consequently, Thomassia was still a virgin and she stated her desire to be a mother. The court consulted with lawyers and Thomassia was examined by a group of worthy matrons. An annulment was granted on their evidence and Thomassia was given licence to re-marry if she wished. This was forbidden to the unfortunate Thomas. In early December the

court tersely recorded that the marriage of Jordana de Quesneto and W. Davi was invalid on the grounds of the man's impotence.(8)

The final annulment suit was fought on the grounds of a complex affinity set up by the husband's pre-marital fornication. In 1320, Alice daughter of Master Henry de Cerisy claimed that, prior to marriage, her husband Herbert Agolant had carnally known Clorisa late wife of John Samedi. Clorisa had been the niece of the late John le Chambellanc who had been related to Alice within the prohibited degrees. The court found that the impediment was real and dissolved the union, reserving the settlement of costs and the dowry to itself.(9)

Two actions for separation rather than annulment survive after 1320. The first such suit from 1371 seems to have been based on the grounds of unnatural intercourse by the man. John Moulin and his wife, Thomassia widow of German Guesdon, confessed that John had committed a sin against the law of marriage. This had been through a particular method of intercourse. Thomassia, however, had been blameless and she sought a divorce quoad thorum et bona as a consequence of John's behaviour. This was granted and the couple were enjoined to live apart chastely and continently. If they failed to do so they would be fined 10l.t. and excommunicated. Any future sexual congress between the two would be taken as a sign of their reconciliation.(10)

The second suit comes from near the very end of the register in 1480. A separation was enacted between Mathew Evrart and his wife, Jennet, on account of the animosity (male vivebant) which had arisen between them due to Jennet's suspected adultery. Mathew claimed that the two sons born to the marriage were not his. In sanctioning the separation the court decided that the children should remain with

their mother and that she should retain her goods. Both parties agreed that if Jennet were found to be pregnant after the feast of Pentecost, then Mathew would accept the child as his own. The import of this last condition is not exactly clear, but the case as a whole serves to illustrate the court's function as an arbitrator in disputes.(11)

(ii) Informal separation and repudiation

There is also a body of evidence which suggests that an informal system of separation and repudiation existed among the laity. Within the Rochester Act book one such example can be found. Henry Cole and his wife were called before the bishop himself at his manor of Trottiscliffe to answer a charge that they lived apart. Henry claimed that he had left his wife through no fault of his own but because she was a scold. She replied that he had had many adulterous affairs which made him act with ill-will towards her, and that she could no longer live with him on account of his cruelty. They both swore on the Gospels to treat each other kindly. The woman was to act with humility and as familiaris towards her husband and not harshly, outrageously or slanderously. Henry for his part was to treat her with marital affection (affecione maritale).(12) A harsh penalty was to be imposed if any of these conditions were infringed. Afterwards Henry confessed to his adultery with Alice Stirch and abjured her company. He was ordered to be beaten thrice round the church, but this penance was remitted on the promise of his future good conduct.(13) This bears a general similarity to an avowal of marriage by Thomas de Worthyn and his wife in Trefnant's personal register which may also have resulted from the couple's

separation.(14)

At Cerisy between 1314 and 1341, there are nine cases in which couples were experiencing some form of marital discord. One or both parties were said to be treating the other badly (male se habet/habent) or to be refusing to pay the debt, the mutual obligation of both partners to sexual intercourse.(15) All had resulted in some degree of separation.

By 1314, the marriage of John le Pie and his wife Johanna seems to have been at an end in their eyes at least. Neither had slept with the other in seventeen years, each treated the other badly and both had lovers.(16) We can also witness the gradual deterioration of the marriage of John le Scele between 1322 and 1326. In 1332 he was refusing to return the debt to his wife. This may have been due to her adulterous relationship with Robert de Bresce. The court enjoined him to sleep with his wife that very night and to treat her according to the law of matrimony. He was threatened with a fine of 10l.t. if he did not comply. Two years later it was noted that John had not fulfilled the earlier sentence and in 1325, the court felt it necessary to repeat the injunction. John was to sleep with his wife until Ascension and 'do to his wife what he ought to do to her'. The couple, however, appear to have finally separated by 1326 when they were said no longer to conduct themselves as man and wife.(17)

Thomas la Pie and his wife, Denice had already been living apart for five years when they were defamed in 1325. The following year Thomas was ordered to treat his wife well and to do as he ought to do with her. If he refused he would be placed in the pillory. However, in 1331 and 1332, the couple were said to hold each other ill and the earlier deposition added that this was the woman's

fault.(18)

The marriage of Thoroudus Rigal and Coquete also appears to have been at an end by the time of their first appearance before the court in 1326. Both parties were said to be unfaithful to each other, and from then until 1341 Thoroudus was regularly defamed for adultery and ill-living with his wife. On one occasion he was faced with either a 40s. fine or the pillory for this. Coquete was also accused of displaying ill-will towards her husband on several occasions. In the context of informal separations it is interesting to note that Thoroudus' affair with the wife au Haleor was known to her husband who nevertheless consented to it.(19)

All these couples came from Littry, but for four of our five remaining examples we have to turn to Deux Jumeaux. In 1319, Thomas Bequet and his wife, Agnes, were found to be living apart. Agnes was defamed of incontinence with an unknown man. Laurence Mauger in 1331 was also said to be living apart from his wife. The fault, though it is not stated, appears to have been his. In the following year Robert Bellisent, a married man, was living in his own home with another's wife.(20) Basic incompatibility seems to have been at the root of the last example of marital discord from this village. In 1331, John Groullard and his wife were found to have separated. The jurors found that the fault lay with John. Two years later, both parties appeared to answer charges that they lived apart and treated each other badly. In reply John stated that the separation had come about through no fault of his own and that his wife was to blame. She merely stated the contrary and the court noted that it should investigate the matter itself.(21)

Our final example from this period involves a Cerisy couple. In 1336, Colin le Coq was threatened with a fine of 40l. and the

pillory if he did not treat his wife faithfully like a good and worthy man. His wife was ordered under the same conditions to go with Colin and 'do to him what a good wife ought to do to her husband'. Though they both readily agreed to these conditions, four years later they were again found to be living in discord.(22)

Further examples suggesting a similar pattern of informal separation and repudiation can be found in the later half of the register. The pattern is a familiar one in two such examples. In 1371, John Pomier and his wife were defamed for not sleeping together. They were called before the court and both swore that they would henceforth live amicably. It seems that they were both placed in the pillory as a punishment for their discord. In the same year, Alice wife of Richard Daniel was found to be ill-disposed toward her husband. She was accused of committing common adultery as well as having the son of William Fabre as her lover. A similar situation seems to have been at issue when Philippota, filia au Coufie, was brought before the court in 1393. She was threatened with a fine of 10l.t. if she did not abide with her husband and if she allowed herself to be carnally known by John Guille or was discovered in a suspicious place with him, unless they were in the company of at least two oath-worthy persons.(23)

The remaining five cases also provide a valuable insight into where the initiative might lie in attempts to end unsatisfactory marriages. Ralph Gohin was fined 100s. in 1396 for committing adultery with the wife of John Philip. This was not all, for a great scandal had arisen from the affair, as the woman had abandoned her husband. In the early fifteenth century, three other women chose to do likewise. Colet, wife of John du Hamel deserted her husband and went to live in the village of Leigle for a lengthy period in the

company of William Fortin, who was also married. William was fined 40s. for the adultery and the court also fined John for consulting a Breton diviner over the whereabouts of his wife. Phillipota wife of William Agolant, who had a long record of adulterous affairs, was taken by Egidius Massier to St. Lô. She returned to the officiality at the time of her prosecution, only to resume an affair with a former lover. Finally, the wife of Bertin du Chemin not only ran off with Robert le Monnier but she took a considerable part of her husband's movable goods with her. Robert seems to have unromantically abandoned her before he was taken and imprisoned after Bertin had raised the hue and cry.(24) Much earlier in 1391, Johanna widow of John Guiot had incited another woman to desert her husband. She went to the house of Matthew Vitecoq and spoke with his daughter-in-law. Johanna told her to leave her husband and find some canon or other ecclesiastic who would treat her honestly. She was to bring a large quantity of her husband's goods with her. The woman agreed and went to the widow's house in the parish of Couvains with many goods. She remained there for two nights and a day during which time she was carnally known by Henry English. Johanna was fined 30s. for her part in the business and a relative of Henry was also fined 5s. for being present with him and for allowing the illicit union to take place.(25)

The Hereford visitation return contains information on similar marital problems. Forty-four couples or individuals were presented for refusing to cohabit with their spouses, the ill-treatment of their spouse, the expulsion of a wife from the home or lack of marital affect. Generally the culprit was the husband, but five women were presented for either showing a lack of marital affection or refusing to cohabit with their husbands.(26) Among these Isabella

Montayn not only denied her husband 'the works of marriage' (opera conjugalia), but she ill-treated him as well. In a few cases the decision to live apart may have been taken mutually, but in most cases the separation was unilateral.

The background to the separation can be discerned in ~~a~~ the majority of the cases. One was clearly the result of a morbid misunderstanding: further investigation found that the woman's husband was dead.(27) In another, the parents of the woman were preventing her from living with her husband.(28) There was no clear external cause in ten of the separations, though tension over the maintenance of a child may have led to the desertion of the husband in two instances.(29) Two couples lived apart in defectu mulieris which may indicate her disobedience and certainly her desertion.(30) In these two cases the desire to live apart may have lain solely with the woman or have grown out of a refusal to recognise her husband's authority. In twenty-six cases the breakdown was associated with the marital infidelity of one of the parties, usually the man. Only two wives were charged with adultery, and in one of these the woman's spouse also stood accused.(31) It is difficult to judge whether infidelity was a cause or merely a symptom of deeper dissent, but six men had gone so far as to install their new-found companions in their homes, while another had abandoned his wife at Clun and taken up with a woman at Aston.(32) Only one man, pricked by a (conveniently?) guilty conscience, offered any justification for his desertion and subsequent adultery. William Fox confessed to intercourse with his wife's sister prior to his marriage and maintained that the union could no longer stand because of this.(33)

Whatever the causes of dissent were, it is clear from the

language of the record that they were deep-seated and had led to a cessation of normal married life. Couples chose to live apart. Husbands refused to provide their wives with food and clothing, going so far as to expel them from their houses or abandon them. Two men and a woman followed the example of the man from Clun and left to take up residence away from their spouses.(34) The woman refused to return to her husband despite frequent requests, while one of the men had lived apart from his wife for three years. He had not only denied her food, clothing and other things due by conjugal right during this time, but he had also wasted their joint property without cause. Ill-treatment might manifest itself in physical violence. One man repeatedly threatened to kill his wife and treated her harshly (atrociter), and another used force to evict his wife. The other expulsions were probably achieved with at least the threat of physical coercion.(35)

The action taken as a result of the presentment has been recorded in twenty-five cases. Apart from the dead man, one man was ill, another was dismissed and a fourth refused to appear.(36) In at least five and possibly six cases the individuals concerned were cited to appear later: at Hereford in one instance and in another at Lydbury, further prorogued to Bishop's Castle.(37) Five couples denied the charge of adultery laid against them.(38) Three successfully purged themselves, in two cases five-handedly. The remaining couples faced charges of recidivism. The first couple were successful in their purgation while the second was made to abjure the sin and each other's company. In only one case did an adulterous spouse receive penance for his sins. He abjured his sin and was to be flogged six times through his parish church and thrice through the marketplace. His lover was made to abjure and then

dismissed.(39) The visitor intervened in a further seven cases to attempt some from of reconciliation or at least a clarification of the matter at hand. Two men and a woman appeared and agreed that they were now ready to take back their spouses and treat them in a proper manner (debite). One of the men was ordered to treat his wife as he should sub pena extrema, while the woman was to treat her husband properly under threat of excommunication.(40) It is unclear what effect this would have had on her, since she remained contumacious. A case in which the man was refusing to maintain his wife and child was deferred sub spe concordie to the curia at Hereford, while another was left pending until the bishop could be consulted on the matter.(41) The claim by a husband that he was in fact married to his alleged lover was assigned to the care of the deacon, as was also a separate dispute over a contract.(42) Finally, a diriment action was initiated in the case of William Fox. Unfortunately no further trace of this action survives.

The elements of marital discord, the taking of a lover and the court's attempts to restore harmony are again present in the later material from Cerisy. However, certain novel features have appeared. Two of the fleeing spouses were accompanied by a large part of their husbands' goods. This would indicate that these women expected that their separations would be something more than transient affairs. It also shows that women were expected to contribute something tangible to any relationship; and in one case it betrays the less than honest intentions of the woman's lover. What is of further interest is the desire on the part of several of the women and their lovers to leave the officiality or at least the immediate vicinity of their husbands. Perhaps the war had made people more mobile or possibly hostile attitudes towards a woman who had deserted her spouse made

it impossible or undesirable for her to remain. Whatever else women were equally capable of taking the initiative in ending an unsatisfactory marriage, though not always with any great success. This was the case as well in a number of examples from Hereford.

The activities of the widow Guiot deserve a degree of consideration at this point. The levity with which the marriage bond could be treated by a disaffected spouse and the place that ecclesiastics held in the aspirations of certain women are worthy of note. From a social point of view it is interesting that the errant wife was living with her husband's kin. The widow's role as panderer appears to be a parody of the function of the go-between in the formation of marriage, as is the requirement that the woman bring something material to the match.(43)

These examples are suggestive of a widespread pattern of secular separation. The early material from Cerisy demonstrates a clear pattern of couples living apart for considerable periods of time. Whether this was due to the infidelity of one or both parties or just sheer incompatibility, it is obvious that most of those concerned no longer considered themselves to be man and wife. A similar situation appears in the Hereford visitation return, though here the chronology of the breakdowns cannot be established in the majority of cases. Again adultery was at least a contributing factor in a large number of the separations, and it seems clear that in most a complete cessation of normal married life had occurred. This occasionally boiled over into violence. Other evidence relating to bigamy shows that separation or repudiation could be a prelude to remarriage.(44)

The church is coming face to face with secular attitudes where marriage was regarded more as a contract than a sacrament and

couples or individuals were willing to take action to end unsatisfactory unions. As in the notorious eighteenth and nineteenth century English wife-sales, if legal access to divorce was limited, then those couples who could not afford to pursue a claim through the courts or could find no diriment impediment to their marriage, might simply consent to live apart.(45) Different social and legal traditions might play their part. As one writer on Welsh marital customs has noted, marriages were in ecclesiastical terms rather 'formless'. Considerable provision for divorce was made in the Welsh law codes, which treat marriage as a contract. This may have lent support to or simply have reflected what appears to have been an enduring and widespread lay attitude.(46) It should be stressed though that the Welsh do not predominate among those cited for living apart and that such statistics are meaningless unless they can be related to the overall population. In the case of John le Scele and possibly others, we may be seeing a manifestation of an older notion that a man had a right to repudiate an adulterous wife.(47) The English court records have also produced several examples in which men such as William Fox of Whitchurch repudiated their wives due to some matter of conscience, usually impediments known to them which could not be proved in law.(48)

All this presupposes that there was a perceived and legally enforceable standard of marital behaviour. The pattern which emerges from the Hereford material is one which combines cohabitation, the provision of food and clothing by the husband, sexual congress and reasonable treatment. The injunction placed on the couple at Rochester made similar stipulations concerning the mutual behaviour of the spouses, adding that the woman should act with humility towards her husband. At Cerisy the focus is more upon cohabitation

and the payment of the debt. In attempting to enforce this norm, the visitor at Hereford acted as an arbitrator, resolving misunderstandings, finding the causes of dissent and seeking to bring about reconciliations. It is difficult to say with what success this was achieved. In only ten cases may some form of rapprochement have been brought about either by exerting pressure upon a recalcitrant spouse to return or give up an adulterous affair or by forcing them to purge themselves of an accusation of adultery. The Cerisy court too assumed a role analogous to that of a heavy-handed marriage counsellor. Its efforts to re-establish the physical reality of the marriages, through enforcing the mutual obligation to pay the debt, largely failed in the face of the obvious hostility of those involved. The ability of the church to enforce payment of the debt was envisaged by one thirteenth century English council and it finds a legal parallel in the civil action for the restitution of conjugal rights.(49) Unfortunately certain writers have mistaken the Cerisy material for such civil suits when it is clear that they were office actions initiated by the court. Consequently, Makowski's use of the case of John le Scele as part of the evidence for her observation that not only men but women could sue for restitution cannot hold.(50) Not only do both the references which Makowski cites refer to office actions, but the very facts of the case speak against John's wife even desiring to sue him. In 1322, she had a lover and it seems very unlikely that she would or indeed could be suing her husband for non-payment of the debt. Four years later, the marriage was effectively at an end. Brundage has also mistaken the later action against John Pomier and his wife for a civil restitution suit.(51)

CHAPTER FOUR

Cerisy sexual morality

(i) Fornication 1314-1346

The systematic visitation of the three villages produced no less than 339 defamations and prosecutions for fornication between these dates. Consequently, actions ex officio for fornication and, to a lesser extent, adultery became the principle item of court business during this period. The cases are, however, unevenly distributed amongst the villages, and the record also varies in its completeness. Cerisy heads the list with 231 defamations relating to fornication between 1314 and 1341; two of these allegations were successfully purged.(1) Somewhere in the region of 133 couples were involved, thirty-nine of whom proved fertile. Eighteen women were also defamed for being promiscuous (de communis).(2) At Littry over the entire period, there were ninety-one defamations for fornication. One was denied, but not necessarily purged, another was purged, and in another case the man had been assigned a day for his purgation.(3) Thirty-six of the seventy or so unions were fertile, and only two women were defamed for their promiscuity.(4) Deux Jumeaux has only seventeen recorded cases of fornication between 1315 and 1333, but fewer visitations have survived from there. Eight of the seventeen unions were fecund, and four women were defamed for being wanton.(5) A varying, but generally small, proportion of couples were engaged in incestuous relationships with either consanguines or affines related to them through carnal or spiritual

ties. Six such couples are to be found at Cerisy, five at Littry and two at Deux Jumeaux.(6)

A significant proportion of couples enjoyed relationships of varying degrees of stability which ranged from approximately twelve months to, at least, fourteen years in one case. Fifteen couples appear two or there times within the space of three years; in the majority of such cases they were defamed twice in twelve months. Another couple admitted that they had lived together for eighteen months before they were defamed in 1319.(7) Other partnerships were of even greater length. In fourteen cases an approximate time span can be fixed. The longest was of at least fourteen years standing.(8) Two others were slightly shorter, lasting in the region of twelve years; in one case, the woman shared her lover, an apostate monk, with her sister for four years between 1316 and 1320. Her sister had begun living with the man in 1315.(9) These were followed by two relationships of ten years each; one of eight years; two of seven years; three of six years; and another two of four years standing.(10) Four of these fourteen long-standing partnerships proved fertile, either before or during the time when they became subject to the court's attention. The filia Foin was pregnant by Jacques de Crisetot in 1327; four years later, no further additions appear to have been produced.(11) The daughter of Henry Blanguernon and Philip Tesson had already produced a child when they made their first appearance in 1331. They do not appear to have added to this when they last appear ten years later.(12) Peter de Limoges had had two children by Radulfa de Bois d'Elle by 1316; she was pregnant again in 1320.(13) Finally, the daughter of Robert Morice and John de Thaone had a child when they were first defamed in 1331 and she had produced two more by 1341.(14)

A number of other couples had offspring or potential offspring by the time of their first (and only) appearance. Three had two children each and another three a single child at the time of their defamation.(15) Among these, one couple were said to have committed fornication for a long time. In another relationship, the woman already had one child and was pregnant again. Another woman had produced an unspecified number of offspring.(16) Such unions are to be contrasted with the handful of cases in which the identity of the child's father was not known.(17) This would suggest either promiscuity on the part of the woman or a hurried coupling with a passing stranger.

The terms by which the court described a particular relationship can also be used to gain an impression of its relative stability. In the two unions which are known to have endured for at least a decade, the man was said to hold the woman as his concubine.(18) A man had also got a child by a woman described as his concubine. The language used in a further six examples which lack other indications of stability, suggest a similar degree of permanence. The women were described as concubines in two cases; they were maintained in the men's homes in two others; and in a further two, the men were simply said to hold them.(19) One of the women described as a concubine was the man's servant. In several other cases of long-standing concubinage, the relationship was compared after a period of several years to that of marriage or betrothal. Richard Foin was said to treat the widow Moquet like his wife (quasi suam uxorem) in 1336. Similar phrases were used on two later occasions.(20) Colin le Heriz and Guillemeta de Bayeux were described as quasi uxorati two years later. Interestingly, they had been ordered by the court to contract sponsalia in 1331.(21) Thomas Durant was said to treat his partner

quasi suam uxorem sponsatam in 1336, and the couple were said to be insimul quasi uxorati, two years later.(22) Further examples of couples being described in a similar manner can be found. In 1331, John le Moys had 'a certain wife called Pujein whom he ought to take as wife', and in the same year, the court noted that John le Faey should take Maria Gobout as his wife, and that he treated her like a whore.(23) Within the private forum of the confession the use of such a phrase would suggest that John was guilty of unnatural intercourse with her.(24) Exuperius le Forestier, also held a woman ut sponsam at this date.(25) Finally in 1338, Thomas le Valeiz held ut sponsam suam a certain woman from the Cotentin who was probably the advena he was keeping in his house four years before.(26)

The defamation and the fine generally appear to have been recorded separately, so that often the latter has not survived. Where they do, they show that the the crime of fornication was most commonly met with fines of 5s./s.t. or 10s./s.t.(27) Amounts of between 25s. and 100s. were also involved on a number of occasions; but they could climb to 10l. if some factor served to compound the crime. One man was fined this amount for holding a woman as his concubine and for getting her with child. Two other men were cohabiting with women who were their servants.(28) In a further two cases, questions of consanguinity were present. One man had had children by a women related to him in the third degree; another had a child by his god-daughter (filiatram).(29) John Goie was also fined 10l., although there are no indications of any exceptional circumstances in the case; also, longevity did not always bring such heavy fines.(30) Men were fined more frequently than women and they had to bear the heaviest fines which the court seems to have been willing to impose for the offence. Women did on occasion pay

substantial amounts, ranging from 40s. to 100s., but on the whole they paid no more or even less than men. On two occasions, both fines were borne by the man.(31)

The court had other methods of punishment which it could employ. One man was threatened with a fine or some form of corporal punishment to be assigned by the court, but the usual alternative was either public penance or a penitential pilgrimage.(32) These were used on eight occasions; in only one instance was public penance inflicted upon the man alone.(33) In three cases, the grounds for enjoining penance were given as the individual's or couple's poverty.(34) The nature of penance is explained in half of the cases. Two women were to undertake penitential pilgrimages: one was to go ad omnes sanctos, and the other to Mont St. Michel.(35) Mathilda la Constantinese was to appear (at church) on a Sunday in her tunic, without a belt, bare-foot and bare-headed. Martina a la Chambellenge for her notorious crime was to undergo a similar public penance on Palm Sunday.(36)

The court forced a number of fornicators to abjure. This was usually under a sum of money or sub pena nubendi, though one couple appear to have abjured without any sort of pledge.(37) Pledges of 40l./l.t. were imposed on four occasions.(38) In one case, the couple were also threatened with the pillory (scale). On a further four occasions, the pledges were of 10l./l.t.(39) A woman abjured her sins on 40s. and the penance for perjury.(40) In most of these cases, the court appears to have been dealing with examples of stable concubinage, and four of the ten couples broke their pledges within a year. No action appears to have been taken in three of these, but in the fourth the couple forfeited their pledge of 10l.(41) The conditions which were imposed by way of the abjuration

usually sought to prevent further social or carnal intercourse between the couple. In one case the court stated that even the rumour of a meeting in a suspicions place would bring about the loss of the pledge.(42) In another, it went further by stating that the couple were never again to cohabit except under the law of matrimony.(43) Two sisters who were defamed for their promiscuity were to abstain from fornication, and Moreta la Cobee was not only to shun her lover's company, but she was to cease to receive women into her house causa libidinis exercende.(44)

The other form of abjuration at the court's disposal was in effect a conditional de futuro contract imposed on the couple, in which any future cohabitation or intercourse would leave them as man and wife. The court impose this type of abjuration on four separate occasions; one of these was followed by a relapse. Henry le Portier and the daughter of Richard le Guilcour had abjured each other sub pena nubendi in 1314. The conditions of the abjuration were enforced after their relapse at some point before the visitation in the following year.(45) The restrictions imposed on the parties could be strict. German le Forestier was not to keep the company of the widow of Michael Riquet in a suspicious place and any such charge could be based upon rumour (fama) or the evidence of two witnesses. A pledge of 10l. was imposed as well as the threatened penalty of marriage (penam conjugii) to be made between the two.(46) The use of the threat of marriage in this case is different from the court's treatment of German's other, and longer-lived relationship with his servant. Guillot Evrart and Colete la Flamengue abjured under the condition that if they were discovered to be living alone in a house or other suspicious place, this would be taken as a sign that they had consented to be man and wife.(47) Sanson Vautier and the

daughter of Henry Stephani were forbidden to be together in a house or other place where the suspicion of carnal intercourse might arise.(48) Again, as far a can be determined, most of these abjurations were employed against examples of long-standing concubinage. Finally, in a further example, the court acted directly to order a couple to contract sponsalia within a certain date.(49)

In imposing such terms the court hoped to ensure that these long-standing unions would be transformed into regular and binding marriages, if the couple proved heedless of its desire to keep them apart. A similar desire to channel these activities into legal relationships can be seen in a number of other examples. Richard le Prevost and his partner were prohibited from cohabiting, unless this was under the law of matrimony. Thomas Guiot and the daughter of Matilda filia au Clerq went further and contracted sponsalia before the court which they promised to have solemnized at an appropriate time. Thomas son of John le Gaaz and the filia Pertjornee, who had a child, gave a fine and exchanged faith between themselves.(50) Another couple were found to have contracted *a clandestine marriage;* they were to have their fines remitted if they solemnized quickly.(51)

Eighty-six of the women were unmarried daughters, a further twenty-four had been married and were now widowed and seven were servants. All of the later were kept by their masters in what appear to be long-standing unions. Among them, the relationship between German le Forestier and his seamstress, Thomassia Malherbe, is of particular interest. They first appear in 1319, when they were found to be causing widespread scandal by living together in concubinage. German abjured her, but the court found it necessary to reimpose the prohibition two years later when it also ordered German to place

Thomassia in an outbuilding beside his house for the rest of his or her life.(52) He had broken the terms of this second prohibition by 1322, and had begun a relationship with the widow of Michael Riquet. Significantly, he was required to abjure the widow under penalty of marriage in the following year, the court having made a choice between her and Thomassia.(54) Two sisters and a niece also appear among the women. Their presence clearly demonstrates that women with kin acquired their social and legal standing from either their husbands, if they were married or widowed, or from their closest living male relative if they were not.

(ii) Adultery 1314-1341

Between these dates, the register contains 132 defamations or prosecutions for adultery. They are spread less evenly among the villages than references to fornication. Cerisy again tops the list with seventy-four examples, involving forty-nine couples and eight women who were defamed for their promiscuity.(55) Four of the unions were fertile.(56) At Littry, forty-one cases appear as the result of the activities of thirty-six couples. Among these, three of the women were also defamed for being wanton, and only two of the partnerships produced offspring.(57) One of the allegations was dismissed by the court and in another, a day was given for the man to purge twenty-handedly.(58) Finally, at Deux Jumeaux there are seventeen recorded cases of adultery between 1315 and 1333, which is exactly the same as the number of fornication cases reported during the same period. In two cases the accused acknowledged the existence of a rumour, but denied the substance of it, and in a third the man confessed to both the allegation and its truthfulness, but said that

a year had elapsed since he had been with the woman.(59) None of the thirteen adulterous affairs, or the three women cited for being promiscuous produced offspring.(60) A total of eight relationships, four each from Littry and Cerisy, involved some infringement of the laws of incest, with a close consanguine or affine.(61)

Nine of the total number of couples enjoyed what seem to have been steady relationships of a year or more. Yves de Crisetot and the widow of William Evrart were charged with adultery in 1314 and again in 1320; on the first occasion the widow was pregnant.(62) Radulf Cauvin appears with the wife of Radulf Longuelanche in 1315, 1319 and 1320; and William le Roux and the wife of Richard Evrart appear in 1331 and 1334.(63) John de Molendino, after a series of adulterous affairs, was said to hold the wife of Boisdet as his concubine in 1340.(64) Robert Bellisent, though married himself, was found to be keeping another man's wife in his house in 1332, and in the following year she was described as his concubine.(65) Thomas de Cerisy kept Chouqueta, alias la Blond, with him from 1329 until 1331, despite abjuring her company.(66) He had other affairs with women both before and after this.(67) Richard Guillet consented to his wife's adultery with Laurence Symon with whom she appears in 1319 and 1322.(68) John de Thaone was aware that Drouet le Carpentier held his wife in adultery, and the couple were defamed in 1315 and again in 1320.(69) Thoroudus Rigal, who had separated from his wife, was committing adultery with the wife au Haleor in 1334 and 1336. Her husband knew and consented to this.(70) Thoroudus had had affairs with other women both before and during his time with the wife au Haleor, and he seems to have abandoned her, or acquired additional lovers, by 1341 at the latest.(71)

A further fifteen individuals had, like Thomas de Cerisy, John

de Molendino and Thoroudus Rigal, a succession of adulterous partners or were defamed for their promiscuity. In three of the four cases in which wantonness was alleged, the accused were women. On the fourth occasion, Thoroudus Rigal was defamed for adultery cum pluribus. In addition to these, eleven individuals relapsed from adultery into fornication.

The number of married women appearing in connexion with the crime far exceeds that of married men. Seventy-seven of the former can be found as against only nineteen of the latter. Six of these men were having adulterous affairs with married women. Among the other women, widows and daughters are present in roughly equal numbers, six and five respectively. There are also two maids, a man's sister and an unspecified number of concubines and fornicating women who were admitted into his house by Radulf Guillemin.(72)

Fines of 20s. were levied on five occasions; in one a single man paid this amount for his affair with two married women.(73) Larger sums were given on two other occasions: one of 50s. by a married woman, and another of 40s. by a married man for his affairs with two married women.(74) Two men gave fines of 10s. each - in one instance this was both for himself and his partner - and another man paid half this.(75) A total of fifteen men, but only four women were amerced. One of the men had his fine remitted for the love of his friends, and in another case, the woman, her lover and her husband, who was consenting to her affair, were all fined.(76)

Pledges of future good conduct were also imposed on a number of occasions. These sought to separate those involved and to prevent future illegal conduct between them. Three men abjured the company of their lovers on pain of 20l., one of whom was ordered to keep the company of his concubine no longer.(77) Robert le Portier who had

been discovered with the wife of Robert Osane was forbidden to keep company with her either in her husband's house or anywhere else suspicious. He pledged 40l. for this.(78) Radulf Guillemin was not to receive concubines or fornicating women into his house on pain of 10l. A man and a woman also abjured their partners in this sum, as did two couples.(80) Nicola, wife of Henry le Bourc, abjured her alleged lover in the sum of 9l. and the pillory.(81) On two further occasions the abjurations were made without pledges.(82)

(iii) Fornication 1371-1414

Between 1371 and Easter 1414, the court dealt with thirty-seven cases of real or alleged fornication. These are again scattered unevenly throughout the period.(83) An element of doubt regarding the precise nature of the offence exists in several of the cases. In two, which involved the same woman, questions had arisen concerning her consent, and in another it is unclear whether the crime was rape or fornication.(84) A fourth may relate to intercourse with a prostitute, but the court fails to identify the woman and she may have been promiscuous rather than meretricious.(85)

Half a dozen individuals appear two or more times with either the same or a different partner. In 1373, a man called le Machon was defamed of la Marion de Ceraseyo. Twenty years later, a certain Thomas le Machon was found to be fornicating with the sister of Quaruaux.(86) Thomas Queureul and Margaret daughter of John le Meteer appear in 1399 and again in 1405/06. Margaret reappears three years later by which time she has had a child by Philip Quinot. In 1413, she was suing John Roussel for marriage after she had been prosecuted for fornication. He had had a son by her.(87) Philipotta,

widow of Gaufrid de Cantilly, was enjoying pre-marital relations with her future husband, William Agolant and also with Thomas Bernart, probably during 1406. She continued her relationship with Thomas after her marriage to William.(88) Finally, in 1412, Robert des Cageux and the daughter of John le Chevalier were prosecuted for breaking a previous abjuration. In the following year, the woman was found to have conceived by him and she abjured his company.(89)

Eleven women (including those noted above) proved to be fertile; the father's identity was not known in two cases. Six produced one child each and another had two children by successive lovers.(90) Guillerma Morice, and John de Ponte had six children. Two other women had conceived and a third was about to give birth.(91)

An impression can be gained of the different degrees of longevity which these unions enjoyed. Some were founded on a more or less permanent basis. Guillerma Morice was described as the concubine of John de Ponte and the relationship had been in existence for at least half a decade, judging by the number of offspring which it had produced. Certain of the recidivists had partnerships spanning at least a year or more; in one case this may have been over seven years. Two women were carnally known 'many times' by their lovers, and another was kept by her partner in his house per certum tempus.(92) The language used in setting the terms of one of the abjurations suggests that the couple had been cohabiting, and another couple were found to have become engaged.(93) Others were of a more transient nature. The sister of Colin Malherbe had had a child of an anonymous stranger (extraneus).(94) Two women were carnally known a pluribus, and another was defamed of incontinence.(95) Finally, Yves Jamez kept a woman in his house for four days, during which time she had sexual

relations with Yves and many others.(96)

Couples were fined on eight occasions, the man alone on ten others, and the woman concerned on a further seven. These were usually of the order of 10s., but a couple and a woman paid half this amount.(97) Fines of 20s. were levied against two women and a man and another man paid 40s.t. for both himself and his partner. On one other occasion a fine of 40s. was levied against a man alone.(98) In those cases in which both parties were fined, the sum charged against the woman was equal to or half that paid by the man. On two occasions, the man bore the woman's fine as well as his own.(99)

As before, pledges of future good conduct were extracted from a number of those concerned. The conditions were usually that the guilty parties should not frequent suspicious places unless it was in the company of two or three persons. Several also stated that the couple should not conversare in such a place. A woman who had fornicated with many was ordered never again to act in that fashion; and the underlying desire on the part of the court to regularise such unions is revealed in its injunction to John Laurentie and the daughter of Robert du Vigney never again to cohabit shamefully.(100)

The sanctions used to back these abjurations were limited in this period to the threat of a stiff fine or some form of public humiliation. On that occasion, the man forswore his partner's company on pain of ten francs, and the woman abjured his company on 40s.(101) Another woman was threatened with a fine of 10l.t. and a period in the pillory if she breached the conditions of her abjuration.(102) Pledges of 100s. were imposed on both parties on three other occasions, and two other couples gave pledges of 60s. and 40s. respectively. A woman who had been carnally known by many

men was threatened with a 40s. fine if she allowed this to recur. The woman who had had a child by a stranger also abjured his company on 40s.t.(103) Finally, Robert des Cageux forfeited his pledge of 40s., since he had broken the terms of the abjuration he had made regarding the daughter of John le Chevalier. She appeared in the following year and forswore Robert's company in the sum of 20s.t.(104)

As in the earlier period, unmarried women described as daughters predominate. Fifteen such women appear together with three widows one of whom remarried, two sisters and a niece. One servant also appears, who, like six other women bore no form of kin-designation.(105)

(iv) Adultery 1370-1414

Between these dates, the court dealt with thirty-three instances of adultery. As with those cases of fornication, the material is spread unevenly throughout the period.(106) Two of the women, both of whom were widows, had given birth to a single offspring, and another had conceived by her lover.(107)

Eight individuals appear two or more times, either with the same or a different partner. Thomas de Chantepie and the wife of Laurence Quenet were defamed in 1370 and 1371. Henry English appears in 1391 and 1396 with a different partner on each occasion.(108) Yves de Landes and Michaela, wife of John Galles, were prosecuted in 1399 for breaking the terms of a previous abjuration. They again abjured, but seven years later Yves was made to forswear her company yet again.(109) In 1402, Radulf Agasse and Roaline wife of Thomas Maine were also prosecuted for cohabiting despite a previous prohibition.

They too appear once again in 1406.(110) Finally, Philippota wife of Gaufrid de Cantilly, who was later to become the wife of William Agolant, enjoyed a series of adulterous relationships during both their marriages. She first appears in 1393 when she was fined for allowing herself to be carnally known by a priest. She abjured his company. Three years later, she was fined for having separate affairs with three men, two of whom may have been related. In 1399, Philip du Droit was defamed of her and he submitted to a local inquiry on the matter. During her time as a widow, she was carnally known by William Agolant, before he contracted marriage with her, and also by Thomas Bernart. Following her marriage to William, she left him to live for an unknown period of time with Egidius Massieu in St. Lo, and after her return, which occurred c.1410, she resumed her relationship with Thomas Bernart.(111) Two women were also known a pluribus - one of whom, the wife of Laurence Quenet, appears above - and another was defamed of the son of William Fabre et de aliis.(112)

Some impression can be gained of the varying degrees of stability which certain of these relationships enjoyed. Thomas de Chantepie's affair with the wife of Laurence Quenet lasted at least four months from September 1370 to the following January. At this point, the woman had acquired other, unnamed, lovers and her relationship with Thomas may have been on the wane. Radulph Agasse and the wife of Thomas Maine were cohabiting in 1402, and they appear again four ~~four~~ years later. Yves de Landes and his lover also reappear after a space of seven years. In both cases, the couples involved were in breach of previous abjurations on the first occasion on which they appear. Thomas Bernart had been the lover of the wife of William Agolant before her marriage and had previously

abjured her. One woman dismissed her husband and three others deserted theirs, only to return at a later date.(113) Five women were said to have been carnally known many times by their lovers which may imply lengthy affairs, but not necessarily cohabitation.(114) Henry English, who had intercourse many times with the wife of the son of Matthew Vitecoq in 1391, appears again with another woman in 1396.(115) The least stable unions were probably those in which the women were having plural relationships with a number of men.

The number of married men who appear in connection with the crime is again far exceeded by that of married women. Five married men may be found in the record, two of whom were having affairs with widows and the remainder with the wives of other men. Against this, a further eighteen married women were named, making a total of twenty-one.

Fines, when recorded, usually involved sums of 10s., 20s., or 40s. Higher amounts were levied (against men) on two occasions and lower amounts (against women) on a further two. Six couples, seven women and twelve men paid fines; one of the men also paid for his partner.(116) Women's fines were never more than 40s., and in those cases where both can be compared they were equal to or less than those of their partners. On two of the three occasions on which women paid 40s., circumstances served to increase the fine. One woman had relapsed (her lover forfeited 100s. under the terms of the previous abjuration), and the other was enjoying simultaneous relationships with two men who appear to have been related.(117) Men paid fines of 100s. on two occasions. In one case, the adulterer was found by an aggrieved husband in his wife's bed or chamber, and in the other, the man was guilty of separating a husband from his wife.

On another occasions when this occurred, the man involved was fined 40s.(118) The lowest recorded fines were paid by two women. Both gave 5s. apiece; in one case this was because of the woman's poverty.(119)

The court, as was usual in these circumstances, exacted pledges of future good conduct from a number of couples. Until 1400, couples or individuals swore not to cohabit or frequent with the other party in a suspicious place. The terms of one abjuration added that the couple were not to be found in such a place by day or night. Another required that any contact between the couple should be in the presence of two or three fidedignos. In a third example, the adulterer was not to live with his lover or be found in her home.(120) After 1400, couples were not to conversare in a suspicious place.

Most of the pledges were of either 100s. or 40s. One couple, three women and a man abjured under the first sum and a couple and three women under the second. One man forswore sub certis et magnis penis.(121) On a number of occasions the pledges were higher, especially in those cases where the couple had relapsed. John Guille abjured the company of Philippota filia au Coeffie, a married woman, on pain of 10l. She was to remain with her husband or be fined 10l.t. Her father appears to have connived at her adultery as he was ordered to ensure their separation or face a 100s. fine.(122) Yves de Landes forfeited this amount for breaking the terms of a previous abjuration. He again abjured his company on the same amount and sub pena graviori scale. Several years later, Yves again abjured her company on the same amount and the penance for perjury.(123) Radulf Agasse, who was likewise found to have broken his abjuration, also forswore on 10l.(124) Finally, Thomas Bernart broke a pledge of

10l.t. made in relation to the wife of William Agolant. He abjured once more on 20l., and the penalty for perjury.(125)

Before proceeding to examine the later fifteenth century material regarding sexual morality, it seems desirable to take stock of the patterns which have emerged from the two periods under consideration here. During the early half of the of the fourteenth century, the most frequent problem associated with sexual morality was fornication rather than adultery. This was true if all three villages are taken together and also, individually at Cerisy and Littry. However, the number of cases relating to both crimes are equal at Deux Jumeaux. The second half of the century and the beginning of the following century witnessed a sharp decline in the proportion of court business taken up with such matters, and also demonstrates a greater balance between the number of cases in each.

Fornication was characterised by the participation of large numbers of unmarried, and probably relatively young women, and by the duration of many of the unions. Within the early period, a hard-core of concubinous relationships existed, which if the comparisons made by the court are to be believed, often bore many of the hallmarks of marriage. One tantalizingly brief reference from this period suggests that a clandestine marriage, formed by sponsalia followed by intercourse, may have been at issue in one instance. This may well have been the case in other examples where the court consciously compared the relationship with marriage. Personal predilections must have played a part in determining that long-standing and stable concubinage was not transformed into marriage, but other factors may have been present too. One could have been public hostility to the marriage of a man to his servant; another may have been an impediment of consanguinity.(126) However,

on the latter point it should be noted that questions of consanguinity were only raised in connection with a small minority of those couples who remained together for a year or more.

Adulterous unions appear, on the whole, to have been less stable. Few of the relationships enjoyed the stability and endurance of those early fourteenth century examples of concubinage. Most, where they can be traced, were short affairs, and occasionally involved a plurality of partners; recidivism with a different partner or into fornication was comparatively high.The fertility rate was also strikingly low when compared to that of fornicating couples in both periods. What is also remarkable is that only two of the nine women who produced offspring were married.(127) The others were composed of a selection of spinsters, widows and the servant of another man who were subject to the attentions of married men. Further, the fertility of the unions was limited to one existing or prospective child. This reinforces the impression of the transience of adulterous affairs and also suggests that if the affair involved a married woman, then an illegitimate child may have been difficult to detect or else the couple themselves may have attempted to avoid pregnancy in some way.(128)

Adultery was also the crime of the married woman, rather than the married man. At all times, the latter are outnumbered by the former and a significant proportion of those married men had married women as their lovers. This would indicate either that married women engaged in adulterous affairs more frequently than married men, or that a secular double standard was in operation, in which adultery was generally only regarded as a crime if it was committed by or with a married woman.(129) Taken together with the different rates of fertility, it would also suggest that there were fundamental

differences in attitudes to pre- and post-marital intercourse, especially where women were concerned. Virginity does not appear to have been highly prized within the officiality; a single reference is made to a defloration suit and a number of examples show that fornication was no impediment to a subsequent marriage to another.(130) However, the chastity of wives, in all but a few cases, seems to have been most important.

The court sought to channel illicit sexual activity into marriage where it could, or else prevent it altogether where it could not. Generally speaking, the pattern of abjurations and fines show that adultery was treated as a more heinous offence by the court than fornication. This matches the canon legal thought on the subject which placed adultery in a hierarchy of offences between fornication and rape.(131) The court appears to have been pursuing a particularly harsh policy towards those who lapsed into adultery in the second period. It was even-handed in its fining policy and perhaps placed a greater degree of culpability upon the man in cases of fornication and adultery alike.(132) This might of course, simply reflect the economic inferiority of women which would affect their ability to pay fines. However, no such considerations would seem to have entered the court's calculations when imposing fines for physical violence. More men, overall, were fined than women and the amounts they paid were either equal to or more than those inflicted upon women. Occasionally, both fines were borne by the man.

The practice and eventual disappearance of abjurations sub pena nubendi during the fourteenth century is of interest. The use of this measure in the archdiocese of Rouen is first attested to in the thirteenth century. Following the winter synod of 1245, Eudes Clement instructed his deans to abjure fornicators under the

condition that future intercourse would leave the couple as man and wife. Pecuniary penalties were not to be imposed, especially (maxime) among the nubile.(133) In the period between 1314 and 1346, such abjurations accounted for a third of all abjurations imposed upon fornicators. As can be seen elsewhere, it was designed to strike at the heart of concubinage.(134) The conditions of the abjurations were strict. The court was, however, also imposing capital pledges in the majority of the abjurations made during this period, and these came to replace abjurations made under penalty of marriage in the later fourteenth and fifteenth-centuries. This can be compared to a concurrent decline in the use of abjuration sub pena nubendi by the English courts after the mid fourteenth century. The decline, though not total disappearance of the practice there, was due to factors arising from problems of proof, enforcement, jurisdiction and the basic legality of the act.(135) Finally, there are the comments of the author of a thirteenth century summa on the nature of the offence committed when a prohibition was broken. The man, he noted, if he would not have the woman as his wife, was to be punished not on account of his fornication, but because of his manifest perjury.(136) Perjurers elsewhere were pilloried and a number of the abjurations note that the penance for perjury would be imposed if the couple relapsed.(137)

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A few scattered references exist which throw a suitably brief and flickering light on the places in which the couples held their assignations. Gauffrid Quienet was said to have fornicated with a woman in a public place and in the presence of many witnesses.

Another adventurous couple climbed over the abbey walls ad frequentandum invicem. Others preferred a domestic setting for their meetings. Jacob le Mareschal was discovered by William de Furno in his wife's bed or chamber. William may well have harboured suspicions concerning his wife's conduct for the discovery was made in presencia plurium gencium. Robert le Portier was also found by his lover's husband, acting in a suspicious fashion with her in the man's home. Finally, the assignation between Henry English and a married woman was organised by the widow of John Guilot and took place in her home.(138)

(v) Fornication and adultery 1451-1458

The isolated fragment of register which survives from the middle of the fifteenth century contains only a few, scattered references to matters containing sexual morality. Only two cases of adultery, seven of fornication, and one relating to the breaking of an abjuration survive.

The examples of adultery can be quickly dealt with. In 1452, Niguesius Marquier was fined 50s. for committing adultery with a married woman. Their affair, in which they had had intercourse many times, had lasted roughly a year and a half. Three years later, John Prevel paid a fine for his adultery with a widow called Guillerma by whom he had had a son.(139)

Fornication is only slightly better represented. Three cases are reported in 1452, one in 1455, and a further three from 1456. A man was also prosecuted for breaking the terms of an abjuration in 1451. Among the others, a man was fined for being at night in a house with the intention of fornicating with a young woman there. The daughter

of John Poullain was fined for fornicating with her fiancé, before their marriage and while the contract was subject to litigation. The plaintiff in the action, Radulph Tronquoy, was also fined for fornication with her.(140)

All but one of the women were described as daughters, the exception being a widow. One of the women had given birth to a son, and was claiming that its father was Oliver de Triac; another had become pregnant.(141) Few details are given concerning the duration of these unions. On the part of the promotor Thomas Varignon was accused of fornicating with Basira widow of Colin Tronquoy. His denial under oath caused much amazement in the vicinity. Basira appeared and swore that Thomas had carnally known her many times, and that this had been pacto et lege matrimoniali. She then proceeded to pursue a claim for marriage. Varignon, having been soundly rebuked by many people for denying the fornication, now admitted that he had had carnal knowledge of Basira, but denied that this had been accompanied by a contract of marriage.(142) William Gille confessed to having had intercourse many times with the daughter of Peter Marquier. He could not, however, recollect how many times he had done so.(143)

Even less has survived in relation to the fines, for only one of the examples records the sum which was imposed. The daughter of John Poullain was fined 20s. for fornicating with her betrothed. However, in so doing she was prejudicing the outcome of a claim by a third party, and the fine may have been increased accordingly. All told fines were imposed on three women, one for perjury, and four men.

Finally, William le Touzé was prosecuted for breaking the terms of an abjuration, in which he had promised not to converse or in any other manner live with Joanna daughter of Dennis le Piquenot. The

pledge was of 40l.t. The lord abbot, two priors, three magistri and a priest were all present at the hearing. William confessed to breaking the terms of his abjuration and also to having betrothed Joanna. This had been followed by a second betrothal before a priest and then intercourse. William was fined 20s. and Joanna half this amount.(144)

(vi) Fornication and adultery 1474-1485

The final source for the study of sexual offences within the officiality is the late fifteenth century fragment edited by le Cacheux. Material from this document has been used by Dufresne, but his treatment of it is brief and of only secondary importance to his main main study. Consequently its full potential in this area was not realised.

Fornication is much the better documented of the two areas of interest. Eighteen cases have survived, but these are split unevenly into three chronologically isolated groups. The first of these comes from November 5th, 1474, when two cases of fornication were punished by the court. One had arisen out of a failed seduction suit and the other was the result of an office inquiry. A register of fines beginning at the end of September 1474 and probably extending until the following March contains seven cases. One was successfully denied, but the couple were required to abjure each other's company. Finally, nine cases were recorded on February 9th, 1480. Despite their chronological diversity, the similarity in content and form allows these groups to be treated as a single unit.

All thirteen of the women who were prosecuted for fornication appear by name. Twelve of the men are also named, but three women

had anonymous partners. Two women appear more than once either with the same or a different partner. Jemna daughter of John Juget had a child by either Herbert Viel or Colin le Barillier in 1477, before her marriage to Thomas Syart. By 1480, she had been widowed and had had three daughters by Vigore le Moigne, though this was denied by the man. She was also continuing to have relations with Herbert and Colin. The latter in his turn was also seeing the daughter of another man. Perrina, daughter of William le Rebourx, likewise appears twice, bearing a child successively to Ranulph Morel and Colin Varignon.(145)

The majority of women were unmarried daughters at the time of their offence. Four were widows among them Jemna widow Syart, who also appears before her marriage and probably continued to have adulterous relations during it. Only Agnes Jupin bore no kin-designation.(146) This would suggest a preponderance of young, local women within the sample. Nothing can be said concerning the ages of the men since no indications of their situations are given beyond the tacit assumption that they were unwed.

A little information can be produced concerning the occupations and, perhaps more importantly, the geographical origins of certain individuals. The rector of the scola at Littry was charged with fornicating with the daughter of a local man. The daughter of William le Rebourx of Cerisy served as as ancilla in another household. One man was also known as le Breton, but only John Durant of St. Fromond can be shown definitely to have come from outside the officiality.(147)

Twelve of the eighteen unions were fertile. One came to the attention of the court during the woman's pregnancy and the remainder after the birth of a child. In the case of Jemna Syart, a

long-standing (and initially adulterous) relationship was at issue, since three children had been born to her and Vigore le Moigne. This was not typical of the others in which the birth of the child appears to have been fairly recent. The court was prompted to take action against nine of the thirteen women following such an occurrence. The daughter of William le Rebroux appeared twice, in both cases after having conceived and given birth. Apart from Jemna Syart, only three other women faced the court under different circumstances. The daughter of William le Roux found herself charged with fornication following an unsuccessful action for marriage brought against Robert Marquier. William de Tournieres and Coleta widow of Ranulph Cohue successfully defended themselves against what may have been a charge of recidivism and then forswore each other's company. Only one case was brought solely on the grounds of the manifest sexual immorality of those involved. Gaufrid Jupin and Lucia, daughter of William le Meaufeis, appeared on the basis of Gaufrid's carnal knowledge of her. Lucia was fined both for the sexual offence and for certain irregularities committed in court.(148)

The number of fertile unions reaching the court is high and the number of recidivists low when compared with material from the previous century. This would suggest that a system of selection was in operation. As the court relied heavily on fama to inform and guide its prosecutions, it seems likely that this process took place outside the court. Therefore, an attitude which tolerated youthful sexual activity unless and until it resulted in pregnancy may have been present among the court's constituents and informers. The actions of Perrina, daughter of William le Rebourx, during her pregnancy would lend support to this view.

In this case, the court's suspicions had been aroused for some reason, possibly the onset of the signs of pregnancy, for Perrina was cited and questioned. She denied with 'many oaths and anathemas' that she had had intercourse with a man and claimed that her illness was of the kind which would be cured by St. Eutropius.(149) She maintained this deception by making many pilgrimages to the saint's image in the chapel of the Holy Cross at Cerisy. The court was obviously dissatisfied with this explanation since it ordered that she should be physically examined by a group of 'honest' women. They found that Perrina was pregnant and she was fined for giving birth to the child of Ranulph Morel and for lying to the court.(150)

Fines were levied on one or both of the parties in all cases, but the sums involved were not always recorded or else have not survived. Both parties were fined in twelve of the eighteen cases. In one, the man's fine has been lost as has the woman's in three others. Neither fine was recorded in one other and in one case nothing was given as the man had married the woman.(151) The amounts charged varied, but the woman's fine was usually the same as or even less than the man's. One couple were fined 10s. each and two fines of 20s. and one of 10s., 7s.6d. and 5s. respectively.(152) Only one woman is recorded as paying more than a man, but she was engaged in long-standing relationships with three men. She was fined 20s. while two of her lovers received penalties of 10s. and 5s.(153) In those examples in which one of the fines has been lost, the men involved were charged two sums of 7s.6d. and one of 12s.6d. (though in this last case the woman was also fined for having concealed her pregnancy from the court).(154) One woman was fined 30s.t., which had been increased because of certain 'variations' while under oath. Her lover may have been fined 30s., but the text is unclear.(155) In

the remaining cases, the rector scolarum was fined 10s. and Agnes Jupin, 6s. in separate instances. The widow of Yves le Myere gave nothing as she was dead.(156)

The court was little troubled by adultery during this period and the surviving evidence for the crime is meagre. In 1480, a separation was granted on the grounds of a wife's suspected adultery and earlier, in 1476, the court had to deal with the breach of a prior adjuration involving adultery with an affine.

In October 1476, Colin de la Bassonniere confessed under oath to having broken the promises he had made with regard to his god-mother, Colleta wife of Yves le Roux. He had been forbidden to communicate with her except in the company of many reliable persons under pain of excommunication, a fine of 10l. and prison. He had, however, broken this prohibition many times and had been discovered alone at night in Colleta's house. Consequently he incurred the aforesaid penalty and again forswore Colleta under the same condition. Judging by the severity of the penalties threatened the court still regarded adultery as a much more serious offence than simple fornication. Also, what is of interest is that though the text implies Colin paid the full fine, the marginal note records the giving of only 10s. This would indicate that the court was more concerned with achieving a deterrent effect or else found Colin too poor to pay the original sum.(157)

Little can be said in conclusion concerning the material on fornication from the middle years of the fifteenth century, but in its form and content it bears a greater resemblance to the material from the earlier periods than the later fifteenth century evidence. What can be found regarding adultery in this and the later period is too small and isolated to be resolved into any pattern. The pattern

of fornication found between 1474 and 1480 is marked out from the rest by the bias towards prosecuting those affairs which had resulted in pregnancy; but in other respects, the patterns which emerge are broadly similar. Both these later fifteenth century periods had a high degree of youthful participation among women at least. The sample is, however too isolated and small in both periods to allow any profitable speculation upon the relative stability of the unions. Finally, the court clearly regarded fornication - in the later period where the record of fines is most complete - as an offence deserving of punishment in both sexes. However, unless circumstances served to compound her offence, the woman was less severely punished than the man.

(vii) Priests

After this examination of the sexual lapses of the laity, it is now necessary to consider those of the secular clergy. The sexual crimes of the beneficed and non-beneficed clergy were a persistent and serious problem for the official, as indeed they were for the church authorities in Normandy as a whole and in other regions of Europe.(158) In the period before 1346 at least seven priests were defamed of incontinence and each of the three parishes which were subject to regular visitations had, at one time or another, an incumbent guilty of the offence.

The curate of Deux Jumeaux, Radulf Ravenquier, was found to be fornicating with Jaqueta Guerart in 1315. Three years later he was keeping company with Agnes Guernon et aliis; Agnes appears again in 1320. Finally, in 1326, he was accused of committing adultery with the wife of Radulf Cauvin, but the court dismissed the charge as the

rumour did not hold.(159) At Cerisy, Radulf de Putot was defamed of the widow of Gregory Benedict in 1315, again in 1322 and finally in 1325.(160) The clergyman identified as the Presbiter de Ceraseyo was also accused of fornicating with a widow in 1333 and (same person?) of adultery in 1341.(161) No less than four priests from Littry were successively defamed, though it is unclear if all were incumbents. John le Douz appears charged with fornication in 1314 as does Peter de Marescaux in 1325. Stephen Pasquier was fornicating with two women and committing adultery with a third two years later and Philip le Viguerouz, rector of Littry and Thomassia, daughter of William l'Aloier, appear on no less than seven occasions between 1333 and 1346.(162)

The situation was little improved for the rest of the fourteenth century and the beginning of the fifteenth. Between 1371 and 1414 only Cerisy appears to have been without an erring priest. In 1371 Radulf Den, who two years later was named as the rector of Littry, was charged with adultery.(163) In 1373, Stephen Bernart was imprisoned for raping his former concubine who was now the wife of Colin Osmont, and in the following year William le Deen was defamed of incontinence with his maid.(164) He was not suspended as Dufresne seems to suggest and he appears only once in connection with this offence.(165) Between 1402 and 1407, Robert Godot, vicar of Deux Jumeaux was twice charged with fornicating with a woman called Galienne and three times with the wife of Simon Laurence.(166) During one of the few recorded visitations made to the parish of St. Laurent-sur-Mer which occurred in 1406, the priest, Roger le Fort was fined for adultery.(167) To these should be added a further three clergymen who were apparently without livings. John Viel appears in 1371 and 1372, charged with adultery

with different women on both occasions. Master William Souvalle was sleeping with a married woman in 1399 and William Chanterel kept a woman as his concubine between 1401 and 1403.(168) Only one other example of a priest being accused of sexual offences survives for the rest of the fifteenth century and as it exists in isolation it cannot fairly be resolved into any pattern. In 1476, the curate of St. Laurent-sur-Mer was defamed of the wife of Ranulph Furon.(169)

The nature of these relationships would appear to change dramatically during the course of the fourteenth century. In the period before 1346 only two of the eleven illicit unions involved adultery, but between 1371 and 1414, the pattern is changed with six out of ten relationships being adulterous in nature. At first glance this might suggest a shift away from stable concubinage to more casual and transient adulterous unions. This is seen by Dufresne as an indication of priestly hypocrisy.(170) If, however, the crude figures are abandoned and the potential stability of each union is examined then a more complex and varied picture may be formed. The least stable are probably represented by those couples who appear only once. In the early period these would include John le Douz and Thomassia de Alnetis, Radulf Ravenquier and Jaqueta Guerart and the Presbiter de Ceraseyo with a widow on one occasion and a married woman on the other, as well as Stephen Pasquier who was named in connection with three women on a single occasion. One of these three, the wife of Ade de Bosco, appears elsewhere charged with adultery. Those relationships which existed between Peter de Marescaux and Maria le Goboude - by whom he had got a child - and Radulf Ravenquier and Agnes Guernon, before they forswore each other's company in 1320, probably enjoyed a considerably greater degree of permanence. Finally, a strikingly high level of internal

stability is demonstrated by two examples of long standing concubinage which deserve to be treated as representing something akin to marriage. Radulf de Putot and Petronilla widow of Gregory Benedict first make an appearance in 1315 when Petronilla had already conceived many children by him. They had in fact contracted marriage before Radulf had been promoted by Holy orders, and they were again defamed on three occasions during the following decade. The other long-standing union was that between Philip le Viguerouz and the daughter of William l'Aloier. Despite repeated fines and abjurations, he held her as his concubine for at least thirteen years after 1333, and had two or more children by her. The extreme stability of this partnership and the likeness it bore to a sort of semi-marriage was recognised by the court on two occasions when it observed that Philip treated his lover as if she were his betrothed.(171)

The evidence for the permanence or otherwise of unions after 1371 is less full. A rough hierarchy may again be constructed and, despite the number of adulterous matches, it would seem that several enjoyed a certain degree of longevity, though not on a par with the most stable of those from before 1346.

The least permanent were probably the adulterous relationships which the wife of William Foin enjoyed with both Radulf Den and John Viel during 1371 and John's own adultery with the wife of John le Tourneour in the following year. William Souralle reappears once at the end of the century when the wife of Gaufrid de Cantilly abjured his company after he had carnally known her many times, and the curate of St. Laurent-sur-Mer also appears once accused of adultery. While William le Deen was charged only once with fornication, the fact that this was with his maid might indicate that the union

enjoyed a greater degree of stability than this solitary reference would otherwise suggest, echoing similar patterns among lay concubinage. The partnerships of the greatest permanence were those enjoyed by Robert Godot and William Chanterel. In 1403, William's father was fined for keeping his son's concubine in his house for two years, during which time William had got two children by her. Robert was defamed of two women in July 1402. One was called Floria and was probably the wife of Simon Laurence who appears later in connection with this particular priest. At this point he was said to 'hold her with him'. The other woman was called Galienne. He was again defamed of Galienne in September 1403 by which time he had had a child by her. His relationship with Floria may have been abandoned for a time as they only appear again in a register of fines from September 1405 to the following September. However, the record is largely incomplete for the period from 1403 until then. On this occasion Robert was fined for breaking a previous abjuration which was possibly one which had been made in 1402. In February 1407 they were again fined for breaking the terms of an abjuration and abjured once more.

The pattern of relationships in the years following 1371 is therefore broadly similar to that prevailing in the first half of the century. A hierarchy relating to the individual permanence of the unions certainly exists and while none of the partnerships were as persistent as those enjoyed by Radulf de Putot and Philip le Viguerouz, at least two were of two or more years standing. It is significant that the relationship which enjoyed the longest potential span was an adulterous one. Also, while it may be true that in general these adulterous unions were relatively unstable, a number of those which involved fornication from the early period

were equally short-lived. Consequently, while the predominance of adulterous unions is real for the later period, the imputed shift to a lesser degree of stability is less so. To ignore, as Dufresne does, the persistence of several of the relationships entered into by priests in this period and the transient nature of a number of those within the early period, is to fail to do justice to their complexity.

The court sought to curb these public and often highly durable unions through a system of fines and abjurations. The records of fines reveal little of certainty beyond the fact that they were imposed, since the sums involved were not usually recorded. Between 1314 and 1414, fourteen of the thirty defamations were punished with fines. The real total was probably much greater for the record of the defamation and that of the fine could be entered separately on the register. Three of the fourteen were imposed for failing to comply with abjurations and another against a man who had his son's concubine in her house. There was no bias against either sex in the imposition of the fines. Six women and six priests were punished individually. One of the women shared her fine with her husband, possibly because he had consented to his wife's adultery and now enjoyed the status of a pimp in the eyes of the law.(172) One of the priests gave a fine for both himself and his lover, and on another occasion both parties paid individual fines. It is, however, impossible to say if the amounts levied were in fact different, since they were noted on only three occasions, one of which was for breaking an abjuration. In 1318, a priest was fined 10l.t., in 1399 a woman was fined 30s. and in 1407 another woman gave 40s. for breaking an abjuration which may have been increased because of her perjury.(173)

Firmer ground is reached when the terms of the abjurations are examined. Couples abjured on nine occasions, three of which followed the breaking of a prior abjuration. Two of these acts of recidivism were committed by the same couple. In 1315, Radulf Ravenquier and Jaqueta Guerart were enjoined not to cohabit on pain of 40l.t. Five years later he abjured the company of Agnes Guernon for which a pledge of 100l. was imposed. She also forswore his company under the threat of a 20l. fine and a spell in the pillory. Radulf had been threatened with the loss of his benefice two years earlier if he again resumed relations with Agnes. Philip le Viguerouz abjured the daughter of William l'Aloier in 1340, after at least seven years of concubinage, but was again found to be keeping her company later in the decade. His pledge was of 40l.t.

Although the penalties involved in the later period were generally less harsh than these, they could still be considerable. In 1399, a married woman abjured her lover on pain of 60s.t. and a pillorying. Robert Godot abjured a woman who was probably the wife of Simon Laurence on pain of 10l. in 1402. Five years later, he paid 100s. as a penalty for breaking a prior abjuration which had been made in respect of Simon's wife and involved a pledge of 10l. He abjured her once more on pain of 20l. and she also paid 40s. for her transgression and forswore Robert on 10l. Finally, in 1406 another married woman abjured the company of the curate of St. Laurent-sur-Mer with a capital pledge of 10s.

Through the strict conditions imposed at the time of the abjuration, the court sought to ensure that the couple were separated and that subsequent contact was kept to a closely-regulated minimum. Radulf Ravenquier was enjoined not to cohabit with Jaqueta Guerart, and he later forswore the company of Agnes

Guernon on the condition that he would neither talk to her nor be present in her company unless it was for a valid reason. Following his relapse with her, Radulf was no longer to enjoy Agnes' company alone. Philip le Viguerouz was to 'shun the society' of his concubine, and John Viel was never again to lie with the wife of John le Tourneor. The wife of Simon Laurence was fined for being with, talking to and entering the house of Robert Godot in defiance of a previous abjuration. Sometime later they were both fined since she had been apprehended at night in his house. She was ordered never again to communicate with Robert. Finally, Florida wife of Peter Goye was fined, along with her husband, for talking to the curate of St. Laurent-sur-Mer and was then ordered not to be with him in a suspicious place.

The pledges exacted in these abjurations and those few fines which survive show that the lapses of the priesthood in this area were treated more severely than those of the laity. Where the penalties with which both parties were treated have survived, the priest's is always the higher, indicating a greater degree of culpability on his part. However, there does appear to have been a desire to protect priests from public humiliation for they were not threatened with the pillory like laymen or indeed Agnes Guernon, the concubine of Radulf Ravenquier. These features are also to be found within the Rochester Act book. Despite their severity the terms of the abjurations appear to have had little effect on the more durable unions, though they may have served to discourage the less dedicated.

(viii) Prostitution

Much of the evidence for the existence of some form of organised prostitution within the officiality comes form the first half of the fourteenth century. Beyond this date the references to prostitutes and prostitution are sporadic.

Women described as whores (meretrices) are to be found in all three of the main villages during the early period. At Littry, three named prostitutes appear on various occasions after 1314 when Thomassia la Gogueree was defamed as a public whore, but escaped punishment. In 1323, her sister, Cecilia and another woman, Malgarnie de Fainvilla were defamed as prostitutes and bawds. An unnamed woman from the Cotentin appears in connexion with a brothel (lupanar) in 1334 and in 1336 a certain muliere communi was present in one of the village houses.(174) Two prostitutes were named at Deux Jumeaux in 1332. One was Coleta la Francheise, also known as Hardie, and the other, Margareta de Campis. Colet again appears in 133 defamed de communi.(175) In 1331, a man had been accused of keeping mulieribus meretricibus in his house, and in 1333 and 1335 reference is made to the presence of prostitutes within certain brothels.(176) There is a solitary reference to prostitutes at Cerisy in 1321, again in connexion with a brothel.(177) From this it is clear that the actual numbers of prostitutes operating within the peculiar will have been greater than the six or seven individuals who can be positively identified.(178)

These prostitutes operated within an organised system of brothels and procuring, which operated in all three villages. At Cerisy in 1315, Hamo Adoubedant was using his house as a brothel, while his wife served as a pimp. Five years later, she was defamed for running the brothel. In 1321, Moreta la Cobee was threatened

with a fine of 40s. if she again allowed whores into her house. She had been accused of fornication and of receiving women causa libidinis exercende.(179) Mathilda la Chanteresse was said to be running a brothel in 1340, and in 1322, the court noted that another Cerisy woman was engaged in procuring.(180)

The first mention of a brothel at Littry comes from 1314 when William de Monteigneyo and his wife were defamed since 'many silly women' (plures fatue mulieres) defamed of incontinence often came to their house, because it served as a tavern. This might simply reflect the meeting of village low-life in a convivial atmosphere, but for the fact that William was also charged with procuring. Johanna la Gogueree, whose two daughters have already been encountered, was found to be keeping a brothel in 1321. In the following year, German le Conte was using his house as a brothel and in 1336 the wife of Thomas la Cointe was found to be keeping a 'common woman' in her house.(181)

Deux *Jumeaux provides the greatest number of references* to the keeping of brothels. The wife of Robert la Mite was accused both of adultery and of running a brothel in 1319. In the following year Jacqueta Malveisin was defamed of the later offence as well as sexual immorality. Henry le Bourt in 1330 was found to be keeping 'foolish and impertinent' women in his house contra voluntatem gentium patrie, and fours years later Gaufrid Guillemin was charged with keeping certain mulieribus meretricibus in his house. In 1333, Radulf Guillemin was threatened with a fine of 10l. if he should again receive concubines or mulieres fornicatrices into his home. His wife seems to have played some rôle in organising and obtaining women. Two years later, the same Radulf was fined 10l.t. for keeping whores, concubines and 'even ribaldos' in his home, treating it as a

bordello (bordellum). He failed to pay this and was declared *contumacious. A further fine of* 25l. was imposed on him for this.(182) In 1333, John le Burgaut and his wife were also threatened with 10l.t. fine if they received mulieres fornicatrices into their house as they had been accustomed to do.

The evidence for the continued existence of prostitution after the early fourteenth century is extremely sparse. In or around 1410, the daughter of Peter Ediene was fined 20s. because she received into her house 'all those coming and going'. This, of course, need not refer to the keeping of a brothel. The final reference to practising prostitutes comes from later in the century. In 1454, a man was fined for sleeping with a 'certain whore' as were two other men in the following year.(184) The register no longer indicates the existence of organised, established prostitution within the peculiar.

Most writers who have touched upon medieval and early modern prostitution have tended to be a little uneasy about its rural aspect. The emphasis has largely been upon urban prostitution and its less well documented cousin has usually come a very poor second. Views on the nature of rural prostitution vary considerably. At the most extreme its existence within the area studied has been denied.(185) Most writers have, however, acknowledged its existence, either tacitly without further discussion or as the mirror image of urban prostitution: largely unregulated, migrant and the preserve of dedicated amateurs.(186) Not only does the material from the officiality outlined above provide a valuable insight into this neglected topic, but it also serves as a bench mark for the wider application of these views on rural prostitution.

It is obvious that a system of organised prostitution was in

operation within the officiality during the early fourteenth century. Certain individuals were clearly identified as either prostitutes, brothel-keepers or procurers. However, it is a system different from the increasingly centralised and centrally regulated form which its urban counterpart was beginning to assume.(187) Unlike certain urban areas there was no single municipal brothel and on occasion two brothels existed in the same village. Private dwellings served as brothels and though one was described as a tavern - indicative of a long-standing connexion between taverns and prostitution - it too was part of a private house.(188)

The commitment of those involved in running such houses is difficult to estimate. In some cases an individual may have rented a spare room to a prostitute on a temporary basis.(189) The wife of Thomas le Cointe who kept a 'common woman' in her house may fall into this category. In others, the language of the court suggests a greater degree of permanence and that these particular places were recognised centres of prostitution, as in the case of John le Burgaut and his wife who were accustomed to receive 'fornicating women' into their house. The persistence of certain individuals would indicate that they found running a brothel a useful and profitable occupation. Hamo Adoubedant was defamed for the offence in 1315 as was his wife in 1320. Radulf Guillemin, despite the threat of a 10l. fine in 1333, was still admitting prostitutes to his house two years later.

Brothels were often run as family concerns. Three couples were defamed for keeping brothels and in one case, Hamo Adoubedant ran the brothel while his wife went out in search of custom. The wife of Radulf Guillemin was responsible for the movement and accommodation of prostitutes. Her husband may have inherited the business from a

relative, for a man bearing the same surname had been earlier defamed for keeping whores in his house at Deux Jumeaux. Two married women were also accused of keeping a brothel or having a suspect woman in their homes. Two other women may have been widows or unmarried mothers. Johanna la Gogueree had two daughters both of who had been defamed as whores. One was also accused of procuring and both had records of other forms of sexual immorality.(190) Matilda la Chanteresse who was suspected of having a brothel in Cerisy is known to have had a daughter.(191) The four remaining brothels were run by a total of two single women with lax morals and three apparently single men.

Some of the women who made use of the services provided by these brothel-keepers and procurers had stayed long enough in the peculiar for themselves and their reputations to become generally known. In the case of the daughters of la Gogueree they had evidently been resident in Littry for at least six years. There is, however, strong, circumstantial evidence for a transient population of prostitutes who came briefly to known houses within the villages. Firstly, the use by the courts of such blanket terms as mulieribus meretricibus and mulieres fornicatrices, frequently further qualified by the use of 'certain', would indicate an unfamiliarity with the individual identities of those concerned. Secondly, an anonymous woman from the Cotentin appears among those prostitutes who can be identified individually.

Unlike the majority of women, these women who were named and specifically identified as prostitutes bore no kin-designation. This would indicate that they had no male kin within the jurisdiction, and that they had perhaps originated beyond its bounds. The names of Coleta la Francheise and Malgarnie de Fainvilla are particularly

suggestive of this. Also, Coleta was known by an alias which is again unusual for a woman. The names of Thomassia and Cecilia la Gogueree ('the jolly one'), Margareta de Campis and the brothel-keeper, Mathilda la Chanteresse also appear to be nicknames. The other single woman who was involved with brothels bore no kinship title either. The absence of such titles among these two groups would suggest that they were not only geographical outsiders, but that they were social outsiders: a woman would usually take her name and status from her nearest male relative.

Little can be said concerning the economic circumstances of these women, apart from the general observation that poverty is a strong incentive for a woman to turn to prostitution and that such pressures may have been becoming greater during the fourteenth century. What evidence remains indicates that Johanna la Gogueree and her daughters, at least, were poor. Their house in Littry which had been, quite literally, *torn apart by a gang of men in 1314.(192)* Furthermore, an action against the daughters for common fornication in 1321 was dismissed because they had nothing of value.

The origins of their clients are even more obscure. Nothing more can be learned regarding those men who sought out prostitutes in the later fifteenth century. Perhaps as elsewhere, the demand for their services came from all types of men both lay and ecclesiastical. One telling reference to the potential clientele does remain. in 1314, John de Altovillari, the rector of Littry was enjoined - in accordance with synodal legislation - not to frequent taverns on pain of a 10l.t. fine.(193) In the same year 'many silly women defamed of incontinence' were found to gather in a Littry house, because it was a tavern. Prostitution, therefore, certainly existed within an organised framework, but this was not subject to the

outside interference found within towns. Its character was also slightly different. Prostitutes were resident in the villages, but the majority were probably peripatetic and consequently more mobile and less easily regulated than their urban counterparts. Certain individuals seem to have viewed procuring and keeping brothels as worthwhile occupations. What the Cerisy register presents is a qualified version of the received wisdom on rural prostitution in which organisation and stability should be given their due allowance. Rural prostitution was not necessarily the sole preserve of the financially embarrassed or the interested amateur.

Canon law held a relatively tolerant attitude towards prostitution, which was seen as a necessary, if undesirable, social evil to be tolerated in order that greater evils might be avoided. Attention was focused not on the prostitute herself, who was seen to be acting in accordance with her perceived nature, but upon those who aided and abetted her and took advantage of her services.(194) This attitude of grudging toleration is reflected in the court's dealings with its prostitutes, panderers and brothel-keepers.

Individual prostitutes were themselves rarely defamed, and then not always simply for being prostitutes. The court's real interest lay with the brothel-keepers and procurers, possibly because they were more permanent and so more easily policed. Nineteen men and women were charged with one or both of these offences between 1314 and 1346, but only seven individual prostitutes can be identified. Two of these are anonymous and are known indirectly through their connexion with certain brothels. Of the five named women, two were also charged with procuring. The language of the court makes it clear that most individual prostitutes escaped direct attention and were of only secondary interest to the court. No fines are recorded

as being levied against these prostitutes, though this may be due to the nature of the document. One woman was also excused from the allegation of prostitution. The court was, however, willing to impose strict penalties on the brothel-keepers if they persisted in their occupations. At Cerisy in 1321, a woman was threatened with a fine of 40s. if she again admitted prostitutes to her house. In 1333, two men from Deux Jumeaux each faced a fine of 10l. if they continued to allow such women into their houses. One ignored the prohibition and was fined 10l.t. two years later for treating his house as a bordello.

Therefore, the period up to 1346 was one in which the court's main interest lay in prosecuting those who gained a living from the prostitute's labours, and in hindering the operation of an organised system of prostitution. Given this attitude, a concerted drive against the centres of local, organised prostitution may account for the scarcity of references in the later register. Those men who were fined for fornicating with prostitutes whose identities were not known to the court, may well have had to leave the officiality to find them or have chanced to happen upon one as she passed through.

CHAPTER 5

Rochester sexual morality

(i) Adultery

During the eighteen or so months covered by the register, the court investigated eighteen cases of adultery involving laymen, and four allegations of recidivism. The four cases in which priests alone were involved have been dealt with below. In nine cases those involved were able to purge themselves of either an initial charge of the crime or of relapse into it. This was usually accomplished by their own oath, but in one example of alleged recidivism a woman had to purge six handedly.(1) One man went further, initiating an action for slander against his defamers.(2) Another action was brought during an inquiry into a clandestine marriage. The man was found to be secretly married to one woman, while enjoying an adulterous relationship with another. He was given the same penalty as most other adulterers could expect.(3)

Most of these actions refer to single couples, but in a number of cases the individuals concerned had up to three partners at any one time. Two single men, Hugh Mandevyle and Nicholas called de Grene, had three married lovers each, and John Short, a married man, was pursuing affairs with the two daughters of Geoffrey Fokkere.(4) Alice, wife of Simon Fysschere, was able to purge herself of the charge of adultery with two men, one of whom was her former parochial chaplain.(5)

Fifteen men and ten women were cited to appear before the court or were punished as a consequence of its findings. In most cases

they appeared individually without their partners, and this particular pattern would suggest a greater desire on the part of the court to punish men for their crimes. There is also no bias towards citing married women to appear before the court. Where the marital status of these individuals can be determined we find that eight of the men and six of the women were married. A further five men were single and another two women unmarried. However, if the status of the non-appearing partner is taken into consideration, then relations with married women were twice as frequent as those with single women. This would suggest a strong bias towards reporting the crime if it was being committed with a married woman. Among all the single women who appear either directly or indirectly, there were two daughters, a widow and a maid who was her master's lover.

Those who were found guilty of adultery were usually beaten three times around their parish church and the same number of times around the market place. This was twice the usual penalty inflicted for simple fornication. Henry Frensche, however, was thrashed six times around the church and market of Dartford.(6) The penance was the same whatever the number of partners involved and also, from the scanty evidence which is available, for those who had suffered a relapse.(7) Two men had their punishments remitted, one at the behest of the the master of the hospital at Strood and the other on condition of his future good conduct towards his wife.(8) One woman was also able to commute her penance.(9) The court usually treated both sexes evenhandedly when meeting out punishments. However, in two examples women suffered less severe penalties than were usual in cases of adultery. Joan Taylour was to be beaten three times around the church, while her lover, who had a clandestine contract with another, was to suffer the usual penalty for adultery. Another woman

also escaped with only a three-fold beating.(10) In one case though the court may have acted with greater severity towards the woman. Hugh Mandevyle was thrashed thrice around the church and thrice around the market for his adultery with three married women. One of the women appeared before the court and was enjoined exactly the same penance for her crime.(11)

The infliction of penance was reinforced by a system of abjurations. These sought to prevent any future contact between the couple which might result in the resumption of sexual relations. Two men abjured their lovers on pain of half a mark, and another did so on 20s.(12) A couple also forswore on this sum.(13) One man promised to pay 40s. if he again carnally knew either of two sisters, one of whom abjured him in the sum of 20s.(14) Two of the couples who were found guilty of relapse also abjured: one under threat of excommunication, and the other in the sum of 40s.(15)

(ii) Fornication and incest

During the period covered by the extant register, the court had to deal with thirty-one cases of simple fornication, eleven of which were concerned with allegations of relapse. In three cases the accused were able to purge themselves successfully and on five other occasions suspected recidivists did likewise, having denied any further intercourse since their last correction. Henry Ricolf appears no less than three times among those charged with recidivism. At the beginning of February 1348, he was punished for his relapse into fornication with Isabella Hankyn and Cecilia Beneyt, the first of whom appears herself later in the month.(16) Henry appears again in April, charged with relapsing into

fornication with the two women, and yet again in July, accused of habitual fornication with Cecilia.(17) Several other couples were enjoying relatively long-standing and stable relationships. Three were accused of habitual fornication, which in one case had been continuing for a long time, and another couple had been living in sin for two years.(18)

Corporal punishment was enjoined as a penance upon the majority of those who were convicted and the culprits were usually beaten three times around their church or, on one occasion, around the market place instead. However, a few exceptions did occur. Henry Ricolf was beaten three times around both the church and the market for his fornication with two women. His third relapse with one of them brought him the same penalty and generally the length of a relationship or the number of relapses made no difference to the penalty inflicted.(19) The punishment was also equal for both parties. Whoever was initially charged and convicted suffered the consequences of his or her actions. Therefore both parties were beaten on fifteen occasions, the man alone on three and the woman on one.

The court had recourse to other methods of punishment in its dealings with lay fornication. Two men were sent on penitential pilgrimages. William Usher was to journey to Walsingham and then to the tomb of King Edward at Gloucester. He was to bring back letters testimonial as proof. Richard Blakebrok was to go to Becket's shrine at Canterbury, distributing 12d. in alms to the poor as he went. He afterwards commuted this penance. Another man was to give one mark to the poor of his parish, while the parochial chaplain explained the reason. He too was able to commute his penance.(20) As with priests, the social position of such men may have made it

undesirable for the court to inflict corporal punishment on them.

The court not only sought to punish those convicted of fornication, but it also took measures that would either prevent future lapses or would ensure that these irregular unions were transformed into marriages. A system of abjurations was therefore employed with the majority of couples forswearing each other's company under penalty of a fine. This might be as low as 40d. (3s.4d.), but in other such abjurations the some was either 6s.8d. or 20s.(21) Other couples, particularly habitual fornicators, were forced to abjure in forma communi, also known as an abjuration sub pena nubendi. By this any future carnal relations between the couple would leave them as man and wife. Three of the seven unpurged cases of recidivism were dealt with in this fashion, but only four of the twenty instances in which the accused were appearing for the first time. The court enforced one such abjuration in forma communi on a couple who confessed to a relapse. They were ordered to sollemnize and endured the usual penalty for fornication.(22) In another case, the woman alleged that their relapse into fornication constituted a breach of a prior abjuration in forma communi. Her claim was dismissed due to a lack of proof, but she later brought a civil action for marriage based on the same grounds.(23)

The court dealt with a further eight cases of fornication in which the relationship had been tinged with incest. In two of these, those accused were able to purge themselves. Several others were revealed by inquiries into clandestine marriages and these have already been dealt with above.

The punishments which were inflicted for incest tended to be harsher than for simple fornication. On two occasions the penance was a threefold beating around the church, but on another an extra

circuit was added.(24) On three other occasions the culprits received the same penalty as for adultery, and were beaten three times around the church and the market.(25) On three occasions, both parties suffered one or other of these penalties, on two it was the man alone and on one the woman. Couples were also required to abjure each other's company and the sin which they had committed. The threatened penalties, when specified, took the form of fines since, as with adultery, the option of regularising the union was not open to the court. The sums involved were half a mark on two occasions, one mark on another and 20s. on a fourth.(26)

The Rochester court was greatly troubled by matters of sexual morality in this aspect of its daily business. Relatively speaking this was even more so than at Cerisy where such matters also enjoyed a similar preeminence. Whereas the French court dealt with an average of thirteen cases of fornication and six of adultery per year between 1314 and 1333, when records survive from all three villages, the Rochester court dealt with thirty-nine of the former (including incest) and twenty-two of the later within the space of a little over a year and a half.

Little can be said concerning the durability of most of these unions. Most couples appear only once in the record, but the presence of recidivists and the court's use of abjurations in both areas would suggest that a hard-core of habitual offenders existed and that the court was keen to limit and reduce their numbers. This impression is reinforced by the example of the three couples who were said to be committing habitual fornication and another fornicating couple who had been living together for two years. As was seen earlier, a number of relationships had also taken upon themselves the legal mantle of marriage.

In punishing such offences, the Rochester court differed in one major respect from its French counterpart. At Rochester corporal punishment and not fines, as at Cerisy, was the chief means at the disposal of the official for punishing offenders. By contrast, only one reference to the threatened use of physical chastisement is to be found within the whole of the extant sections of the Cerisy register.(27) The use of penitential beatings can be found in the records of the English courts from the later thirteenth century, as well as in the period following the after the Rochester Act book.(28) Otherwise, the attitudes of the two courts in this field were broadly similar. Adultery, within the Rochester diocese, was more harshly punished than simple fornication, and incestuous fornication was treated on a par with adultery. Both adultery and fornication were considered as deserving of punishment in both sexes, but again men bore the brunt of the court's retribution. There does, however, appear to have been some process of selection in operation with regard to the adultery of married women, which would indicate that some form of double standard was present.

The court was also forcing habitual fornicators to abjure sub pena nubendi. It was used more frequently than at Cerisy, with such abjurations accounting for just under half of all pledges imposed within the twenty month period. The record is too brief to investigate the ultimate fate of the this practice within the diocese, but elsewhere in England the following century witnessed a marked decline in its use.(29)

(iii) Priests

In addition to the sexual lapses of the laity, the court was also concerned with the sins of the priesthood in this area. Sixteen cases involving a total of fifteen clergymen were investigated by the court. Four priests were charged with acts of recidivism, among whom John Billock appears both in July and October 1347, accused of fornicating with the same woman.(30) One of the other recidivists was preparing to purge himself, and five of those who had appeared for the first time had successfully done so.

The majority of their partners were single women. Among the twenty women who are named in both those affairs which were admitted and those which were successfully denied, only four were married.(31) One of the adulterous affairs was of four years standing. Among the fornicators, two of the priests had two partners each; in one case these were a single or widowed mother and her daughter.(32)

The nature of the punishments inflicted on priests was very different from the sort of treatment that the majority of lay men and women could expect. Three were ordered to make penitential pilgrimages. In two separate judgements, James Pundrik and Henry Worsopp were to go to Walsingham distributing half a mark to the poor as they went. James was able to commute his penance. John Greeneburgh was to make a pilgrimage to the tomb of St. Edmund at Bury and offer a candle weighing one pound. He too was to distribute half a mark to the poor on his way.(33) A further three were to give doles of alms to the poor of the parish. John Tychemerssche was to hand out 10s. while his parochial chaplain explained the reason behind this act of charity. John de Lee, vicar of Stepney, was to give 20s. to the poor in Lewisham church or churchyard on a Sunday

or other feast. Richard Schefkyng was to distribute half a silver mark in the churchyard of St. Mary's, asking the paupers to intercede on his behalf with Christ, so that He would keep Richard from further sin.(34) Richard Holeweye was suspended from his office for two years within the diocese of Rochester and John Billock had his penance suspended on condition of his future good conduct.(35) The two married women who were found guilty were also punished. One was to be beaten three times around the church and the market place, but she was able to have the penance commuted. The other was beaten three times around the church.(36)

The court again sought to prevent further sexual relations between the couples through a system of abjurations. These were usually of 20s. for the first offence, but in one case a pledge of 15s. was imposed.(37) They were increased if they had to be reimposed. John Billock and William Marchal both made second abjurations of 40s. each.(38) No mention was made of John's former pledge and it is unclear if William paid his previous penalty of 20s. Richard Schefkyng renounced an adulterous affair for what may have been the first time on 40s.(39) John de Lee abjured his lover for possibly the third time on pain of 100s. His prior pledge of 40s. which was now forfeit was to be paid in two instalments.(40)

Several points of interest emerge from this material. The repeated lapses of several of the clergymen and the preponderance of single women would suggest that these were stable, perhaps even concubinary unions. Indeed one of the adulterous unions had been in existence for four years. A similar pattern is found at Cerisy in a more explicit form during the early fourteenth century and to a lesser extent between 1371 and 1414.

Such lapses on the part of the clergy were clearly regarded as

being more serious than those of their parishioners. Priests were called super gravi fornicatione, and two of the cases warranted the bishop's personal attention. A third priest also submitted to the grace of the bishop regarding the terms of his purgation.(41) The dole of alms to the poor during their pilgrimages involved greater sums and was employed more frequently. Their pledges of future good conduct were also related to the extent of their recidivism in a way that those imposed on the laity were not and the evidence suggests that a priest may have found it more difficult to have his penance commuted.

The punishments inflicted on priests were very different from those which the majority of laymen had to endure. Clearly some forms, such as suspension, could only be enjoined upon priests, but the recourse to penitential pilgrimages or donations of alms, rather than corporal punishment, is of greater interest given the contemporary views on the function of penance. While it was to have a salutary and deterrent effect upon those concerned, penance had also to be decent and conducive to good public order. Consequently the penance which might be inflicted on a priest, or another holder of a position of authority, was generally designed so as not to impair either his dignity or undermine his authority in the presence of those subject to him.(42) Thus, in the diocese of Lincoln during the last decade of the thirteenth century, clergymen rarely received public beatings and then only before their peers.(43) However, such considerations were not universally applied even within the same diocese. At Canterbury in the fourteenth century, the Consistory court usually subjected clergymen to public whippings, while the Audience court inflicted more discrete penalties. In the fifteenth century when the use of fustigations ceased in the

Consistory court, priest were still made to parade their sins publicly like their parishioners. Archidiaconal courts in the thirteenth century were also keen to inflict physical chastisement on errant priests.(44)

The Rochester court and those courts of the York Minster Peculiar clearly wished to protect the dignity of priest and certain individuals since different penalties were reserved for different social groups. Consequently, while the laity frequently suffered public corporal punishment, some other form of penitential exercise would be imposed on the clergy and, at Rochester at least, certain laymen. These might involve standing with a lighted candle during Mass on three Sundays, undertaking a penitential pilgrimage in which offerings were given to the poor or reading from the Psalter. Examples of all three types may be found within the York records and several of the second at Rochester One of the Rochester examples gives an interesting insight into the function of charity and the place of Christ in the order of personal devotion.(45) The Cerisy court also treated its priests more severely in this area, if the size of the pledges imposed can be taken as an indicator of this; but it used the same type of penalty as employed in most cases involving sexual and other criminal offences, namely fines. However, a desire to preserve the public respect for these men may be present since none were threatened with the pillory, but gave instead pledges of money, and in one case the loss of a benefice, for their future good conduct.

CHAPTER SIX

Assaults and brawls

The court held the right to hear cases involving acts of violence if they were perpetrated by or against a cleric, or took certain forms. Rape, homicide, infanticide and abortion form several aspects of this, but these were minor concerns when compared with the growing number of assaults and brawls with which the court was faced, and which it described in increasingly graphic detail.(1) Unlike some less common items of court business in this and other areas, examples of assaults and brawls appear in all parts of the register.

The exceptionally full and detailed descriptions mark the Cerisy material out as being of special importance. The almost tangible quality of many of the cases allows a major problem which has been encountered in the English records to be overcome. In the early modern period, at least, the researcher is faced with both the incomplete nature of the records, which usually make it impossible to follow an action through to its conclusion, and the variety of meanings which the term assault could hold. These ranged from the simple threat of violence at one extreme to rape and attempted murder at the other.(2) At Cerisy these problems do not arise.

The Rochester Act book and the Hereford visitation return, in common with most ecclesiastical records, provide little information on violent behaviour. Only two cases of assault are recorded within the Act book of the consistory court, both of which were heard during July 1348. In the first, the vicar of Stepney was able to purge himself of the accusation that he had laid violent hands upon

the vicar of Sutton, or had been an accessory after the fact. In the second, five men were charged with attacking and wounding a man in a procession as it was *proceeding through a churchyard. A special* inquisition was ordered, and the case adjourned until September. Likewise presentments for violent behaviour were infrequent at visitation with only five examples appearing in the Hereford returns. Laymen were presented on two occasions for resorting to violence against their fellows in a holy place. One man was punched before the high altar of his parish church and another was struck with a staff while in a cemetery. The other two cases involved assaults on parochial chaplains, one of which was undertaken by a group of three men. Finally a chaplain became involved in a brawl with a layman in which blood was drawn by both parties.(3)

Despite the problems associated with the recording of physical violence in particular, and crime in general, enough research exits to place Cerisy within a useful comparative context. Several studies exist for medieval English homicide, covering the thirteenth and fourteenth centuries and both urban and rural areas. Though the statistical data used in two of these, and the method of its employment in setting a homicide rate, has recently been criticised, these works still contain much material on matters of gender, motive, circumstance, and domestic violence.(4) The third study of homicide in fourteenth century, Oxford, provides both a useful comparison with an area which also had an unusually large clerical population and interesting views on the impact of violence upon different social groups.(5) Similar comparative material can be found for Tudor and Stuart England.(6) For France a brief study of crime in the records of the Parlement of Paris from the first half of the fourteenth century yields a little information on the social

origins of homicides and attitudes to violence.(7)

The work which has been completed by the so called Toronto school using the manor court rolls of the Ramsey abbey villages can also be pressed into service. Detailed studies have appeared for Broughton, Holywell-cum-Needingworth and Upwood.(8) Taken as a whole these span a period which begins in the late thirteenth century and which extend until the mid-fifteenth with the fourteenth century being particularly well represented. Two separate studies have been based on the court rolls of Warboys. The first is concerned with wider considerations of social conflict between the end of the thirteenth century and the second half of the fourteenth, while the second concentrates on the pattern of assaults and thefts between 1299 and 1349.(9)

These studies contain some useful information on assault, but they are principally concerned with reconstructing the village hierarchies and displaying the tensions which arose between them, as manifested in violent conflict of all forms.(10) The frequency with which a particular family held village office forms the basis for these social divisions.(11) The use of such criteria has been subject to criticism and the particular view of village society riven by hierarchical tensions is also open to question.(12) Furthermore, a particular model of changes in the pattern of conflict and increasing tension is propounded for the fourteenth century. This increasing tension is linked to the great demographic upheavals of the middle years of the century. The data and assumptions upon which this model is based have been criticised and can be shown to be wanting in several respects.

Works on crime can also be found for northern and southern France. The scattered references to assault which appear in the

register of the officiality of Paris have been given extended treatment in the context of this study. A study of delinquency which includes material on physical violence has been completed for the abbatial peculiar which encompassed the towns of Montivilliers and Harfleur in the pays de Caux.(13) The obvious utility of this study in providing a geographically close, urban context is limited, since it covers periods in the fifteenth century for which the Cerisy register is largely silent. These both provide a useful comparison with a contemporary ecclesiastical court in an urban environment. Material relating to student violence in late fifteenth and early sixteenth century Toulouse can also be found.(14) Finally, the records of the fourteenth and fifteenth century secular courts of the Lyonnais provide, amongst other things, a contrasting pattern of changes in the numbers of assaults within another region of France.(15)

Comparison with the records of secular jurisdictions might, at first sight, appear unwise given the clear bias towards members of the ecclesiastical community within the Cerisy register. On closer inspection this does not appear to be the problem that it might be. Clerics are by far the most numerous category of churchman, but their high incidence should in no way affect the utility of the document as a comparative source. As was noted in the introduction they were virtual laymen in all but name and dress, and were recruited in such numbers that they would have been drawn from a wide variety of occupations. This is born out by what evidence there is within the register concerning occupations, since clerics appear as craftsmen, as servants and in agricultural occupations. While it is true that other ecclesiastical courts can only throw a very limited light on the question of violence, a happy historical

accident means that the Cerisy court does not suffer from this particular handicap.

(i) The pattern of violence and its comparative context

The pattern of assaults and brawls found between 1314 and 1346 admits to little real influence from the possible effects of a severe European famine in the years following 1315. The worst of this agrarian crisis appears to have been over by 1318 on the continent, but its effects lingered on in England until 1322.(16) Certain writers have suggested that these years of scarcity were accompanied by an increase in criminal activity, in particular theft and robbery. While such a relationship can be demonstrated for other areas, it finds little support in this aspect of the court's business.(17) The greatest number of incidents - seven - were recorded in 1321, at a time when the famine would have been well past its peak even in England. This was followed in order of magnitude by 1333 with three assaults and two brawls and 1331 and 1341 with four assaults each. One or two incidents are recorded in the other years except for 1314 and 1322 which both tallied three. However, having said this one should still note that a homicide did occur in 1316 and that the record is partly incomplete for the famine years.

The number of violent acts dealt with by the court increases dramatically after the resumption of the register in 1371. Henceforth, physical violence comes to dominate the everyday business of the court, a position which had been formerly occupied by sexual morality. Before 1346 violent acts (excluding lethal violence and rape) had occurred at a rate of roughly two per year.

This rose to nearly six assaults per annum between 1371 and 1414 and was often considerably higher during certain decades, most notably in the years after 1410. The mid-fifteenth century witnessed a decline, but the average number of violent acts is still over twice that pertaining in the first half of the preceding century. Their dominance, however, is being challenged by a rising tide of actions for blasphemy. The fragmentary record which is left for the remaining half of the fifteenth century is too incomplete to allow an average to be calculated. The proportion of assaults and brawls which resulted in bloodshed remains constant at roughly one fifth of the total during the fourteenth and early fifteenth centuries, but it rises to one third in the middle years of the fifteenth century. However, the shedding of blood is not necessarily a reliable indicator of the severity of the violence involved since it could encompass injuries ranging from a bloodied nose to an amputated limb. The use of weapons also increases after 1371.

A similar increase in a wider range of violent behaviour through the fourteenth century allegedly occurred within certain of the Ramsey Abbey villages. In his study of the villages of Warboys and Upwood, Raftis concluded that the post-plague years witnessed an increase in all forms of violent conflict. This was seen as a reflection of increased social tensions within the villages.(18) Other researchers using court rolls from the other villages have taken their lead from Raftis and have examined their evidence with this particular model in mind. At Broughton, Britton concluded that, unlike Warboys and Upwood, the greatest period of tension was before the Black Death.(19) Dewindt's conclusions on Holywell-cum-Needingworth are more ambiguous. Initially, he states that there was no 'especially highly charged atmosphere of violence'

within the village during the fourteenth century. However, he then retreats from this position by pointing to the middle years of the century as a period of tension with three years witnessing a total of thirty-one acts of violent conflict.(20) Dewindt believes that this was largely indiscriminate violence, reflecting a desire on the part of the protagonists to settle disputes quickly, rather than through the due process of law. This in its turn was a symptom of increased social tension brought about by the demographic changes of the plague years, as a result of which the community spirit had been destroyed and the rise of individualism encouraged.(21)

This model has recently been scrutinised and found wanting. The figures from pre- and post-plague Warboys do not clearly support the contention that the second half of the century was more violent than the first.(22) Moreover, while the pre-plague statistics are carefully tabulated, the presentation of the later material in inadequate and slipshod. At Upwood, Raftis is remarkably coy about presenting evidence from earlier period, and the article as a whole is poorly provided for statistically, with no tables of figures and a lack of precise information within the text.(23) Furthermore, the evidence from the two other studies either does not support this particular thesis, or is at best ambiguous.

The utility of these studies is further limited from the point of view of a comparison with the Cerisy register, since the definition of violent conflict which is employed is broader than simply physical violence. Housebreaking, theft, the rescue of stolen goods, acts of vandalism, false claims, defamations, insults, wrongful gleaning and raising the hue are all included to demonstrate this pattern of violent conflict. The theory that the plague years were followed by a period of tension may be of some

relevance when considering the Cerisy material. However, the particular thesis expressed here that these English villages witnessed a rise in the levels of violent conflict as a result of increasing inter-group tensions can neither be applied to Cerisy, due to the nature of the source and different definitions of violent conflict, nor can it be shown to hold good for the very evidence upon which it is based.

The English material can at least give some impression of he relative frequency of violence and the proportion of time it occupied within these secular courts. At Broughton, the manor court dealt with thirty-seven assaults in the period between 1310 and 1340. A marked increase is discernible for the famine years after 1315, which is not present at Cerisy. At Warboys in the famine years between 1290 and 1349, Hogan found sixty-four assaults, forty-five of which took place between 1313 and 1345. Between 1314 and 1345 the Cerisy court dealt with thirty-eight assaults, seven brawls and one alleged brawl. Hogan's study is limited to the early fourteenth century and the figures for the latter half of the century which are presented elsewhere are too incomplete to be used for comparative purposes, although the figures for the individual years which have survived sometimes closely match those from Cerisy.(24) The court at Holywell-cum-Needingworth, where the record extends sporadically into the fifteenth century, tried twenty-three assaults between 1288 and 1339, eight of which appear after 1313. The total number of assaults recorded after 1353 is actually less than for the preceding period. The thirteen assaults which are spread between 1353 and 1455 pale into insignificance when compared with what is taking place a Cerisy. As far as assaults are concerned, the English evidence suggests a pattern of relatively little or no change at a time when

the Cerisy court was becoming more and more preoccupied with physical violence. What is also of interest is that these English courts dealt with certain offences which are not found at Cerisy. Furthermore the early material from Broughton displays a level of theft and housebreaking (hamsok) unknown at Cerisy.

Comparative material can be drawn from elsewhere in Normandy and other regions of France. The registers of the officiality of Montivilliers provide evidence from the war torn pays de Caux. This abbatial court controlled the substantial walled towns of Montivilliers and Harfleur, as well as a number of rural parishes, and the registers survive for much of the first half of the fifteenth century. Their utility as a control is however limited since the Cerisy register is largely silent during this period.

At Harfleur, thirty-one assaults were recorded in 1407 and a further forty-two in 1410. Twenty assaults occurred at Montivilliers during 1407. From 1425 to 1434 there were sixty-six assaults recorded in this area and a further fifty-two from then until 1450. Over the entire period from 1425, there were eighty-three assaults recorded at Harfleur. Collective attacks were less frequent than at Cerisy and there were proportionately more assaults which ended in bloodshed.(25) Dufresne's use of the presence of blood as an indicator of the severity of an attack is a little unwise unless it can be related to a detailed description of the event.

The number of assaults which occurred during both 1407 and 1410 are much higher than the total for the equivalent years at Cerisy. These in some way presage the sharp rise in the number of actions for violent assault which the Cerisy court experienced after 1410. For the quarter of a century following 1425, the average number of assaults is only barely more than that found in mid-century Cerisy,

and is lower than the rate prevailing there in the late fourteenth and early fifteenth centuries. The proportion of court business taken up with physical violence declines at Montivilliers during this period from nine-tenths to just over a half. A similar decline had also occurred at Cerisy in the middle years of the century, when the dominance of violence was being challenged by an increasing number of actions for blasphemy. It should be noted, in passing, that the peculiar of Montivilliers contained a larger population than that of Cerisy.(26)

The secular courts which were functioning in the Lyonnais during both the fourteenth and fifteenth centuries produce a different pattern again from that at Cerisy. The proportion of court time occupied by physical violence declines from about a quarter in 1325-1326 to a tenth in the late fifteenth century. In contrast, theft, fraud, trespass and violations of property rights, which accounted for a quarter of all cases in the early fourteenth century, maintained this position with a slight increase over the same period.(27)

Therefore, the Cerisy court was faced with an increasing number of actions involving physical violence, at a time when this particular aspect of the crime was remaining constant or actually declining in other, secular courts in both England and France. At Montivilliers any comparison is unfortunately hampered by the irregularities of survival. The average totals for the period after 1425 do closely match those found at Cerisy in the 1450s. The proportion of court business occupied by violence also declines, while that involving crimes of a sexual nature increases sharply. Dufresne considers that this was due to the demographic decline among a population severely affected by war, and because of the

problems associated with the policing of crime during war-time. He believes that crimes of violence were less easily controlled during this period when compared with matters of sexual immorality.(28) However, beyond pointing to the obvious correlation between he figures and this observation, he gives no further explanation as to why this should be so. At Cerisy, such explanations are of only limited value. Though violence declined, both in the number of assaults which were occurring and in the proportion of business occupied by them, crimes of a sexual nature remained constant, and the position of violence as the chief concern of the court is being challenged by blasphemy. Moreover, a demographic explanation is less applicable to Cerisy since the Bessin was not as greatly affected by the Lancastrian occupation as was the Caux region.

Other writers would seek a direct connexion between periods of increased tension, such a wars and famines, and an increase in all types of crime coming from any particular court. This again is of limited value in explaining the pattern of violence which is found at Cerisy. In the early fourteenth century the figures do not admit to any influence from the effects of a major European famine. This may reflect the limitations of criminal records as potential indicators of the stresses imposed on a given society by demographic crises. In the fifteenth century it is totally silent for the period of the English occupation. Moreover, the sharpest rise in violence occurs immediately prior to he Lancastrian invasion, between 1410 and the beginning of 1414.

Neither of these theories, whatever their individual merits in a particular context can be used to explain satisfactorily the sudden rise in he numbers of actions for violence appearing at Cerisy after 1371. This increase may well be due not to any external influences,

such as war, but rather to an increased willingness amongst the constituents of the court to initiate claims for assault in one form or another, or to a greater interest on the part of the court in pursuing such actions. After 1371, much of the violence is characterised by its pettiness, which suggests that individuals may have been less tolerant of mild forms of violence directed against them, or more prepared to litigate over them. However, it is impossible to say whether this is in fact a change from the early part of the century since the descriptions left from there are by comparison laconic. Also, the increased use of weapons might indicate that individuals were showing a greater propensity to inflict serious harm on others. The court itself may have simply become more interested in entering into such prosecutions, and this would go a long way to explain the fluctuations in the composition of the criminal business of the court.

Another factor which served to increase the number of such cases which passed before the court of Cerisy and Montivilliers, in comparison with other ecclesiastical courts, was the unusually large number of clerics within Normandy. At Rochester, which exercised the same jurisdiction at Cerisy over such men, only two cases of violence are recorded between April 1347 and November 1348. A further twelve examples of actions involving violence which originated in the Consistory court can be found within the bishop's personal register. This spans the period from 1319 until 1352 and the nature of the violent offences are similar to those found at Cerisy, with attacks by or upon priest and clerics, and other violations of sanctuaries with bloodshed being the areas of concern.(29) What seems to be producing this marked disparity in numbers is the size of the population over which the court could

exercise jurisdiction in such matters, or at least that proportion of it which displayed criminal tendencies.

(ii) The characteristics of violence

Any attempt to characterise the nature of violence found within the Cerisy register is, to a certain extent, hampered by the nature of the source. Despite the extended descriptions accorded to many acts of violence their distribution is uneven, and the later fifteenth century and (more importantly) the early fourteenth century tend to be sparsely detailed in comparison with the other sections. It would appear, though, that the majority of violent acts were generally restrained and far from being potentially fatal. The typical assault or brawl was unarmed and consisted of one or two blows to the face or body usually with the fist, but sometimes with the foot. Occasionally assailants would employ extraordinary methods of attack. Victims were variously bitten, scratched, jabbed in the face with the end of fingers or taken by the ears or the chins.(30) The record is, however, punctuated by a series of assaults in which serious injury was done to the victim or his life was put in danger. In the early fourteenth century there were perhaps four such cases; between 1371 and 1414 there may have been twenty-eight.(31) This represents a slight proportional increase which is often much greater if individual decades are examined.(32) In the middle years of the century the climbs to one-fifth with seven of the thirty-three acts meriting inclusion in this category.(33) The five assaults in which victims were knocked from their horses should also be placed here, together with the demolition of a house by four men in 1454, though it should be noted that no physical harm was done to

the victim during this assault.(34)

Incidents such as these, formed a hard core of violence in which the victims suffered serious mutilation (in one case forcing the amputation of a man's forearm), or considerable loss of blood. In some instances victims were incapacitated for long periods of time. Several of the incidents were also characterised by an obvious lack of restraint on the part of the assailant: multiple blows were struck or a variety of potentially lethal weapons used. Such serious acts of violence would appear to have occurred more frequently at Cerisy than in the peculiar of Montivilliers.(35)

Though overall most of the violence was conducted without recourse to weapons, and the number of armed assaults was low, this category did vary from one period to another (See table 4.1). In the early fourteenth century, weapons played only a minor rôle in violence, accounting for a mere two percent of the total. However, the decades after 1371 witnessed a remarkable increase in the use of weapons that is maintained until the middle years of the next century. From 1371 until 1414, weapons were used in a quarter of all acts of violence. Within certain periods this proportion was even greater. The mid-fifteenth century saw even further increases to nearly forty percent of the total, but in the latter half of the century this had declined to just under eight percent. The choice of weapons does little to dispel the air of spontaneity which hangs over many of the violent acts (see table 4.2). Knives and staffs would have been carried by men as a matter of course (Robert des Cageux beat on a table with his staff), and other objects such as

(Table 4.1) Number of armed acts of violence (by period)

	Armed acts	Total violence	(%)
1314-1343	1	46	2.2
1371-1379	6	54	11.1
1380-1400	16	49	22.7
1403-1410	21	61	34.4
1411-1414	23	73	31.5
1451-1458	13	33	39.4
1474-1485	1	13	7.7

None of the five assaults and two brawls which occurred during the hiatus were armed.

A total of 81 (24.1%) out of 336 acts of violence involved the use of weapons. Between 1371 and 1414, 66 (27.8%) violent acts were carried out with recourse to weapons.

stones and household utensils would have come readily to hand. This impression is further reinforced by some of the unusual objects which were pressed into service as makeshift weapons, and the case of the man who wished to pursue an argument further, but found that he had left his sword at home.(36)

When compared with the towns of Harfleur and Montivilliers, the protagonists of violence within the officiality used relatively more staffs and fewer knives and daggers. The proportion of objects such as stones and household items are roughly the same, though fewer drinking vessels and no bows appear in the urban environment.(37) Dufresne's observation that agricultural implements appear less frequently in the towns is incorrect. As a proportion of the whole fewer agricultural implements were used as weapons at Cerisy, even though this is the opposite to what might be expected.(38) On one occasion a specialist piece of military hardware - a halberd - was employed during an assault on a Littry house.

(Table 4.2) Weapons used 1314-1485

Blunt instruments		(64)
	staffs	21
	rods	3
	hurdle (*sepe*)	1
	faggot (*gloe*)	1
	tankards	11
	cups	4
	cissum	2
	dish	1
	goblet	1
	pot	1
	stones	11
	candlesticks	2
	jar	1
	salt-cellar	1
	book	1
	packet of letters	1
	bow	1
	half a loaf	1
	key	1
Edged weapons		(21)
	swords	6
	knives	5
	daggers	3
	badelarius	1
	arrow	1
	halberd	1
	hatchets	2
	hoe	1
	horse iron	1

The evidence bears out what one would expect: acts of violence in which weapons were used tended on the whole to be more serious in their consequences than those from which the were absent. A disproportionate number of armed assaults and brawls resulted in bloodshed or serious and sometimes potentially lethal injury. One particularly ferocious attack saw the successive use of a staff, a sword, and a dagger against the victim, in addition to the assailant's fists.(39) The use of edged weapons generally added to the likelihood that a victim would suffer serious injury. Seven of the remaining nineteen occasions on which they were employed ended in such a fashion. On two separate occasions, a knife and a hatchet were used to inflict wounds which posed no immediate threat to the victim's life or well-being. However, on others a man had his arm so badly mauled by a swordstroke, that it had finally to be amputated. Another man was struck in the face by an arrow, causing a large wound and a severe loss of blood, and a dagger was used to inflict multiple stab wounds on another. A slightly smaller proportion of blunt instruments produced similar results.(40) This is not to say that men were incapable of inflicting serious injury on each other in the absence of weapons nor that the possession of a potentially lethal weapon turned every aggressor into a potential killer. The presence of a weapon made it more likely that the unusually violent man would be exposed and his victim incapacitated. In fairness it should be noted that on several occasions weapons were used in a restrained or purely intimidatory manner. One woman was threatened with a knife, but its potential effects were demonstrated upon a piece of cloth rather than her person. An assailant struck his victim across the shoulders with the flat of his knife and another used his sheathed sword.(41)

This obvious marked correlation between the presence of a weapon and the severity of the injuries sustained by the victim is of interest when comparing the types of weapons used at Cerisy with those employed in homicides elsewhere. In the English records, where the murder weapon can be identified edged weapons predominate with knives being especially popular. Staffs and other instruments come next, followed by unarmed attacks, though Hanawalt misleadingly places fists and feet in the category of blunt instruments.(42) This is the mirror image of what is found within the officiality. When added to the potentially fatal consequences of several of the armed assaults and the mortal wounding of Reuland le Juvencel with a knife, this discrepancy demonstrates the important rôle the ready availability of weapons - and lack of adequate medical care - played in increasing the probability that a serious assault would be transformed into a homicide.

Certain circumstances served to increase or decrease the severity of a fine or other form of punishment which the court chose to inflict. Those factors which seem to have been given most weight are named in two civil actions brought for assault during the later fourteenth century. In the preamble to the definitive sentences, the court noted that in passing judgement it had taken into consideration both the status of those involved (condicionibus personarum) and the quality of the injuries which the victims had sustained.(43) Apart from these internal criteria, the court may have been subject to external legal influence in the form of the Vieux coutumier Normand. This contains a tariff of fines which vary according to the nature of an assault. Thus, a single blow with the fist brought an assailant a fine of 12d., but a blow with the fist merited 5s., as did the taking of the victim by the hood and a

barbouquet (pulling the victim's beard?). An assault with two hands earned the assailant a fine of 10s., and all fines were to be doubled if blood had been spilt.(44)

Some impression must first be gained from the register of the general nature of the sums involved and any differences which may exist between or within periods of the register's history, before considering the exceptions. In this, the emphasis will be placed upon the period between 1371 and 1414, as the recording of fines from the later periods is too sparse and sporadic to allow patterns to be discerned. Within the preceding period much the same is true with only a handful of fines being noted. However, it is significant that where the fines do appear they are generally much higher than those found in the later periods. Amounts of between 50s. and 40l. could be levied, but regrettably the laconic descriptions accorded to the assaults make it impossible to say whether this is due to their undue severity, extenuating circumstances or some other factor, such as the court's desire to punish violence to the utmost.(45)

Between 1371 and 1414, certain decades possess a more complete record of fines than others. The underlying trend is one in which the recording of fines and the details of the assaults improves as the fifteenth century is approached. The period from 1371 to 1379 is the least informative of all. Most of the run of the mill violence which was encountered by the court was met with fines of either 5s. or 10s. These were imposed for several body blows in which there were no special circumstances which might lead to an increase or decrease in the penalty. On occasion fines could be as low as 2s. or as high as 20s.(46) Within this area, certain acts of violence were met with a set fine. An assailant who dealt an alapa to his victim

could expect to be fined 5s. This creeps up to 10s. or even 20s. in a very few cases mostly in the early fifteenth century. Anyone who removed another's hood would also be faced with a 5s. fine.

This general background can be used to throw into relief those features of an assault which served to increase or lessen its gravity in the eyes of the court. As stated above, the severity of an attack would be one of the criteria on which the court would base its judgement; and fines tend to increase in relation to the number of blows struck or the potentially fatal or debilitating effect that an assault had upon the victim. Thus, if a victim was incapacitated, placed in danger of his life or suffered mutilating injuries, the appropriate fine would be in the region of 40s., but might reach 60s. if the gravity of the attack merited it.(48) The effect which a multiplicity of blows could have upon the sums levied is shown by three examples from the end of the fourteenth century in which the victim was thrown into the gutter. The first was taken by his chin as he lay on the ground, the second had his clothes torn and the third was struck on the head with a staff. Their assailants paid 10s., 15s. and 20s. respectively.(49) The presence of blood could also be an important factor and the court was careful to note its absence in a number of cases.(50) However, those attacks in which it was shed were not invariably met with a double fine and in a significant number, its presence appears to have had no visible effect on the final outcome. A group of fines which were imposed on a series of mild assaults in the second decade of the fifteenth century illustrate these points. At that time, an alapa was punished with a fine of 5s., or sometimes less. One such blow which resulted in bloodshed was punished with a double fine, but another was met with the standard fine. Two blows of this kind raised the fine to

12s.6d.(51)

The other important criterion which the court emphasised as lending gravity to the substance of an offence was the condition of those involved. Attacks on priests and other higher ecclesiastics were met with unusually large fines, which were out of proportion to the severity of violence involved. A failed attempt to stab a priest brought the culprit a fine of 60s.t. A man who drew blood in an assault upon a priest was fined 100s.t. at a period when a similar assault on a clerk brought at most 20s.t.(52) Another man was fined 20s. for throwing a cup of wine in the face of the cantor of the monastery, but a woman was fined only half this amount for breaking a jar over a man's head.(53) Acts of violence committed against officers of the court may also have brought similar consequences down upon the head of the accused. Such speculation is, however, hampered by the fact that no comprehensive comparison can be made with other fines, since nearly all the examples of this kind are to be found within the early fourteenth century, a period in which the record of fines is scanty. They are, however, less than those other fines which have survived from the same period. At the beginning of the fifteenth century a man struck the clerk of the priest of Deux Jumeaux in the face by way of retaliation was fined 20s. This is not only substantially more than the usual penalty, but is also five sous more than the fine imposed on the clerk.(54)

The court also punished priestly delinquencies in this area with considerable severity, though the penalties were never as severe as was the case when priest were the victims. In the late fourteenth century a priest was fined 20s.t. and 25s. for laying hands on a man and a woman in two separate incidents. A clerk might have expected to receive a penalty of 5s. or 10s. under similar circumstances. In

the later half of the next century a fine of 15s. was imposed on a priest. Other fines from this period were only higher if bloodshed occurred and could on occasion be as low as 12d.(55)

The location of an assault might also contribute to the gravity of the offence. In two cases from the early fourteenth century in which the sanctuary of the church of Cerisy was violated, the sums involved were not recorded. However, in 1485, a priest violated his own church through an act of bloodshed and had to pay 10l.t. A clerk who laid hands on one of his fellows within the confines of the abbey was fined 100s.t. This was considerably more than if the attack had taken place in the street.(56) Other factors could play a rôle in this area. One may have been the nocturnal nature of an assault. A single blow to the head at night warranted a fine of 20s. when most such attacks were met with fines of a quarter or a half of this. A man was imprisoned - an unusual occurrence in the context of crimes against the person - after he had assaulted a man to whom he had given pledges of peace. Finally, the perjury of two individuals served to increase their penalties.(57)

Though of secondary importance to the actual fact of an act of violence by or against a clerk, the underlying motive may have had a extenuating effect on the final punishment. If an aggressor acted under undue provocation or if his actions could in some way be justified then the fine might be reduced accordingly. A woman was fined 2s. for slapping a man who called her a whore. Her victim retaliated in kind, but had to pay 5s. Yves de Landes struck Yves Jamez with a tankard because Yves had slapped him. He succeeded in drawing blood but was fined the same amount as Jamez.(58) The disparity in the fines imposed on the participants in other brawls would also suggest that the court recognised that different degrees

of culpability were involved. A man who threw a suspected thief out of a mill was fined 2s.6d., and another man who intervened to prevent a husband beating his wife paid only 2s. Under ordinary circumstances the nature of their assaults in which the victims were thrown bodily to the ground would have earned them double this amount.(59)

Individual attitudes too can be discerned occasionally. In 1412, a witness to an assault felt that the assailant was doing wrong by his actions, and in the same year another bystander considered, perhaps significantly, that an assailant deserved to be beaten for what he was doing. In both cases, these comments provoked violent reactions. When Robert des Cageux attempted to provoke a fight at the house of Ranulph du Bourc, he was told by John de Bapaumes that he did wrong to speak and act in such a fashion. These words only prompted Robert to strike him. Ranulph du Bourc, 'seeing these things and being saddened', told Robert that he was wrong to do this. His objections were also met with a violent response. On another occasion, when John des Cageux attempted to solicit help to attack John de Bapaumes in the house of the curate of Littry, his request fell on deaf ears. Those present said that they wished his intended victim no harm.(60) Evidently not every act of physical violence was condoned, and a violent response might be considered inappropriate under certain circumstances or in a particular place.

(iii) Motive

The actual act of violence and the quality of those involved was of greater consequence to the court than the underlying motives. This is best shown by those cases in which victims took immediate

action to avenge an assault or were instrumental in precipitating an attack upon themselves. In these cases the overriding point is that all parties involved were fined for their violent behaviour. Different amounts were levied on each, no doubt in recognition of the varying degrees of culpability and intent, but this was of secondary importance and the court wasted little time in detailing the precise motives which might lead an individual to violence. Nonetheless it did recognise that different factors might lie behind an individual act of aggression. This was usually no more than a crude distinction between violence undertaken with malicious intent (animo malivolo) and violence occasioned by anger (animo irato); but occasionally more precise information is revealed concerning the motives of those involved.

Insulting language or behaviour were important factors in provoking violent reactions from others. In sixteen cases, the attacker was reacting to a slight upon his or her character or sexual reputation, or to an unfavourable comparison with some animal or object. One such assault led to immediate retaliation on the part of the victim cum slanderer; and in another case, the victim had been defending the good name of an absent third-party in the face of repeated vituperations.(61) Another man was struck after he had insulted his companion's singing. Insults could take other forms apart from words. A fight broke out between two men after one had spat in the other's face and a again when one man chose to laugh at another.(62)

Other causes of dissent appear and arguments account for twenty-six of the acts of violence. In half of these some indication is given of the grounds for the quarrel. The causes of dissent were various. A domestic conflict broke out over the wife's use of her

husband's goods.(63) A dispute over a quart of wine gave rise to two separate assaults, while arguments over a piece of land, a sum of money and the ownership of a hatchet lay at the heart of three others.(64) An attempt to lead a man to a dance against his will degenerated into a brawl.(65) Matters of faith could also lead to conflict. On two separate occasions the desire of individuals to reside in the confraternity of St. Maurus against the wishes of others led to violence. A dispute over the right to take the Holy Water around the houses in the parish of Littry brought about an attack upon the sexton.(66) Interesting light is cast upon the range of social networks available to men, since three of the attackers acted on behalf of another man who was in dispute with the victim. One man also assaulted another on behalf of his brother.(67)

The remaining cases contain greater detail. John Pouchin was digging in his orchard when John le Caruel came up and attempted to cross a stile. Pouchin told him to get off his land and struck him with his hoe. William Poullain was punched on the nose in an argument with Radulf le Vavassour in a tavern. Radulph had been 'moved to wrath' after William had tried to drink at the same table. An argument arose between Yves English and Peter Siart after Yves had thrown half a loaf of bread through the window of Peter's house. The matter did not end there for Yves went off in search of a sword. He was obviously impatient since he did not go to his own house, but went instead to the house of Robert l'Oesel and attempted to take Robert's sword. Robert promptly threw him out. Though thwarted for the minute, Yves bided his time until that night when he ambushed Peter in an entry. Later in the year, Yves received a thrashing at the hands of his erstwhile victim.(68)

Six other assaults had some connexion with theft. Thomas Lison

was found to have robbed two men of their goods. John de Bois d'Elle 'unjustly detained' the mantle of the rector of Bayns, who sought its restoration, while John de Ponte Junnor took a hatchet from William Blanguesnon, cutting William's hand as he did. Other men were acting to defend themselves against thieves. Simon Hebert struck Robert d'Arouville when the latter tried to take a candle from his hand. Colin le Roux set upon William Belin calling him a 'thieving villain'. Finally, Joret Durant threw Laurence Marquier out of a mill saying that if he were to stay he would steal the grain.(69)

Two assaults occurred as men were being led to prison. Thomas Boulart assaulted Peter Jugan, clericus prisiarum, and Jacob Morin attacked William Morice. The court was also faced with the actions of Radulph Vauxie in preventing the arrest of John de Capellaria. Radulph brought John a buckler and helped him to secure his house against the official's attempts to imprison him. No fighting was recorded, but it does demonstrate the ease with which certain men were willing to resort to potentially extreme forms of violence.(70)

Only two of the accused argued that they had acted in self defence. In 1321, Henry le Portier broke a man's arm with a swordstroke. He claimed that this was justifiable since he had acted in self defence. The court, however, thought otherwise and gave him two opportunities to substantiate this. In the same year John Rogeri confessed to an assault, but claimed that he had been defending himself. The court dismissed this defence and fined him.(71) Mention should be made here of the accidental injuries which found their way into the court record since they reinforce the preliminary observation upon the court's attitude to violence. In 1455, the son of Peter Michaelis de l'Osmone accidentally cut the foot of Radulph

le Dillais with a wine cask. Though Radulph had been at fault, a fine had to be paid for the injury done to him. Two years later, Cassin du Molin was fined after he had thrown a woman against a wall in the course of a game. In the same year, William le Roux admitted wounding Thomas Cheron in the face with an arrow; but he claimed that this had happened by chance and not through malice.(72) The court was obviously more concerned with the fact that violence had been done to a clerk or had occurred through his action, than with the motive. A lack of malice, however, would have served to lessen the offence in the eyes of the court and with it the penalty. Hence, the pleas of self defence and William le Roux's claim that Thomas had been wounded solely by accident.

A number of incidents were clearly premeditated. The four men who beset a house by night and the man who went armed to another's door were acting with a degree of pre-planning and foresight unusual in the context of ordinary assaults. Radulph Durant went to the house of a widow with 'wrath and ill-will', and several of the sexual attacks upon women can be shown to have been premeditated.(73) On other occasions men deliberately sought out their victims. Richard de Landes left his father's house by night to seek out his chosen victim in the village. On another occasion Yves de Landes assaulted John du Buisson as he was passing before Yves' house during the night. A degree of animosity appears to have existed between the two families.(74) John des Cageux came to the house of the curate of Littry in search of John l'Escuier, alias Bapaumes. On entering the house, he demanded to know where l'Escuier was so that he could 'batter him'. An exchange of words followed and a fight broke out after John had been insulted by l'Escuier. A little before this l'Escuier had fallen victim to one of John's

sons. Robert des Cageux had come by night to the house of Ranulph du Bourc where l'Escuier was drinking in a group. Robert entered the house and beat with his staff upon the table where John was drinking, saying, in a suitably timeless phrase, that anyone who moved would be dead. He then asked if anyone wanted to wrestle with him. John replied that Robert was wrong to talk and act in such a fashion. Robert punched him on the nose. Ranulph du Bourc then intervened, saying that Robert had done ill by this. He was thrown into the fire for his pains.(75)

Several other men were drawn into conflicts which were not of their making. One such intervention led, as will be seen, to the fatal stabbing of Reuland le Juvencel. The others had less dramatic results. A spreading circle of violence first enveloped William Syret, then Sanson Guiart and finally John Canonville. The initial argument had been between Yves Guiart and William Syret over a sum of money, during the course of which William had been punched in the face. Sanson Guiart then told Yves that he deserved to be beaten for this. Yves promptly punched Sanson about the head and chest and turned upon John who had been watching these events in silence. The irate Yves struck him on the chest.(76) In a similar occurrence, John l'Escuier was drawn into the conflict between Sanson de Burgh and Potin de Moultfreart after he had told Sanson that he was wrong to beat Potin. Two other men intervened in domestic disputes with violent results. Another man went to his son's aid.(77)

A small number of incidents were motivated by considerations of revenge. Four victims took immediate retaliatory action against their attackers, often repaying with interest the bows that they had received.(78) On another occasion a man was fined for putting up limited resistance against his two attackers. In the later fifteenth

century a man unwisely began a brawl with two others.(79) Other examples were of a more deliberate nature: Yves English was not the only man to receive a beating at the hands of an erstwhile victim. Philip le Pelous attacked William le Deen in May 1378 after an assault on him by William in the previous December.(80) In the middle of 1379, John Riqueut and his two sons, John and Johennetus were assaulted by Laurence.(81) Richard de Sallen took part in a gang attack in 1393, upon a man who had attacked him the year before.(82) William le Guilleour threw a stone at a man who had earlier tried to intimidate his sister.(83) Yves English's attack upon Cassin du Molin May have been motivated by an accidental injury to his wife during a game. After his fight with John des Cageux, John l'Escuier went out with two other men to seek revenge on John or other members of his family.

This reliance upon self-help and family ties is most clearly demonstrated by the conflict which arose between John de Tournieres and John des Cageux and his sons during 1412. The cause of this was de Tournieres' assault on a bastard son of John des Cageux. Shortly after this had taken place, Radulph and Robert des Cageux came sucessively to de Tournieres seeking to avenge the injury done to their half brother. John dealt each in his turn a blow on the head with his staff. Some time later John and Robert des Cageux dragged John and another man into their tavern. John des Cageux then struck John, saying that he had done wrong to beat his sons in such a fashion. The innocent companion received a blow from Robert.(84) The court sought to discourage such informal retaliation and generally fined all those concerned.

Other examples suggest that deep-seated tensions could exist between individuals or families at certain times. John de Bapaumes

(alias l'Escuier) was attacked twice in the same year by members of the des Cageux family. A spate of violent acts also occurred between members of the family du Buisson and the family de Landes during 1406. Gaufrid and Sanson de Burgh both attacked the same man during 1408 and Peter le Guilleour was attacked by men bearing the same surname in successive years. Gaufrid le Quoquet fell victim to attacks by John Quinot in the July and August of the same year; Stephen Hervey was also attacked twice by the same assailant.(85) Most men were unfortunate if they fell victim to two assaults in a year from different assailants.

Despite this evidence for a degree of motive and premeditation most violent acts were products of a particular moment - spontaneous and without forethought. The court itself recognised this when it said that one particular assailant had acted without cause.(86) The preponderance of unarmed assaults serves to reinforce this impression, as does the nature of the weapons which were used. These were generally staffs or knives which would have been commonly carried by men, or objects which came readily to hand such as stones or household utensils. Yves English's frustrated attempt to obtain a sword with which to pursue his argument with Peter Siart demonstrates not only a lack of restraint on his part, but also a lack of foresight in the matter. This is in contrast to the later premeditated ambush of his victim. Alcohol appears as at least a contributory factor in a number of assaults. Those arenas of male social intercourse, taverns were the scenes of two assaults, in one of which drink was clearly a contributory factor. A man was also physically ejected from a tavern by its owner. The use of tankards or other vessels filled with ale, mead or red wine as projectiles or as bludgeons would suggest that intoxicating drinks were an

important element in causing a further nineteen assaults.(87)

(iv) Place and time

While the forms which acts of violence could take are described in often complex and graphic detail, the register is more reticent on matters concerning the location, time and season of each event. The several periods in the register's history each provide varying degrees of information on any one of these topics.

Beginning with the locations of the assaults and brawls we find twelve cases in the early fourteenth century which shed some light on the matter. Seven of these would place the incident in an open and public place and the other four within a dwelling or some other building. The remaining assault took place during a court hearing. The court sat in a variety of locations, either within the abbey itself or beyond its precincts. During the later fourteenth and early fifteenth centuries, out of eighty-one incidents, forty-eight fall into the former category and thirty-three into the latter. The two later fifteenth century periods together produce two incidents which occurred under cover and a further ten which may have taken place in public.

Fewer than half the incidents therefore occurred indoors. A considerable proportion of these have been placed in this category on the basis of circumstantial evidence. A domestic setting is assumed for those three assaults in which household utensils were used as weapons.(88) The use of a drinking vessel in a further fourteen has also been taken as indicating such a setting. A female assailant also threw a jug of ale at a man in a place where a fire was burning. The servant and the maid who appear as victims may also

have been assaulted in their masters' houses, though the evidence can neither confirm nor deny this.(89) However, in a further nine incidents, it is specifically stated that the incident occurred in a dwelling house. In one a tankard was employed as a weapon. Two took place during the night. In the first, the victim was sitting at a table in another man's house, and in the second, a man broke up a drinking party. The house of the curate of Littry was the scene of a fight between two men.(90) Taverns were the settings for a further three assaults. An argument over where and with whom a man could sit led to one, and a man was physically ejected form a tavern by its owner. John des Cageux and his son seized their victims as they were passing at night and dragged them into John's tavern.(91) A man was also injured while lying on a bale of rushes in sallis (in a 'salting'?), and a conflict arose between three men in a halemot.(92)

Churches and other ecclesiastical buildings were by no means exempt from acts of violence. Two men were charged with fighting in the churchyard at Littry in August 1333. The church at Cerisy witnessed two assaults in the fourteenth century: the first on All Souls Day 1331, and the second ten years later on a Sunday after Mass. On this last occasion the rector scolarum beat another man before the altar of St. Mary Magdelene. The curate of St. Laurent-sur-Mer was himself responsible for defiling his own church in 1485. A man was also injured as he and some others were attempting to haul a chest into the tower of Littry church. An assault had taken placed within the abbey precincts in 1372, and in 1314, a fight had broken out in the scola between the rector and a scolaris.(93)

A large number of those incidents which are listed as having

occurred in a public place have also been placed there on the basis of indirect evidence. In twenty such incidents, the victim was thrown to the ground or into the gutter; in one it was plainly stated that this had taken place in the middle of the village.(94) On ten occasions, the assaults or brawls were witnessed by groups of varying sizes. Where stated these usually consisted of three to six persons with four being the most common number. However, in one case, the promotor was able to produce no less than fifteen witnesses. A group of six witnesses were present at a conflict which arose one night before the door of Colin Davy.(95) In the instances where no figures are given the language used in their descriptions would indicate that they too had taken place before a substantial crowd in some public place. The choice of weapons in another nine incidents would also suggest an outdoor location. Stones were used in eight, one of which occurred around sunset and which was witnessed by six persons.(96) In a fight in 1457, both participants were carrying bows and one of the men was wounded by an arrow.(97)

The remaining cases are more explicit in detailing where, and sometimes when, assaults and fights occurred. These show that a variety of locations in both the villages and the surrounding countryside could be involved. A fight broke out during a nocturnal attack on a Littry house in 1314; and nearly a century and a half later, four men beset another house somewhere in the officialty.(98) This was also during the hours of darkness. A further five assaults took place after dark. One victim was on his way home and another was passing before his father's tavern. An assailant left his father's house to seek out his victim in the village, another went out from his own home to attack a passer-by and yet another assailant lay in wait for his victim in a passage between two

houses.(99) The market place at Cerisy witnessed three assaults and a brawl, at least one of the attacks taking place on a market day.(100) Two men began to fight as they walked down a street in Littry, and a man chased his victim as far as the abbey gates at Cerisy. Further assaults occurred in a garden and when the Holy Water was being carried around the houses in the parish of Littry.(101) Two attackers were being led off to gaol at the time tha they struck. Finally, a man positioned himself outside the house of his intended victim and threw a stone into it, hitting the man's wife in the stomach.(102)

A still wider context is illustrated by the other examples. Five of the victims were mounted at the time that they were attacked.(103) One was coming from Bayeux in the company of his assailant and another was riding across a field at the head of a garden. A man was set upon as he was returning form St. Lô on foot as night was falling, another was assaulted at the Pont Tenneres and a young girl was thrown into the spring of la Vacquerie.(104) The Bois l'Abbe was the scene of three assaults. In one the victim was guarding swine and in another he was cutting branches or ferns around the wood.(105) Another man was attacked in the abbey cultura, beneath an oak tree and beside a spring. One man was digging in his orchard before he became engaged in an argument with a man in a cart and Colin Agolant was leading a laden horse through his victim's wheat. A man's hood was taken during a game of real tennis and another was knocked from a tree trunk.(106)

Fifteen incidents are known to have taken place during the night and most have been outlined above. Only two provide any additional information on their timing. In an attempt at greater precision the court noted that a man had been struck with a tankard, 'almost at

midnight'. In the other, the victims was discovered sitting at a table in another's house one Sunday night.(107) A further six incidents occurred in the period between early evening and nightfall. The hour of vespers accounted for two: one on a Sunday in June and the other on the same day at the end of July. A man was knocked from his horse as he was crossing a field on a Sunday in May. This happened before sunset. A fight broke out around sunset on another June Sunday and an assault took place at the same time in a house on a Wednesday during October or November.(108) Night was falling in October as the victim of an attack was making his way back from St. Lô. Other incidents occurred on a Monday afternoon in August around Nones, on a Friday morning in a field and twice on market day at Cerisy.(109)

Something can be said concerning the seasonal pattern of violence. As can be seen from the accompanying table, the two earliest periods are the most informative (see table 4.3). The majority of the acts of violence which occurred during them can be placed within a given month, though this may only have been when the court passed judgement on the matter. The combined half-yearly totals for both periods show a marked correlation between the incidence of violence and the agricultural calendar. Seventy-one percent of all violence took place during the spring and summer with the months of May, June, July and August being especially prominent. The autumn and winter accounted for the remaining twenty-nine percent. The two later periods, though less substantial and in one case incomplete, also confirm this general pattern.

A distinctive pattern of violent activity with regard to place and time emerges from this material. Assaults and fights could occur in a variety of locations, both sacred and profane, but these were

(Table 4.3) Seasonality of violence

	1314-1345		1371-1391		1451-1458		1474-1483	
	N	(%)	N	(%)	N	(%)	N	(%)
January	3	(7.5)	5	(8)	2	(20)	-	-
February	-	(-)	1	(2)	-	(-)	4	(40)
March	6	(15)	2	(3)	-	(-)	-	(-)
April	2	(5)	2	(3)	2	(20)	2	(20)
May	2	(5)	15	(25)	2	(20)	-	(-)
June	1	(2.5)	9	(15)	2	(20)	1	(10)
July	6	(15)	12	(20)	-	(-)	-	(-)
August	7	(17.5)	8	(14)	2	(20)	1	(10)
September	4	(10)	3	(5)	-	(-)	-	(-)
October	1	(2.5)	2	(3)	-	(-)	1	(10)
November	5	(12.5)	-	(-)	-	(-)	1	(10)
December	3	(7.5)	2	(3)	-	(-)	-	(-)
	40	(100)	61	(100)	10	(100)	10	(100)
Half-yearly totals:								
(i) March-August	24	(60)	48	(79)	8	(80)	6	(60)
(ii) Sept.-February	16	(40)	13	(21)	2	(20)	4	(40)

usually in the open either in the village or the surrounding countryside. Even if those cases in which some element of doubt exists are omitted, outdoor locations still account for fifty-seven percent of the total. A similar pattern has been found among medieval English homicides and those assaults which took place at Montivilliers and at Warboys.(110) The effects which gender could have upon the locations in which assaults occurred will be dealt with in due course.

Most incidents took place during the day, though this is an argument based on the silence of the majority rather than positive evidence. To qualify this it should be said that the nocturnal nature of an assault or fight may have increased its gravity and as such it would have been a factor which the court would have been careful to note. This pattern is found in the violence at Montivilliers, but it is the mirror image of the timings of both medieval and modern homicides.(111) Nocturnal assaults are of interest for another reason, since they appear to display a greater degree of premeditation among some of the accused. Daytime assaults and fights tend on the whole to be spontaneous affairs in which the accused were reacting violently to tensions and pressures as they went about their diurnal round. In contrast, certain of the nocturnal attacks demonstrate a higher degree of planning and forethought. The accused might lie in wait for his victim or deliberately seek him out or yet again join with others to beset and besiege his house. The later action is a prominent feature in rapes.

Sundays would appear to have occupied an important place in the calendar of violence. Sundays did have more than the usual number of homicides in rural Northamptonshire and in London. They shared this position with Saturdays in Oxford.(112) With the feast and market

days which appear occasionally in connexion with violent behaviour, Sundays would have been an occasion for increased social contact.(113) It is known from other evidence within the register that men met to talk and argue on Sundays and it is interesting to note that two of the assaults were carried out in church: one after Sunday Mass and the other on All Souls' Day. Furthermore, in an assault in Cerisy market in January, the accused was from Semilly and his victim from Couvains; but for the social event of the market, they may never have chanced upon each other. Finally, the cycle of violence seems to be closely related to the agricultural calendar. Spring and summer were the most violent periods, no doubt reflecting the increased opportunities for contact within them. Nevertheless violence was to a certain extent a year round problem. Northamptonshire homicides followed this pattern, but violence in Oxford and Toulouse, with their large student populations, moved to the rhythms of the academic year. Violent activity in London appears to have undergone little real seasonal variation.(114) Interestingly in several of those incidents which took place around dusk in the officiality it would seem that those concerned were taking advantage of the longer summer evenings.

(v) Assailants and victims

Violent behaviour was very much a masculine preserve. Women accounted for only eight percent of the accused in non-sexual assault cases and nine percent of the victims (see table 4.4). As they form a distinct minority and since they often experienced different forms of violence from men, these women will be accorded separate treatment. Interest here lies with those 233 men who were

accused of assault and the 226 victims of these violent acts. In addition to these, 43 individuals were prosecuted for fighting. This material affords a rare opportunity to examine the regularity with which men could expect to become involved in violence. This is an opportunity largely denied to the student of homicide for self-evident reasons. In the following greatest attention will be paid to the activities of the accused during the early fourteenth century and the years from c.1369 until 1414.

(Table 4.4) Numbers of assaultswith accused and victims

	Assaults	(group)	Accused	(women)	Victims	(women)
1314-1345	38	(5)	40	(4)	35	(3)
1352/c.1369-1414	220	(9)	175	(14)	173	(17)
1451-1458	30	(2)	30	(2)	29	(2)
1474-1485	10	(1)	10	(1)	11	(-)
	289	(17)	255	(21)	248	(22)

Between 1314 and 1345, the majority of the accused attacked only once (see table 4.5). Among these, five were otherwise involved in violence, four as victims - one of whom also participated in a fight - and one as the leader of a gang rape. Among the three men who attacked twice, one took part in a fight. John l'Arquier, the sole representative of the third category, committed an unspecified number of assaults as well as other crimes and one rape. The two later fifteenth century periods display a pattern of involvement similar to this.(115) From c.1369 to 1414 a broadly similar outline is presented; but important and subtle changes can be discerned within it. Again, the majority of men appear once, but their numbers

(Table 4.5) Appearances in register of male accused (1314-1345)

	N	%
one assault	32	(89)
two assaults	3	(8)
more than two assaults	1	(3)
total accused	36	(100)

Five of the men (16%) who attacked only once were otherwise involved in violence: three as victims; one as victim and a brawler; and another as leader of a gang rape.

have declined by ten percent while an increased proportion appear as victims or in fights (see table 4.6). Those individuals who attacked twice have increased their share of the total and an added dimension is now present in the form of a significant minority of men who appear three times or more. These increases and decreases no doubt reflect the rising tide of violence occurring at this period. In the early fourteenth century, the average number of assaults was roughly two per year. During the later period this had risen to eight and was considerably higher in certain years. The opportunities for violence would have been greatly increased. With regard to this it is interesting to note that a greater proportion of those who appear twice or more are to be found in the early fifteenth century when the annual number of assaults was increasing.

Much the same overall pattern is apparent amongst the victims. In the earliest period, only nine percent of victims were attacked more than once, but between c.1369 and 1414, this figure had doubled. Similarly, a greater proportion of those who fell victim to two or more assaults in this period were otherwise involved in

(Table 4.6) Male accused: appearances in the register of accused and further involvement in violence (c.1369-1414)

(a) Frequency of appearances

	N	%
one assault	127	(79)
two assaults	22	(14)
three assaults	3	(2)
four or more assaults	9	(6)
total	161	(100)

(b) Assailants otherwise involved in violence according to number of assaults.

Number of assaults		
one	37	(29)
two	9	(43)
three	2	(67)
four or more	7	(78)
total number of assailants otherwise involved in violence.	55	(44)

violence (see table 4.7). Only one of the twenty-seven victims recorded between 1451 and 1458 was attacked twice and none at all in the fragmentary record from 1474 to 1485.

When the regularity with which men were exposed to violence, either actively or passively, over a certain period of time is examined, both victims and accused can be placed in four distinct categories. The first of these contains the majority of men whose experience of violence was limited to a solitary event. The second has within it those men who appear once or twice and then take no further part in violence for several years or even decades. The third comprises those men who suddenly became caught up in a brief spate of violent acts spanning one or two years and then disappear completely from view. The fourth and final category is formed by the small group of men who were regularly involved in violence over a period of several years.

This material clearly shows that most men were not regularly involved in violent behaviour. The majority could expect to participate in only one act of violence whether as victim or assailant. Often the degree of violence employed was of a particularly mild nature. Regular participation in acts of violence was very much limited to certain individuals and, given the congruence of surnames and other more direct evidence, certain families. These were men such as John l'Arquier with his distinct and violent criminal tendencies, John de Bapaumes and Yves English, both of whom appear regularly as victims, assailants and brawlers, or members of families such as John des Cageux and his sons with their history of violence. As a greater proportion of such men appear in other acts of violence, it would not seem unreasonable to suggest that they had a particular predilection for its use and that

(Table 4.7) Male victims: appearances in the register of victims and further involvement in violence (c.1369-1414)

(a) Incidence of assaults upon male victims.

	N	%
assaulted once	123	(79)
assaulted twice	25	(16)
assaulted three times	5	(3)
assaulted four or more times	3	(2)
total victims	156	(100)

(b) Victims otherwise involved in violence according to frequency with which they were subjected to attacks.

assaulted once	35	(28)
assaulted twice	14	(56)
assaulted three times	4	(80)
assaulted four times or more	3	(100)
total victims otherwise involved	56	(36)

they formed the more violent element within clerical society.(116)

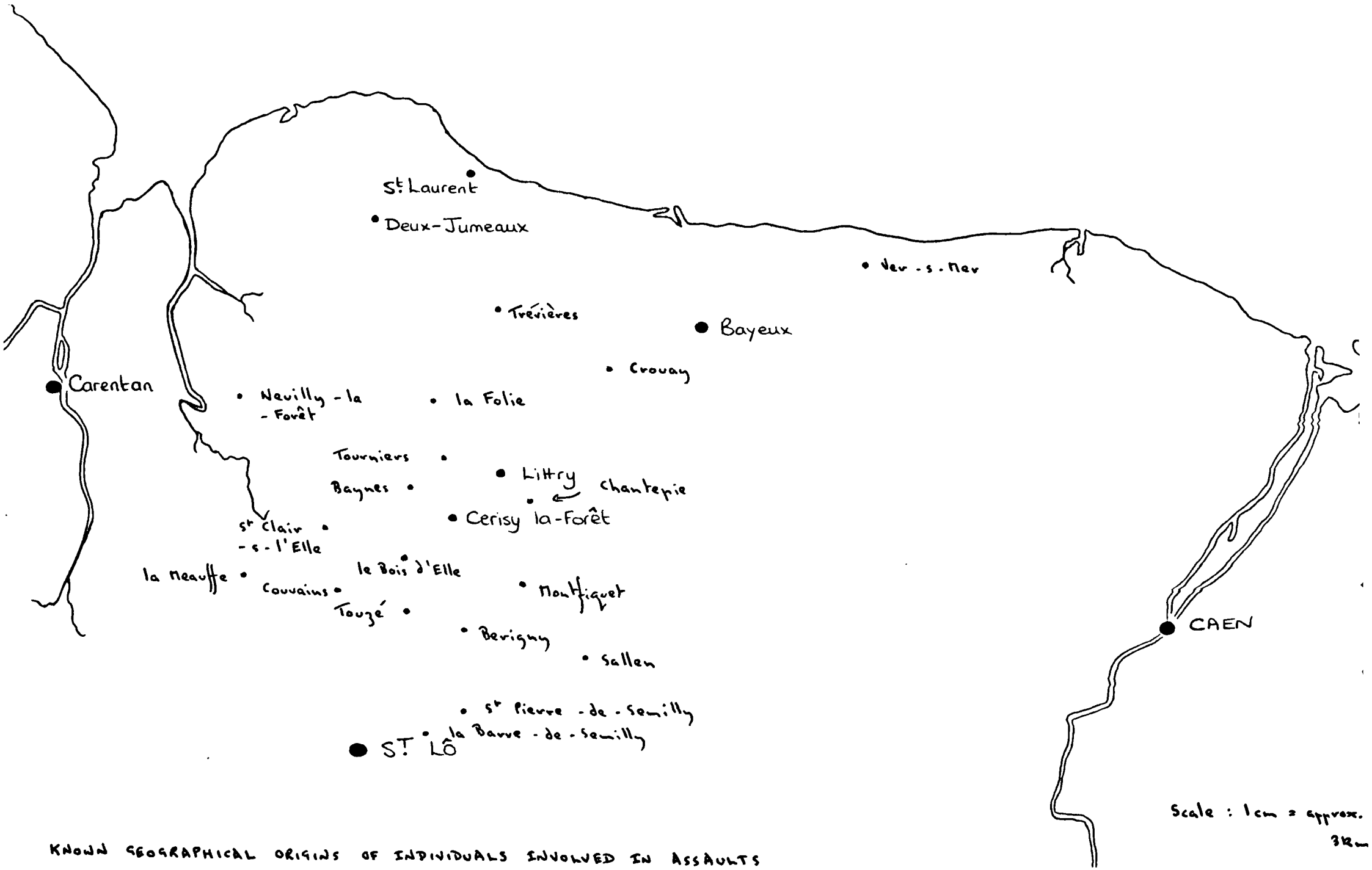
The overwhelming majority of male assailants, unlike their female counterparts, acted individually. Apart from sexual assaults, gang attacks were not a typical feature of masculine violence. Among the 278 assaults in which men were involved, ten were gang attacks; twenty-six men participated in these. This can be contrasted with the pattern found amongst female assailants where the group assaults account for just over a third of the total and involved eight out of the twenty-one women. Men were also able to draw upon a wider range of familial and non-familial contacts for assistance. Seven of the women attacked in the company of their husband or father, and the other chose the company of one of her husband's relatives. Men, on the other hand, display a greater variety of choice in the accomplices in assaults, brawls and also rapes. They appear with their fathers or brothers and two cousins raped a widow. They are also to be found in the company of non-relatives. A further indication of the wider range of social contacts available to men is demonstrated by those cases in which men assaulted their victims on behalf of a third party. In only one case is it clear that this was done on behalf of a member of the accused's close kin. Men do appear to have avenged assaults on their female kin, as they did assaults on their brothers and sons, but this ability to tap a wider resource of support is a peculiar feature of men's violent behaviour.

The sparse evidence concerning the origins of these individuals which can be gleaned from all sections of the register shows that violence was very much a local affair, and that men had more to fear from their neighbours than from strangers. This is a pattern commonly found elsewhere among other crimes, such as theft and homicide.(117) Twelve of the men whose origins are known were from

Cerisy and a further eighteen came from Littry only four kilometres away. Twenty-seven men can be identified with places which fall within a five kilometre radius of Cerisy, while fourteen had their origins within a radius of sixteen kilometres. Three of these came from Deux Jumeaux. Two other men were from places further away but still within the officiality. The first probably came from Les Mares and the other was the curate of St. Laurent-sur-Mer who set upon his victim within his own church. Only two men can be placed with any certainty outside the officiality, though names such as Thomas de Costentin, John le Gascoign and John de Bapaumes point to still wider horizons. Martin Tapin of Ver-sur-Mer was the temporary rector of the scola at Cerisy when he assaulted a man in the parish church. Simon le Barbier lived in a parish in Bayeux and an itinerant occupation as a barber may have brought him to Cerisy where he attacked the cantor of the monastery.

When all the identifiable place names are plotted on a map they produce a clear concentration around Cerisy and Littry (see map). Places in the Deux Jumeaux area are by contrast sparse. This may be due to its geographical remoteness from the court at Cerisy. This particular concentration within one area is important since it further reduces the distances which men might have to travel. It may be difficult for the modern mind to comprehend, but distances of eight to sixteen kilometres (that is five to ten miles) are not insignificant, especially in an age of few roads and no bicycles. To the man without adequate transport a place five miles away may appear to be about as 'local' as one some fifty miles distant. This is not to say that men were completely housebound. One of the accused and several of the victims had horses and men (and one woman) are to be found travelling to or from Bayeux or St. Lô.

However, where the reasons for these visits are known they are for special and specific events, whether it is lepers undertaking a penitential pilgrimage to Bayeux or a group travelling to market at St. Lô. This group contained the solitary (respectable) woman who ventured away from home; perhaps significantly she was a widow. The impression that violence was a local phenomenon is further reinforced by those cases in which the geographical origins of all parties are known. In these conflicts seem most often to have arisen between close or near neighbours. Two Cerisy men fought with each other as did two men from Deux Jumeaux. During the 1450s, John English fell victim to an assault by another Littry man, Martin Thomasse. John had earlier fought with yet another local man and Martin was later to claim a second victim from the village. John Jolivet of Littry attacked Colin English - probably a Littry man himself - in Cerisy market place. The priest of Cerisy became involved in a brawl with a man in a Littry street. John le Feyvre of Cerisy had as his victim, Yves de Tournieres. Certain men from geographically separate places were brought into potentially violent situations because of their occupations. The rector of the scola and Simon le Barbier, both of whose origins lay outside the officiality are two such examples. Another example would be the procurator of the court and his companion who were attacked in the church of St. Laurent-sur-Mer. Other men were drawn into violence through social activities or their connexions with others. A man from Neuilly-la-Fôret became involved in a fight during a gang rape in Littry; and an assailant from Semilly (either St. Pierre-de-Semilly or la Barre-de-Semilly) fell upon his victim from Couvains on market day at Cerisy. These once again reinforce the impression that usually men had more to fear from their near neighbours than form



KNOWN GEOGRAPHICAL ORIGINS OF INDIVIDUALS INVOLVED IN ASSAULTS

total strangers.

A little can be said concerning the social and economic backgrounds of some of these men. The register does not provide sufficient information to produce a detailed and comprehensive statistical analysis, but it does allow an impression to be gained of the social range of those involved. Priests and other holders of ecclesiastical offices, parish officials, and officers of the court are well represented. Ten priests appear among both the victims and the accused. The cantor of the monastery was a victim and two clerks who had held posts as rectores scolarum were active participants in violent acts. In one case this was with a scolaris. It is perhaps an indication of the pervasive nature of violence within masculine society that such men and especially priest were neither immune from its effects nor willing to shun its use in the settlement of disputes.(118) This should also serve as a reminder that sexual morality was not the only area in which the behaviour of priests could give cause for concern.(119)

Certain court and parish officers became victims of violence while carrying out their duties. The sexton of Littry was assaulted after he had prevented his attacker's son from taking the Holy Water around the parish. The official's clerk was attacked while on court business. On separate occasions, a court appraiser (clericus prisiarum) and another man were assaulted by the men that they were taking to gaol. A procurator of the court and a notary also became victims. Master Henry Consilli who was beaten up in 1458 is later named as the promotor of the court. One other man who was known as magister is to be found among the victims. The abbot's clerk was a victim and the clerk of the priest of Deux Jumeaux became involved in a fight. A man who may have been a priest's clerk from Coisiel

also appears as a victim. Five men served as jurors during the early fourteenth century, three for Cerisy, one for Littry and another for both places. Three men also appear as jurors for Cerisy in the latter part of the century.(120) One of these, Sanson de Challence, played a trusted rôle in the gathering of evidence during the initial inquiry into the homicide of 1375.

Indications of economic activity are noted from time to time. Some were related to agriculture or the keeping of beasts. Colin Bourdon possessed a wheat field and John Pouchin an orchard. A man called Vallot was employed guarding swine in the abbey wood and John Pouchin is to be found sifting grain elsewhere in the register. Other men were engaged in craftwork or as servants. William Tresel was probably a cobbler, John le Guilleour assisted in the fulling of cloth and Thomas de Costentin undertook mechanical work, possibly in the same operation. Roger Viel was a famulus and William le Cordier served within the household of his assailant. In addition to these, John des Cageux and Dom. Louis de Montibus both ran taverns and Hamo Adoubedant kept a brothel.

The financial circumstances of most men are generally beyond recall. Several men had horses which may serve as indicators of comparative wealth and greater social status. The two men who fought with each other in 1314, however, represent the lower end of the economic spectrum. One had his fine of 25s. reduced to 10s. on account of his poverty and the other was given penance since he did not have the wherewithal to pay a fine.

A few men were accorded titles of social rank. A scutifer from Berigny and an armiger from Deux Jumeaux appear together with a John Armigeri and Radulph le Vavassour. One of the two taverners, Louis de Montibus was given the title dominus (there is no indication that

he was a priest or a knight). Finally, thirty-four men were either described as filii or juniores or else clearly had fathers who were still alive. These account for seven percent of the total number of individuals who became involved in assaults and brawls, indicating that youthful participation was not a important factor in non-sexual violence.(121) By contrast, certain types of rape were characterised by a high degree of youthful participation.

(vi) Women and violence

Forty-five women became involved in violent acts: twenty acted as aggressors; twenty-four as victims; and one as both victim and aggressor in the same incident. Taken as a whole women participated in forty-four acts of non-sexual violence. They were also subjected to a further eight sexual attacks. These will be dealt with in greater detail elsewhere, as will three cases in which women were suspected of committing infanticide or of having procured an abortion.

Six of the women chose to attack in the company of another, who was usually a spouse or other close male relative. The wife of Robert Baudouin was fined 10l. for an assault with her husband upon Thomas Baudri. The attack, in which Thomas was dragged by his hair, ended in bloodshed. Thomassia Moyson and her husband, Colin, punched John Amoretes to the ground, causing his nose to bleed. Thomassia then pressed home the attack by biting John's nose. John le Mouchez's assault upon John de Vernet in which he was aided and abetted by his wife and daughter also resulted in bloodshed. Bertin du Quemin fell victim to a joint assault carried out by Quentin Danton and his wife for which they were fined 5s. Thomas Potier paid

40s. for himself, his wife and another man for their joint assault upon Richard Ferrant. A liberal reading of the Latin would suggest that they had kicked the unfortunate Richard in the teeth. Finally, Perrina wife of German Patey and Edward Patey were each fined 12d. for laying violent hands on Henry de Tournieres.(122)

A further five women employed some kind of weapon to press home their attacks. The wife of Adam de Tallence struck her victim over the head with a jar (olla). The wife of John de Scailos used a pot, following it up with a punch to the face. Guillemete, wife of Philip Noel, threw a candlestick at Henry Viel wounding him on the forehead. During an argument with John de Bapaumes, the daughter of Peter Ediene took a pot of mead and threw it at his head. She missed her target, but the pot clipped John's hood. All these women were fined 10s. for *their offences, except the wife of John de* Scailos who was amerced half this amount.(123) The last of the armed assaults stands out as being particularly violent. Joreta widow of Laurence Quenet was charged with assaulting a certain Yves in the Autumn or Winter of 1383. There are several breaks in the text, but it seems that the widow began the attack by throwing a jug (cisum) of ale into Yves' face. He was then either thrown into the fire or things from the fire were thrown at him. Finally his clothes were ripped with a knife and his hood torn.(124)

The remainder of the women carried out their assaults without the aid of weapons or fellow assailants. Several were reacting to insults. Bertin de Chemin was struck once on the forehead by the wife of Colin Giart, after he had called her a whore. She was fined 3s. for this. The wife of William Agolant and Colete, daughter of Thomas de Costentin in two separate incidents were called whores. Both reacted by striking their defamers on the cheek. Colete was

fined 2s., but her male victim who retaliated in kind had to pay 5s. Reginalda wife of Robert Oinfroy struck a blood relation of her husband in the face with her hand, leaving him with a bloody nose. This was after he had called her a liar.(125) Three other women were successful in drawing blood. Johanna wife of Reginald Morice had been excommunicated for her assault with blood upon John le Brevetier. She promised to absolve herself on pain of 40s., and her husband promised to pay a fine on her behalf. This was set at 10s., but only 3s. seems to have been paid. The wife of Gaufrid Grandin set upon John de Tournieres, raking his face with her nails and striking his chest with her fists. Her husband paid half of the 10s. fine imposed on her. In a rare example of its kind, the wife of Peter Jupin drew blood in an assault upon the widow of Nicholas Bernard. She seized the widow by her tunic and then dragged her by the scruff of the neck, cutting her badly.(126) The last two assaults are lacking in detail. The wife of Thomas le Rosnie laid violent hands on a clerk and the wife of Philip Poumier was fined 10s. for striking a nephew of John Poumier.(127)

Twenty-five women fell victim to non-sexual assaults which came to the direct attention of the court. A further five women were subjected to violence from a husband, his close kin or a lover. These will be examined in greater detail below together with those examples of family conflict which took place between men, and two other cases of wife-beating which are known only indirectly.

As many as eight women were assaulted in or around the home. The wife of Richard du Ponte was attacked in her husband's house while in the company of another man by night. She was thrown to the ground and had her hood ripped off. Her companion was also assaulted. Radulf Durant deliberately went to the house of the widow of John de

Tournieres and began to insult her. He then threw her to the ground and struck her once across the shoulders with a rod. The widow's daughter attempted to stop him and Radulf turned upon her, seeking to pierce her with his badelarius. He failed, but succeeded in damaging the door of the house. This assault brought Radulf a 10s. fine. Thomas Castel was fined the same amount for throwing a stone into the house of William Bertot where it struck William's wife in the stomach. Peter le Provost entered the house of William le Guillour and threatened William's sister, Agnes. He sought to intimidate rather than harm her, rending a linen-cloth to pieces with a dagger. His motive, which may have been sexual in origin, was to make Agnes consent to his wishes. William le Guillour's subsequent assault upon Peter may have been motivated by this event. The wife of Colin le Touzé claimed that Sanson Pate had thrown her roughly to the ground in her garden while she was in her husband's company. She was unable to prove this, but the court nonetheless fined Sanson 2s.6d. for trespass and bound him over in the sum of 40s.t. Katherine daughter of Philip Penot and maid to Joret le Tousey was struck on the face by Bertin du Chemin during an argument over a quart of wine belonging to Bertin and which was being held in Joret's house. Bertin was fined 5s. Finally, William Propositi may have assaulted Alice, widow Hequet and William Bernart in a house for he struck them with a tankard and a pot. His fine was 10s.(128)

A further five incidents took place in the open. Philippota wife of William Agolant was beaten about the shoulders and arms with a staff. Her assailant, Adam de Talencia then threw her to the ground in the middle of the village. He was fined 10s. which was also the amount imposed on Gaufrid de Burgh for throwing the wife of Thomas le Prince to the ground and punching her in the head. Oliver

Malherbe was fined 5s. for throwing the six-year old niece of John Gille into a spring. The wife of William le Parfait was drawn into an argument between her husband and Robert Jaquez over a piece of land. Robert first struck William and then his wife on the head with a stone, causing much blood to flow. As a consequence he was fined 45s. William le Touzé also pledged a fine for throwing a stone at the head of the wife of Philip Pelous. It struck her, again causing much blood to flow.(129) Two women acted in some way to precipitate their assaults. Louis Durant was fined 5s. for striking the wife of Blase Merienne after she had called him a liar. Colete daughter of Thomas de Costentin was slapped on the face by way of retaliation after she had struck a man for calling her a whore. He had to pay 5s. which was 3s. more than the fine imposed on Colete. Two other women were slapped on the face: Alice wife of John de Tournieres, whose assailant also paid 5s.; and Cardina daughter of Jacob Peley.(130) The remaining four assaults can be quickly summarized. The wife of Thomas de Costentin was assaulted by William le Deen, priest of Littry. He was fined 20s.t. plus 5s. costs. Joret le Tousey was fined 10s. for striking the wife of William de Costentin once across the shoulders with a staff. John Robert paid 5s. for beating Thomassia widow Castel about the head and body. Finally, as noted before, the widow of Nicholas Bernard fell victim to the wife of Peter Jupin.(131)

From this it is clear that the participation of women in this type of violent activity, whether as agents or victims, was not great. Two female assailants reappear as victims, in one case as a direct result of the woman's actions. Another woman also appears twice as the victim of an assault. The numbers represented here are disproportionately small both with regard to the number of men

involved and the possible sex-ratio of the adult population. This cannot be explained solely by the limited jurisdiction exercised by the court in such matters, since it is a feature found in the evidence from other courts, both ecclesiastical and lay.

Women played only a minor rôle in medieval homicide. In Hanawalt's study of the crime in the early fourteenth century only seven percent of the accused were women. They were likewise under represented among the victims accounting for a similar proportion in the more complete sets of records. They also tended to attack in the company of others and homicides involving women had a distinct domestic bias to them.(132) During the same period in Oxford which, like Cerisy had an abnormally high clerical population, violence was even more of a 'man's affair'. In the six years following 1342, thirty-five out of thirty-six murder victims were adult males: the solitary exception being the infanticide of an infant girl. In thirty-four incidents the suspect was male. In two others the identity of the attacker was unknown: only in the infanticide could thee be a strong presumption that a woman committed the crime.(133) At Cerisy all those suspected of homicide were men, but three out of the four who were accused of procuring abortions or of committing infanticide were women.

Women also appear infrequently in the records of non-fatal assaults. A study of the fourteenth century manor court at Broughton found only two attacks on women and none in which they stood accused. In the officiality of Bayeux and the seigneurial jurisdictions of the Lyonnaise in the fourteenth and fifteenth centuries they appear but rarely. At Montivilliers one twelfth of all cases involved women with female assailants being as numerous as victims. Dufresne considers this to be a large proportion for an

ecclesiastical court.(134) Only Hogan's study of violence and theft in Warboys has produced significant numbers of women involved in physical violence. This is of some significance since attacks by women on other women is an area particularly susceptible to underreporting in the records of an ecclesiastical court. Nine of the fifty-three assailants were also women.(135) Though women are represented in significant numbers, forming roughly one quarter of all victims and one fifth of the accused, there is still a marked disparity in their numbers, especially when we consider that women may have comprised over half the adult population. Obviously something within women's natures or society's attitudes to violence was serving to limit their participation in aggressive behaviour.

The Cerisy material would seem to support the latter explanation: that women are not inherently less violent than men, but that their position and rôle in society tends to insulate them from most forms of physical violence.(136) Women were clearly as capable of aggression as men when the occasion arose. The forms which their assaults took, both in the degree of violence involved and the extent of the injuries to the victims, are closely paralleled by the actions of their male counterparts, though scratching and to a certain extent biting would seem to be peculiarly feminine modes of attack. The court also made no distinction between the sexes in punishing ordinary assaults, though here theological considerations may have played a part. The fines imposed on women assailants or on men who assaulted women are not fundamentally different from those which the court would have exacted in cases of all male violence. Any discrepancy between them may be due to considerations of motive or the quality of those involved. This was not true in instances of wife-beating or rape. In

the former, the court was likely to bind the offending husband over under the strictest of terms and in the latter it would impose harsh monetary penalties on the accused.

Thus women could act like violent men when the need arose and they were accorded like treatment by the court when they did. However, their exposure to potentially violent situations seems to have been more limited. Physical violence may not have been viewed as an acceptable course of action for a woman under most circumstances. As mooted elsewhere, women may have been more likely to resort to verbal violence in disputes. This would be an alternative social explanation for the scarcity of assaults on fellow women. Their pattern of violence was also to a degree distinctive. Women tended to be drawn into conflicts through the agencies of men. A greater proportion of women attacked with a partner, their choice usually being limited to their husbands. Several of the accused had husbands who participated more frequently than most in violent activities. Other female victims were drawn into the arguments of their male companions.(137)

Women would also have been largely insulated from the social contacts which gave rise to much of the violence. Nearly a quarter of the women in the register were assaulted in their own homes and at least two of the assailants deliberately sought out their victims there. Judging by the weapons used a significant proportion of women also attacked while in the home. They were subjected to particular forms of violence which men experienced les frequently or not at all. When all attacks upon women are taken into consideration, a high proportion were either domestic or sexual in nature, both of which reinforce the domestic aspect of this subject. Their motives in resorting to violence might also differ: they were particularly

sensitive to slights regarding their sexual honour and elsewhere the register shows that suspicions of infanticide tended to fall on women.

(vii) Domestic violence.

The court at Cerisy, like courts elsewhere, dealt only occasionally with acts of violence between family members. In the register as a whole sixteen cases are recorded, two of which came indirectly to the court's attention.

The largest single group of victims were women. They experienced violence at the hands of a husband, his kin or a lover. In 1332, Ingerrand Douin and his wife were accused of treating each other badly (male se habent invicem). Ingerrand was ordered not to ill-treat her further on pain of 40s.t., and he was placed in the pillory for the harm that he had already done to her. The couple reappear in 1341 when Ingerrand was once again ordered to treat his wife well and peacefully as a worthy man should. He was also not to beat her indebite. If he failed in these requirements he would be fined 40l. and placed in the pillory. The woman for her part as to use her husband's movable wealth honestly. Both parties readily agreed to these conditions.(138) On another occasion, Colin Onffroy was ordered to treat his wife, Ysabel, as he ought. His four brothers were also enjoined to do neither evil nor violence with regard to Ysabel, which suggests that the discord was deep-seated and particularly serious. All were threatened with fines of ten silver marks if they disobeyed the court. The wife of Colin Clarel also fell victim to her brother-in-law who swore to do the court's bidding in the matter. Richarda, wife of William Bernard, received a

thrashing from her father-in-law. He was fined 10s.(139) Two men intervened in domestic disputes. Simon Viel was beating his wife in his home when Thomas de Cantilly intervened to prevent him. Thomas was fined 2s. for throwing Simon to the ground. William Agolant beat the woman with whom he was cohabiting. Her father, Simon de Tallence, sought him out and a fight ensued.(140) Finally, Nicola, widow of Herbert Jupin, requested that pledges of peace should be imposed on John de Mara, since she feared that he would ill-treat or even kill her. She was engaged in a marriage suit against him at the time. John was warned three times to give the pledges. When he expressly refused to do so he was excommunicated.(141) Only one other women appears as a potential victim. In an early visitation of Littry it was alleged that John le Scelé was accustomed to beat his mother. She appeared and swore to the contrary and John was able to purge himself by his oath.(142)

Brothers are first in order of appearance among the male victims of this particular area of violence. Thomas and Martin Malherbe were fined for a fight in which both had been seriously injured. Martin was fined 40s. and Thomas 20s., but each paid only 10s. of their respective penalties. John le Caruel struck his brother on the arm with a small staff and Philip Flambert hit his brother in the face, causing his mouth to bleed. In each case a fine of 5s. was paid.(143)

Nephews appear twice. Philippota wife of Philip Poumier was fined 10s. for striking a nephew of John Poumier. A fight developed between Colin Guiart and his nephew, also called Colin Guiart. The senior Colin was fined 10s. and the junior Colin, 7s.6d. A woman also struck a blood relation of her husband who was in their care. The register gives no clue as to the exact nature of the

relationship, but the man did bear a different surname.(144) A wider network of domestic and social ties is suggested by the last two assaults. One man was fined 40s., aggravated by his perjury, for knocking his god-father from his horse and assaulting him. In the widest sense of domestic violence, Sanson le Mareschal was fined 5s. for slapping William le Cordier who served in his house.(145)

Domestic violence, especially that directed against women, was probably more prevalent than is suggested by the available evidence at Cerisy and elsewhere. Like rape, violence within the family was susceptible to under-reporting due to a variety of social and legal factors. For instance, a husband might have the right to chastise all those living under his roof. Courts were often reluctant to intervene in domestic conflicts; moreover victims may not have viewed them as a practical source of help. No comprehensive conclusions can be reached on this subject, but circumstantial evidence and a hotch-potch of scattered references hint at the widespread existence of domestic violence.

By all accounts, wife-beating was endemic among Languedocian peasants and was viewed as an acceptable form of behaviour.(146) In Sardinia, a husband could exercise his right to punish those who ate at his table without incurring the usual penalties for violence.(147) Evidence can also be adduced from north-western Europe. The majority of separation suits which appear in the English court records were brought on the grounds of cruelty (saevitia) rather than heresy or adultery. The degree of violence was often extreme, sometimes resulting in serious injury to the woman. At Paris too, most suits of this type were brought on the grounds of austeritas or malum regimen viri.(148) Several accidental killings are known to have occurred during sessions of wife-beating.(149)

Finally, the author of a thirteenth-century confessor's manual noted that uxoricides were to be more severely punished than parricides. This, he explained, was not due to any difference in the gravity of the offence, but because men were more likely to kill their wives than their fathers.(150)

If, however, an impression is to be gained of the frequency with which domestic assaults occurred, it is necessary to examine that proportion of homicides which fall into this category. Not only was the dividing line between a serious assault and a homicide often very thin, but homicides were difficult to conceal.(151) Of particular interest here are the suspicions which arose in both the courts and the community at large concerning the deaths of women whose husbands were chronic wife-beaters.

Domestic homicides give a pattern of incidence and participation which can be compared with the Cerisy material. Firstly, domestic homicides were comparatively rare. In modern society over half of homicides are domestic in nature. By contrast, in fourteenth and fifteenth-century England they accounted for just eight percent of the total. Violent assaults in the late medieval Lyonnais were also rarely intra-familial. Even in the early modern period which in England at least witnessed a marked increase, there were still proportionately fewer domestic homicides.(152) Secondly the relationship most likely to lead to violence within the family was that of husband and wife or a woman and her lover. Such relationships accounted for well over half of English medieval homicides in the home. Fathers who killed their sons, parricides and fratricides came next in the list, followed by fathers who murdered their daughters and women who killed their sons. In the early modern period, women bulked large among those accused of domestic

homicides.(153)

If we return briefly to our scattered references on wife-beating, we find a certain ambiguity displayed in attitudes to the offence. On the one hand, the right of a man physically to chastise his wife was recognised by most courts, though efforts were made to prevent excessive or unreasonable violence. In a telling reference from Toulouse a man was ordered to treat his wife well and not to beat her ultra modum maritale.(154) Courts may also have been unwilling to become involved in essentially private disputes. The ecclesiastical courts in both England and at Paris were slow to grant separations on the grounds of domestic cruelty. The first thought of the English courts was to attempt to bring about a reconciliation, though in the last resort they would not force a couple to live together if neither party desired it.(155)

On the other hand the exercise of extreme violence by husbands towards their wives could be regarded as a serious offence. In the private forum of the confession, as noted, it was felt that some sort of deterrent should be employed against uxoricide and by implication those men who beat their wives excessively. Occasionally, cases came to the attention of the upper echelons of the church hierarchy where measures were taken to aid the victim, punish the offender and prevent further cruelty.(156) What is usually at issue in such cases is excessive cruelty rather than mundane physical chastisement.

At Cerisy, the available evidence would also suggest that violence was largely external to the home. The essentially domestic nature of violence involving women is further reinforced with women appearing as either victims or less frequently as aggressors in ten of the assaults. They were especially vulnerable to violence from

husbands and lovers, but other members of the man's close kin could be involved. In two examples the causes of the discord appear to have been deep-seated and serious. The tensions which could exist between spouses - demonstrated in the area of informal separations - were here exacerbated or produced by the woman' misuse of her husband's goods in one case and a pending marriage suit in another.

Something of the peculiar nature of the offence is also present. Violence between spouses was regarded as an especially serious affair. The penalties with which wife-beaters were threatened were significantly greater than those imposed for other acts of family violence. However, in one case, the court acknowledged that a man might beat his wife if there was just cause, and it might not have actively sought to involve itself in domestic disputes. Certainly the indirect manner in which two of the cases came to light would indicate that domestic violence, provided that it was not unusually severe, generally passed unnoticed by the court. Furthermore, in settling the dispute between Ingerrand Douin and his wife and in its attempts to gain sureties for the widow of Herbert Jupin, the court was acting as a mediator and moderator of disputes. This function can be discerned in its policy of binding over offenders.

The register also betrays signs of the informal controls which can be glimpsed elsewhere and which may have acted as a more effective restraint upon excessive and unreasonable violence. These could manifest themselves in the suspicions of the community or the direct action of a relative.(157) The rumours which led to the questioning of John le Scelé and his mother were one aspect of this; another is demonstrated by the intervention of a father and, as far as can be seen, a non-relative in domestic conflicts.

(viii) The Officiality of Paris: actions for assault 1384-1387

The late fourteenth century register of the officiality of Paris provides some useful, though limited comparative material in the area of physical violence. Apart from those examples of domestic cruelty which formed the basis for a number of separation suits, sixteen other actions for assault survive. These, however, form only a small part of a larger body of causae injuriarum which cannot be utilised since it is unclear whether they refer to physical assaults or to cases of verbal violence.

The chronology of these actions can be briefly outlined. The greatest number were brought during 1385 when nine appear between March and September. This was followed by 1386 with three, 1387 with two and 1384 when a single action was brought in December. The date of one other assault cannot be established. Taken as a whole these cases display a bias towards the spring and summer months with a total of ten actions appearing between March and August. The months of May, July and August are especially prominent among these.

The descriptions of the assaults are considerably less detailed than those given by the Cerisy court. The language used at Paris is terse and each assault is described in only the most general terms. Despite this enough remains for an impression to be gained of the different degrees of violence to which the victims were subjected. In two of the assaults, the assailants were said to have laid hands (manus injecit) upon their victims. Another man was struck, but not heavily (percussit leviter) by his attacker.(158) Four other victims received a mild blow to some part of the head (alapa). One was usually sufficient, but Jacques Carnifex found it necessary to strike his victim twice and to draw his knife against him.(159) A

higher and more sustained level of violence is suggested by the remaining nine assaults in which the accused were said to have beaten their victims.(160) Among these a mercer was beaten and wounded, and the former official of Beauvais beat, wounded and injured two men. Two of these assaults were gang attacks with two assailants each. The description of the second shows that such assaults were potentially more violent than those carried out by single assailants. In August 1386, Jacques de Chemino and William Boyvin attacked John Jalier. While Jacques held him, William proceeded to beat the unfortunate John; Jacques also struck him in the face. A man received a beating at the hands of a woman and her daughter in the earlier case which had come to trial in the proceeding August.

These assaults were most commonly punished with fines. The sums involved are recorded in only two instances. Jacques Carnifex had to pay two francs within one month for his armed assault. The court itself estimated the cost of the injuries sustained by John Jalier at the hands of his attackers to be 40l. However, five other actions had different conclusions. One simply records the initiation of a suit while in another the victim released her assailant from all claims made by her against him. An itinerant mercer was paid sixty gold francs in an informal settlement by the man who had beaten and wounded him. A tailor who beat his famulus over a disputed contract was bound over in the sum of 20l., reinforced by the threat of excommunication. Finally, a former official was imprisoned for injuring two other magistri.

Enough survives to show that the nature of the punishment could vary according to the severity of the assault and the quality of those concerned. Several of the actions also demonstrate the

importance of arbitration to the legal process and the function of the court as an arbiter in disputes. The mercer probably did not have sufficient time to pursue a court action in Paris and so came to an out of court settlement with the accused. The woman who absolved her assailant from all claims may have reached a similar sort of agreement. Both settlements were formally ratified by he court. The court played a more active rôle in settling the dispute between the tailor, Yves de Corona, and his famulus, John Jouhenzer. Yves was ordered not to beat John any further - because he was a clerk? - while John in his turn promised to serve his master well and faithfully for the term of his contract.

A dispute over the proper fulfilment of a work contract obviously lay behind this last action. Indications of motive or the physical context of an assault can be found in a handful of other cases. Peter Lepor beat his victim while trying to imprison him. The court gave no further explanation beyond the fact that it considered this to be unreasonable. One man was attacked in a tavern as he tried to leave a dice game. The Paris audience court was the scene of another assault.

As at Cerisy a distinct gender bias is evident. Only two of the eighteen assailants were women and they were a mother and daughter who acted together. One woman also appears among the seventeen victims. Three of the men were described as 'son of' or junior. However, this may not be an indication of the relative youth of those concerned, since John Armiger, who is described as junior, had a son of his own for whom he paid a fine.

The register contains a significant amount of information upon the occupations, social status and geographical origins of both the accused and their victims. Several artisans appear among them. A

tailor has already been encountered beating his famulus. John Sampson was the famulus of a weaver and lived at Tavigny well outside Paris in the house of the man who may have been his master. Louis Touset was a stone-mason (latomus) who lived before the house of the master butcher in the parish of St. James. Jacques Carnifex also lived in the shambles before the cross (intersignum) of St. James. Jacques de Chemino was described as both a cobbler and a carter, while John Tonellari's name suggests that he may have been a cooper. Two other men represent different aspects of the retail trade. Dennis de Poissiaco was a mercer (a dealer in textiles, especially silks) temporarily resident in Paris. William Martin, a layman, was a seller of herrings (harangerius) living at le Petit-Pont in the parish of St. Severin. Peter le Vachier's name hints at an occupation connected with cows. Members of the church were not immune from violence. Master Peter, former official of Beauvais, attacked two other magistris. Two possible indications of secular rank can also be found. John Armigeri of Magny-les-Hameaux gave a fine on his son's behalf. Johanna la Vavasseure whose name means a petty vassal appeared in court with her daughter, the wife of Peter Saiget, who had given his authority for her appearance. Another man was known by an alias.

The geographical origins of several others of those who appear can be discovered or at least guessed at. Some lived or were at least temporarily resident in Paris. John Hervei appears twice within the space of two months. William Chefdeville lived in the rue de la Licorne in the parish of la Madeleine-en-la-Cité; and William Balloys dwelt at the sign of St. John in the house of John Vocandri, part of which served as a tavern. This was in the parish of St. Benôit-le-Bestourne. Others came from the outskirts of Paris or

beyond. The victim who was known only as Clement may have been a relative newcomer or a stranger. Peter Lepor lived in Surenes on the western edge of the city and Robin du Mesnil was from Corbeil nearly twenty miles to the south.

(ix) Conclusion

A number of conclusions may be drawn from this material and the small sample from the register of the officiality of Paris. Firstly, the fluctuations in the pattern of violence at Cerisy cannot be explained satisfactorily by reference to the social stresses model put forward by the Toronto group. No direct correlation can be established between any variation in the levels of violence at Cerisy and the visitations of famine and plague in the fourteenth century or the onset of war in that century and the next. Many other factors affect the recording of crime and it may therefore be only a very imperfect indicator of social tensions. A direct correlation between a rise in violent crime and demographic upheaval is less than certain.(161) Furthermore, in the case of the English village studies, a careful reading of the evidence shows that it does not in fact support the model derived from it. What may be of greater significance in the case of Cerisy and perhaps more generally are factors such as an increased sensitivity to the reporting and prosecution of certain crimes both on the part of individuals and the court. Furthermore, the large numbers of men subject to ecclesiastical discipline within the officiality will have made the Cerisy peculiar untypical of other church courts in the reporting and prosecution of violent crime.

The majority of the assaults and brawls involved only a low

level of violence which was both slight and far from inflicting serious physical harm. However, certain assaults went to the other extreme and in several cases even unarmed assailants inflicted potentially life-threatening injuries on their victims. Violence was largely the matter of the moment with obvious premeditation occurring in only a few examples. The sometimes unusual variety of weapons employed reinforces the impression of spontaneity.

Violent crime was very much a male dominated affair and, as this is a feature of studies of secular records, it cannot be entirely due to the nature of the peculiar's limited jurisdiction. Women seem to have be drawn into violence through the actions of men. At Paris women also appear infrequently and there may have been a particular pattern of violent behaviour associated with them. Men generally attacked alone: group assaults with their greater degree of premeditation are rare. They were usually not involved in violent behaviour on a regular basis. As far as the Cerisy register can show an assault or a brawl was very much a one-off event for most men in reaction to a particular event. Only a few became linked more frequently with violent behaviour. On occasion individuals at Cerisy did speak out against the use of violence, but it is more likely that they were condemning its inappropriate use rather than the act of violence itself. Physical violence was clearly regarded as a suitable means of dispute resolution or immediate redress by a large cross-section of the court's constituents. This is a pattern of found elsewhere.(162) Similarly violence in Paris was not limited to one particular social group, but rather it touched a broad range encompassing both the fishmonger and the seller of silks. Craftsmen and former holders of ecclesiastical office neither shunned its use nor escaped its consequences. However, the greater geographical

mobility of the urban population brought an added dimension to the Parisian violence. Despite the all pervading nature of violent behaviour within clerical society there does appear to be a particular concentration among a population of itinerant or semi-permanent servants, craftsmen and traders. Five men, some of whom were lodgers, can be identified as living within Parisian parishes. Yet, six others can be shown to have had their origins beyond the confines of the city. One was an itinerant mercer and at least three others came from a distance of twelve miles or more. Likewise, the regular use of violence at Cerisy was also limited to a particular minority of individuals. The degree of youthful participation is perhaps greater than at Cerisy, though certain reservations can be expressed concerning this.

The social standing of the parties involved, the nature of the injuries inflicted and the the location and time of a particular event could all lend gravity to the crime committed in the eyes of the Cerisy court. Similar concerns probably influenced the Parisian court, though the evidence here is less reliable. Any consideration of motive tended to be limited to a basic distinction between animo malivolo and animo irato. On the whole crimes against the person were less severely punished than those against property. Theft could be met with imprisonment, but even rape - a serious crime in the estimation of the court - merited only a fine.

CHAPTER SEVEN

Rape.

Any attempt to gain an impression of the true incidence of rape must first take note of the chronic under-reporting of the crime and, in the case of Cerisy, the existence of a competing local jurisdiction. The 'dark figure' of rapes may account for over three-quarters of the total: what is displayed in the register is probably only a fragment of the whole.(1) Circumstantial evidence from England would suggest that the crime or, at least, the perceived threat of rape may have been more prevalent than the criminal record would indicate.(2) Furthermore, in the case of Cerisy, the official shared his jurisdiction in this field with the seneschal's court, as a victim could elect for trial in either jurisdiction. Though the official did deal with one rape by a layman, it seems more than likely that other such cases were pleaded before the secular arm. We are dealing then with half a fragment.(3)

Serious sexual assaults were a persistent, though by no means overwhelming problem for the official. Dufresne identified a dozen cases between 1314 and 1413, together with four 'probables'.(4) On closer examination only eight of his twelve are clearly rapes. Of the remaining four the nature of the complaint is uncertain in two, one is a clear case of fornication and the last is the result of double-counting. Only one of the 'probables' may have had anything to do with sexual violence and even then its meaning is unclear. The discussion of rape which follows will be limited to those eight cases in which the issue appears beyond doubt.(5)

While generally dwarfed by non-sexual assaults, rape

nevertheless appears as a significant factor in motivating attacks on women.(6) The eight rapes account for nearly a quarter of all assaults on women between 1314 and 1414. Though the impact on women was obviously considerable, the impression gained is that the frequency of reported rapes was low when compared with other areas. At Dijon with a population of roughly 10,000, the secular courts dealt with one hundred and twenty-five cases of rape in eighteen of the fifty years between 1436 and 1486.(7) The villages in the peculiar may have had a population half that of Dijon, but the court dealt with only a fraction of the rapes.

Several of the assaults followed a distinctive pattern. Where place and time can be determined, the assault occurred at night in the victim's home. Three of the rapes were gang attacks with four men in the first, an unspecified number in the second and two in the third. Almost all the rapes were accompanied by a high degree of physical violence directed against the victim herself or towards gaining access to her home. This seems to have been more severe than that normally encountered in non-sexual assaults on women and is a feature of rapes elsewhere.(8) One rapist attacked his victim with 'great violence' and another woman was beaten 'shamefully' by her assailant. A solitary rapist broke down the door of a house to gain access and two of the gang rapes were no less than full scale assaults on the victims' homes. In 1339, a group of men sought to break into a woman's house to take her daughter by force (suponere vi et violentia). Earlier, in 1314, a gang of four men had quite literally torn apart the house of their intended victim.(9) The abduction of the victim, generally considered by canonists to be a necessary element in the crime, does not seem to have taken place in any of the cases.(10)

Of the twelve men accused of rape, five may have been relatively young men. Four of these still had fathers living. Colin de Neuilly and Radulf Roger were both described as filius and they pledged fines with their fathers' authority. The fathers, and possibly the uncles, of Gaufrid and Peter les Guillours who were cousins gave sureties at their trial. Richard Quesnel, rector of the church of St. Marcouf was described as junior. The other, possibly more mature men lacked kin-designations. The only two without an ecclesiastical title were known by aliases: Henry Goie, alias le Panetier and Peter Ediene, alias le Farey. Peter was a layman but no indications are given of Henry's status beyond being poor. The rector and priest of Littry, Stephen Bernart, was accused of the rape of his former concubine. John Onfredi, John Goie and Hugh Defense were described simply as clerics, as was John l'Arquier who was a man of wide-ranging criminal interest and as such is untypical of the group.

These individuals tended to attack alone: only Henry Goie and John Onfredi are to be found participating together in a group assault. By contrast, the younger men are invariably associated with such attacks, sometimes as their leaders. Colin de Neuilly took part in the assault on a Littry house in 1314 which was led jointly by Radulf Rogeri and John Onfredi. Richard Quesnel led another assault with several anonymous accomplices, and the cousins, Peter and Gaufrid, raped a widow in her home.

Like other forms of violence, rape was extremely parochial. The assailants probably knew their victims in nearly all cases, choosing them from their home village or its immediate vicinity.(11) The gang which attacked the house of Johanna la Goguere in Littry included two men from the village and another from Neuilly la Forêt. The

attack on another Littry house in 1339 was led by the rector of St. Marcouf, Richard Quesnel. The priest of Littry, as noted before, was suspected of raping his former concubine in 1373. Hugh Defense was from Asnières-en-Bessin while John Goie appears elsewhere in the register. Peter Ediene, charged with the rape of a widow from Couvins, attended a wedding feast near Cerisy in 1375 where he had been entrusted with the sword of the abbot's armiger. He also had kin within the officiality as did the two cousins. Only John l'Arquier, with no indications of any ties inside the peculiar and his obvious criminal tendencies, cannot be resolved into this pattern.

The social composition of the rapistshas parallels within the Dijon material. At Cerisy they were almost always established local men with family and social ties, positions of trust and even ecclesiastical office. The exceptions to this pattern are Henry Goie who was too poor to pay his fine and John l'Arquier whose wide-ranging criminal activities set him apart. Nearly half may have been young men. Much of this is reflected on a larger scale at Dijon which differs more in detail than substance from Cerisy. The 400 actors and accomplices at Dijon were mostly local artisans or other skilled men: only thirty were strangers. Well over three-quarters were aged between eighteen and twenty-four.(12)

The small sample of victims would suggest that all women were at risk whatever their marital status or social position. Four of the victims were married, though one had been her attacker's concubine, and two were widows. The houses of two women who were later defamed for keeping brothels were attacked.(13) In one of these the woman's daughter was the gang's intended victim. Together with widows such women would have ready victims for both non-sexual and sexual

attacks. The profile is in fact broadly similar to that found among the female victims of non-sexual assaults where most attacks were upon married women. However, in the sexual assaults there are proportionately more widows and considerably fewer unmarried women.

At Cerisy it is clear that the rape of any woman was regarded as a serious offence. This reflects the general attitude of canonists to the crime, though some felt that the gravity of the offence should vary according to the victim's marital status.(14) There is no indication that this attitude, found in other contemporary courts, influenced the official in his judgements.(15) Fines were levied against six of the rapists and another swore to pay a fine if found guilty. The amounts imposed were recorded in four cases. The two men who led the assault on the house of la Gogueree, later defamed for keeping a brothel, were each fined 25l.t. The two cousins found guilty of rape in 1399 were fined 15l.t. apiece and their families were required to find sureties for their payment. These were significantly higher penalties than those imposed for non-sexual assaults upon women and would have represented a considerable financial burden.(16) On two occasions the court took the unusual step of holding suspects in prison pending an inquiry into their alleged crimes. Furthermore the court made its sentiments plain on two occasions. The gang attack on the house of la Gogueree caused 'great scandal since she was raped', which suggests a degree of concern wider than the court itself, and the court specifically noted that it wished to punish Hugh Defense for his crime. These two terse statements illustrate the moral will and desire to punish which lay behind the strict penalties which it imposed.(17)

In recent years, the historical study of rape has started to

become an area of interest for social and criminal historians. A number of writers have put forward particular views concerning the past nature of the crime and have they sought to detect the long term trends and persistent elements which exist in the form and characteristics of rape.

Edward Shorter examines the subject in the light of an appraisal of the crime in which rape is seen as an essentially political act which ensures the subjugation of women, both at the personal level of the rapist and his victim and at a more general level by creating a climate of fear. Because of this women's movements are restricted and they are made dependent on the protection of other men.(18) Shorter, however, questions the historical continuity of such a view. He suggests that the causes of rape in early modern France, at least, lay in sexual frustration, rather the politics of patriarchy. The picture which Shorter paints is of a nasty, brutal world of sexual repression and base passions. Strict moral control, late age at marriage, and little prostitution outside the large towns and cities led to a situation of 'sheer, accumulated misère sexuelle'.(19) Furthermore, there was little concept of marital affection and normal sexual relations verged sufficiently close to the violent that the distinction between violation and reluctant consent was thin. This state of affairs continued until the growth of romantic notions of love and equality between the sexes in the late eighteenth and early nineteenth centuries. These developments are linked to a decline in the number of reported rapes. Shorter sees the politicisation of rape as a much more recent phenomenon occurring in response to the growth of feminism and the consolidation of equality after the last war.

This particular model of the historical nature of rape has

recently been criticised by, amongst others, Roy Porter. Shorter's frustration theory is seen by Porter as being anachronistic and reductionist. He takes the view that sex may not have been sovereign in past centuries and male expectations may have been different.(20) Moreover, he suggests that the assumption of a high level of rape in the past is based largely on guesswork and may not in fact reflect the true incidence of the crime or the perceived threat. Crimes of rape and sexual assault in fact only form a small proportion of crimes against the person. Violence between males was far more prevalent. There is also a lack of apprehension among sixteenth and seventeenth century women diarists concerning the crime.(21) Porter concludes that there are no grounds for believing that rape was 'a particularly prominent act in the pre-industrial world'.(22)

Both these theories need extensive qualification in the light of evidence relating to both violent and non-violent sexual crimes within the register. Shorter's theory of sexual frustration as an underlying cause of rape has already been subject to criticism and it can not hold for the medieval period given the large numbers of presentments for offences against sexual morality at Cerisy and the general preoccupation with such matters in ecclesiastical jurisdictions.(23) As a theory itself it has been overtaken by a view of rape which sees it as an act of violence and aggression rather than one of sexual release.(24) Rape within the register is characterised by a high degree of violence directed against the victim. This and certain other characteristics, such as the parochial nature of the crime and the composition and behaviour of the rapists, finds parallels both in contemporary studies and in the modern crime. An ability to engage in pre-marital sex and the presence of prostitutes at certain periods in the register's history

do not appear to have lessened the effects of the crime.

This leads us to Porter's attempts to reduce the significance of rape in past centuries. Though the rapes recorded within the register may well be dwarfed by the ever present instances of non-sexual assaults, particularly between men, rape was possibly the most important factor in motivating assaults on women. The material from Dijon shows that most women appear to have been at risk and this seems to have been the case at Cerisy.(25) Scattered evidence from other areas would suggest that, whatever the reported incidence of rapes, there was a general atmosphere of concern over the possibilities of sexual assault. Indeed the problems associated with the chronic under-reporting of this particular crime would suggest that it is unwise to produce such general theories on the basis of the criminal record alone. The difficulties in matching these theories rather than persistent elements in the nature of the crime, to the available evidence are indicative of this.

CHAPTER EIGHT

Abortion, infanticide and homicide.

Violent deaths appear only rarely in the register with a mere six cases of unnatural death being investigated by the court. This is in marked contrast to the assaults and brawls which populate its pages in ever increasing numbers. Suspected or actual homicides accounted for three, while suspicions of infanticide and abortion gave rise to the remainder.

An intriguing reference appears in the record of a visitation of Littry in 1316. In that year, John le Franceis and his wife were accused of having had seven children who had not received baptism (christianitatem). One of the jurors added that he had seen a pig (croffa) carry off one of the children, and that he believed that the couple had been to blame. They appeared and defended themselves, denying any culpability or knowledge of the pig, and adding that they had never been at fault with regard to any of their offspring. A single question was then put to the woman. She replied that she did not know at what time the infants had died before they were born. Her answer would suggest that the court was investigating an unusually long sequence of still-births born to one couple and that it had reason to believe that one or more of these had been deliberately aborted.(1)

At Cerisy in 1335, the visitation noted that the filia à la Mahee had been previously defamed for having sexual relations with Thomas Poulin before her betrothal to him. According to both the fama publica and Thomas himself, she had been pregnant by him for a

long time (diu). Suspicion now surrounded the death of the infant, and the jurors suggested that it might have been killed deliberately. As particular care was taken to note the fact of the woman's pregnancy and its duration, this may have been a case of suspected abortion rather than infanticide. In the following year at Littry, Erembourgh daughter of German le Roux was 'defamed' of her child, because the jurors could not say what she had done with it. Despite the apparent, general toleration of illicit unions, some stigma may have attached itself to illegitimate births in certain circumstances: a number of women sought to avoid attention by leaving the local area to give birth or be purified. If Erembourg did indeed commit infanticide, her motive could have been a desire to rid herself of an unwanted illegitimate child. If this is the case, then the motives of the filia à la Mahee in ending her pregnancy or destroying her new born child would have been of a different order since she was entering into a legal relationship with Thomas.(2)

The first of the three homicides dates from 1316. John de Capellaria was held in prison on suspicion of fatally wounding Henry Symeon 'a late defunct priest'. Following the examination of witnesses in an apparently long-drawn-out action, John was given permission to purge himself of the infamy of the crime. Twelve other clerics appeared as his oath helpers and John was declared innocent. Four years later, the court ordered the exhumation of the remains of John le Dameys by a group of lay and clerical jurors together with representatives of both the official and the seneschal. In this, it was acting upon a rumour that John had been killed by Henry and Thomas de Cerisy. The jurors extracted and then examined a number of John's bones. They found signs of a wound on the skull (capite)

close to the neck which they showed with other bones to certain medici. The court then invoked the secular arm and gave orders that the rest of John's remains be disinterred.(3)

The final case, the fatal wounding of Reuland la Juvencel in September 1375, allows a detailed insight not only into the court's handling of the crime of murder, but also the impact which a killing could have upon the local community and the ease with which an armed assault could become a homicide.

The initial painstaking and highly formal inquiry was made two days after Reuland had received his wound. On September 4th, the court removed itself to the village of Cerisy and sat beneath the portico of the house of William Blanguesnon, a juror, around the hour of terce. Its purpose was to gather information on the nature and extent of Reuland's injury.(4)

The court first called John le Maistre, juratus regis, who had attended to the victim's wound. He was asked in what manner and fashion he had found Reuland. He replied that he had found him in the house of Thomas Rupin, lying with his arms outstretched and 'shamefully wounded in the stomach by a knife around the navel'. The wound was so deep that Reuland's bowels had emerged from it, as John stated precisely, 'to a greater extent than the two fists of a man'. John replaced the bowels and put four stitches into the wound. At this point he noticed that part of the bowel had been cut badly and because of this he doubted for the victim's life. He added that if the man died within nine days of the assault, his death would have been due to the wound alone.

Following this statement, Gaufrid and Sanson de Thalence, jurors for the village and jurisdiction of Cerisy, were ordered to examine the wound carefully and with John le Maistre to inquire as to the

identity of the assailant and if he attacked alone. In their subsequent report to the court they said that they had not wished to examine the wound internally because it had been sewn up. John had informed them of the extent of Reuland's injuries and they considered that his chances of survival were poor, having found him in a weakened condition. They repeated John's statement concerning the cause of death if this were to occur within a certain time, adding that the matter would become one of homicide if this should happen. When questioned on the identity of his assailant, Reuland had named Roger, son of Henry de Valey, and no one else. Finally, the official and his two apparitors, after hearing this report, visited the victim in person. They too asked him to name his assailant, reminding him to tell the truth on account of the danger to his soul. Reuland once again named Roger.

John le Maistre's pessimistic prognosis was soon borne out for Reuland was dead within three days of this initial inquiry. The court heard of his death per fama publica and, as Reuland had died within the nine days, the 'thing had passed into homicide'. It then cited the bonos homines of the area in which Reuland had been wounded to appear before it on September 10th, to establish the truth of the matter.(5)

Twenty-two witnesses were sworn and examined on the tenth. Only six had been present in the house at the time of the stabbing, three of whom had seen the fatal blow struck. One other became involved following the event, since the victim had been brought to his house after the fight. The remainder testified to the public knowledge of the crime, a statement made by the victim or the veracity of those who had witnessed the deed.

The sequence of events which led to the fatal wounding and its

aftermath can be reconstructed primarily from the testimony of John le Touzé. Additional details are to be found in the depositions of Laurence le Roux, Henry le Heriz and Thomas Rupin.(6) The incident took place on a Sunday night at an hour when most men were indoors or in bed.(7) A group of men, including the victim, had gathered in the house of John le Touzé. This may have been in the eponymous hamlet just to the south-west of Cerisy. They had come to partake of a prandium nupciarum to celebrate the wedding of John's son which had taken place that evening. The newly weds were in bed.

At some point Roger son of Henry le Valey, a cleric, entered armed with a knife. A quarrel developed between him and Peter Ediene over a sword which Peter was holding in its sheath. Roger demanded to know to whom the sword belonged. He then said that he wished to have it and placed his hand upon it. Peter replied that the sword belonged to Peter, armiger of the abbot and that while he held it Roger should certainly not have it. At this point, Reuland le Juvencel came to Peter's aid, probably taking Roger by the arm. Roger now turned on Reuland and, saying 'Truant, what are you doing?', attempted to strike him with the knife. Reuland parried the first blow, taking the knife by the blade (ferrum) so that his fingers were cut; but Roger was able to draw back the weapon and inflict a second, mortal wound to the stomach. Reuland then cried out: 'Flee, good sir, if you will; I am dead', and Laurence le Roux forcibly disarmed Roger, breaking the knife in two. John le Touzé, when he heard Reuland cry out, seized Roger saying that he would be brought to justice. He ordered the doors of the house to be barred and sent for the bailiff's servant to take charge of Roger and imprison him. He made his son leave his bed to guard both the house and Roger. John le Heriz, servant of the secular jurisdiction of

Cerisy, arrived in due course and took charge of the prisoner. After hearing an account of events from John le Touzé, he led Roger off to prison. Some time before this Reuland had been removed to the house of Thomas Rupin where a medicus attended to his wound. Thomas noted the seriousness of the injuries and he remarked on this in his deposition, stating that the injured man's bowels had emerged in a great quantity from the wound. While the victim was being treated, John le Heriz entered with his prisoner. On seeing Roger, Reuland declared: 'Roger de Valey present here did this to me'. Roger made no reply to this, except to say that he would have good justice from the official of Bayeux.

Apart from demonstrating the importance of opinion and repute in determining the veracity of evidence, the testimonies of the other witnesses show that the stabbing was a matter of great interest in and around Cerisy. The fight itself and the identity of the killer became topics of conversation between those who had been present and other villagers: it was a newsworthy event. All the deponents who had not actually been present testified either to the fama of the deed or the attacker's identity. Eleven of them had received a description of the fight from one or more of those who had been present. Further comments by a number of these witnesses point to a wider circle of interest within the village of Cerisy. William le Guilleour, who had received accounts of the event from John le Touzé and Henry le Heriz, said that the fama had spread throughout the village of Cerisy. William Bernart, senior, had heard reports from many individuals whose names he could not recall, but especially from John de Crouay. Two other men had heard it said that Reuland had named Roger as his assailant while on his sick-bed, and a third was able to testify to the fama of a similar death-bed

accusation.(8)

The conclusions which can be drawn concerning the practice of abortion and infanticide in the officiality are similar to those Helmholz drew from his study of infanticide in the Province of Canterbury.(9) The Act books there provide some evidence on the offence, but it is incomplete, often inconclusive and no statistical conclusions may be drawn from it. At Cerisy suspicions concerning the practice of abortion and infanticide certainly existed within the court and the wider community; and the court was willing to investigate such allegations. However, it seems unlikely that the three extant references reflect a true incidence of what were quintessentially secret crimes. It is interesting to note that in one case the jurors' suspicions only appear to have been aroused after several still-births had been born to one couple. Nothing can be learnt of the court's actions and its attitudes beyond an obvious desire to investigate the crimes when possible.

A little more can be said with regard to homicide. All three examples show the importance of rumour and repute to the legal system, not only in bringing to light the existence of a crime, but also in determining the veracity of testimony given by witnesses. Furthermore, the spread of fama after the fatal stabbing of Reuland le Juvencel shows that this was an unusual and notable event. The details of the fight quickly became a subject of conversation between those who had been present and their neighbours. Within a few days the whole village appears to have been aware of the stabbing and its outcome.

The court naturally viewed homicide as a very serious offence and dealt with it accordingly. Not only was it willing to imprison

suspects pending an investigation, but it was also prepared to order the exhumation and examination of the corpse of a suspected victim. A painstaking inquiry was made into the third killing with twenty-two witnesses being examined on a single day. The victim was himself questioned by a sucession of court officers including the official shortly before his death.(10) It is interesting to note in this and the earlier case that the court had access to medici and that it obviously showed great interest in such matters. The precise and graphic description of the Reuland's injuries is paralleled in the concern for anatomical detail found in connexion with non-lethal violence.

Given the important and all-pervading nature of rumour and the successful post-mortem examination of John le Damey's corpse, homicide was probably a difficult crime to conceal. There is, therefore, every likelihood that these three cases represented all the homicides involving clerics in this period. This is too small a figure even to attempt a rough estimate of the homicide rate. It is also likely to be only a partial figure, given the existence of competing jurisdictions. Homicide, however, was a more common crime in the officiality than in the Essex village of Terling which experienced only one murder during a hundred year period in the later sixteenth and early seventeenth centuries. Likewise at Warboys between 1299 and 1348 there was only one.(11) The impression gained from a study of non-lethal violence in the register is that it could have been much more common but for the force of circumstance. Several of the more severe assaults and brawls came close to crossing the narrow divide between serious injury and death, as did the fight in the house of John le Touzé.

CHAPTER NINE

Defamation, slander and insulting language

The study of these aspects of the court's business has to take account of two problems. In the first place, ecclesiastical courts shared their jurisdiction over actionable words with the secular courts, though at this time in England, at least, there was no distinction drawn between the types of words actionable in one or the other jurisdiction.(1) Though clerics may have been legally obliged to pursue such actions through the Cerisy court, others may have chosen to take their grievances elsewhere. In point of fact, the court had to act on two occasions to ensure that clerics respected its jurisdictional rights. In the second place, there is a problem of definition within the register which is fortunately limited to the material which appears before 1390. During this period, the term causa injuriarum could refer to either an action for words or, somewhat less frequently, one for physical assault.(2) Consequently, in a number of cases, the true nature of the offence cannot be identified with any certainty. However, unless there is some specific indication that a physical assault is at issue, these doubtful cases have been placed with the other actions for slander.

The evidence can be divided into two distinct groups, each of which warrants individual attention, both because of differences in the manner in which they appeared before the court and also in the actual information they can provide. The first group appear at intervals between 1314 and 1392, while the second group are scattered between 1393 and 1413. In addition to these two main groups, four other cases may be found, scattered throughout the

latter half of the fifteenth century. These - two each from 1457 and 1474 - will be used as and when it seems appropriate.

Twenty-one actions for words survive from the first period. Fifteen of these are to be found between 1314 and 1332, a further three in 1372, and one each in 1377 and 1392. Of the twenty-one examples, nine were undertaken by the court acting ex officio in response to the use of defamatory or abusive language during court sessions or against its officers. These provide the greatest detail since in every case the form which the injurious words took was has been recorded. Master Henry de Cerisy was fined for calling Peter de Moleto a liar while in court in 1314; and in the following year, Gaufrid Bouvier was absolved from the charge that he had called Laurence Maugeri a perjurer. Insulting or disrespectful language, rather than the imputation of an offence, was present in the others. John de Molin was fined 10s. in 1322 for calling a man 'a stupid mumbler', while in 1338 John Bernardi was fined twice this for saying to the promotor of the court, 'Devil, get thee hence'. Other insults were distinctly scatological. The Widow de Ponte used choice words in a marriage suit during 1333, when she informed the female plaintiff that she should have 'a great big turd' (unam magnum stercus) before she would have the widow's son, Thomas in sponsam. She was fined 40s. for this discourtesy. A year later, William Boulart was fined 100s. for saying 'A turd in his nose' to another man while in court. In 1372, Colin de Quemino was fined 100s. after he had informed the apparitor that he would not give 'one turd' for the official, his sigillifer or any other minister of the court. This was spoken coram pluribus in the middle of the market-place. Twenty years later Colin Guiart elaborated slightly, saying repeatedly in a loud voice that he would not give 'a dog's

turd' for either the apparitor or the official. The audience for these comments was, however, limited to the official and those in court and Colin was fined only 20s. Finally, in 1372, William Bagart, who had been summoned to appear before the court with his wife, said to the apparitor: Or set d'un estront. The couple refused to appear.(3)

The use of such language was only one form of disrespectful behaviour which could be displayed towards the court or its officers. The authority of the vice-gerent was twice challenged by respondents in office actions. The priest of Littry, having been called before the court to answer a charge of fornication, refused to recognise the vice-gerent's right to hear the case in the absence of the official. Another man bluntly refused to be tried by the vice-gerent, and repeated many times: 'I do not hold you as [my] judge'. He refused to pay the fine which was levied against him and so he was excommunicated. Eight days later, he appeared before the official, was absolved and promised to pay 10l. at the will of both the official and his vice-gerent.(4) A fight also broke out in court between two men in 1344. the court was faced with a less serious matter of discourtesy in 1405 when two men refused to doff their hats. The first man's fine has been lost, but the second paid 2s.(5)

The remaining twelve examples are related in some way to the prosecution of a civil suit, seven of which are direct references to causae injuriarum. Two of these seven refer to an initial claim for slander which was followed by a successful counter-claim on the part of the defendant. Three are concerned with the judgements reached in such actions, and the remaining two are prosecutions for jurisdictional offences committed during the course of an action.(6) All are largely devoid of detail and in none of them are the

offending words recorded. In one the injured party was the sub-prior of Cerisy and his defamer was fined 20s. In three other cases the amounts charged were of 10s. each. A widow was also fined 10s. for slandering a cleric in the vernacular as they were coming from Sunday Mass. Another widow, who was absolved from a husband and wife's petition for slander, was able to pursue a successful counter-claim through the court. The couple were fined 5s.

The second bloc of evidence reveals more not only about the defamatory words used, but also something of the web of social attitudes which they imply. Within this period, the majority of the examples are known indirectly through actions for assault in which the insulting language provided the motive for the attack. Fourteen of the twenty-one cases fall into this category, as do two separate cases from the later fifteenth century. A further two cases survive from 1413, where the words and violence were linked, but where the insulting language was not the immediate cause of the assault. Four of the remaining five cases were prosecutions for words carried in one instance by an individual and in the other three by the court. The fifth involved the binding over of two women who were notable for their long running hostile and vituperative behaviour toward each other. The court undertook two isolated prosecutions for words in 1457 and 1474, and another example of insulting language on the part of an assailant survives from 1480.

The words and phrases employed were often of a colourful character and can be summarized as follows. Those insults provoking a violent response from men were: thief; liar; son of a whore; son of a whore and a thief; son of a priest and adulterer.(7) More complex insults appear. Peter le Touzé was fined 40s. for seriously wounding Richard de Landes with a pint pot after Richard had replied

to Peter's question: qu'il estoit la merde d'omme, by saying: vous m'en devez mieux amer. Another man also reacted violently to what he considered to be an unflattering comparison. Simon Tronquoy called Robert Buquet a bat (borgne) and said that he could not see. Robert slapped Simon's face, saying, 'See if I cannot see'.(8) Women reacted violently to being called whores on three occasions. Two were married and the third a spinster. A fourth woman struck a blood relation of her husband after he had called her a liar.(9) Other words were spoken in court. One man was prosecuted for calling another an owl (huhan), while on another occasion a woman 'spoke injuries' to a man there. Another woman was called a perjurer by a man. In 1457, John le Peloux was fined for saying to another man while in court, 'They will put you in a pie, John Ragier' and in 1474, the curate of le Molay-Littry called another man a liar and a thief.(10) Only one private prosecution for slander was initiated during this period. This was brought by the almoner of the abbey after Robert de Doito had called him a dissipater of goods and had alleged that he had cheated Robert out of his land, adding 'falsely and finally that he was a thief'. Robert was fined 20s. for this outburst.(11)

Several points of interest emerge from both groups of material. It is clear that disrespectful words spoken in open court or against one of its officers or a member of the monastic community were regarded as constituting a more serious offence than those that were not. Fines of up to 100s. could be imposed for such behaviour. Under more normal circumstances, fines - where recorded - were of the order of 10s. Those men who spoke injurious words to the sub-prior of Cerisy and the almoner of the abbey were fined twice this amount. Another notable feature is that relatively few women are appearing

either as the agents or victims of slander. This is in contrast to the pattern found in the Canterbury consistory court between 1449 and 1457 where twice as many women as men appeared on charges of defamation.(12) Peculiarities in the survival of these actions for defamation at Cerisy/Matters of jurisdiction seem to have played a part in this. Women were unlikely to appear in court unless, as is the cases in one example, a cleric was involved. Furthermore, a large proportion of the insulting language was spoken in a formal legal context, either during a trial or when an individual was being summoned. These were processes from which women would be largely excluded by virtue of their standing as legal minors and the exclusive nature of the court's jurisdiction. In the period after 1393, another factor is present, as the majority of the examples of verbal abuse revealed during this period appear in connexion with prosecutions for assault. As seen before women were not greatly involved in physical violence and they may not have had much recourse to it in avenging insults. Women may have in fact responded to insults from other women in kind. Scolding was viewed in the literature of the period as being essentially a woman's crime, and accusations of witchcraft in a later period tended to fall upon sharp-tongued, unusually aggressive women prone to cursing. Within the register we also have an example of the court attempting to make peace in an acrimonious and long standing verbal conflict between two women. These two married women were bound over to keep the peace between themselves in the sum of 10l. They were not to use vituperative language or in any other manner slander one another. The slightest intimation that either had done or had attempted to do this would lead to the forfeiture of the pledge.(13) Insulting language directed against a woman by a man may have elicited a

different response, and this raises questions concerning the relative sensitivity of men and women to certain forms of insult.

In those situations in which violence followed, men were particularly keen to avenge slights upon their honesty or legitimacy. On only one occasion was a sexual crime, that of adultery, attributed to a man. By way of contrast, women were predominantly concerned with their sexual reputations. Three of the five who were slandered, reacted violently to being called whores. One other was called a perjurer while in court and the fifth struck a man after he had called her a liar. The area of sexual purity was therefore one in which women were perceived of as being especially vulnerable, and where they took violent measures to defend their reputations. A number of factors may account for this sensitivity. Firstly, a woman, and in particular a married woman, would have been judged largely by her sexual reputation, and she would have been concerned to protect it from aspersions. Secondly, women may well have been unable or unwilling to enlist the help of male relatives in their defence.(14) What is of further interest here is that two of the women who were called whores had been defamed previously for sexual immorality. The wife of William Agolant had had a long history of adulterous affairs, especially during her first marriage to Gaufrid de Cantilly. Moreover, she had forsworn a lover in the same year as she reacted violently to her detractor. The daughter of Thomas de Costentin had been defamed for fornication five years before. Such women may have been especially sensitive to such slights against their honour, given that the court gained much of its information by hearsay and rumour.(15)

This female sensitivity to sexual slander finds parallels in early modern material. A study based on two random samples of York

cause papers shows that while at the end of the sixteenth century the number of both sexes suing for sexual slander was roughly equal, a century earlier the majority of such suits were initiated by women. A similar desire on the part of women to protect their sexual reputations has also been shown for Elizabethan Hertfordshire.(16) Unfortunately, neither the general study of the Canterbury courts between the thirteenth and the sixteenth centuries nor the study based on the sixteenth century records of the Bishop of Chester's consistory court, give any indication of the sex of those subjected to sexual slanders.(17)

It is clear that certain insults had to be met with swift and violent action by the aggrieved party. This reaction was generally mild, and possibly symbolic in nature, with the majority of the insults being rewarded with a slap on the cheek or a blow to the forehead or face. Weapons and extreme levels of violence were used only rarely. In general the reaction called for was swift and immediate. This would appear to indicate the presence of similar, though not necessarily identical, attitudes and patterns of behaviour to those which have been identified by social anthropologists in their discussions of traditional 'shame and dishonour' societies, especially in a Mediterranean context. Here, notions of honour and shame are of paramount importance to the individual in his personal relations with others, and the ultimate vindication of that honour lies in swift, physical retribution.(18)

CHAPTER TEN

Theft and usury

(i) Theft

Cases of theft came to the attention of the court because of the clerical status of those involved. Again the chronology is patchy. Nine cases survive between 1314 and 1330, three more from the early fifteenth century, and a further three from the later fifteenth century.

A number of the crimes may have been carried out with a degree of forethought, forming one part of a series of crimes perpetrated by men with marked criminal tendencies. John l'Arquier was held in prison in 1314 on suspicion of theft, housebreaking, assault and rape. Two years later, John le Bret was imprisoned and then bailed. He was suspected of taking flour and pastries from the abbey with two other men. He was also accused of many other similar thefts. Radulf called Flouriot or le Peletier stile a cow from a house at Cerisy in 1317. He fled, but was taken in the jurisdiction of the officiality of Bayeux, travelling in the direction of the Pontem Muleti. He was brought back to Cerisy and subsequently imprisoned for many other thefts and for producing false money. Peter de Vinea stole money in successive years, once from a chest in 1318, and again in 1319 from master John du Ponte in Cerisy market. He was imprisoned on both occasions. In the same year, Mathew de Crisetot was imprisoned for taking clothes valued at 10l. 5s. from a house; he had committed other unspecified crimes as well. During 1327, the

court sought to arrest and imprisoned Ingerrand/Enguerrand de Moleto who, with his servant as his accomplice, had allegedly carried out many thefts. The servant lacked the clerical status of his master and had been condemned to death in a secular court.(1) Finally, in the last surviving section of the register in 1476, Marc le Loup was involved in two thefts. In the first, acting with a single accomplice, he stole a quantity of chick-pea from a house by night. In the second, when he acted with two accomplices, he stole a hen. While his partners in crime on this occasion were fined only 6d., Marc was imprisoned for six months on a diet of bread and water.(2)

Other thefts may have been more opportunist. The two sons of Ranulf le Portier shared the same fate as John le Bret after they had accompanied him on his expedition to the abbey pantry. In 1330, Thomas son of John de Cerisy took wool, ten dozen belts (corrigiarum), and two small linen clothes from the house of John le Masnier, while John was away at the market in Cerisy. Laurence le Viellart was fined 10s. in 1405 for stealing a horse in order to avoid arrest and imprisonment for other crimes. Seven years later, Bertin du Quemin and William Borel entered the house of Bertin Quevet, and took two ganders from his stable. They were discovered and fined 3s., even though they had consumed the evidence of their crime in a nearby tavern. In the same year, John le Cordier stole the clothes of his dead brother, for which he was fined 2s. Much later in 1457, Jacob le Maistre stole a shoulder of ham from the house of John de Heris. He was fined, and his father pledged 20s. for his future good conduct.(3) Uncertainty, however, surrounds the motive behind the theft of 50s. worth of goods by William Behuchet, again in 1457. The court stated that he had been found with the goods, imprisoned and then bailed. He promised to return the goods

or redeem their value if found guilty.(4)

A certain amount can be learned about these thieves.A number were young men described as junior or filius. In several cases their fathers acted as guarantors for their bail or future good conduct. Radulf Flouriot was probably a cowherd, given his nickname - le Peletier - and the object of his crime. Certain others could call upon more substantial resources. Ranulf le Portier and two other relatives were able to provide a substantial part of the surety of 100 silver marks demanded by the court in return for the release of his two sons. The fourth guarantor was an armiger from Mestrey. The father of Jacob le Maistre stood as a pledge for his son's future good conduct, while the father of William Behuchet and another man gave 100s. as a pledge for the release of his son. Ingerrand de Moleto, as we have seen, had a servant who acted as his accomplice.

Some of the men came from outside the area of the officiality. Peter de Vinea had been born in the diocese of Bayeux in the Maignie de Freulla. Another man, Mathew de Crisetot, bore the name of a place a considerable distance from the officiality. The origins of John l'Arquier, who committed many crimes within the officiality and who was subject to an inquiry concerning his clerical status, are not clear, nor are those of Radulf Flouriot who stole from a house in Cerisy, but fled from the officiality. Others came from the area of the peculiar, if not the immediate vicinity of their crimes. The two sons of Ranulf le Portier could find kin to stand as pledges as well as an armiger from Mestrey. They stole from the abbey and John le Bret who was with them came from nearby Montfiquet. William Behuchet's father and another man stood bail for him. John le Cordier had a (dead) kinsman within the officiality. Thomas son of John de Cerisy stole from a house at Cerisy, Jacob le Maistre was

from the parish of Couvains, and Bertin du Quemin appears elsewhere, in connection with a number of assaults and brawls.

The court generally acted harshly in punishing thieves, though robbery appears to have been treated like any other assault. Suspects were imprisoned, and their bail terms were often considerable. Pledges involving sums of 100 silver marks, 100s. and 20s. had to be found on different occasions by the men's relatives. Repeated offenders faced imprisonment. Peter de Vinea was held in prison in 1318, and he was returned there after his second offence. His diet was to consist of bread and water. Radulf Flouriot was imprisoned on account of his many acts of theft and his suspected counterfeiting. He was held in irons, but nonetheless he succeeded in escaping. He was recaptured and sentenced to perpetual imprisonment.(5) Mathew de Crisetot also shared this harsh sentence, to be endured on a diet of bread and water, for his theft of some clothes as well as for other, unspecified offences. Although these men escaped the secular punishment of death which was inflicted upon the unfortunate Malchion, prison life was no sinecure and could have similarly fatal consequences. Radulf Flouriot died in September 1318, just over one month from the date on which he was returned to prison following his recapture. His body was exhibited publicly and was then given Christian burial.(6)

A certain relaxation in the court's attitude to theft appears to have begun by the beginning of the fifteenth century. During the first two decades of that century two thieves paid fines of 3s. each, another one of 2s., and a fourth a fine of 10s. Similar amounts were also paid by those who robbed others between 1371 and 1414. In 1457, one man was fined and bound over, while another promised to return what he had taken or refund its value if found

guilty. However, in 1476, Marc le Loup was left to contemplate his sins for six months in prison on a penitential diet of bread and water, while his accomplices were only fined a small amount.

Theft, therefore, formed only a small of the court's business during this period. At Broughton during the late thirteenth and early fourteenth-centuries a larger amount of the court's time was taken up with theft, housebreaking and wrongful gleaning. This was also true at Warboys over a longer period.(7) In the seigneurial courts of the Lyonnais theft, fraud and actions for debt show a marked rise during the fourteenth century.(8) However, it is a crime which appears only rare;y among the records of the officiality of Montivilliers, during the first half of the fifteenth century. Clerical crime there was dominated by violence, as it was at Cerisy both before and after the period under consideration at Montivilliers.(9)

The crime within the register - even when it involved the use of force - tended to be perpetrated by individuals with noted criminal tendencies or an opportunist frame of mind. Most were probably the close or near neighbours of their victims, and this reflects a pattern of behaviour associated with other types of crime against property or the person.(10) Money was rarely taken, which might suggest that most persons within the officiality had their capital tied up in livestock or personal effects.(11) The total absence of women is best explained by the limited jurisdiction of the court. In England during the first half of the fourteenth century, women appear to have been biased towards larceny and burglary, though their overall participation in such crimes when compared with that of men remains disproportionately low.(12) The Cerisy court, during the fourteenth century at least, acted with comparative severity

towards the crime. Whereas those who committed assaults were rarely imprisoned, incorrigible thieves could expect to suffer this penalty, under the harshest of terms. This would indicate that crimes against property were regarded as being in some way more serious than those against the person.(13)

(ii) Usury

The extension of credit is a vital function in any agricultural region, and during the fourteenth century, the court dealt with eleven cases of usury.(14) Nearly all are confined to the first half of the century. Between 1314 and 13315, nine men were defamed or fined for the offence. One came from Deux Jumeaux, three from Littry and four from Cerisy. An outsider was practising usury at Littry in 1321. Another individual was defamed at the end of the century, but his origins cannot be established.(15)

In five of the examples only the defamation remains, but this does not necessarily mean that a fine was not levied later.(16) Fines or guarantees of future good conduct were imposed in the others. At Littry in 1314, Thomas le Cointe and William Herberti were both fined 20s. Thomas paid only 3s. and was then found to be absent, while William initially refused to pay the fine altogether. The court was finally obliged to charge him only 3s. since he was poor. Thomas de Bellomonte at Cerisy in the following year paid 4s. out of a fine of 50s. In 1321, Roger Leonardi of Moleto faced excommunication if he did not pay a fine and make proper restitution to his debtors.(17)

Prohibitions relating to the future practice of usury often accompanied these fines. Thomas le Cointe was threatened with a fine

of 10l. if he relapsed and William Herberti with one of 40l. Thomas de Bellomonte also faced a penalty of 10l. for his relapse as did Philip Pomier at the turn of the century. The full effects of these abjurations cannot be gauged, though only one of the usurers, Thomas de Bellomonte, appears twice. He had abjured the practice of usury in 1315, but was again defamed in the following year.(18) It is not possible to say if the penalty of 10l. was exacted.

The court may have viewed usury as a fairly serious offence, but it was less willing, or unable, to treat it as such in practice. None of the fines which were imposed were levied in full, though in one case this was due to the poverty of the man concerned. However, the emphasis may have been upon deterring usurers from further activity through the use of pledges involving considerable sums of money. Also, a part of the court's policy would have been to force a usurer to make due restitution to his debtors. This was a requirement in canon law, extending even to the dead usurer's heirs, and in one case at least the Cerisy court can be seen to be putting this into effect.(19)

The sums levied by way of interest are recorded in only two instances.Thomas le Cointe extorted 4s. and 8s. on unknown amounts, while Radulph Fiquet lent another man 43s. 6d. to be repaid with 16s. 6d. interest, a return of just over a third, over an unspecified period.

CHAPTER ELEVEN

Aspects of pastoral care

The register also contains a range of offences and other matters relating to some aspect of pastoral care. This diverse material is of use not only in providing some form of religious and social context, but also in serving as a benchmark against which other, more worldly, offences may be set. Despite the scattered and isolated nature of much of this material, three general areas of concern can be identified. Broadly speaking, the court was concerned with maintaining its control over certain religious functions, the general moral and religious conduct of individuals, and the separation and protection of the sacred. Within the second area, the availability of the evidence allows the topics of blasphemy, non-observance and absenteeism to be given individual treatment. Material relating to the third area of concern will be dealt with in a similar fashion.

Within the first category the court sought to punish infringements of its control of certain necessary ritual events. Its attempts to control and influence the process whereby marriages were formed have been considered earlier; here the court's concern was over the control of two other rites of passage.

The first of these was the purification of women following childbirth. The court extended its control over this ritual in two ways. Firstly, women from the officiality were obliged to have themselves purified within its bounds. In 1327, a married woman was fined for having herself purified outside the peculiar in prejudice of the church of Cerisy of which she was a parishioner.(1) Secondly,

a licence had to be obtained, at least in certain circumstances, before a woman could be purified. Thus, in 1333 an unmarried woman was fined for being churched outside her proper parish without licence.(2) An interest in protecting its jurisdictional rights and, no doubt, financial gain, all helped determine the court's reaction to what may have been common infringements of its jurisdictional powers.

The second area of concern was the burial of the dead, and this affords a tantalizing glimpse into lay religious practice. In 1391, a parishioner from Cerisy was fined 20s. for having one of his children buried in the churchyard at St. Jean de Savigny without licence from the official or his parish priest. The priest at Savigny was also fined 40s. for burying many children from the parish of Cerisy, again without licence.(3) Once more the court is interested in control rather than repression, in this case of an interesting and possibly novel religious practice.

Aspects of the general social and religious conduct of individuals periodically came to the court's attention. Two separate and very different incidents revolved around the sacrament of confession. In 1370, a man had alleged , during the parish mass, that the priest of Littry had revealed his confession. He was fined 16s. for defaming the church and its ministers. During the fifteenth century, two men were fined for failing to carry out their annual pre-paschal confession.(4) One was charged 2s. and the other paid nothing on account of poverty.

Details of some of the pastoral duties which priests were expected to perform can also be found. The priest at Deux Jumeaux was to celebrated a weekly Mass before the altar of St. James, and he was to receive a quarter of grain for doing so. He was, however,

neglecting to sing matins and other hours in church, as a result of which the scholares parrochie were badly taught. In 1340, the priest at Littry was not carrying out services for the poor dead as was required.(5) The disputes which occurred in 1316 and 1333 over the grass in Littry cemetery, show that the priest was also required to visit the infirm within his parish on a regular basis. On another occasion the priest at Littry was ordered to prepare a Host every fortnight for this purpose.(6) These tasks were in accordance with synodal legislation on the matter. These stipulated that visits should be made to the infirm of a parish and laid down regulations concerning the secure transportation of the Host and its administration.(7)

Heresy is listed among the crimes to be investigated during general visitations, and on two occasions individuals were defamed of the crime.(8) In the first from 1314, a man was simply defamed, but in the following year a second example provides a definition of what could be considered heretical.(9) William le Conte was charged with heresy, since he had remained under sentence of excommunication for seven years and had not wished 'to take the body of Christ'. The inference here appears to be that he had died unreconciled. Lateran IV and the Decretals had made the sacraments the touchstones of the faith. Consequently a willingness to forgo the sacraments for a year or more gave rise to a legal presumption of contempt for the sacraments and therefore of heresy, though no pope or general council declared that a contumacious excommunicate should be regarded as a heresy suspect.(10) At Cerisy this would appear to be the reasoning behind this defamation and if so it represents a very broad application of what was originally a very specific offence.

Another case also demonstrates that the problems associated with

excommunicants did not always end with the grave. In 1314, the sexton of Littry was fined 10l. and suspended from his office for allowing the burial of a man within the cemetery, even though he knew that the man had died unreconciled to the church.(11) More usually, the court was faced with examples of the physical disruption of the Mass by the physical presence of such persons within the church while they lived. Two men were fined 7s. and 10s. respectively in 1452 for being present at Mass. A third man was fined an unspecified amount four years later, and a fourth paid 12s. in 1474.(12) During the same period a man was fined 2s.6d. for disturbing a service by appearing dressed as a foot-soldier. He had done this in order to win a wager.(13)

The court's interest in long-standing excommunicants - of whom there were several - brought it into contact with an attitude of mind which more genuinely deserves the title of heresy. A certain Sanson Vautier was examined on his beliefs by the court in 1315, since he had remained under sentence of excommunication for seven years and did not wish to receive the Host.(14) His replies are striking. Firstly, he told his interrogators that he valued the blessed bread as much as the Host, and that there was no difference between them provided that the bread was received with good intention. He then said, not surprisingly, that he did not fear excommunication, and that he believed that his labour would save him (quod labor ejus salvabit eum). Unfortunately, the outcome of the case is not known.

The eating of meat during Lent or Eater week was punished on two occasions. In 1396, a man was fined 5s. for eating meat on Rogation Tuesday. It was obviously the physical act rather than the intention which constituted the crime as a woman was fined the same amount for

inadvertently eating meat during Lent in 1411.(15)

Other minor offences of a religious nature can be studied in greater depth. These will now be examined individually along with matters concerning the separation and protection of the holy.

(i) Absenteeism

A few scraps of information concerning non-attendance at church survive from opposite ends of the chronological scale. Between 1323 and 1336, eight individuals - four each from Cerisy and Littry - were cited for being absent from their parish church, often over a considerable period of time. In 1454, two Littry men were fined for being absent on the feast day of their church, and in 1457, nine men and a woman were fined for the same offence.

An indication of the period of absence can be found in several of the early cases. In April 1335 Philip Vimblet and John Rabiosi of Cerisy were found not to have attended church for a whole year. In the following year two Cerisy women, la Torte Figuet and the widow of Richard Richier, were defamed for an absence of three years.(16) The language of the earlier defamations which have survived from Littry also suggest that significant periods of time were at issue. Onfred Gouville did not come to church regularly in 1323, and in the previous year John le Scele was said neither to come to church nor to fear God.(17) In 1331, Dennis Unffred was found to be in an unworthy condition since he did not frequent church. He had entered the building only once and then his intentions had been insincere. Sigillatus in the same year was cited for not coming to church 'like other Christians'.(18)

The later material displays a changed and stricter attitude on

the part of the court. Instead of long periods of absence, fines were imposed for absences on particular days, in both cases the feasts of the churchs' patron saints. William le Touze and John Regis were fined for not being present at matins or vespers on the feast of St. Germain to whom the church at Littry was dedicated.(19) John Quinet, senior, John Syret and Thomas Syret and seven others were all fined for being absent from their parish church on the feast of Mary Magdalene 'in whose honour the aforesaid church was found'. Instead they had gone to market at St. Lô.(20)

The parties involved in this last case found the pursuit of business or pleasure a more tempting proposition than religious duty. In the other cases it is only possible to speculate upon the motives which caused certain individuals to absent themselves from church. It may have been simple irreligon, as in the case of John le Scele who had no fear of god. A guilty conscience or animosity towards fellow parishioners may also have made a contribution. John was also accused of beating his mother and was on hostile terms with his wife; Onfred Gouville was a perjurer.(21)

A brief word should be said about fines. In the early period only one fine is recorded, the other examples being known from records of defamations or citations. This was for 20s., a considerable sum which marks out absenteeism as a fairly serious offence, though one which logically may have varied with the length of time. Both the later examples attracted fines, but the amounts have been lost or went unrecorded in the first place.

(ii) Working on feast days

In addition to absenteeism, the court sought to discourage another related aspect of religious non-observance, namely the execution of manual labour on feasts and Sundays. Between 1332 and 1457, twenty-eight men were fined or defamed for working on a religious festival. One woman appears, charged with sending two men to carry out a task on a Sunday.

In common with the other less well represented crimes within the register, these references to illicit working are spread unevenly throughout the text, One man worked during the feast of the martyrdom of St. John the Baptist in 1332, as did two others in 1407.(22) Six men did work during the day of the solemn requiem for the dead of Cerisy in 1334, while a further seven worked on the feast of St. Nicholas in the winter of the same year.(23) In 1370, two men worked on the day of the feast of the dedication of the abbey, as did another at the very end of the century.(24) A man gave a fine on behalf of his wife after she had sent two men out to work on a Sunday in 1392.(25) In the following year one offence was committed on the feast of Pentecost, and another on the Monday after Easter. One man worked on the feast of St. Salvator in 407, and three others during the feast of the dedication of the church at Cerisy c.1410.(26) Finally, in 1457, a carpenter was fined for making dowels on the feast of St. Anne. In addition to these examples of physical labour, two men were fined 5s. each for attending a horse-race on the feast of the Annunciation.(27)

The involved can be divided into three broad categories. The largest number were related to some form of agriculture. Four of the prosecutions were for the illegal threshing of grain, another for bolting grain, and a sixth for winnowing oats. Another man was fined

for working the land at Pentecost, and two men were sent out to acquire horses for the abbey mill. The timings of a number of these coincide with the periods of greatest activity during the agricultural year. All but one of the examples of the threshing of grain occurred at the end of August, at a time when the harvest was being gathered in and stored. This would suggest that it was the pressures of the agricultural calendar, rather than irreligion or disrespect, which caused those concerned to ignore the sanctity of a particular day. The oats were winnowed in December. Given a larger sample of such offences, much of interest could be learned concerning the harvesting, storage and consumption of cereals and other staples.

Cobbling, fulling, the manufacture of dowels, and the execution of 'mechanical work', account for four further examples. Two other instances involved building work, and in a further two examples no indication is given of the nature of the task beyond the terse statement that the accused had done work. These tasks need not be public in nature, for a man was find for threshing bread corn within his house.

All the examples cited here attracted fines, and in most cases the amounts involved were recorded. In the early fourteenth century, these could vary considerably. The man who threshed grain throughout the whole of the feast of the Baptist's martyrdom was fined 3s., while only two years later a man who cobbled all day on the feast of St. Nicholas was charged 100s. Four other men who 'did work on that day were fined 50s. each. The man who winnowed oats escaped punishment because he was poor. More moderate sums were imposed in the later period. A fine of 10s. was levied for sending two men out to work on a Sunday, and four individuals were fined 5s. apiece for

undertaking agricultural work on the anniversary of the abbey's dedication, or at Easter. However, two men were fined only 12d. each for threshing grain on the martyrdom of the Baptist. Two operators in a fulling mill were fined 2s. each for carrying out their tasks on the day of the abbey's dedication. The often considerable disparity between fines can either suggest a lack of consistency on the part of the court or else a policy whereby the severity of the punishment was adjusted according to the perceived sanctity of the day in question or the economic necessity of the work.

(iii) Blasphemy

Blasphemy as an offence first begins to be noticed and recorded by the court during the fifteenth century. No examples of the use of profane words survive from before this period. There are only two references to the crime in the early part of the century: in 1412 and the following year. A further thirty-five examples were recorded between 1451 and 1458 and these form the most complete and informative record of blasphemy within the register. The later fifteenth century fragment contains a further six examples. The majority of what follows will be based upon the evidence contained within these two later periods.

The earliest material can be dealt with quickly. One man was fined 2s. for swearing by Christ's Passion while in court. This was in 1412, and in the following year another man was fined 2s.6d. for uttering the very same profanities in a similar situation.(28) Though they are isolated from the main body of information, these two examples do demonstrate similarities with the later material, both in the form of the words and in the manner of punishment.

In the later fifteenth century, the most frequently used oath was 'by the blood of God'. This appears either on its own or in connection with other phrases, especially 'by the body of God'. Other phrases which were used in isolation or in groups were 'the Passion of God' or 'the strength of God'. Another more audacious individual claimed to be able to command God.(29) Others were simply said to have blasphemed God and the saints and their actual words have gone unrecorded.(30) A number of these profanities were recorded in the vernacular, and it seems reasonable to assume that in those examples where they were not, what has been left is a Latin rendering of the spoken French or Norman French.

These blasphemous phrases were often spoken in situations of tension or conflict. seven men blasphemed while engaged in assaults or brawls.(31) Arguments also provided an opportunity for the outpouring of profanities. William le Dilaiz swore by the blood of God during an argument with his fellow parishioners in the cemetery at Littry. John le Roux used similar words as he argued with his brother before the cemetery at Cerisy.(32) Richard de Heris also swore by God's blood during a game of real tennis in 1476.(33) Other examples of blasphemous words were spoken in less heated circumstances. John le Roux was twice fined for swearing by the body of God at the end of the sermon. The word had been spoken before the abbey gates on the first occasion, and in the cemetery at vespers on the second.(34) Three men blasphemed in court.(35) Colin Lesquene spoke to master Henry Consilli with ill-will and anger, and Thomas Malherbe was being a little indiscreet when he blasphemed in the presence of two vicars of the church of Cerisy.(36)

Only a few scraps of evidence remain in relation to the nature of the fines which were imposed for these offences. In the early

fifteenth century, swearing by the Passion of God had brought fines of 2s. and 2s.6d. for the accused. In 1452, the use of such words was punished by fines of 3s. and 5s. If these words were spoken while in court, then they were met with fines of 3s. and 7s.6d. One man who swore by both the body and the Passion of God was fined 10s. In contrast, another man who used the same words, but out of court, was fined 6s. only. Blaspheming God and the saints in 1474 and 1476 - even if the phrases were repeated - warranted fines of 2s. or 2s.6d.

A few tentative conclusions may be drawn from this material. The nature of the offence and the severity with which it was punished appears to have remained constant throughout the fifteenth century. The phrases used in the early and mid-fifteenth century are similar, if not indeed identical, and at all times, the fines imposed by the court were generally mild. The words were usually spoken in some form of public context and this no doubt ensured that the court would and could take action against the offenders. The size of the fine seems to have been adjusted according to the number of profanities which were used or if they had been expressed during some solemn or religious ceremony.

(iv) Magic and divination

The register sheds a little light upon the twilight world of magic and divination as practised by the laity. The use of magical arts had long been of concern to the church at both general and local level. In Normandy, a synod sitting at Bayeux c.1300 had prohibited the use of sortilege in marriage ceremonies. At Rouen in 1321, the use of the sacraments for such purposes was forbidden, as

was the invocation of demons. Both synods prescribed excommunication for those who infringed these rulings.(37)

The first case to involve such acts within the peculiar comes from the very beginning of the register. In 1314, Germana la Rosee of Littry was prosecuted for using false charms to cure infirmities of the eyes and agitation of the blood (sammeslure). She had been practising these skills for nearly thirty years.(38) All the remaining fourteenth century cases are from Cerisy. The widow of William Flamont was defamed for sortilege in 1322 and in 1331, the wife of John of Cerisy was defamed and cited for curing moles or blemishes (macula) with words and white-thorn. The wife of Billeheut was also accused of using charms in 1341, but their purpose is not specified. Finally, in 1371, the wife of William Baignaut was cited to appear before the court accused of sortilege.(39)

A number of observations can be made upon this early material. Firstly, interest in the magical arts was not limited to one particular aspect. Although there is a slight emphasis upon the use of charms for healing, a wider range of interests are suggested by those accusations involving sorcery or casting lots. Also, the nature of the crime as found within the register differs in certain respects from that envisaged in the local synodalia where it is either limited to a specific context or different general concerns are expressed. Secondly, the court is concerned with those who actually practised magic. These appear to have been mature women, all but one of whom were either married or widowed. Germana la Rosee, the solitary exception, was not only kin-less,but she had also been practising her craft for a considerable period of time.

A somewhat different picture emerges from the early fifteenth century material which is concerned exclusively with divination. The

court, for reasons of geography, sought to prosecute those who made use of the magical expertise of others, rather than the diviners themselves. All three cases which survive involved men travelling to Brittany to consult a diviner upon the fate of some lost object or person. In 1403, two men sought a diviner's advice on an unspecified matter. Around 1410, John Gohin went into Brittany to consult a diviner on the fate of a stolen hood. He also brought with him a request on behalf of the treasurer of Sauvegrain. During the same period, John du Hamel inquired about the whereabouts of his wife, who had deserted him for another man and had left the officiality.(40) As such these cases most closely resemble the evidence for sorcery from the officiality of Bayeux during the mid-fourteenth century. Here, the emphasis was also upon divination, though usually of a more ambitious nature. Those involved were also predominantly male. Only one woman was prosecuted for using superstitious words against the faith rather than divining.(41)

No examples of prosecutions for the use of the magical arts have survived from the later parts of the register. This may be because the court no longer exercised jurisdiction over the offence. In 1446, a Cerisy woman - originally from Le Mans - was taken by the seneschal of the abbey for using superstitious words. She was then claimed by the bishop and given over to him.(42) The official would have been unlikely to have allowed this, if it had involved an infringement of his jurisdictional rights.

The two fourteenth century local synods had prescribed excommunication as a suitable punishment for the practice of sortilege and the invocations of demons. From what remains it is clear that the Cerisy court and perhaps others as well pursued a quite different policy. Only one case arrived at a final sentence

during the fourteenth century. Germana la Rosee, having confessed to the use of charms for medicinal purposes, was given public penance, since she had committed a public sin. She also stated that she now considered her charms to be of no value.(43) It is impossible to say whether similar judgements were handed down in the other cases, though if the court kept to its maxim of a public punishment for a public crime, it seems likely that they were. Those men who chose to consult Breton diviners in the later period were fined either 2s. or 5s. Such evidence would seem to support Neveux's contention that the practice of magic was not regarded as a very serious offence and that those involved were only lightly punished and never *imprisoned.(44)* Although the Cerisy material bears this out, the case of the woman who died following her imprisonment by the bishop of Bayeux shows that it cannot be applied more generally without qualification.

One final case remains to be examined before the world of magic and superstition is abandoned. In 1315, a Cerisy woman was accused of stealing on Easter Sunday either the Host itself or the blessed bread which was given in its stead. She was then said to have given it to a women from the Cotentin and to Peter Petou.(45) This alleged theft demonstrates the reality of the concern expressed by the synod of 1321 over the abuse of the sacraments, and the Cerisy court's continued concern with church security.

(v) Safeguarding the Holy

The court was also concerned to prevent the defilement or misuse of certain sacred areas or objects. This preoccupation was focused principally upon the cemetery and the sacred elements of church

ritual: the chrism, the Eucharistic elements and the Holy water.

The purity of the churchyard was to be maintained through its physical separation from what the court had pungently described on one occasion as the 'stench of laymen'.(46) The cemetery at Littry had possessed a wall during the early fourteenth century, but this had disappeared by 1476 when a visitation ordered that the area should be completely re-enclosed.(47) This was to be done within one year or a fine of 100s. would be imposed. During the second decade of the fourteenth century the court repeatedly ordered the enclosure of the cemetery at Deux Jumeaux, largely without effect. In 1315, pigs were able to wander through the graveyard exposing corpses as they grubbed about. The court not unnaturally found this abhorrent. However, nothing had been done to remedy this by the following year nor indeed by 1319, when the court observed that many dangers would arise from this neglect, and tersely ordered that 'it should be done or it will be ill' (Fiat aut male erit).(48) Cemeteries were also to be locked. At Littry in 1316, a new lock was fitted to the cemetery gate. Its cost was charged to a local man who had broken the previous one by using a 'false' key; the lock was again broken in 1346.(49)

Controlling access to the cemetery also involved determining who could and could not be buried within its bounds. The sexton (custos) of Littry was fined 10l. and suspended from his office in 1314 for knowingly consenting to the burial of an excommunicated man in hallowed ground. Towards the end of the century, as we have seen above, fines were imposed on the priest of Savigny and a Cerisy man for the burial of his child in the cemetery there without the official's permission.

What was allowed to grow within the cemetery and the uses to

which it might be put were of occasional interest to the court. At St. Laurent-sur-Mer in 1476, a visitation ordered that the cemetery be cleared of nettles and 'other noxious herbs'.(50) On two earlier occasions the court gave judgement in disputes arising out of the uses to which the grass of Littry cemetery could be put. In 1316, it had settled a disagreement between the priest and his treasurers, declaring that the grass should henceforth be put to the use of the church at Littry and to the honour of God since a holy object could not be used for personal or private purposes. Consequently it could be placed on the church floor instead of rushes on solemn feasts and Sundays, and it could be used to feed the priest's horse on which he was expected to visit the infirm of the parish; but it could neither be sold nor used as fodder for other animals. Nearly twenty years later the court affirmed the rights of the treasurers to the grass, while recognising those enjoyed by the priest.(51)

The desire to maintain the purity of consecrated ground and to ensure the proper use of its products was clearly at odds with certain secular practices. Some laymen regarded their local graveyard as a convenient source of pasturage or raw materials. As we have seen, pigs were wandering unhindered through the unenclosed cemetery at Deux Jumeaux in 1315, and in the first years of the fifteenth century a man was fined 12d. for allowing his sheep (bidentes) to graze in the churchyard, despite prior warnings.(52) The disputes over the grass at Littry and the need to affirm the priest's grazing rights show that the cemetery was viewed as a convenient and valuable source of forage. An elm tree and an ash tree were also taken from the cemetery by a Littry man in 1331. He did so in front of several witnesses and took wood for use in carpentry (ad mesrennum).(53)

The cemetery also served as a convenient meeting point for both court and community. During the first half of the fourteenth century, a court case was heard in the cemetery at Cerisy beside one of the tombs (juxta tumbam a la Direise). In the first years of the fifteenth century, two men were fined on separate occasions for infringing the official's jurisdiction by citing parishioners to gather in the cemetery or before the church at Littry.(54) Other evidence shows that cemeteries were used by men as meeting places where they talked, argued and on one occasion fought.(55)

The alleged theft of either the blessed bread or the Eucharist on Easter Sunday, 1315, clearly demonstrates the reality of the concern displayed in synodal legislation over the care of the sacred elements. The Rouen synod of 1321 was not alone in this for it was a matter which had long preoccupied general conciliar and local synodal legislation. During the thirteenth century, the synods of Paris and the West had both ordered that measures should be taken to ensure that the chrism, Eucharist and Holy water were kept under lock and key. In doing so they were simply reiterating the general pronouncements of the Fourth Lateran Council.(56)

The court periodically took steps to ensure that these regulations were enforced. Littry provided the most cause for concern with visitations finding that the chrism was inadequately safeguarded on four occasions between 1314 and 1334.(57) In 1321, the visitors had ordered that its container should be provided with a lock and key. However, it was again found to be unprotected in 1332. The fonts were also without locks in 1314 and 1320. In 1321, the treasurers were ordered to make them secure and they were threatened with excommunication and a fine of 40s. if they failed. Despite this, the visitation in the following year again found it

necessary to threaten the treasurers with a fine of 40s.t. since the fonts were still without locks. Twenty years later, another visitation found a similar situation.(58) At Deux Jumeaux, the fonts lacked locks in 1314 and at St. Laurent-sur-Mer the two fifteenth century visitations ordered that the fonts should be made secure.(59) On the first occasion, in 1402, those concerned faced a 5s. fine if they failed, while on the second, in 1476, the defects were to be remedied within a fortnight or a fine of 100s. would be imposed. The security of the Host also gave rise to concern at Littry in 1314, 1322, 1334 and again in 1374.(60) Though not directly relevant to the holy, the parish chests at Deux Jumeaux and Littry were without locks on several occasions in the early fourteenth century.(61)

CHAPTER TWELVE

The views held by three historians will now be given comparatively detailed treatment in light of the evidence gained from the two court registers and the visitation return. In addition some material will also be drawn from several other ecclesiastical sources. The first to be examined is a canon-legal historian concerned with the patterns of litigation in matrimonial suits and the problem of clandestine marriages in the later middle ages. The remaining two are social historians who are both concerned to delve into the essence of medieval society and observe what changes occurred within it during the early modern period.

(i) Parental authority and the problem of clandestinity

In recent years historians, utilizing a variety of sources, have begun to trace the dissemination of the consent theory and to study the form which matrimonial litigation took in the expanding hierarchy of ecclesiastical courts. Among these, Charles Donahue has in a recently published article attempted to take a broader view of both the impact of the Alexandrine consent theory on the social practice of marriage and the extent to which it was itself moulded and possibly circumscribed by existing notions of authority.(1) This represents a fuller exposition of themes first outlined by Donahue in earlier articles which dealt with the origins of the Alexandrine consent theory and the retention of the Roman law requirement of parental consent in marriage by the glossators.(2) In what follows, Donahue's treatment of these themes will be outlined briefly and

then the arguments and conclusions which he brings to bear upon them will be examined.

In this latest article Donahue is once more at pains to stress the originality of Alexander's view that the consent of the individuals alone was sufficient to produce a binding marriage. Furthermore he suggests that this was not simply the product of a dry legal synthesis, but represented a vision of what marriage should be. Marriages of love were to be promoted at the expense of those of economic convenience or feudal necessity and the church was made to stand as guardian for individual freedom in this area. This was, however, a vision very much at odds with existing notions of parental and feudal authority. There was therefore every likelihood that tensions would arise as it came to be implemented. It is with such tensions, and particularly that between parental authority and individual consent, that Donahue is primarily concerned.(3)

Hitherto the reaction to and reception of the consent theory has been mapped out through the study of the works of the canonists and commentators. Donahue, however, wishes to pursue a new line of inquiry, relying on sources at a more 'grass-roots' level. The interaction between the consent theory and social practice is to be examined through the medium of ecclesiastical court records from England and the continent, in particular ~~hand~~ northern France. What is of interest are the possible differences which these records betray regarding the social practice of marriage, the attitude of church courts to the problem of clandestinity and finally the light shed by these records upon the abilities of parents to control the marriages of their offspring.

In this enterprise a range of secondary and primary sources from both sides of the Channel is utilized by Donahue. For England, the

bulk of the material is provided by Sheehan's study of the late fourteenth century act book of the Ely Consistory Court. This is supplemented by a scattering of matrimonial cause papers from thirteenth century Canterbury and fourteenth century York. Northern France in the second half of the fourteenth century is represented by Levy's study of the civil causes heard by the officiality of Paris and a manuscript which survives from the Archdeaconry of Chartres. A passing reference is also made to the early fourteenth century marriage material contained in the Cerisy register. Material for the mid-fifteenth century is taken from Châlons-sur-Marne, the archdeaconry of Paris and Troyes. The Low Countries are also represented during the same period by evidence from the city of Cambrai. In addition to these relatively substantial bodies of evidence a number of documents are produced from southern French jurisdictions. These meagre offerings are gleaned from the records of courts in Mende, Perpignan and Marseilles, at a variety of dates between the thirteenth and fifteenth centuries.(4)

On examining this material, Donahue found striking contrasts in the social practice of marriage and the function of the courts between, on the one hand, England, and on the other northern France and the Low Countries. In the courts of the former, litigation was generally concerned with establishing the existence of a canonically valid but clandestine and therefore illegal marriage. The material from southern France may also reflect a similar pattern, but Donahue reasonably believes that no firm conclusions can be drawn from the evidence given its scanty nature and varied chronology. In the French courts and at Cambrai, the substance of matrimonial business was dominated by suits which rested upon promises of marriage. Donahue also detects a long term decline in the bringing of de

presenti suits which occurs much earlier in France than in England.(5)

The functions of the courts themselves also differed. In France and the Low Countries, apart from the notable exception of the officiality of Paris in the fourteenth century, the regulation of marriage was a matter of criminal rather than civil law. In England, by contrast, it was largely a civil matter, represented in suits fought out between individual litigants. Though ex officio actions relating to matrimonial affairs do appear, they do not dominate the scene as on the continent.(6)

How then does Donahue seek to explain these differences in social practice and the function of the courts?. He briefly constructs a model of an urban/rural divide between the happy-go-lucky peasants of Ely and the level-headed, family-strategists of Paris. However, this is only a strawman which is ruthlessly cut down by reference to the fact that the rural diocese of Chartres, and perhaps by implication the peculiar of Cerisy, display a similar preoccupation with betrothals.(7) He then proceeds to examine differences in legal and procedural patterns. In an earlier article, Donahue tentatively suggested that the differences between England and France might be in some way due to the relatively weak influence Roman law exercised on English common law.(8) He now develops this, noting that in some French dioceses, unlike England, the formation of a clandestine marriage was met with instant excommunication. This would have hampered any claimant who wished to bring a civil action and so may have encouraged the initiation of promoted office actions. This would account for both the differences in the types of litigation and social practice found on opposite sides of the Channel.(9) However, Donahue feels that

this is only half the answer and he wishes to proceed further to discover the underlying social factors which shaped and gave rise to these differences. He considers this to be the most speculative part of the paper.

Donahue views late medieval society as being intensely hierarchical, a society in which there was therefore considerable concern with authority not only in government, but also in the family. These dual concerns of hierarchy and authority had a two-fold effect on litigation. On the one hand, Donahue suggests that a legal move away from dispute resolution to law-enforcement occurs as 'vertical distance' in society increases and class-lines are drawn. On the other, authority as exercised within the family becomes of greater importance since it is viewed as an integral part of the wider authority of the state. Consequently external authorities are more willing to support family control over children and, naturally, their choice of marriage partner. Donahue considers that a trend towards greater control of marriage is occurring in both England and France, which can be matched to the long-term decline in de presenti business; but the evidence of the courts would suggest that this process happened sooner in France. Hence the availability of choice in France was severely circumscribed by official and parental pressures. The obvious escape route of a clandestine marriage was to a large extent sealed by the threat of automatic excommunication and the ensuing problem of prosecuting a civil suit. For Donahue, the chief grievance that society held against the clandestine marriage was the ability it gave to children to circumvent parental authority. This was the crucial objection. In France parents were able to gain the cooperation of the courts in combating this threat at an earlier stage and more effectively than

in England. This outlook on the place of individual consent in marriage goes a long way to explain the activities of the French royal deputies at the council of Trent when insisting that parental consent be made a necessary part of a valid marriage.(10)

These views will now be examined in the light of the material uncovered in the course of this present study. In this, the first aim will be to question whether the differences between the legal habits of English and continental courts were as marked or as exclusive as suggested. The second related aim will then be to discuss the range of possible motives for clandestinity - other than the circumvention of parental consent - which are found within court and visitation records and synodal legislation.

The act book of the consistory court of the diocese of Rochester is one important body of evidence which was not utilised by Donahue in his article. The form and content of the sixteen matrimonial causes, often of a prolonged nature, which appear amongst the civil business brought before the official are as might be expected for an English court of this period. Apart from three divorce suits the majority are multi-party or petitory actions seeking to establish the existence of a valid, but clandestine, contract of marriage. Only one of the thirteen arose out of an initial ex officio inquiry into fornication, the remainder being the result of reclamations or actions brought by a jilted lover. Most were concerned with the existence of a de presenti contract which was alleged by the plaintiff in the petitory actions or by both the plaintiff and the defendants in the multi-party suits. One alleged de futuro contract does appear as the result of a reclamation. This had not been followed by intercourse. Also two petitory actions were based on claims which related to alleged infringements of prior abjurations

sub pena nubendi. In all those cases where a clandestine contract was found to exist, the official took no further action beyond ordering the couple to solemnize in facie ecclesie before a certain date under pain of excommunication.

However, the office business of the court reveals a very different picture. In addition to the usual staple of actions for adultery and fornication there are thirty-three office actions in which an investigation was made into a suspected clandestine marriage or where an inquiry into a couple's fornication led to one or both parties confessing to the existence of an unsolemnized union. A handful of de futuro contracts were at issue, but all had been transformed into binding de presenti contracts by subsequent intercourse. Where the existence of a contract was acknowledged or proved, the couple were ordered to proceed to solemnization after they had undergone a suitable penance: in this case three fustigations around the church or market place. While recognising the essential validity of these contracts the official, contrary to his policy in dealing with civil suits, was treating them as little more than sworn fornication.(11) This is the reverse of the pattern found at Ely, though the social practice appears to be the same. A faint echo of this attitude can be found in the Hereford visitation return where one individual, at least, received penance in connexion with a clandestine marriage. Contrary to the model presented by Donahue, the Rochester act book shows the official of a major English diocese treating the majority of the clandestine marriages which came to his attention as criminal offences. The chief means by which they were discovered was not through civil suits but through office inquiries.

Donahue's treatment of the small sample of matrimonial business

transacted before the officiality of Cerisy gives further cause for concern. This material is placed within the expected pattern for northern France, as far as the predominance of criminal actions is concerned. Donahue considers that the way in which the suits are recorded frequently makes it unclear whether de presenti or de futuro contracts are at issue. Neither of these contentions stand up to close scrutiny of the text.

Donahue's pessimism regarding the possibility of establishing the nature of contracts at issue is unfounded. As shown above what remains are the definitive sentences from the matrimonial suits. Several of these do, in fact, clearly state what form the alleged or admitted contract took. Even in those cases where it is not stated explicitly, the nature of the contract can be discerned through the language and actions of the court. Where the couple were held to be man and wife and ordered to solemnize, there must be a strong presumption that words of present consent had been exchanged. Likewise, where a couple were given licence to marry, words of future consent were probably at issue. These disputed contracts also carry with them a strong presumption of clandestinity: without proper publication of the banns and the required form of church ceremony, though not necessarily totally without witnesses.

This early matrimonial litigation cannot be resolved into the model of northern French litigation propounded by Donahue. Rather it most closely resembles the pattern of litigation found within most English courts of the period. At Cerisy, as at Ely and, as noted by Donahue, Paris, it is the civil suit that predominates. Moreover, the contracts at issue are clandestine in nature and often involved an allegation of a canonically valid marriage. Couples were not punished for forming such unions unless they had been tinged with

some diriment impediment or were prejudicial to the outcome of pending litigation.(12) This is clearly the interpretation placed upon these suits by Esmein in his classic account of medieval canon law of marriage. His use of specific examples from the Cerisy register to illustrate general canon legal points regarding the nature of marriage contracts and clandestine marriages represents an extremely sensitive treatment of the source, though published as early as 1891.(13)

The register also contains a handful of references to parental involvement in the marriages of their offspring. In these they were usually out of kilter with the wishes of the court. One mother expressed her opposition to another's allegation of sponsalia with her son in the most pungent of terms during a petitory action.(14) One man enlisted his father's aid in an attempt to escape the consequences of his failure to adhere to the terms of an abjuration sub pena nubendi. Another ignored the wishes of the court by marrying off his daughter despite the existence of an order pendente lite.(15) A couple became engaged at the home of the woman's father, while another father oversaw the marriage of his son at his own home.(16) This marriage (nupcias) was followed by the bedding of the couple and a prandium nupciarum. This clandestine union should serve as a timely reminder that not all clandestine marriages were occult or without parental blessing. The church's opposition might well take the form of a conflict between the public and the private.

Two other features tend to set the Cerisy court apart from those elsewhere in France and bring it closer to its counterparts in England. One is the use by the court of the measure of abjuration sub pena nubendi in its attempts to deal with the problem of long-standing concubinage. This practice, used concurrently with the

imposition of pecuniary pledges, gradually disappears during the fourteenth century. The second is the almost total absence of defloration suits which is in marked contrast to the officiality of Paris and other French courts.

Only one brief reference to a pending defloration suit survives in the entire register. Its origin and outcome cannot be ascertained.(17) By contrast, at Paris in the space of three years, five actions for defloration arose out of marriage suits and a further action was brought for defloration and the maintenance of an illegitimate offspring. In an action where a claim of marriage, together with one for defloration was made, the defendant was given the choice of either marrying the woman or providing her with a dowry in accordance with her status and his means. On only one occasion did the defendant marry the plaintiff, thereby removing himself from the obligation to pay a fine for his fornication.(18) In other cases, men agreed to pay certain amounts to the woman by way of compensation: six gold francs pro defloratione; ten gold francs pro dotali; and forty livres pro dote et defloratione.(19) At the end of an action, in which a married man was found guilty of defloration, the court resolved that he should pay ten livres pro defloratione.(20)

An interesting contrast therefore exists between the attitudes and legal habits found in the two officialities. This is to be found firstly in the different degrees of importance accorded to virginity. In view of the available evidence, this does not appear to have been highly valued in the Cerisy area. Fornication, long-standing concubinage and adultery were rife during the early fourteenth century. The Parisian court on the other hand was willing to award significant sums of money to women who claimed to have lost

their virginity. The contrast appears secondly in the legal tactics which were employed in the Parisian court to overcome the problems of evidence associated with clandestine contracts. A general pattern emerges from the Paris register whereby a woman would allege that promises of marriage had been exchanged and that these had been followed by intercourse; in other words, that she had been seduced. If this fell due to lack of proof, with the man denying on oath the existence of a promise of marriage, a claim would then be brought for defloration. The onus of proof now lay with the man to demonstrate that the woman had not been a virgin at the time he had had intercourse with her. The man's defence invariably fell due to lack of tangible proof. These cases reveal an interesting tactical use of the canon law to gain some form of compensation for the plaintiff. They also show that the problems associated with unwitnessed or poorly witnessed contracts were not all one-sided.

Neither of the two courts is acting in quite the fashion which might be expected in accord with the models propounded by Donahue. The dominance of civil suits at Cerisy is more in keeping with Ely than other, French courts apart from Paris later in the century. Further such suits appear to have been mainly concerned in one form or another with canonically valid, but clandestine marriages. These cases, taken with the evidence that some couples were taking informal action to end unsatisfactory marriages during this period, would suggest a highly individualistic approach to the marital bond which was often at odds with the church's view.The Rochester court presents a picture which is the reverse of the pattern found at Ely, with instance suits only playing a small role in the process of uncovering clandestine unions. However, the use of criminal sanctions in uncovering and punishing those who had undertaken

clandestine marriages does not appear to have influenced their behaviour to any great extent. The contracts at issue are valid marriages, not betrothals.

It would therefore seem unwise to view the dominance of the civil or criminal mode at any particular court solely in terms of the needs of parental authority. With the civil mode dominating at Cerisy and the criminal at Rochester, the model sits less easily with the evidence: it is too limited to do justice to the complexities of the subject. Instead, additional avenues of inquiry should be opened when considering the motives for clandestine marriages and the ways in which different courts reacted to them. The virtual absence of defloration suits from the Cerisy register points to the need to examine the particular circumstances of a court's jurisdiction. To an extent, Donahue's argument points to diversification, but at a national level. This should be taken to a local level to consider the problems faced by the individual official in his jurisdiction, the work load of the court and the pressures of local tradition and personal interpretation which might weigh upon him.(21) In explaining the dominance of litigation concerning betrothal in parts of the continent, consideration should be given to the ingrained secular view that this was the essential step in the formation of marriage and therefore the logical stage at which legal difficulties should be resolved. Indeed it is questionable whether the comparative infrequency of de presenti suits in those French courts studied by Donahue is indicative of a greater ability on the part of French parents to control the matrimonial behaviour of their offspring. The French courts were bedevilled with disputes arising from unwitnessed contracts well into the sixteenth century. Betrothals were usually performed

without the necessary formalities required by the ecclesiastical authorities, and they were often unwitnessed as well. A general lack of success on the part of the church in implementing its own legislation concerning the formation of betrothals may well place the preoccupations of the French royal delegates at Trent in a different light.(22)

The decline in de presenti business transacted before the English courts during the later middle ages and the Reformation has been explained in ways which do not involve an increase in parental control. Helmholz sees the decline as indicative of a better educated laity.(23) Houlbrooke, using the consistory court books of the diocese of Norwich and Winchester during the sixteenth century regards it as a question of preference and profit.(24) As the volume of matrimonial suits declines, the proportion of tithe cases increases. These were on the whole more complicated and longer causes and would have given a greater return for the officers of the court. Houlbrooke also sees the courts as at least neutral and occasionally hostile when faced with parental encroachments on the consent of their offspring.(25) Donahue, while accepting these authors' findings on the decline of this type of matrimonial litigation, does not give due consideration to their explanations of the phenomenon.(26) More recently Goldberg, in the urban context of York and other northern towns, has suggested that the decline in de presenti suits can be connected to the changing economic position of women.(27)

Apart from any legal impediments such as automatic excommunication, factors of age, social position and mobility would have played a perhaps greater role in helping or hindering children to escape from parental control.(28) Families themselves could draw

on less subtle means than the law when faced with recalcitrant offspring and the use of actual physical violence was not unknown.(29)

The function and effectiveness of both the law and the courts was often less clear cut than Donahue would like to suggest. The use of excommunication as a deterrent could be rendered ineffective by local conditions. At Barcelona during the mid-fourteenth century, clandestine marriages were regularly formed despite the threat of automatic excommunication. This was no doubt due to the relative ease with which dispensations could be obtained.(30) When discussing the role of the courts in enforcing discipline attention should be given to Sheehan's argument (based mainly on English evidence) that the church's system of marriage tended to substitute *community for* family control.(31) Moreover, the important part played by arbitration in litigation and the function of the courts in this process has been neglected entirely. The records of the officiality of Paris in the late fourteenth century reveal an institution which was much more a centre for dispute resolution than family inspired repression. Several cases from the Rochester act book, in which the court was used as a forum for arbitration or as a mechanism to pursue family and personal interests on the part of the litigants, tend to reinforce this impression.(32)

When considering the possible motives for clandestinity and the underlying desire of the church to stamp out this abuse, a broader outlook should be taken. Synodal legislation saw the problems of clandestine marriages very much in terms of the threat they posed to the proper ordering of marriage. Unpublicized unions and those which infringed the strict requirements relating to the publication of the banns caused a short-circuit in the finely balanced system of

control. This might lead to bigamy, give rise to disputes, bring the married state into disrepute and allow the forbidden degrees to be circumvented. The seriousness of the union and its sacramental character also required that it was performed with due solemnity. The theme of the avoidance of parental consent is not to be found in this legislation.(33) These fears were not unfounded. Material from Trefnant's visitation of 1397 and a similar document from Barcelona earlier in the century show that the existence of a previous, undissolved marriage, an allegation of pre-contract brought through a reclamation of the banns or a known diriment impediment could lead to the formation of a clandestine marriage.(34) Further, a number of couples who appear in the Hereford visitation required the gentle prod of an official *inquiry to chivvy them into solemnizing their* de facto unions; a number around Barcelona were simply refusing to do so.(35) This may have been due to considerations of cost. In the Catalan visitation a number of priests were condemned for exacting a fee before they would celebrate a benedictionem nuptialem or grant a licence to those wishing to marry outside their proper parish.(36) The extortion of fees for celebrating the sacraments had been forbidden by the Fourth Lateran Council and legislation relating to this appears in English and French synodalia. Though later English statutes underline the right of parishioners to make voluntary contributions, it is clear that this was done in response to opposition from certain elements in the laity.(37) It is quite possible that some couples chose to avoid the expense of a church wedding and settled for less formal means. This might have been an underlying or contributory factor elsewhere. The records of the archidiaconal officiality of Paris in the later fifteenth and early sixteenth century make it clear that gaining dispensations from the

banns or permission to marry in another parish was not without expense.(38)

The long-standing complaint that the consensual theory of marriage was little more than a seducer's contract should also be given due consideration.(39) The court records show that it was not an empty fear. At Cerisy in 1319, a man confessed that he had promised to marry a woman, because he wished to have intercourse with her. As we have seen a few of suits pleaded before the officiality of Paris were of this type and a number of the civil suits at Rochester may also betray similar motives on the part of the male defendants. Such suits were commonly brought before the official of the archdeaconry of Paris at the turn of the fifteenth century.(40) The church itself had an overriding desire to see that all sexual activity was channelled into legitimately solemnized unions.(41) Much time was spent in attempts to eradicate long-standing concubinage or de facto marriages. Indeed the ecclesiastical authorities were at times willing to sacrifice or erode the principle of consent in this quest. Apart from the drastic step of forcing persistent offenders to abjure sub pena nubendi, courts could bring other, more subtle, forms of pressure to bear on the recalcitrant.(42) This desire to confine sexuality to marriage was no doubt due to its inherent pessimism regarding the sexual act, but the realisation of the serious legal and theological consequences that unsolemnized unions could have would have a played a part as well. Finally, at an individual level, some cases may have arisen because of a lack of understanding over precisely what constituted a valid marriage.(43) The church and society had many grievances against clandestine marriage and individuals would have had as many motives for resorting to them. To reduce the question of

clandestinity to one of parental versus individual consent does not do justice to the complexities of the problem or the role of the ecclesiastical courts in attempting to remedy it.

(ii) Society, feud and ecclesiastical discipline

Consideration will now be given to the theories of two social historians working in the area of popular culture and religion or close to its edge. Although the themes and models presented on the one hand by John Bossy and on the other by Robert Muchembled are different in their form and content, they do nonetheless share some common ground. In the first place, both see the sixteenth century as a crucial watershed in the religious and social life of the population of western Europe; and in the second they both give prominence to considerations of the underlying causes of violence in their theories.

John Bossy in a series of articles and most recently in a general essay on the contrasting natures of pre- and post-Reformation Catholicism has presented a particular view of the role 'traditional' Christianity played in the ordering and functioning of medieval society.(44) His views are grounded on the premise that this society was in all its essentials a house divided against itself. Ties of kin often proved stronger than those of community and the practice of social amity had its counterpart in the form of institutionalised and socially divisive violence: the feud.(45) The wider whole was in constant danger of being split asunder by the periodic eruptions of the interests, jealousies and demands arising from kin-based loyalties. Into this volatile and highly reactive mixture, the Catholic church came as arbiter and

peacemaker, promoting true Catholic unity. It sought to draw the sting of institutionalised violence through the sacraments which possessed a social as well as a sacred function.(46) The socially cohesive forces of amity and charity were to be promoted through exogamy and the agency of the parish mass which served to transcend the narrow self-interests of family.

Muchembled too is a writer concerned with violence. Working from a range of secondary sources which include Huizinga's work on the character of later Medieval culture and society, Muchembled produces a psychological explanation for the prevalence of violence within the medieval period. Again this is a writer who stresses the centrality of the feud in the ordering of violent behaviour. This is used to support his view that the early modern period marked a watershed in the control and eventual suppression of popular culture. Violence in the fifteenth century was characteristically unpremeditated and born ultimately from emotional instability. Men were victims of extreme emotions and the isolation and misery of their lives led to a fear of the 'other' and consequently to feuds between villages and families.(47) Underpinning this was the anxiety born of the individual's own mortality: death walked abroad stalking the weak. An individual could gain *transitory and illusory relief* from this dreadful self-knowledge by projecting the mantle of death on to his victim. Aggression was the off-spring of fear.(48) With the growth of the absolutist state in France, these aggressions were either channelled on to new scapegoats such as witches, or were marginalised as society became better regulated and policed.

Muchembled sees the sixteenth century as a period in which there was a growing emphasis upon the disciplining of the masses. In the later medieval world the peasant was left to his own devices with

regard to sex and religion. The early modern period saw the emergence of a centralising state which sought to undermine this culture.(49) The foundation of an absolutist French monarchy destroyed the freedom of action hitherto enjoyed by the peasant. Their bodies became constrained through sexual repression, social control and the ritual mutilations of public executions. Religious indoctrination and a war against 'superstitions' ensured the submission of their souls. This 'hearts and minds' policy was reinforced by new campaigns on the part of the church against sexual misconduct and fresh drives to enforce religious conformity. Muchembled paints a picture of a move away from sporadic concern with sexual offences in the middle ages to efficient and determined repression from the sixteenth century onwards.(50) A conglomeration of evidence taken from the officiality of Cambrai during the seventeenth and eighteenth centuries and secular courts in different areas of France at a variety of dates from the late fourteenth to the late eighteenth centuries is used to support this contention.(51) The fluctuations in the illegitimacy rates from the Nantes region are presented as evidence that intense and efficient repression, with almost total chastity outside marriage, occurred between 1600 and 1750.(52) Popular sexual behaviour was now dominated by respect for the norms imposed by the church. The simple message was that the individual was no longer free to dispose of his or her body as before.(53)

The French church was itself transformed by the growth of absolute monarchy. Here Muchembled shares common ground with Bossy, at least as far as the perceived effects of this transformation are concerned. Both see the church as taking an increasingly hierarchical form during the course of the sixteenth century.(54)

Whether this was caused by a mimicking of the secular state or the pressures of the Counter Reformation, the nature of the Catholic church's world ceased to be horizontal and flat, spreading out through a network of kin and community, and came to resemble a hierarchical pyramid.

Two common strands can be identified in the theories of these two historians. Firstly, both give a greater or lesser degree of attention to violence and the feud, and secondly both see an out growing in the disciplinary role of the church during the sixteenth century. The opinions of Muchembled on the causes of violent behaviour within medieval society can be quickly dealt with. Whatever else may be said for the view that absolutism is good for your mental health since it removes anxiety, it sits ill with the material from Cerisy. While the polarity of violence does echo Huizinga's view of a society characterised by extremes, it is a distant echo. The majority of violence was mild and certainly not characterised by fear. Such general psychological explanations seem to have little value in explaining why a particular minority of individuals should show such a lack of restraint and often callousness when dealing with their victims. That their behaviour was sometimes unrestrained and brutal is not in question, but the actual motives for it are harder to fathom. In this personal motivation, experience and predilections must have played their part. Finally, Muchembled's contention that violence was directed against the unknown, against the stranger, away from the isolated self, appears rather weak given that violent crime was characteristically parochial at Cerisy and in other areas.

Similarly, John Bossy's model of a society faced with the disruptive influences of kin does not match the pattern of behaviour

which emerges from the Cerisy peculiar. There is no evidence that feud was endemic within the area or even that it was practised. The internecine violence and pre-emptive strikes on kin implicit in the term are entirely absent from the record, as are notions of revenge revolving around the perceived honour of a kin-group. Far from drawing its source from long-standing and deep-seated emnity, the violence was characterised by its spontaneity and lack of pre-meditation. Where motives can be established they were often personal, petty and restricted to an immediate slight or insult: grudge or revenge attacks are the exception rather than the rule. The majority of the assaults and brawls showed a degree of restraint which was hardly likely to place the social fabric in jeopardy, though occasionally the violence encountered was extreme. Most individuals were caught up only once in a web of violence, either as aggressors or victims. Certain individuals or family members appear more regularly, but they seem to represent a particularly violent element in clerical society rather than evidence of inter-familial conflict. Violence was normally carried out on an individual rather than a collective level, among men at least.

Other studies have also suggested an image of English society different from that of John Bossy. Hammer, working on clerical homicides in Oxford sees the experience and use of violence as being limited by geographical and social factors.(55) Bennett's study of the pre-plague court rolls of the English manor of Brigstock seems to show a pattern of cooperation rather than conflict.(56) Bossy may also have over stressed the importance and function of kin-networks in an English context at least.(57) While it is true that the Toronto group of historians give a leading role to the effects of hierarchical conflict in village society, they make poor allies

since their case can be shown to be flawed. As noted before, this group presents a model in which village society is seen as being split fundamentally by the conflicting interests of families arranged in competing social hierarchies. This natural state of affairs was further exacerbated by the strains imposed by the traumatic demographic upheavals of the post-plague years. Several criticisms may be made concerning this particular model which in the final resort appears to be untenable. The data upon which it is based does not in fact support the contention that the plague years were followed by a period of increased social tension. Indeed it is unclear why in the first place the post-plague era should be any more of an arena for conflict than the pre-plague period, given the intense demographic pressures of the early fourteenth century.

Any attempt to transfer this model and assumptions to the pattern of assaults within the Cerisy register also has its problems. In the first place, the definition of violent conflict used in the study of the manor court rolls is much broader than simple assault or the range of crimes regularly dealt with in the officiality. In the second, the reconstruction of the complex of social networks underpinning the Toronto research cannot be undertaken for Cerisy and its environs. Moreover, any attempt to link the pattern of assaults to the periods of demographic crisis (in this case the famine years of 1315-1322 and the English occupations) rest on very shaky foundations. Given the wide range of possible variables in the reporting and recording of crimes in general and assaults in particular, it seems wise to regard such attempts at correlation with a considerable degree of suspicion.(58) At best trends in the pattern of assaults as found at Cerisy may be only imperfect indicators of any tensions present within a society.

Furthermore, both writers have perhaps placed too great an emphasis on the novelty of the growing disciplinary function of the church during the sixteenth century and have drawn too sharp a contrast with what went before. Bossy is right to bring attention to the rôle of the church as peacemaker, particularly in the local figure of the parish priest. However, this rôle existed alongside a desire to inculcate discipline. Arbitration played a part in the functioning of the ecclesiastical jurisdictions under consideration here, but their very existence points to a very real concern with regulation and control. The process of peace-keeping was itself a far more commonplace task over often equally commonplace matters. Rather than the metaphysical 'social miracle' of the mass, imposing a state of obligatory peace every Sunday, the process of arbitration itself was something altogether more mundane. Arbitration was indeed carried out in order to bring peace and avoid unnecessary conflict, but it was brought to bear in small scale, personal matters rather than the highly charged atmosphere of the feud. Moreover, an obligation to promote peace and harmony can be seen as an enduring facet of Christianity not limited to the late medieval period.(59)

It has also been suggested that the rôle of the priest himself may have been changing during this period in the face of increasing centralised control. He was slowly becoming less of a local agent and more of the instrument of a hierarchical system of communication and discipline.(60) The church itself sought to limit his authority and that of certain local jurisdictions, particularly in the settlement of matrimonial disputes. To portray the mediation of church and laity almost entirely in terms of a benign attempt to promote communal harmony gives only a partial view.

Muchembled's view of a general 'hands off' policy by the church

in the later middle ages has been subject to extensive criticism by Martin Ingram.(61) In this Muchembled's evidential base, the assumptions upon which the thesis is founded and its applicability to other areas outside France are questioned. As far as the use of evidence is concerned, Ingram points to the relative weakness of those sections dealing with marriage and sexual morality. The portrait of the late medieval period rests mainly on dubious literary material, while the case for a moral reform campaign in the seventeenth century is only supported by a brief review of a limited range of judicial archives. The assumption - largely shared by Bossy - that this campaign marked a fundamentally new departure, rather than a continuation and intensification of existing trends, is open to serious criticism. This is also true in the case of the related assumption that the pre-Reformation population was Christianised in only the most superficial sense.(62) Finally, any attempt to give the model wider currency is fraught with difficulties.

Ingram uses the example of England as a test case for Muchembled's theories and this is also closely linked to a critique of certain views held by Lawrence Stone.(63) These are strikingly similar to those espoused by Muchembled, since Stone too sees the early modern period as being an important watershed in the public control of sexual morality and family life. Toward the end of the sixteenth century and at the start of the seventeenth, he considers that the Church of England was able to inculcate an increased awareness of sin among the laity and it embarked on a rigorous campaign to enforce strict Christian standards of morality. This campaign was waged through the courts Christian and the imposition of humiliating public penances. However, Ingrams questions whether this concern with discipline marked such a radical departure. He

points out that the exercise of control over morals by the church, state and community was clearly not an invention of the sixteenth century. The church had long possessed an elaborate system for the enforcement of discipline and conformity through a hierarchy of courts and visitations.(64) These were able to penetrate into even the remotest regions and they often involved large sale presentments of offenders.(65) Because of the form of investigation employed, they must have relied to a large extent on popular support in the detection of offenders. Ingrams suggests that public discipline over sexual mores within an ecclesiastical frame work was well established by the fifteenth century. However, this may well have broken down during the Reformation and if this is so, efforts to reinforce public control of morals in the late sixteenth century may, in the first instance, have represented an attempt to regain lost ground.(66) Ingram concludes that the evidence is unable to support Stones' views and that Muchembled's model 'will not do for England'.(67)

The material presented in the context of this present study lends support to Ingram's views on the nature of ecclesiastical discipline in late medieval England. The Hereford visitation was an extensive inquiry into the social and religious life of the diocese. Its scope was broad, covering not only sexual morality, but also matters concerning marriage, church attendance, the payment of tithes, usury, and the repair and maintenance of churches and their contents. The volume of presentments was considerable. The Rochester consistory court was less comprehensive in the matters which it dealt with ex officio and spent it much of its time prosecuting sexual incontinence and clandestine marriages. Similarly, it is doubtful whether Muchembled's model can be applied elsewhere in

Europe. The diocese of Barcelona possess an almost complete series of visitation returns from 1303 onwards.(68). The first of these documents contains material similar to that found in the Hereford return and the Rochester Act book. Indeed in the light of the evidence gained from the Cerisy register, Muchembled's thesis looks less tenable even for certain areas of France.(69) Systematic visitations were carried out within the peculiar during the early fourteenth century and probably into the fifteenth as well. Their remit was broad, but between 1314 and 1346, they were generally preoccupied with sexual morality. Though this aspect court business declines in the second half of the century it still forms a persistent problem and is in any case replaced by other disciplinary concerns. Between 1371 and 1414 this is clerical violence, while in the mid-fifteenth century it is blasphemy. The fragment of register surviving from the late fifteenth century shows a clear concern with the sexual mores of priests and laity alike. Muchembled's model may in the final resort also be inappropriate for this region of France.

GENERAL CONCLUSION

A few words need to be said to summarize the general themes and topics raised by this study of the registers of the courts at Cerisy and Rochester and parts of the Hereford visitation returns. There is a broad similarity in the types of ex officio business dealt with by the abbatial court at Cerisy and the Consistory court at Rochester, with the characteristic preoccupation with sexual morality that has earned the church courts their title as the 'bawdy courts'. The material relating to prostitution within this predominantly rural area of the Cerisy peculiar, provides a useful corrective to the strong urban bias found in most studies of the phenomenon. In both courts fornication was a more common ~~as an~~ offence than adultery. A cursory reading of the Hereford and Barcelona visitation returns would seem to indicate a similar set of patterns. The Rochester and Cerisy courts followed the dictates of canon legal thought by adhering to a hierarchy of sin in their dealings with sexual crimes. Fornication was less severely punished than adultery, and at Cerisy rape was considered to be a most serious offence. However, the two courts differed in the means employed in punishing such offences. Whereas physical chastisement was the order of the day at Rochester, such offences were met with fines at Cerisy. Such 'fines' may in fact represent payments made to commute public penance, a practice frowned upon in canon law and which was beginning to take root in the English courts. If so they have led to the abandonment of the use of public penance except in certain instances. At Cerisy too the treatment accorded to clandestine marriages in the early fourteenth century is very different from that found in the office business of

the Rochester court at a slightly later date. Furthermore, the defloration suits which are a feature of the officiality of Paris and the legal tactics which seem to have accompanied them, are absent from the Cerisy register. This particular difference can be placed against a background within the peculiar of long-standing concubinage and in some cases, pre-marital relations between couples. The lack of concern with underlying sexual mores and the stable nature of the relationships appear to have removed the necessity for women to pursue defloration suits or actions for maintenance. Such subtle differences in the application of canon law and the courts' treatment of offences should perhaps caution the reader against viewing the canon law as a monolithic and rigid block, unyielding and unsusceptible to individual interpretation. Attention should also be paid to the social context within which the court operated and the ways in which this may have affected the business dealt with by the court.

The pattern of marriage litigation found at Cerisy bears a greater resemblance to that which is emerging from the English courts than to its closest French equivalents. The suit to establish a canonically valid, but clandestine, marriage predominates. At Rochester, the Consistory court is hearing civil actions for marriage which conform to the pattern found in other English courts. It is, however, undertaking ex officio prosecutions to detect and punish those who have formed clandestine marriages. In this aspect of its business it bears a greater resemblance to a Continental court. The different behaviour of the two courts in dealing with the problem of clandestinity has serious implications for the explanations which Donahue puts forward to account for the differences in the pattern of litigation found on opposite sides of

the Channel. The findings from both courts, as well as the visitation returns, cast serious doubt on the validity of Donahue's conclusions on matters such as clandestinity, parental authority and the church's desire to champion the cause of individual consent. Motives for clandestine marriages and opposition to their formation went far beyond a simple question of circumventing parental authority which in any case could be affected by social and demographic factors. The church's own support for the theory of individual consent was by no means unequivocal and could be sacrificed at times in its very real desire to limit all legitimate sexual activity to the marital bed.

The Cerisy court stands out among these and other ecclesiastical jurisdictions in the large numbers of cases involving physical violence with which it had to deal. The composition of the court's constituency appears to have been a crucial factor in creating this anomaly. The unusually large numbers of clerics within Normandy ensured that a large part of the court's time would be taken up with assault cases, on a par with a secular court. The remarkably detailed descriptions of the late fourteenth and early fifteenth century assaults, allow a tangible impression to be gained of the level of violence to which most men might expect to be subjected. The majority of violent behaviour was of a mild nature and far from threatening to life or limb. The majority of men appear only once, for while the use of violence as a means for settling disputes was not limited to one section of clerical society, its recurrent use was restricted to a few individuals. Armed assaults were the exception rather than the rule and this reinforces the impression of spontaneity associated with most of the acts of violence.

The material relating to violence also serves as a useful

control for a number of theories concerning the character of medieval society and religious and social developments within it. The model of changes within fourteenth century society put forward by the Toronto group cannot be successfully applied to the Cerisy peculiar. Shorter's views on the causes of rape are also incompatible with the available evidence on the social climate nature of the crime within the jurisdiction and its form in other areas and periods. Such discrepancies should sound a cautionary note in attempts to use the criminal record alone as an indicator of long-term social trends. The lack of evidence for the feud at Cerisy serves as a useful corrective to John Bossy's internecine view of medieval society. This is a view largely based on Italian evidence, and the Cerisy material shows that it cannot be considered as an unqualified statement. On the negative side the evidence form Cerisy prevents an unqualified acceptance of Bossy's view of the essential character of the medieval church as universal mediator, and the crucial rôle - akin to the graphite moderators in a nuclear pile - which he considers that the sacraments performed in this. On the more positive side it lends support to a slowly developing trend which shifts the axis of Europe from a simple west/east divide. Differences in the character of violence between north-western and southern Europe, would find parallels in contrasting marriage patterns and the treatment of heretics and Jews.

Certain persistent themes are present both in the nature of violent crime and its prosecution. Violence was largely male dominated and localised. Women were little involved in general violence, but they were particular prone to sexual and domestic violence. Rapes were often accomplished with a high degree of force. The locations of violent attacks on women suggests that they were

largely hearthbound. Crimes against the person were on the whole less severely dealt with than those against property.

Arbitration was an important element in both the Cerisy and Rochester courts, but this has to be seen in connexion with a very real disciplinary function in the ex officio business of the courts and the process of visitation at Cerisy and Hereford. The very existence of such records, and others from elsewhere in Europe, serve as reminders of the often very deep penetration of the disciplinary concerns of the church into the lives of the laity. Again this serves to qualify Bossy's particular view of a church concerned more with catholicity and harmony than discipline and sin, and Muchembled's belief in the virtual absence of disciplinary rôle for the medieval church. The miscellaneous references to aspects of pastoral care found at Cerisy are also not without their relevance here. They show various examples of the implementation of synodal legislation at a local level and illustrate the character of parts of a parochial structure in the early fourteenth century.

Appendix A: Defamations and prosecutions for fornication and adultery (1314-1346)

There are marked disparities between the figures contained within the following tables and those which accompany Dufresne's article on the Cerisy register. Under-counting has taken place at Cerisy in both the totals for adultery and fornication, and to a lesser degree among the Deux Jumeaux fornication figures. The totals for adultery at Littry are also too low, whilst drastic over-counting has occurred among the figures for fornication. At Deux Jumeaux slightly too many cases of adultery appear among Dufresne's figures.

Some of these differences may be explained by omissions and miscounting caused by the confused nature of the source and inattention to detail. At Littry, for example, the totals for four separate years have either been omitted or conflated with the figures from other years. However, in certain cases, figures appear to have been produced out of thin air. According to Dufresne, there were eleven case of fornication and four of adultery at Littry during 1330. If the register is examined it will be seen that there are no surviving visitations from any of the villages in that year. This is also true for several of the cases reported at Deux Jumeaux. Dufresne has also included affairs with priests in both his total for fornication and adultery. This practice has not been followed in the tables which follow.

Table A.1: Cerisy (1314-1341)

	Fornication	Adultery
1314	4	1
1315	17	7
1316	5	8
1319		1
1320	7	4
1321		1
1322	9	7
1323	17	11
1324	5	2
1325	6	1
1326	15	2
1327	12	1
1328	18	1
1331	20	3
1332	9	
1333	26	7
1334	17	4
1335	4	3
1336	6	1
1338	7	3
1340	8	1
1341	19	5
	231	74

Table A.2: Littry (1314-1346)

	Fornication	Adultery
1314	1	5
1316		1
1318	1	
1319	1	
1320	7	5
1321	6	4
1322	6	5
1323	3	1
1324	3	1
1325	2	2
1326	2	2
1328	2	1
1331	10	2
1332	7	1
1333	9	1
1334	9	2
1335	3	3
1336	4	2
1337	2	
1338	3	
1340	1	1
1341	3	2
1342	2	
1345	1	
1346	3	
	91	41

Table A.3: Deux Jumeaux (1315-1333)

	Fornication	Adultery
1315	2	8
1319	5	3
1320	3	3
1324	1	
1326	2	
1332	1	1
1333	3	2
	17	17

Appendix B: Incidence of non-sexual violence within the register (1314-1485)

Table B.1: Interpersonal violence 1314-1345

	Assaults	Fights	
1314	1	2	3
1315	2		2
1320	2		2
1321	7		7
1322	2	1	3
1323	1		1
1325	1		1
1326	1	1	2
1331	4		4
1332	3		3
1333	3	2	5
1334	1	1	2
1336	1		1
1337	2		2
1338	1		1
1339		?	?
1341	4		4
1344	1		1
1345	1		1
	38	8	46

Group assaults took place in 1314, 1320, 1323, 1332 and 1341; the fight which occurred in 1334 was a three-cornered affair.

Ten of the assaults resulted in bloodshed.

Assaults p.a. 2

All acts of violence p.a. 2.9

Table B.2: Interpersonal violence 1371-1379

	Assaults	Fights	
1371	4		4
1372	6		6
1373	5		5
1374	7	1	8
1375	4		4
1377	4	1	5
1378	8		8
	12	2	14
	50	4	54

Assaults p.a. 6.25

All acts of violence p.a. 6.75

Group assaults took place in 1371 and 1379.

Thirteen of the assaults and two of the fights resulted in bloodshed.

Seven acts of violence are also recorded in the confused section of the register. Five of these were assaults, none of which can be accurately dated and the remainder fights, one of which took place in 1352. The other fight cannot be dated, but it did not result in bloodshed.

Table B.3: Interpersonal violence 1380-1400

	Assaults	Fights	
1380	5		5
1383	1		1
1391	4		4
1392	9		9
1393	9		9
1395	4	1	5
1396	2	2	4
1398	2	1	3
1399	8	1	9
	44	5	49

Assaults p.a 5.6

All acts of violence p.a. 6.3

Four group assaults occurred on 1393.

Nine assaults and two fights resulted in bloodshed.

From 1392, it is clear that the register ran from one Easter to the next; this was no doubt the case in previous years. The court years have been recorded as the year in which the majority of its business would have occurred.

Table B.4: Interpersonal violence 1403-1414

(a) 1403-1410

	Assaults	Fights	
1403	1		1
1405	5		5
Sept. 1405 - Sept. 1406	13	3	16
Sept. 1406 - Sept. 1407	4		4
Sept. 1407 - Sept. 1408	12	1	13
Sept. 1408 - Sept. 1409	7		7
c.1410	13	2	15
	55	6	61

Assaults p.a. (1405 - c.1410) 10.8

All acts of violence p.a. (1405 - c.1410) 12

One group assault occurred between Sept. 1405 and Sept. 1406; one of the fights in that year was a three cornered affair.

Six assaults and two fights resulted in bloodshed.

(b) 1411-1414

	Assaults	Fights	
April 1411 - April 1412	26	2	28
April 1412 - April 1413	19	4	23
April 1413 - April 1414	21	1	22
	66	7	73

Assaults p.a. 22

All acts of violence p.a. 12

One group assault occurred in 1411/12.

Thirteen assaults and two fights resulted in bloodshed.

Table B.5: Interpersonal violence 1451-1458

	Assaults	Fights	
1451	3		3
1452	5	1	6
1454	2		2
1455	6	1	7
1456	1	1	2
1457	12		12
1458	1		1
	30	3	33

Assaults p.a. 4.3

All acts of violence p.a. 4.7

Group assaults took place in 1454 and 1455.

Ten assaults and two fights resulted in bloodshed.

Two cases of accidental wounding were recorded in 1455 and 1457, the first of which resulted in bloodshed. Neither appears in this table of figures.

The later fifteenth century fragment contains details of ten assaults and three fights. The record is both sporadic and incomplete. The incidence of assaults was as follows: 1474 (1); 1476 (1); 1477/8 (2); 1480 (5); 1485 (1). A single fight is recorded during 1476 and a further two in 1480. Three of the assaults and all the fights resulted in bloodshed. One fight and one assault (involving a woman assailant) were group affairs.

Appendix C: Officers of the court

(i) Officials with the dates of their first and last appearance in the register.

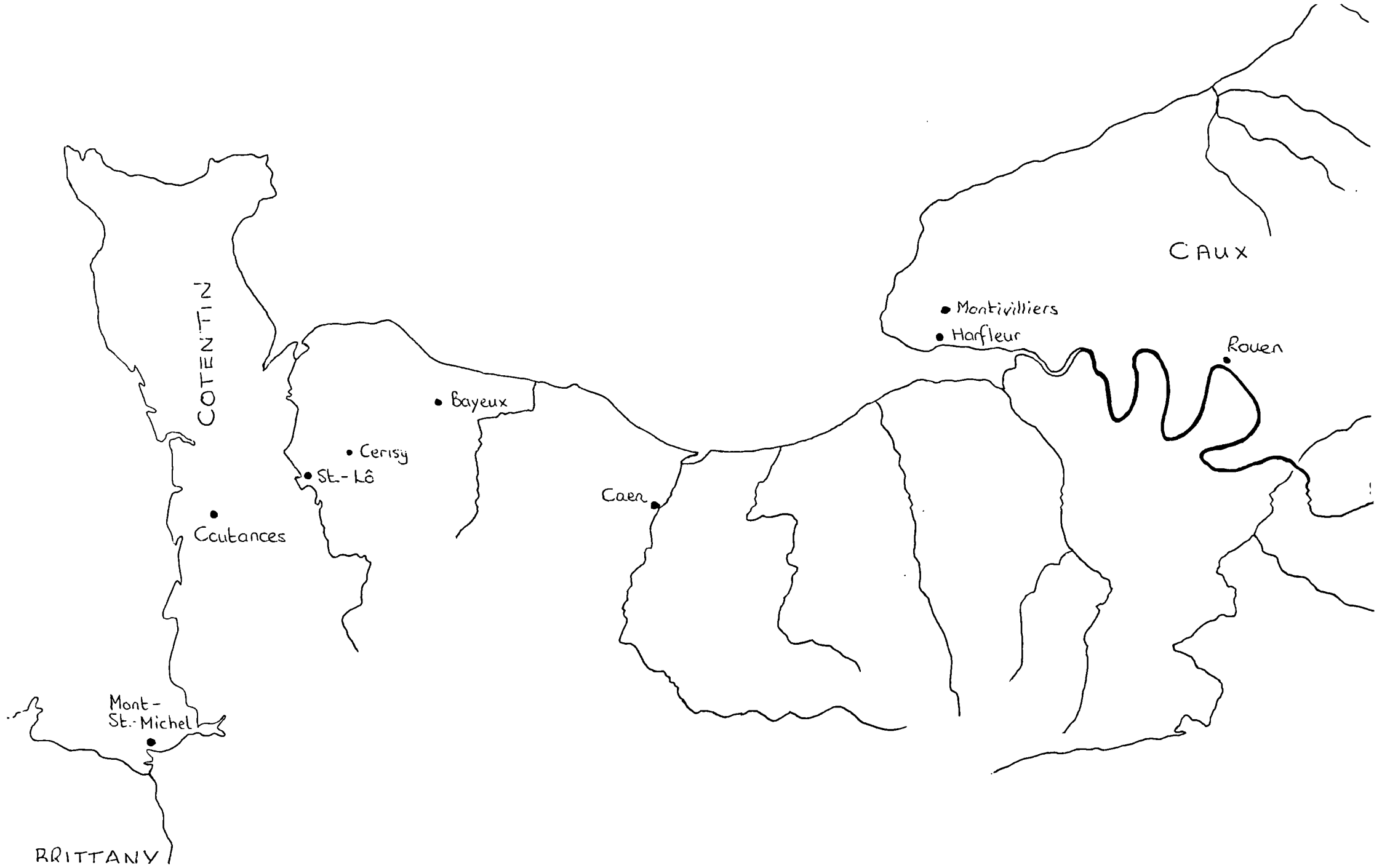
Jacob Louvet	July 1314/March 1319
Luke Pictor	February/March 1320
William de Bitot	February 1322
Andrew de Burone[1]	March 1324/May 1333
John Govin	June 1334/June 1346
Louis de Monte Freardi	1371/May 1374
Mathew Guerout	c.1393/1402
Reginald le Tanc	1456
Nicolas Sabine	1476
John Trexot	March 1485/October 1486

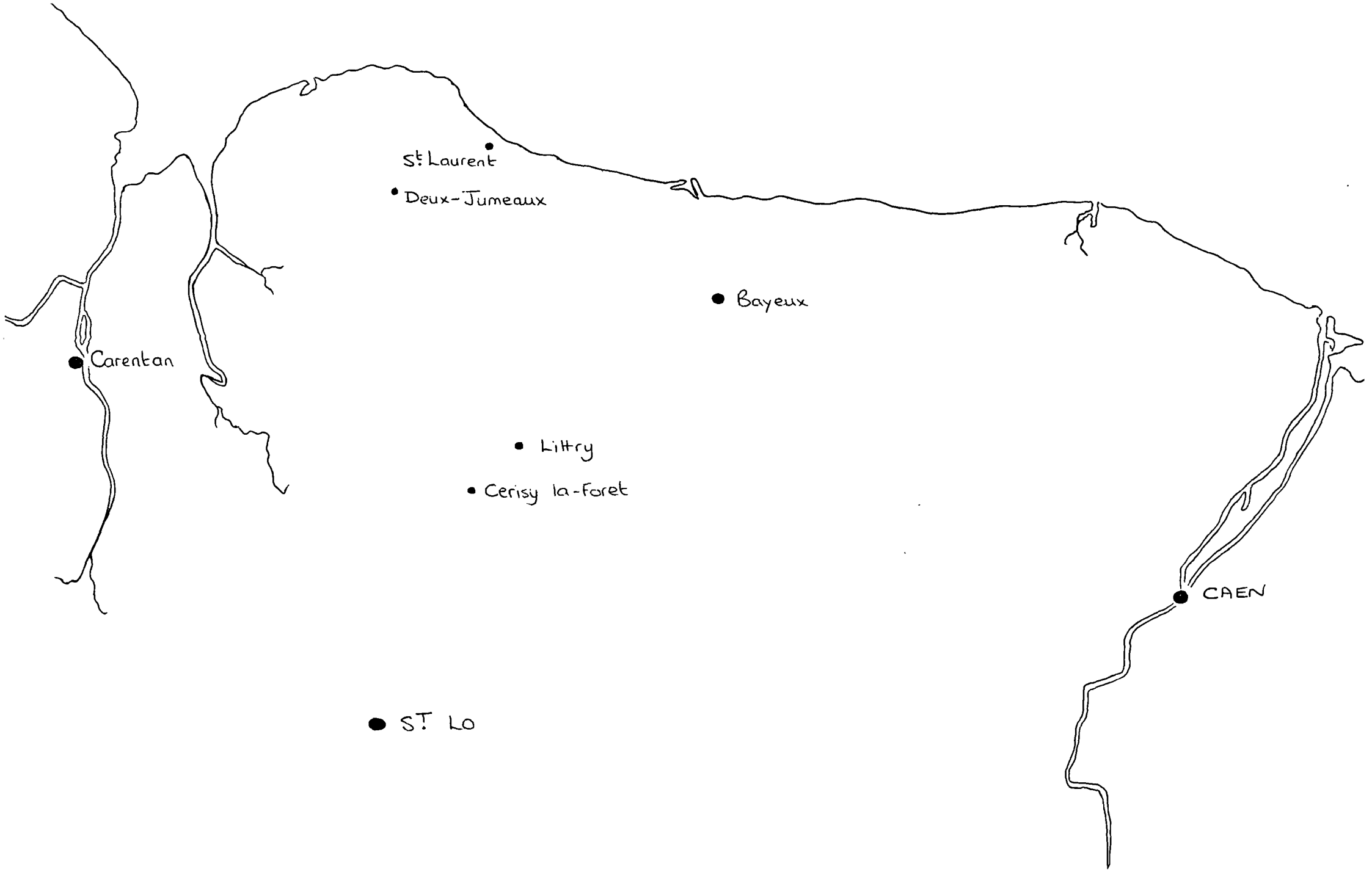
[1] Andrew de Burone may have held the post of official at some time before 1314.

(ii) Vice-gerents to the official with the dates of their first and last appearance in the register.

Thomas Hamonis	March 1334/April 1335
Robert Rossel	March 1336
Radulf Mauricii	1372/1373

Luke Pictor who appears as official in 1320 may have acted as a vice-gerent since he accompanied his predecessor on a visitation in 1319.


COTENTIN
CAUX
Montivilliers
Harfleur
Rouen
Bayeux
Cerisy
St.-Lô
Caen
Coutances
Mont-St.-Michel
BRITTANY


St Laurent
Deux-Jumeaux
Bayeux
Carentan
Littry
Cerisy la-Foret
CAEN
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Chapter one

(1) R.II., pp. 292, 294. I should like to thank M. Y. Nedelec, Directeur des Services d'archives de la Manche, for answering my queries on this matter.

(2) R.I., p.275

(3) For the utility of Act books as an historical source see Helmholz, Marriage Litigation, pp.7-11.

(4) Dufresne, 'Cerisy', p.132.

(5) ibid., n.5.

(6) Russell favoured the lower figure of 3.5 (J.C. Russell,'Late Mediaeval Population Patterns', Speculum, xx (1945), pp.162-4, 166). However, more recent work by Krause, using figures derived from Homans' studies of households, concludes that Russell was not successful in his attempts to replace the hitherto accepted multipliers of 4.5 or 5 with his own, and that only in exceptional circumstance shold 3.5 or even 4 be used (J.Krause, 'The Medieval Household: Large or Small?', Economic History Review, 2nd ser., ix (1957), pp.420-3, 432).

(7) Dewindt, from his work on one of the Ramsey Abbey villages, believes that 4.5 is nearer the mark (E.B. Dewindt, Land and People in Holywell-cum-Needingworth (Toronto 1972), p.170 n.30).

(8) R.I., 259a, b.

(9) op.cit., 375e.

(10) op.cit., 134, 393d.

(11) E. Le Roy Ladurie, The French Peasantry, 1450-1600, trans. Alan Sheridan (Aldershot 1987), p.202.

(12) R.I., 253.

(13) op.cit., 236, 335.

(14) op.cit., 136a, 137c, 142, 173f, 298c, 416k.

(15) Ladurie, French Peasantry, p.200.

(16) R.I., 340, 353a, 366l, 393b.

(17) op.cit. 42b.

(18) op.cit. 347, 363d.

(19) R.II., p.298.

(20) R.I., 44, 104a, 147, 173d, 365e, 366h, 387b, 390, 392a, 394f.

(21) Ladurie, French Peasantry, p.201.

(22) R.I., 26b, 392k.

(23) Ladurie, op.cit. p.202.

(24) R.I., 50c, 55.

(25) op.cit. 393h; R.II., p.298.

(26) R.I., 3, 62a, 134, 158, 229bis, 270, 276c, 366a, 392h, 416i, k.

(27) op.cit. 9c, 18b, 212a, 316b; R.II., p.302.

(28) R.I., 41a, 146, 161c, 377a, 380a.

(29) op.cit. 95a, 129c, 144a, 167a, 220, 222.

(30) op.cit. 298a.

(31) op.cit. 316b.

(32) R.II., pp.295-7, 309-13.

(33) J.F. O'Sullivan (ed.), The Register of Eudes of Rouen, trans. S.M. Brown (New York and London 1964), pp.291, 664. There are references to a prior at Deux Jumeaux and another ecclesiastical building apart from the parish church in the fourteenth and fifteenth centuries (R.I.,263b, 386f; R.II., pp.310, 314).

(34) R.I., 44, 270.

(35) op.cit., 366r.

(36) op.cit., 60b.

(37) op.cit., 8c, 363q, 366l.

(38) op.cit., 7a, 410c.

(39) op.cit., 394b, l.

(40) op.cit., 55, 390a, 393h.

(41) op.cit., 241a.

(42) op.cit., 363q.

(43) op.cit., 245a.

(44) op.cit., 309c, d. For other, scattered references to the holding of a wedding feast see: J.A. Brundage, 'Matrimonial Politics in Thirteenth Century Aragon: Moncada v. Urgel', Journal of Ecclesiastical History, xxxi (1980), p.279; Chobham, Summa, p.365; J. Day, 'On the Status of Women in

Medieval Sardinia' in Kirshner, J., and Wemple, S.F. (eds.), Women of the Medieval World: Essays in Honor of John H. Mundy (Oxford 1985), p.312f.

(45) R.I., 323, 384k.

(46) op.cit., 25d, 43b, 72b, 96c, d, 131, 138c, d, 168c, 298c, 366h, 392k; R.II., p.296.

(47) R.I., 3871.

(48) R.I., op.cit., 165a, 397f, 408a.

(49) op.cit., 375n.

(50) op.cit., 387e, 390l, 394d, 398b, 410f.

(51) op.cit., 390l, 392d.

(52) R. Muchembled, Popular Culture and Elite Culture in France 1400-1700, trans. L. Cochrane (Baton Rouge and London 1985), pp.32, 40, 45f.

(53) R.I., 84b, 97a.

(54) op.cit., 25c.

(55) op.cit., 138d.

(56) op.cit., 392g.

(57) op.cit., 81a, 416i, k.

(58) op.cit., 25c, 177b, 178b.

(59) op.cit.,131, 261b, 380a, 390k, g.

(60) op.cit., 404e, 429.

(61) H. Denifle, La Desolations des églises, monastères et hôpitaux en France pendant la guerre de cent ans, 2 vols. (1897), reprint (Brussels 1965), p.756; N.A.R. Wright, 'French Peasants in the Hundred Years War', History Today, xxxiii (1983), pp.38-42. I am endebted to Mr. P.P. Goodyear for this reference.

(62) P. Adam, La Vie paroissiale en France au xiv^{e} siècle (Paris 1964), pp.115-21, 315-17; C.T. Allmand, Lancastrian Normandy, 1415-1450 (Oxford 1983), pp.154-7, 163-6; N.J. Chaline (ed.), Le Diocèse de Rouen - Le Havre (Paris 1976); Dufresne, 'Montivilliers', p.179.

(63) Allmand, op.cit., p.154; Chaline, op.cit., p.53.

(64) Other examples of the possible efects of financial stringencies can be found within the fourteenth century sections of the register. In 1316, a dispte was settled

between the priest of Deux Jumeaux and his sacristan after the court stated that the candle which was offered with the blessed bread could not be sold. At Littry in the same year, the court intervened in a dispute over the grass of the cemetery between the priest and his treasurers. It was decided that it should not be used for grazing the village animals or be sold. The priest of Littry in 1374 was celebrating with a lead chalice and not a silver vessel as required (R.I., 41a, 42b, 298b).

(65) 'Some Early Visitation Rolls Preserved at Canterbury', ed. C.E. Woodruff, Archaeologia Cantiana, xxxii (1917), pp.147-80.

(66) R.I., p.274.

(67) C.R. Cheney, 'The punishment of felonous clerks', English Historical Review, li (1936), pp.217-21; P. Fournier, Les Officialités au moyen âge (Paris 1880), pp.64-72. The distinction could sometimes become blurred. Helmholz, working on English records, has found that the church courts occasionally dealt with offences technically outside their jurisdiction. This was in cases where the parties concerned considered that the secular courts were inadequate for their needs. Canonical intervention could bring a public display of innocence, settle a quarrel satisfactorily, or ensure the prosecution of the offence in the case of abortion and infanticide. (R.H. Helmholz, 'Crime, Compurgation and the Courts of the Medieval Church', Law and History Review, i (1983), p.24f. I owe this reference to Dr. R.M. Smith).

(68) Chaline, Diocese de Rouen - Le Havre, p.56; Dufresne 'Montivilliers', p.182 n.14. The late fifteenth century fragment of register records the tonsuirng of thirty-six clerks by the abbot of Cerisy on Easter Saturday 1476 (R.II., p.314f).

(69) F. Neveux, 'Les Marginaux et le clergé dans la ville et le diocese de Bayeux au XIV^{e} et XV^{e} siècles' in Marginalité, déviánce, pauvrété en France XIV^{e} - XIX^{e} siécles (Caen 1981), p.23.

(70) R.I., 55, 162.

(71) op.cit., 175.

(72) op.cit., 3.

(73) op.cit., 59c.

(74) op.cit., 262b, 281, 370k, 384g, l, 392c, 393g.

(75) op.cit., 102, 370i, 3931.

(76) op.cit., 162.

(77) op.cit., 106, 393f.

(78) op.cit., 109a, 207a.

(79) op.cit., 119c.

(80) op.cit., 207b, 230, 383a.

(81) op.cit., 383r, 384a.

(82) R.II., p.313f.

(83) op.cit., p.300; R.I., 218.

(84) op.cit., 1a, pp.419-41

(85) See for example the definitive sentence of a divorce suit heard in 1317. The court made its decision, habito super hoc jurisperitorum consilio (op.cit., 54a). The official in question was John Trexot.

(86) op.cit., 80, 308, 309h.

(87) op.cit., 19. 276b, 305a.

(88) op.cit., 394o

(89) op.cit., 26d, 35, 40b, 68, 81a, 112, 224, 262b, 392g, 394l, h.

(90) op.cit., 9d.

(91) op.cit., 2, 64.

(92) op.cit., 73, 75, 76.

(93) op.cit., 89.

(94) op.cit., 117, 161, 169, 226.

(95) op.cit., 376a, 377a, 380a.

(96) op.cit., 2, 169.

(97) R.II., p.311.

(98) R.I., 2, 124, 169, 410h, 412; R.II., p.308.

(99) op.cit., 73.

(100) op.cit., 93d.

(101) op.cit., 410h, 414b.

(102) op.cit., 64.

(103) op.cit., 167, 168, 184.

(104) op.cit., 276a, 286.

(105) op.cit., 25a.

(106) op.cit., 419.

(107) op.cit., 9d, e, f, g, h.

(108) op.cit., 9, 119, 124, 146, 161, 209, 213, 220, 222, 226.

(109) For example in 1316, Deux Jumeaux was visited on 9 March, Littry on 24 March and Cerisy also on 24 March. Ten years later, the visitation began on 27 February at Cerisy and then progressed to Littry on 4 March and Deux Jumeaux on 13 March (op.cit., 41a, 42, 43, 126, 127, 128).

(110) op.cit., 9a.

(111) op.cit., 9b, c.

(112) Dufresne, 'Cerisy', p.132.

(113) R.I., 198.

(114) op.cit., 298, 316, 376s. See also 261, 375c.

(115) op.cit., 377a, 378, 380a, 412; R.II., pp.294, 299, 310-13.

(116) R.H.H., ii, pp.911-1043.

(117) op.cit., pp.911-14.

(118) R.H.H., i, pp.xxiii-xxiv.

(119) R.H.H., ii, pp.946, 975, 987, 998, 1039.

(120) op.cit., p.914. For the extent of the diocese of Rochester and the jurisdiction of the court see R.H.H., i, p.xxi.

(121) R.I. Jack, Medieval Wales (The Sources of History: Studies in the Uses of Historical Evidence) (London 1972), p.133f.

(122) Registrum Johannis Trefnant, Episcopi Herefordensis, ed. W.W. Cole (Canterbury and York Society, xx, London 1916), pp.143f, 151)

(123) Leintwardine to Diddlebury; Bromfield to Lydbury North.

(124) Registrum Johannis Trefnant, pp.138f, 144f; Bannister (1930), p.92f.

(125) Bannister (1929), p.448; Registrum Johannis Trefnant, p.125f.

(126) Bannister (1929), p.448; cf. R.M.T. Hill, The Labourer in the Vineyard: Archbishop Melton's Visitation of the Archdeaconry of Richmond (York 1968), pp.2-5.

(127) Bannister (1929), p.280.

(128) op.cit., p.451. For hostility towards apparitors and other court officials at Cerisy and elsewhere see below pp.188, 229f and Chapter six n.120.

(129) Bannister (1930), pp.96, 451.

(130) R.R. Davies, Lordship and Society in the March of Wales 1282-1400 (Oxford 1987), p.2f; Bannister (1929), p.289.

(131) Bannister (1930), p.94.

(132) Bannister (1929), pp.282, 285, 450, 453; Bannister (1930), pp.94-7, 462f.

(133) op.cit., p.96.

(134) Bannister (1929), pp.283; Bannister (1930), pp.96f, 99.

(135) Bannister (1929), pp.285, 289, 453; Bannister (1930), pp.96, 454f.

(136) Bannister (1930), p.99.

(137) op.cit., pp.92, 452.

(138) Bannister (1929), p.445.

(139) Bannister (1930), p.452.

(140) op.cit., pp.98, 454.

(141) op.cit., p.

(142) Bannister (1929), pp.281, 283.

(143) op.cit., p.447; Bannister (1930), pp.92, 459, 462.

(144) Registrum Johannis Trefnant, p.158.

(145) Bannister (1929), p.445.

(146) op.cit., p.93; Bannister (1930), p.461.

Chapter two

(1) Esmein, i, pp.138-78; J.T. Noonan, 'Power to Choose', Viator, iv (1973), pp.419-434.

(2) Esmein, i, pp.178-83; H.A. Kelly, 'Clandestine Marriage and Chaucer's Troilus', Viator, iv (1973), p.437f; M.M. Sheehan, 'Marriage Theory and Practice in the Conciliar Legislation and Diocesan Statutes of Medieval England', Mediaeval Studies, xl (1978), pp.412, 432-40; Pontal I, pp.66, 84, 88, 101, 180.

(3) J. Bossy, Christianity in the West, 1400-1700 (Oxford 1985), p.24; Esmein, i, p.182f; Kelly, op.cit., p.438; Pontal II, p.467; Sheehan, op.cit., pp.434-40. Bossy, however, appears to misunderstand the definition of clandestinity when he states that marriages before a priest without the banns could not be regarded as clandestine by the church: much synodal legislation did precisely that.

(4) Helmholz, Marriage Litigation, p.72; M.M. Sheehan, 'The Formation and Stability of Marriage in Fourteenth Century England: Evidence of an Ely Register', Mediaeval Studies, xxxiii (1971), p.260.

(5) R.I., 25f, 35, 175.

(6) op.cit., 60b, 86b, 87e.

(7) C. Donahue, 'The Canon law on the formation of marriage and social practice in the later middle ages', Journal of Family History, viii (1983), p.152.

(8) R.I., 4a, 10a, 30a, 40b, 46.

(9) op.cit., 58, 68.

(10) op.cit., 67a, 78.

(11) op.cit., 30b, 66, 69, 90, 103.

(12) op.cit., 10b, 33a, 50b, 67c, 108.

(13) Bossy, Christianity in the West, p.23. A precise summary of the consensual doctrine of marriage and the method by which it was formed was available to parish priests from the early thirteenth century in what appears to have been one of the most influential summae confessorum (Chobham, Summa, pp.lxxiv-lxxv, 145-47). Priests were also required to inform their parishioners about the requirements of the banns, and the prohibitions against clandestine marriages and the use of sortilege in the marriage ceremony (Pontal I, pp.66, 84, 101, 182; II, p.479). At Rouen in 1335, it was stipulated that priests should explain to their parishioners in the vernacular those offences which would be punished by excommunication. By the terms of an earlier synod such offences would include the forming of a clandestine marriage. Priests were required to do this on the first Sunday of the month in church in a diligent

and clear fashion (Mansi, xxv, pp.686, 1045).

(14) Pontal I, p.66; Sheehan, 'Marriage Theory and Practice', p.426.

(15) R.I., 265, 345.

(16) op.cit., 243, 268.

(17) R.II., p.299f.

(18) R.I., 404e, f.

(19) op.cit., 394o, q.

(20) op.cit., 411c, d.

(21) op.cit., 397b.

(22) op.cit., 25e, 33a, b.

(23) R.II., p.298f.

(24) R.I., 60b, 244, 375d, h.

(25) op.cit., 209b, 294.

(26) op.cit., 393o, p; Bessin, p.241.

(27) op.cit., 365d.

(28) Dufresne, 'Cerisy', pp.134-36.

(29) D. Bates, Normandy before 1066 (London 1982), pp.15-21.

(30) R.H.H., ii, p.980.

(31) op.cit., pp.984, 991.

(32) op.cit., p.990f.

(33) op.cit., p.1016.

(34) op.cit., p.1031.

(35) op.cit., p.1039.

(36) op.cit., p.917f.

(37) op.cit., pp.916, 949.

(38) op.cit., p.1004.

(39) op.cit., p.960.

(40) op.cit., pp.1015, 1040.

(41) op.cit., pp.916f, 922, 928.

(42) op.cit., pp.975, 979, 996, 1014f.

(43) op.cit., pp.914, 955.

(44) This material has also been briefly used by Kelly, 'Clandestine Marriage', to provide a general context for his discusion of clandestine marriage within the works of Chaucer.

(45) R.H.H., ii, pp.918f, 950, 1026, 1039.

(46) op.cit., p.967.

(47) op.cit., p.969f.

(48) op.cit., p.962f, 969f.

(49) op.cit., p.918f.

(50) op.cit., p.1021.

(51) op.cit., p.1026.

(52) op.cit., p.956. Sarah and Robert had been called before the court earlier in the month to answer a charge of fornication and marriage. They confessed and were ordered to solemnize (op.cit., p.946).

(53) op.cit., p.924f.

(54) op.cit., p.985.

(55) op.cit., p.998f.

(56) op.cit., p.939.

(57) op.cit., p.951.

(58) op.cit., p.1039.

(59) op.cit., p.933.

(60) op.cit., p.940.

(61) Registrum Johannis Trefnant, p.143f.

(62) op.cit., p.151f.

(63) Bannister (1930), p.445.

(64) op.cit., p.462.

(65) op.cit., p.445.

(66) op.cit., p.449.

(67) Bannister (1929), p.281; Bannister (1930), p.460.

(68) Bannister (1929), p.283; Bannister (1930), p.451f.

(69) Bannister (1929), pp.284, 448; Bannister (1930), pp.451f, 462.

(70) op.cit., p.454; A1779 f.21b.

(71) Bannister (1929), p.283.

(72) op.cit., p.284.

(73) op.cit., p.448.

(74) op.cit., p.446; A1779 f.6b.

(75) Bannister (1930), p.447; A1179 f.17.

(76) Bannister (1930), p.455.

(77) Bannister (1929), p.446; Bannister (1930), p.453.

(78) Bannister (1929), p.444.

(79) Davies, R.R., 'The Status of Women and the Practice of Marriage in late-medieval Wales' in Jenkins, D., and Owen, M.E. (eds), The Welsh Law of Women: Studies Presented to Professor Daniel A. Binchy on his eightieth birthday 3 June 1980 (Cardiff 1980), p.105; Mills, 'Spiritual Correction in the Medieval Church Courts of Canterbury' (Unpublished Ph.D. Dissertation, University of Rochester 1980), p.33.

(80) Bannister (1929), p.444.

(81) Bannister (1930), p.459.

(82) op.cit., p.453.

(83) A1779 f.5b.

(84) A1779 f.22b.

(85) Bannister (1930), p.455.

(86) op.cit., p.458.

(87) op.cit., p.452; A1779 f.20b.

(88) Bannister (1930), p.451f; A1779 f.20b.

(89) Bannister (1930), p.462.

(90) op.cit., p.458; A1779 f.6.

(91) Bannister (1930), p.451.

(92) Bannister (1929), p.287; Bannister (1930), p.456.

(93) Bannister (1929), p.445; A1779 f6.

(94) For a similar example at Cerisy see below p.93f.

(95) Bannister (1930), pp.448, 451.

(96) A1779 f.20a.

(97) Bannister (1929), p.453.

(98) A1779 f.16b.

(99) Bannister (1930), p.456.

(100) A1779 ff 7a, 11b, 19b, 26.

(101) Bannister (1930), pp.100, 456, 459; A1779 ff.2, 15b, 17b, 23.

(102) Bannister (1930), p.461.

(103) Bannister (1929), p.449.

(104) Esmein, i, p.145.

(105) J.P. Levy, 'L'officialité de Paris et les questions familiales a la fin du XIV^{e} siècle', Études d'histoire du droit canonique dediées à Gabriel le Bras, 2 vols. (Paris 1965), ii, pp.1266-69. This was also the case during the fifteenth century in the episcopal courts of Troyes and Châlons-sur-Marne. However, Gottlieb's attempt to define clandestine marriage in the later middle ages solely in terms of informal betrothals cannot stand as an unqualified statement (B. Gottlieb, 'The Meaning of Clandestine Marriage', in Wheaton, R., and Hareven, T.K. (ed.), Family and Sexuality in French History (Philadelphia 1980), pp.57-72).

(106) Pontal I, pp.66, 180; II, p.479; Sheehan, 'Marriage theory and Practice', pp.422-52. The Paris statutes of Eudes de Sully stated that betrothal was not to occur until after the reading of the banns.

(107) R.I., 60b, 68, 215b.

(108) op.cit., 397b; R.II., pp.298-300.

(109) R.I., 10a, 90, 103.

(110) Esmein, i, p.180;

(111) M.S. Arnold (ed.), Select Cases of Trespass from the King's Courts 1307-1399, vol.1 (Selden Society Publications, c (1984), London 1985), p.77f; Owen, D.M. (ed.), The Registers of Roger Martival Bishop of Salisbury 1315-1330, vol.iv, with a general introduction to the registers by K. Edwards (Canterbury and York Society, lxviii (1975)), pp.21-23, 134.

(112)See below pp.259-76.

(113) R.I., 11b, 17a, 18a, 25b.

(114) op.cit., 25b, 46.

(115) Giraldus Cambrensis, The Journey Through Wales and The Description of Wales, trans. L. Thorne (Harmondsworth 1978), p.262f; Davies, Lordship and Society, p.317f.

(116) G. Williams, Recovery, Reorientation, and Reformation: Wales c.1415-1642 (Oxford 1987), p.94.

Chapter three

(1) Helmholz, Marriage Litigation, pp.76-100.

(2) op.cit., pp.100-107.

(3) R.H.H., ii, p.932.

(4) op.cit., pp.982f, 1030.

(5) op.cit., pp.1029,1035.

(6) R.I., 32b.

(7) op.cit., 25b, 46.

(8) op.cit., 54a, 56c.

(9) op.cit., 81b.

(10) op.cit., 428

(11) R.II., p.307.

(12) This was usually a euphemism for sexual intercourse. For a fuller description of the meaning of the term within canon law see J.T. Noonan, 'Marital affection in the Canonists', Studia Gratiana, xii (1967), pp.479-509.

(13) R.H.H., ii, p.974. The Canterbury Audience court initiated ten ex officio actions against couples who were living apart. In one case, the court recognised that the couple might be unable to live together and in two others those concerned swore to treat each other with marital affect. In the seven remaining cases the husbands had either expelled, mistreated or abandoned their wives. In all but one they had taken a lover. The defendants were required to readmit their wives and treat them with marital affect. Penance was imposed in those cases where the charge of adultery could be proved. (Mills, 'Spiritual Correction', p.64f).

(14) Registrum Johannis Trefnant, p.151f.

(15) For the debt see: J.A. Brundage, 'Carnal delight: canonistic theories of sexuality', Proceedings of the Fifth International Congress of Medieval Canon Law (Vatican City 1980), p.380f; Chobham, Summa, pp.333f, 337-39, 365f, 388f; E.M. Makowski, 'The Conjugal Debt and Medieval Canon Law', Journal of Medieval History, iii (1977), pp.99-114; T.N. Tentler, Sin and Confession on the Eve of the Reformation (Princeton 1977), pp.170-74.

(16) R.I., 9e.

(17) op.cit., 95c, 119b, 124b, 127b.

(18) op.cit., 124b, 127b, 137b, 144a.

(19) op.cit., 127b, 132b, 137c, 144a, 167c, 177b, 183b, 215b.

(20) op.cit., 64b, 136c, 146.

(21) op.cit., 136c, 161b.

(22) op.cit., 182, 206b.

(23) op.cit., 261b, c, 366k.

(24) op.cit., 390b, h, 391.

(25) op.cit., 363f, g.

(26) Bannister (1929), p.449; Bannister (1930), pp.94, 100, 455f.

(27) A1779, f.17b.

(28) Bannister (1930), p.445.

(29) Bannister (1929), p.451.

(30) Bannister (1930), p.454.

(31) op.cit., pp.448, 459.

(32) op.cit., pp.281, 283, 285; Bannister (1930), pp.445, 446, 450.

(33) Bannister (1929), p.444.

(34) op.cit., p.452; Bannister (1930), p.94, 100.

(35) Bannister (1929), p.288f; Bannister (1930), p.460.

(36) A1779, ff.19, 22, 26b.

(37) A1779, f.20b.

(38) A1779, ff.17, 19, 19b, 25.

(39) A1779, f.16.

(40) Bannister (1929), pp.282, 451; Bannister (1930), p.454

(41) Bannister (1929), p.451; A1779, f.19.

(42) A1779, ff.15b, 16b.

(43) cf. J. Bossy, 'Blood and baptism: Kinship, community and christianity in western Europe from the fourteenth to the seventeenth-centuries' in D. Baker (ed.), Sanctity and Secularity: the Church and the World. Studies in Church History, x (1973), p.131f.

(44) Above p.58.

(45) S.P. Menefee, Wives for Sale: An Ethnographic Study of British Popular Divorce (Oxford 1981).

(46) Davis, 'The Status of Women and the Practice of Marriage', pp.106, 112f.; J. Scammell, 'Freedom and Marriage in Medieval England', Economic History Review, 2nd series, xxvii (1974), p.532f.

(47) A couple appeared before the Bishop of Salisbury in 1321 charged with living apart. The man claimed that he could not treat his wife with 'conjugal affection' as she had committed adultery with all and sundry (cum diversis). His actions are indicative of the attitudes surrounding the double standard of sexual morality for although he himself had likewise sinned in legam conjugali he did not see why he should treat his wife with marital affect (Owen, D.M. (ed.), The Registers of Roger Martival, vi, p.134).

(48) Helmholz, Marriage Litigation, pp.59-64.

(49) op.cit., pp.67-69; Sheehan, 'Marriage Theory and Practice', p.452.

(50) Makowski, 'Conjugal debt', p.111.

(51) Brundage, 'Carnal Delight', p.381 n.97.

Chapter four

(1) R.I., 25g, 152b.

(2) op.cit., 43c, 96c, 75b, 96d, 110b, 121c, 126c, 152d, 168b, c, 178b, 184b.

(3) op.cit., 84d, 153b, c.

(4) op.cit., 84c, 95c, 119c.

(5) op.cit., 76, 161c.

(6) op.cit., 64b, 84c, 110c, 126c, 127b, 128, 152b, d, 153b, 195, 226b.

(7) op.cit., 65b.

(8) op.cit., 126c, 206b.

(9) op.cit., 25d, 43c, 110d, 133b, 168c.

(10) op.cit., 25f, 72b, 96d, 112, 121c, 130c, 133b, 138b, d, e, 143b, 152d, 168c, 177b, 199c, 106c, 213b, c, 215b.

(11) op.cit., 130c, 138d.

(12) op.cit., 138e, 213c.

(13) op.cit., 43b, 75a.

(14) op.cit., 138d, 213b.

(15) op.cit., 11a, c, 75b, 128, 139, 167c.

(16) op.cit., 153b, 195.

(17) op.cit., 64b, 206b, 213c.

(18) op.cit., 138e, 167c, 213b.

(19) op.cit., 12, 25b, 133c, 168c, 206c.

(20) op.cit., 184b, 199b (tenet relictam ... ut suam uxorem), 205b (se ad invicem quasi uxorati).

(21) op.cit., 152b, 199b.

(22) op.cit., 184b, 199c.

(23) op.cit., 137c.

(24) Chobham, Summa, p.335f.

(25) R.I., 195.

(26) op.cit., 177b, 195.

(27) See for example, op.cit., 153b, 154, 226b, 228c, 229.

(28) op.cit., 12, 72b, 96d.

(29) op.cit., 154, 229.

(30) op.cit., 223. For examples of lesser amounts imposed for what appear to be long standing unions see 138e and 167c.

(31) op.cit., 130c, 144b.

(32) op.cit., 229.

(33) op.cit., 25f.

(34) op.cit., 4b, 9f, 139.

(35) op.cit., 138d.

(36) op.cit., 130b, 139. One other woman was given an unspecified penance to complete (25c).

(37) op.cit., 9f.

(38) op.cit., 25b, f, 130c, 154.

(39) op.cit., 11c, 88, 95c, 98b.

(40) op.cit., 96b.

(41) op.cit., 25f, 95b, 110b, 167c.

(42) op.cit., 88.

(43) op.cit., 11c.

(44) op.cit., 95c, 96b.

(45) op.cit., 11a, 25b.

(46) op.cit., 113.

(47) op.cit., 65b.

(48) op.cit., 26e.

(49) op.cit., 152b.

(50) op.cit., 11c, 25b, 73b.

(51) op.cit., 25e.

(52) op.cit., 72b, 88.

(53) op.cit., 95b, 112, 113.

(54) op.cit., 110d, 132b, 138d.

(55) op.cit., 43c, 110c, d, 168b, 178b.

(56) op.cit., 13b, 96c, 110d, 121c.

(57) op.cit., 95c, 124b, 183b, 215b.

(58) op.cit., 9f, 84b.

(59) op.cit., 26c, f, g.

(60) op.cit., 64b, 76.

(61) op.cit., 9f, 73b, 86b, 95c, 124b, 126b, 199b.

(62) op.cit., 13b, 75c.

(63) op.cit., 26g, 64b, 76, 137d, 167c.

(64) op.cit., 84b, 95b, 209b.

(65) op.cit., 146, 161c.

(66) op.cit., 138b.

(67) op.cit., 96c, 121c, 178b.

(68) op.cit., 63, 96b.

(69) op.cit., 26f, 76.

(70) op.cit., 167c, 183b.

(71) op.cit., 127b, 132b, 137c, 144b, 177b, 215b.

(72) op.cit., 96c, 161b, 177b.

(73) op.cit., 25e, 26f, g, 42c, 138e.

(74) op.cit., 96d, 137c.

(75) op.cit., 13b, 25d, 137d.

(76) op.cit., 26d, 63.

(77) op.cit., 25d, e, 161c.

(78) op.cit., 163.

(79) op.cit., 161b.

(80) op.cit., 13b, 26d, 96d.

(81) op.cit., 26f.

(82) op.cit., 26c, g.

(83) The cases are distributed as follows: 1371 (6); 1372 (1); 1374 (2); 1392/3 (4); 1398 (3); 1399 (3); 1400 (2); 1405/6 (4); 1407/8 (2); 1408-10 (3); 1411 (1); 1412 (3); 1413 (3).

(84) R.I., 363k, l, 392f.

(85) op.cit., 394n.

(86) op.cit., 298c, 366e.

(87) op.cit., 375g, 383i, 389a, 394q.

(88) op.cit., 384i, q, 390o.

(89) op.cit., 393o, 394c.

(90) op.cit., 261b, d, 277b, 366e, 384m, 389a, 393d, 394q.

(91) op.cit., 261d, 375b, 394c, g.

(92) op.cit., 365h, 366h, 393i.

(93) op.cit., 365g, 375b.

(94) op.cit., 261b, 394g.

(95) op.cit., 261c, d.

(96) op.cit., 394n.

(97) op.cit., 365g, h, 394q.

(98) op.cit., 366o, 390c, 393d, i.

(99) op.cit., 366o, 375b.

(100) op.cit., 375b, 393d.

(101) op.cit., 375k, m.

(102) op.cit., 384q.

(103) op.cit., 375f, 387c, 393d, i, 394g.

(104) op.cit., 393o, 394c.

(105) op.cit., 261b, c, d, 277b, 298c, 363l, 366e, h, 373d, 375f, 384i, 387c.

(106) op.cit., The cases are distributed as follows: 1370 (1); 1371 (6); 1376 (1); 1391 (1); 1392 (4); 1393 (1); 1396 (5); 1399 (2); 1400 (2); 1402 (1); 1405/6 (2); 1407 (1); 1410 (4); 1413 (2).

(107) R.I., 261d, 394h.

(108) op.cit., 258, 261b, 363e, 370h.

(109) op.cit., 375k, 384c.

(110) op.cit., 377a, 384b.

(111) op.cit., 366m, 370f, 375o, 384i, q, 390b, o.

(112) op.cit., 261b, c.

(113) op.cit., 370b, 390b, h, 391.

(114) op.cit., 363e, m, p, o, 391.

(115) op.cit., 363e, 370h.

(116) op.cit., 363m.

(117) op.cit., 363p, 370l, 375f.

(118) op.cit., 363o, 370l 390h.

(119) op.cit., 262e, 394h.

(120) op.cit., 311, 366i, k, 391.

(121) op.cit., 391.

(122) op.cit., 366i, k.

(123) op.cit., 375k, 384c.

(124) op.cit., 377a.

(125) op.cit., 390o.

(126) cf. Dufresne, 'Cerisy', p.104f.

(127) R.I., 110d, 394h.

(128) A similar pattern is revealed in a visitation return for the diocese of Barcelona from 1303. Of the 117 identifiable relationships in which fornication was alleged, 39% were fertile. The majority had just one offspring, four had an unspecified number, one had two children and four women were pregnant at the time of the visitation. Among the cases of adultery 23% were fertile.(J.M. Martí i Bonet, (ed.), 'Els processos de les Visites Pastorals del primer any de pontificat de Ponç de gualba (a.1303)', Processos de l'Arxiu Diocesa de Barcelona (Barcelona 1984)). For a discussion of the evidence for the possible widespread use of coitus interruptus as a means of contraception in this period see P.P.A. Biller, 'Birth Control in the West in the Thirteenth and Early Fourteenth Centuries', Past and Present, xciv (1982), pp.3-26.

(129) See K. Thomas, 'The Double Standard', Journal of the History of Ideas, xx (1959), pp.195-216.

(130) Joanna la Rate had a child by John de Ponte in her youth and before her marriage to Vincent de Landes. The wife of Colin Osmont was the former concubine of a local priest (R.I., 243, 268, 292). In the later fifteenth century, the daughter of John Juget appears to have been able to marry even though she had an illegitimate child (R.II., pp.303. 306).

(131) Brundage, 'Carnal Delight', pp.369-74. The civil courts of mid-fourteenth century Venice also followed this scheme in punishing sexual crimes (G. Ruggiero, 'Sexual Criminality in the early Renaissance: Venice 1338-1358', Journal of Social History, viii (1974-75), p.24).

(132) Noonan, 'Power to Choose', p.431.

(133) Pontal II, p.479.

(134) Chobham, Summa, p.214; Helmholz, Marriage Litigation, p.173; Sheehan, 'Formation and Stability', pp.253-55.

(135) Helmholz, op.cit., pp.174-81. The practice was still employed in the diocese of Hereford towards the end of the fourteenth century (Bannister (1930), pp.451, 455; A1779 f.25b).

(136) Chobham, op.cit., p.215.

(137) R.I., 35, 76, 96b, 366r, m, 375k, l, 384c, q.

(138) op.cit., 163, 363f, o, 366r, 373a.

(139) op.cit., 406, 410c.

(140) op.cit., 404b, e.

(141) op.cit., 410d, 411d.

(142) op.cit., 411c.

(143) op.cit., 411f.

(144) op.cit., 397b.

(145) R.II., pp.303, 306.

(146) op.cit., p.301.

(147) op.cit., pp.302, 303, 305.

(148) op.cit., pp.301, 303, 306.

(149) That is the dropsy (J. Brand, Observations on the Popular Antiquities of Great Britain, 3 vols. (1848-49), reprint (New York 1970), vol.i, p.362).

(150) R.II., p.302.

(151) op.cit., p.306.

(152) op.cit., pp.303, 305f.

(153) op.cit., p.306.

(154) op.cit., p.302f.

(155) op.cit., p.306.

(156) op.cit., p.301f.

(157) op.cit., p.299.

(158) Adam uses the Cerisy material as a specific example of a wider problem in France (La Vie paroissiale, pp.156-58). For further illustrations of the concern with concubinous clergy in Normandy and other areas of Europe see: C.N.L. Brooke, 'Gregorian reform in action: clerical marriage in England', Cambridge Historical Journal, xii (1956), pp.1-21; Brundage, 'Carnal Delight, p.371; R. Frank, 'Marriage in Twelfth and Thirteenth Century Iceland', Viator, iv (1973), pp.474, 480f; P. Lineham, The Spanish Church and the Papacy, pp.29f, 50-2, 83f; Mansi, xxiv, p.1203; xxv, p.67; Pontal I, pp.83, 105; B. Schimmelpfennig, 'Ex Fornicatione Nati: Studies on the Position of Priests' Sons from the Twelfth to the Fourteenth Century', Studies in Medieval and Renaissance History, n.s. ii (1979), pp.37-41.

(159) R.I., 26d, 59d, 60a, 76, 128.

(160) op.cit., 25d, 110d, 121b.

(161) op.cit., 152b, 213b.

(162) op.cit., 9f, 124a, 129c, 153b, 155, 167d, 210, 215b, 220, 222, 228a, b.

(163) op.cit., 261b, 283.

(164) op.cit., 292, 293, 298c.

(165) Dufresne, 'Cerisy', p.149.

(166) R.I., 377b, 380a, 384g, 385f, g.

(167) op.cit., 384b, 385a.

(168) op.cit., 261b, 276a, 366m, 380b.

(169) R.II., p.296.

(170) Dufresne, 'Cerisy', p.150.

(171) R.I., 220, 228a.

(172) op.cit., 385a, Chobham, Summa, pp.339, 366.

(173) R.I., 60a, 366m, 385g.

(174) op.cit., 9f, 112, 167d, 183b.

(175) op.cit., 146, 161b.

(176) op.cit., 136b, 161b, c, 181.

(177) op.cit., 96b.

(178) Dufresne identified seven prostitutes from Deux Jumeaux alone with four women being defamed in 1319 and a further three in 1333 (Dufresne, 'Cerisy', p.143). On closer inspection only one of the first group of women is described as a whore in the text. Two others were defamed for their promiscuity and of the fourth no trace can be found. Two whores appear in 1332, not 1333, and the third woman in this later group may be the result of double-counting.

(179) R.I., 25e, f, 75b, 96b.

(180) op.cit., 110b, 206c.

(181) op.cit., 9d, f, 84c, 95c, 183b.

(182) 64b, 76, 136b, 161b, 181.

(183) op.cit., 161c.

(184) op.cit., 390c, 408d, 410h.

(185) E. Le Roy Ladurie, Montaillou: Cathars and Catholics in a French village, 1294-1324, trans. B. Bray (London 1978), p.150.

(186) J.L. Flandrin, 'Repression and Change in the Sexual Life of Young People in Medieval and early Modern Times', in Wheaton and Hareven (eds.), Family and Sexuality in French History, p.32; L.L. Otis, 'Prostitution and Repentance in Late Medieval Perpignan', in Kirshner and Wemple (eds.), Women of the Medieval World, pp.137-60; G.R. Quaife, Wanton Wenches and Wayward Wives (London 1979), pp.146-52; J. Rossiaud, 'Prostitution, jeunesse et société dans les villes du Sud-Est au XV^{e} siècle', Annales E.S.C., xxxi (1976), p.289f; L. Stone, The Family, Sex and Marriage in England 1500-1800 (London 1977), p.616f; C.Z. Wiener, 'Sex roles and crime in late Elizabethan Hertfordshire', Journal of Social History, viii (1974-75), p.42. For other, exclusively urban studies see: B. Geremek, Les Marginaux parisiens au XIV^{e} et XV^{e} siècles (Paris 1976); L.L. Otis, Prostitution in Medieval Society: The History of an Urban Institution in Languedoc (Chicago 1985); A. Terroine, 'Le Roi de ribauds et les prostituees Parisiennes', Revue historique du droit Français et etranger, 4^{e} serie lvi (1978), pp.253-67; R.C. Trexler, 'La prostitution

florentine au XV^{e} siècle; patronages et clienteles', Annales, xxxvi (1981), pp.983-1015.

(187) Geremek, Les Marginaux, pp.213-15; Otis, 'Prostitution and repentance', p.139f; Rossiaud, 'Prostitution, jeunesse et société', p.290f; Trexler, 'La prostitution florentine', p.983.

(188) P. Clark, The English Alehouse: A Social History 1200-1830 (London 1983), p.30; G.R. Quaife, Wanton Wenches and Wayward Wives: Peasants and Illicit Sex in Early Seventeenth Century England (London 1979), pp.146-48; Stone, Family, Sex and Marriage, p.617.

(189) cf. Stone ibid.

(190) R.I., 84c, 95c.

(191) op.cit., 205.

(192) op.cit., 7a.

(193) op.cit., 9h; Pontal I, pp.75, 159.

(194) J.A. Brundage, 'Prostitution in the medieval canon law', Signs, i (1976), pp.832-35, 844f; Chobham, Summa, pp.347-49; Thomas, 'The Double Standard', p.197f. For similar secular attitudes see Geremek, Les Marginaux, pp.212f, 234.

Chapter five

(1) R.H.H., ii, p.993.

(2) op.cit., p.957.

(3) op.cit., p.993.

(4) op.cit., pp.948, 950, 1027.

(5) op.cit., p.966

(6) op.cit., p.1015.

(7) op.cit., pp.961, 993, 1015, 1022, 1027.

(8) op.cit., pp.974, 981.

(9) op.cit., p.998.

(10) op.cit., pp.993, 1043.

(11) op.cit., pp.950, 957

(12) op.cit., pp.933, 981, 1043.

(13) op.cit., pp.950, 957.

(14) op.cit., p.1027.

(15) op.cit., pp.961, 1027.

(16) op.cit., pp.980, 986.

(17) op.cit., pp.997f, 1021.

(18) op.cit., pp.938, 973, 987, 1037.

(19) op.cit., pp.980, 1021.

(20) op.cit., pp.938, 962, 964.

(21) op.cit., p.986.

(22) op.cit., p.945f.

(23) op.cit., p.946.

(24) R.H.H., pp.933, 987, 1038.

(25) op.cit., pp.961, 986, 997.

(26) op.cit., pp.933, 961, 987, 1038.

(27) R.I., 229.

(28) S. Brown, The Medieval Courts of the York Minster Peculiar

(York 1984), p.25f; 'Records of a Ruridecanal Court of 1300', ed. F.S. Pearson, in Collectanea, ed. S.G. Hamilton (London 1912), pp.70-80; 'Some Early Visitation Rolls', ed. C.E. Woodruff, pp.143-80; 'Some Late Thirteenth Century Records of an Ecclesiastical Court in the Archdeaconry of Sudbury', ed. A.Gransden, Bulletin of the Institute of Historical Research, xxxii (1959), pp.62-69.

(29) Helmholz, Marriage Litigation, p.180f.

(30) R.H.H., ii, pp.947f, 861f.

(31) op.cit., pp.932, 952, 1022, 1033.

(32) op.cit., pp.977, 993.

(33) op.cit., pp.961, 977, 999.

(34) op.cit., pp.952, 1020, 1033.

(35) op.cit., pp.947f, 957.

(36) op.cit., pp.965, 1043.

(37) op.cit., p.999.

(38) op.cit., pp.961f, 1033.

(39) op.cit., p.1033.

(40) op.cit., p.1020.

(41) op.cit., pp.957, 987, 999; cf. Mills, 'Spiritual Correction', p.111.

(42) R.M.T. Hill, 'Public Penance: Some Problems of a Thirteenth Century Bishop', History, xxxvi (1951), pp.216, 220-4. Archbishop Peckham had complained as early as 1281 that the public humiliation of ecclesiastics would undermine their authority. This does not appear to have had a great effect on the later behaviour of the courts within his own diocese (Mills, 'Spiritual Correction', p.192).

(43) Hill, op.cit., p.223.

(44) Mills, 'Spiritual Correction', p.191f.; J. Scammel, 'The Rural Chapter in England From the Eleventh to the Fourteenth Century', English Historical Review, lxxxvi (1971), p.14.

(45) Brown, Medieval courts, p.25f; see also 'Some Early Visitation Rolls', ed. C.E. Woodruff, p.164, for the case of a knight who was able to commute his penance into a fine quia non decet militem facere publicam penitenciam.

Chapter six

(1) In what follows, the terms 'brawl' and 'fight' are used to describe all types of mutual conflict between individuals, inclding those cases in which an assault was met with an immediate and violent response. In such cases, the nature of the violent act has been altered, and it would also be misleading to record what were integral parts of the same event separately.

(2) J.G. Bellamy, Crime and Public Order in England in the Later Middle Ages (London 1973), p.37; J.A. Sharpe, Crime in Seventeenth-century England: a county study (Cambridge 1983), p.117f; A. Somans, 'Deviance and Criminal Justice in Western Europe, 1300-1800: An Essay in Structure', Criminal Justice History: An International Annual, i (1980), p.6. For a brief comment upon medieval assaults see B.A. Hanawalt, Crime and Conflict in English Communities 1300-1348 (Harvard 1979), p.4f.

(3) Bannister (1929), pp.288, 449f; Bannister (1930), pp.452, 459f; R.H.H., ii, pp.1020, 1025.

(4) J.B. Given, Society and Homicide in Thirteenth Century England (Stanford 1977); Hanawalt, Crime and Conflict. For criticism of the statistical data and methods employed in these works see E. Powell, 'Social Research and the Use of Medieval Criminal Records', Michigan Law Review, lxxix (1980-81), pp.967-78. I am indebted to Dr. J.B. Post for this reference.

(5) C.I. Hammer, 'Patterns of Homicide in a Medieval University Town: Fourteenth Century Oxford', Past and Present, lxxviii (1978), pp.3-23.

(6) J.A. Sharpe, 'Domestic Homicide in Early Modern England', Historical Journal, xxiv (1981), pp.29-48; Crime in Seventeenth Century England, p.127f; Wiener, C.Z., 'Sex roles and crime in late Elizabethan Hertfordshire', Journal of Social History, viii (1974-75), pp.38-60.

(7) Y. Lanhers, 'Crimes et criminels au xiv^{e} siècle', Revue historique, ccxl (1968), pp.325-38.

(8) E. Britton, Community of the Vill (Toronto 1977); Dewindt, Land and People; J.A. Raftis, 'Changes in an English Village after the Black Death', Mediaeval Studies, xxix (1967), pp.158-77.

(9) M.P. Hogan, 'Medieval Villainy. A Study in the Meaning and Control of Crime in an English Village', Studies in Medieval and Renaissance History, n.s.ii (1979), pp.121-215; J.A. Raftis, Warboys: Two Hundred Years in the Life of an English Mediaeval Village (Toronto 1974).

(10) Britton, op.cit., pp.117, 122f; Dewindt, op.cit., pp.271-74; Raftis 'Changes in an English Village', p.165. Hogan, however, examines the rôle which drink and youth played in

precipitating assauls at Warboys (Hogan, op.cit., p.147).

(11) See especially Britton, op.cit., pp.12-15, and Hogan, op.cit., pp.133-36.

(12) See Z. Razi, 'The Toronto School's Reconstitution of Medieval Peasant Society: A Critical View', Past and Present, lxxxv (1979), pp.141-57.

(13) Dufresne, 'Montivilliers'.

(14) S. Cassagnes-Brouquet, 'La violence des étudiants à Toulouse à la fin du XV^{e} et au XVI^{e} siècle (1460-1610)', Annales du Midi, xciv (1982), pp.245-62.

(15) M.T. Lorcin, 'Les paysans et la justice dans la region Lyonnaise aux XIV^{e} et XV^{e}, Le Moyen Age, lxxiv (1968), pp.269-300.

(16) I. Kershaw, 'The Great Famine and Agrarian Crisis in England, 1315-1322', Past and Present, lix (1973), pp.7-16; H.S. Lucas, 'The Great European Famine of 1315, 1316, 1317', Speculum, v (1930), pp.346-56, 376.

(17) Britton, Community of the Vill, p.117; Hanawalt, Crime and Conflict, pp.239-60; Kershaw, op.cit., p.12f; Lucas, op.cit., p.356f. *However, Hogan finds no such correlation at Warboys* (Hogan, 'Medieval Villainy', p.141). A similar connexion between periods of demographic crisis and a rise in crime has been suggested for a later period (D. Hay, 'War, Dearth and Theft in the Eighteenth Century: the record of the English Courts', Past and Present, xcv (1982), pp.117-60).

(18) Raftis, 'Changes in an English Village', pp.163-65; Warboys, pp.218-21.

(19) Britton, Community of the Vill, p.116.

(20) Dewindt, Land and People, p.271.

(21) op.cit., p.274f.

(22) Figures survive for three of the years in the second half of the fourteenth century after the passing of the Plague. In 1360, there were nineteen acts of violence, in 1375-76 there were six and in 1382, fourteen. Comparable figures can be found for the first half of the century: 12 (1306); 18 (1322); 24 (1325); 15 (1334); 20 (1343); Razi, 'The Toronto School's Reconstitution', p.152.

(23) Razi also draws attention to the absence of data from pre-Plague Upwood (op.cit., p.152 n.44).

(24) See above n.20.

(25) Dufresne, 'Montivilliers', pp.183f, 208-10.

(26) op.cit., p.181.

(27) Lorcin, 'Les paysans et la justice', pp.280-82.

(28) Dufresne, 'Montivilliers', p.182.

(29) R.H.H., i, 60, 214-16, 237-39, 242-44, 249, 502; ii, 596-98, 673f, 904, 908.

(30) R.I., 348, 384e (biting); 3651 (scratching); 366e (jabbing); 375i (taken by the ears); 339c, 363b, 367e, 390m (taken by the chin); 392g (taken by the forelock); 415c (pulled by the nose).

(31) op.cit., 3, 87a, 141, 181a (1314-1346); 232, 262a, 306, 315, 339a, b, c, 340, 351 (1371-79); 363c, 365i, 366b, c, p, q, 367c, 373i, k (1380-1400); 383o, 384d, 387k, l, 389b, c, d (1403-c.1410); 392g, p, 393b, 394k (1411-1414).

(32) The former represents 9% of the total and the later 12%. The individual figures for the later period are as follows: 1370-79, nine (17%); 1380-1400, seven (20%); 1403-1410, seven (20%); 1411-1414, five (7%).

(33) R.I., 397e, 408b, 410c (house), 411f, 414c, 415b, 416c.

(34) op.cit., 353a, 367f, 389d, 392g, i, 410c.

(35) Dufresne, 'Montivilliers', p.184. See also Neveux, 'Marginaux et clerge', p.28 forthe existence of a similar profile of violence within the records of the officiality of Bayeux.

(36) R.I., 393f (book), 397c (packet of letters), 3941 (sword).

(37) Dufresne, 'Montivilliers', p.208.

(38) op.cit., p.184.

(39) R.I., 408b.

(40) 37% of assaults in which edged weapons were used ended in serious injury or loss of blood. The proportion was 33% for blunt instruments.

(41) R.I., 389d, 390a, 394c.

(42) Given, Society and Homicide, p.189f; Hammer, 'Patterns of Homicide', p.20f; B.A. Hanawalt, 'Violent Death in Fourteenth and Early Fifteenth Century England', Comparative Studies in Society and History, xviii (1976), p.319.

(43) R.I., 333b, c.

(44) Dufresne, 'Montivilliers', p.183 n.21.

(45) R.I., 18b (100s.; 10l.); 77 (50s. to victim, 100s. to court); 81a (25l.); 107 (10l.); 125 (40l.); 158 (100s.); 171a (10l.);

171b (15l.); 171c (8l.); 187 (100s.).

(46) op.cit., 373g, 375f, 390i (2s.); 387c, 393m, 394i, 397b (2s. 6d.); 304, 387i (3s.); 375i (3s. 4d.).

(47) See for example op.cit., 375f (5s.); 387i, 392b (10s.); 387h (hood).

(48) See for example op.cit., 366p, 392g, p.

(49) op.cit., 363b, 365i, k.

(50) op.cit., 393i, 404a, c, 410a.

(51) op.cit., 392i, k, 394.

(52) op.cit., 278, 279, 302a, 304, 325.

(53) op.cit., 363q, 375d.

(54) op.cit., 370b, c.

(55) op.cit., 332c; R.II., p.303.

(56) R.I., 140b, 212a, 270; R.II., p.310f.

(57) R.I., 212b, 384g, 385b, 392g.

(58) op.cit., 393a, l.

(59) op.cit., 392b, g, 393l, 394f.

(60) op.cit., 393c, f, 394k, r.

(61) R.I., 394p.

(62) op.cit., 229 bis, 392h, i.

(63) op.cit., 217.

(64) op.cit., 392b, g, k, 393b, c.

(65) op.cit., 392d.

(66) op.cit., 394e, f, p.

(67) op.cit., 392e, 394i, k, m.

(68) op.cit., 363d, 394l, n, p.

(69) op.cit., 235c, 241b, 365c, 394f, n; R.II., p.307. Those other assaults in which the victim's hood was removed have not been included here as it is unclear whether the motive was theft or if the action took place as part of the attack.

(70) R.I., 93d, 165, 393m.

(71) op.cit., 87a, b.

(72) op.cit., 410g, 415b, 416h.

(73) op.cit., 3871, 410c; R.II., p.304.

(74) R.I., 384g, k, 385b, c.

(75) op.cit., 394k, r.

(76) op.cit., 393c.

(77) op.cit., 242, 384k, 393f, s.

(78) op.cit., 370b, 390k, l, 393l.

(79) op.cit., 393s; R.II., p.304f.

(80) R.I., 319, 325.

(81) op.cit., 242, 347, 352b.

(82) op.cit., 365m, 366d.

(83) op.cit., 394g.

(84) op.cit., 392m.

(85) op.cit., 242, 344c, 349, 384a, r, 389b.

(86) op.cit., 346; cf. Hammer, 'Patterns of Violence', p.20f; Hanawalt, Crime and Conflict, p.171f; Lanhers, 'Crimes et criminels', pp.329-31.

(87) Dufresne, 'Montivilliers', p.184; Given, Society and Homicide, p.192f; Hanawalt, 'Violent Death', p.311f; Hogan 'Medieval Villainy', p.147.

(88) R.I. 367c, 375d, 389d.

(89) op.cit., 359b, 392k, 392k (p.580)

(90) op.cit., 319, 394k, r.

(91) op.cit., 389a, 394k, p.

(92) op.cit., 390f, 393r.

(93) op.cit., 18b, 158, 270.

(94) op.cit., 387k.

(95) R.II. p.304f.

(96) R.I. 339a, b, c.

(97) op.cit., 415b.

(98) op.cit., 7a, 410c.

(99) op.cit., 188a, 384g, 385b, 392m, 3941.

(100) op.cit., 3, 158, 229, bis, 392h.

(101) op.cit., 234, 394.

(102) op.cit., 384f, 390k.

(103) op.cit., 353a, 367f, 389d, 392g, i.

(104) op.cit., 81a, 235a, 390b.

(105) op.cit., 365c, 366c, 392k.

(106) op.cit., 347, 363d, 387c, 392a.

(107) op.cit., 319, 415a.

(108) op.cit., 339a, 342, 347, 353a, 359b.

(109) op.cit., 270, 340, 348, 366a.

(110) Dufresne, 'Montivilliers', p.185; Hair, 'Deaths from Violence in Britain: A Tentative Secular Survey', Populaton Studies, xxv (1971), p.19; Hammer, 'Patterns of Homicide', p.21; Hanawalt, 'Violent Death', p.312; Hogan, 'Medieval Villainy', p.141.

(111) Dufresne, op.cit., p.185; Hanawalt, Crime and Conflict, p.100.

(112) Hammer, 'Patterns of Violence', p.21; Hanawalt, op.cit., p.99f.

(113) Dufresne, 'Montivilliers', p.185 n.32.

(114) Cassagnes-Brouquet, 'La violence des étudiants à Toulouse', pp.250-52; Hammer, op.cit., p.21; Hanawalt, op.cit., p.99.

(115) Between 1451 and 1458, two of the twenty-eight assailants attacked twice. Another man was otherwise involved in violence (in a brawl in 1456). The former represent 7% of the total and the latter individual 4%. None of those who were accused between 1474 and 1485 attacked twice. However, one man was involved in two successive fights.

(116) See Hammer, 'Patterns of Violence', p.22f for an outline of those groups most at risk from violence in fourteenth century Oxford.

(117) Hanawalt, Crime and Conflict, pp.168-72; Hogan, 'Medieval Villainy', pp.152f, 156-58; Hoskins, W.G., 'Murder and Sudden Death in Medieval Wigston', Transactions of the Leicestershire Archaeological Society, xxi (1940-41), pp.176-86.

(118) Dufresne, 'Montivilliers', p.181f; Given, Society and Homicide, p.199f; Hanawalt, 'Violent Death', p.317; Lanhers, 'Crimes et criminels', p.325; Neveux, 'Marginaux et clergé', p.28.

(119) A synod at Bayeux, c.1300 found it necessary to prohibit the carrying of 'great' knives by priests, clerics and those in Holy Orders, except when they had reason to fear for their safety (Mansi, xxv, p.70). A year earlier, a provincial council at Rouen had forbidden the use of ensibus, accineti seu gladiis by priests, curates and other beneficed clergy (Mansi xxiv, p.1203).

(120) R.I., 25a, 110a, 152a, 177b, 206a, 308. Court apparitors were particularly vulnerable to attack on account of the nature and unpopularity of their tasks (Mills, 'Spiritual Correction', p.47f; B. L. Woodcock, Medieval Ecclesiastical Courts in the Diocese of Canterbury (Oxford 1952), p.48f).

(121) This is in contrast to the pattern found among homicides. See Hair, 'Deaths from violence', p.18; Hammer, 'Patterns of Violence', p.22f; Hanawalt, Crime and Conflict, pp.150, 182.

(122) R.I., 114a, 348, 366d, 384f; R.II., p.299.

(123) R.I., 375d, 383b, 389d, 390p.

(124) op.cit., 359b.

(125) op.cit., 387i, 390h, 393a, 414a.

(126) op.cit., 304, 365l, 397e.

(127) op.cit., 33c, 375a.

(128) op.cit., 141, 366b, 384f, 387l, 394b, c, 392k.

(129) op.cit., 351, 366n, 387k, 390b, 393b.

(130) op.cit., 373g, h, 375f, 393a, 410b.

(131) op.cit., 332c, 384d, 393i, 397e.

(132) Hanawalt, Crime and Conflict, pp.123-25, 152-54.

(133) Hammer, 'Patterns of Violence', p.13f.

(134) Britton, Community of the Vill, p.51f; Dufresne, 'Montivilliers', p.188; Lorcin, 'Les paysans et la justice', p.284; Neveux, 'Marginaux et clerge', p.28.

(135) Hogan, 'Medieval Villainy', pp.138-40, 142f. Women committed 11% of the assaults recorded in the court rolls of the manor of Wakefield in the first half of the fourteenth century (Hanawalt, Crime and Conflict, p.123).

(136) cf. Hanawalt, op.cit., pp.115-25.

(137) J.M. Bennett found that women formed distinctive networks in their dealings with the manor court of Brigstock. These were characterised by a heavy reliance on assistance from male kin ('The Tie that Binds: Peasant Marriages and Families in Late Medieval England', Journal of Interdisciplinary History, xv (1984), p.122f).

(138) R.I., 143c, 217.

(139) op.cit., 86a, 323, 379.

(140) op.cit., 384k, 393s.

(141) op.cit., 17a.

(142) op.cit., 42c.

(143) op.cit., 373i, k, 383s, 392k.

(144) op.cit., 375a, 387m, 414a.

(145) op.cit., 392g, k. A degree of confusion exists concerning the precise nature of the relationship between the two men, since both are described as compater in the text. The word may also mean a close friend, but its more conventional meaning has been employed here. Where other spiritual relationships appear in the register they are described in the terms which one would expect to be employed (commater, filiatra). This, therefore, may be no more than a scribal slip, though an unusual and dramatic one. Even if this is the case, it still leaves in doubt the exact form of the spiritual bond between the two men.

(146) Ladurie, Montaillou, pp.192-94.

(147) Day, 'On the Status of Women', p.310.

(148) Helmholz, Marriage Litigation, pp.101-3, 105f; Levy, 'L'officialité de Paris', p.1278.

(149) Given, Society and Homicide, pp.60f, 195.

(150) Chobham, Summa, p.458.

(151) Sharpe, 'Domestic Homicide', p.32f.

(152) Given, Society and Homicide, p.55f; Hammer, 'Patterns of Violence', p.14f; B.A. Hanawalt, 'Childrearing among the lower Classes of Late Medieval England', Journal of Interdisciplinary History, viii (1977), p.20; Lorcin, 'Les paysans et la justice', p.284; Sharpe, Crime in Seventeenth Century England, p.121f.

(153) Given, op.cit., pp.56-58; Hanawalt, op.cit., p,20; Sharpe, 'Domestic Homicide', p.37.

(154) G. Laribiere, 'Le marriage à Toulouse aux XIV^{e}-XV^{e} siécles', Annales du Midi, lxxix (1967), p.351. See also Levy, 'L'officialité de Paris', p.1281 n.113.

(155) Day, 'On the Status of Women', p.13f; Helmholz, Marriage Litigation, pp.101-3; Levy, op.cit., p.1278 n.93; Lorcin, 'Les paysans et le justice', p.284.

(156) See for example: M. Aston, Thomas Arundel, a Study of Church Life in the Reign of Richard II (Oxford 1967), p.41; G. Dolezalek, Das Imbreviarturbuch des erzbischöflichen Gerichtsnotars Hubaldus aus Pisa, Mai bis August 1230 (Cologne 1969), p.96f.

(157) Given, Society and Homicide, p.205; Hammer, 'Patterns of Violence', p.13f; Hanawalt, Crime and Conflict, p.165f; Sharpe, Crime in Seventeenth Century England, p.120; Wiener, 'Sex roles and crime', p.44.

(158) O.P., 113, 268, 365.

(159) op.cit., 126, 154, 160, 501.

(160) op.cit., 5, 69, 122, 179, 190, 347, 410, 536.

(161) J.A. Sharpe, 'Enforcing the Law in the Seventeenth Century English Village' in Gatrell, V.A.C., Lenman, B., and Parker, G. (eds.), Crime and the Law: the Social History of Crime in Western Europe since 1500 (London 1980), p.98f; 'The History of Violence in England: Some Observations', Past and Present, cviii (1985), pp.206-15.; Somans, 'Deviance and Criminal Justice', p.12.

(162) Bellamy, Crime and Public Order, pp.42-47, 72f.; C. Harper-Bill, 'Monastic Apostasy in Late Medieval England', Journal of Ecclesiastical History, xxxii (1981), pp.11-13, 15; Lanhers, 'Crimes et criminels'

Chapter Seven

(1) Hanawalt, Crime and Conflict, pp.106, 108; Rossiaud, 'Prostitution, jeunesse et société', p.293. In England, the reporting of rape cases declines after the offence was elevated to the position of a true felony by the Statute of Westminster in 1285.

(2) An example from medieval Cumberland is a case in point. William son of Patrick was killed after he was mistaken for a rapist. William had been coming from Penrith to Lazonby in a drunken state. His attacker had heard a woman cry out and, rushing to her aid, had dealt William a mortal blow with a shovel (H. Summerson, 'Crime and Society in Medieval Cumberland', Transactions of the Cumberland and Westmorland Antiquarian and Archaeological Society, n.s. lxxxii (1982), p.119.). A case is recorded in the late fifteenth century sections of the Act book of the Archdeaconry of Buckinghamshire of a woman who was refusing to attend divine service because she feared that a certain man would rape her. The case against the man was dismissed. (Elvey, E.M. (ed), The Courts of the Archdeaconry of Buckingham 1483-1523, Buckinghamshire Record Society xix (1975), p.161). Ladurie considers that the young women of Montaillou and the Ariège generally went about in fear of rape (Ladurie, Montaillou, p.149).

(3) In the Canterbury Consistory court in the fifteenth century only three cases of rape appear: one in the middle years of the century and two in 1471. The court may well have lost much of its appeal in this area to secular jurisdictions (Mills, 'Spiritual Correction', p.38f).

(4) Dufresne, 'Cerisy', p.144

(5) R.I., 3, 6, 7c, 150, 188b, 205, 235b, d, 292, 3731.

(6) Brundage, misleadingly in this context, examines rape as a proportion of sexual crimes in the register (Brundage, J.A., 'Rape and Marriage in the Medieval Canon Law', Revue de droit canonique, xxviii (1978), p.72 n.50).

(7) Rossiaud, 'Prostitution, jeunesse et société', p.293.

(8) Flandrin, 'Repression and Change in the Sexual Life of Young People', pp.43-45; Ruggiero, G., Violence in Early Renaissance Venice (New Brunswick 1980), pp.161-3.

(9) cf. Rossiaud, op.cit., p.293.

(10) Brundage, op.cit., p.69f.

(11) Ruggiero, op.cit, p.153.

(12) Rossiaud, op.cit., p.293.

(13) While canon law held that a harlot could not be raped in legal

terms, it had to be shown that the victim was an acknowledged prostitute and a public woman. It was not sufficient as a defence to show that she had a lewd reputation (Brundage, 'Rape and Marriage', p.71).

(14) Brundage, op.cit., p.66f; 'Carnal Delight', p.371f.

(15) Day, 'On the Status of Women', p.309f; Ruggiero, 'Sexual Criminality', pp.18-21.

(16) An attempted rape tried before the Foix official brought the accused a 20l. fine. This was a considerable sum equal to half the cost of a village house (Ladurie, Montaillou, p.149).

(17) Mills considers that the church in general dealt 'softly' with rapists but that this was in some way mitigated by the advice of one legal handbook that convicted rapists, especially those of virgins, should be denied leave to appeal (Mills, 'Spiritual Correction', p.39f and n.40).

(18) E. Shorter, 'On Writing the History of Rape', Signs, viii (1977-78), p.471.

(19) op.cit., pp.473-75.

(20) R. Porter, 'Rape - Does it have a Historical Meaning?' in Tomascelli, S. and Porter, R., Rape (Oxford 1986), p.219f.

(21) op.cit., pp.220-22.

(22) op.cit., p.223.

(23) Hartmann, H.I. and Ross, E., 'Comment on "On Writing the History of Rape"', Signs, viii (1977-78), pp.931-36.

(24) op.cit., p.932.

(25) See also the comments of Hartmann and Ross (op.cit., p.932f).

Chapter eight

(1) R.I., 42d.

(2) op.cit., 178b,183b.

(3) op.cit., 52a,80.

(4) op.cit., 308.

(5) op.cit., 309a.

(6) op.cit., 309c, d, e, h.

(7) op.cit., 309h, k, l, m, o.

(8) op.cit., 309g, m, n, o.

(9) R.H. Helmholz, 'Infanticide in the Province of Canterbury During the Fifteenth Century', History of Childhood Quarterly, ii (1975), p.386f.

(10) B.A. Kellum, 'Infanticide in England in the Later Middle Ages', History of Childhood Quartely, i (1973), pp.367-88, argues for the widespread practice of infanticide in this period from the evidence of literary sources in an article liberally littered with the jargon of psycho-history.

(11) K. Wrightson and D. Levine, Poverty and Piety in an English Village: Terling, 1525-1700 (London 1979). Warboys also witnessed a solitary homicide between 1290 and 1349 (Hogan, 'Medieval Villainy', p.149f).

Chapter nine

(1) R.H. Helmholz, 'Canonical Defamation in Medieval England', The American Journal of Legal History, xv (1971), p.260.

(2) R.I., 79, 84d, 333b, c.

(3) op.cit., 8d, 26f, 91, 164b, 173b, 198, 269, 276b, 365b.

(4) op.cit., 276a, 285c.

(5) op.cit., 221, 383l, p.

(6) op.cit., 8a, c, 34a, b, 36b, 542b, 56b, 65a, 146, 281, 318.

(7) op.cit., 373g, h, 392i, l, p, 393m, 394r. The form of words is not recorded in three (392k, l, 394n).

(8) op.cit., 393b; R.II., p.301.

(9) R.I., 387i, 390h, 393a, 414a.

(10) op.cit., 375o, 383f, 392g, 414b; R.II., p.300.

(11) op.cit., 366l.

(12) Mills, 'Spiritual Correction', pp.55, 80.

(13) R.I., 374.

(14) Wiener, 'Sex roles and crime', pp.45-7.

(15) cf. C.A. Haigh, 'Slander and the Church Courts in the Sixteenth Century', Transactions of the Lancashire and Cheshire Antiquarian Society, lxxviii (1975), pp.4-9; Mills, 'Spiritual Correction', p.55f. J.A. Sharpe, Defamation and Sexual Slander in Early Modern England: The Church Courts at York (York 1981), p.25f comments unfavourably on Haigh's views.

(16) Sharpe, op.cit., pp.15f, 27f; Wiener, op.cit., p.46f.

(17) Woodcock, Medieval Ecclesiastical Courts, pp.87-9.

(18) J.G. Peristiany (ed), Honour and Shame: The Values of Mediterranean Society (London 1965), pp.11, 29; cited by Sharpe, Defamation and Sexual Slander, p.23.

Chapter ten

(1) R.I., 3, 45a, 55, 59c, 62b, c, 131.

(2) R.II., p.298.

(3) R.I., 44, 134, 383n, 393h, k, 416d.

(4) op.cit., 414d.

(5) R.I., 61.

(6) op.cit., 62.

(7) Britton, Community of the Vill, p.116; Hogan, 'Medieval Villainy', pp.150-9.

(8) Lorcin, 'Les paysans et la justice', pp.280-82.

(9) Dufresne, 'Montivilliers', p.181f.

(10) Hanawalt, Crime and Conflict, pp.168-70, 173; Hogan, op.cit., p.156.

(11) cf. Hanawalt, op.cit., p.61f, 70-73, 255f; Hogan, op.cit., p.156.

(12) Hanawalt, op.cit., p.p.117-19.

(13) B.A. Hanawalt, 'Community Conlict and Social Control: Crime and Justice in the Ramsey Abbey Villages', Mediaeval Studies, xxxix (1977), p.420; Lorcin, 'Les paysans et la justice', p.282.

(14) cf. Britton, Community of the Vill, p.253; Woodcock, Medieval Ecclesiastical Courts, p.87.

(15) R.I., 375n.

(16) op.cit., 25c, 26g, 43c, 110c, 183b.

(17) op.cit., 9f, g, 25c, 84b.

(18) 25c, 43c.

(19) J.W. Baldwin, Masters, Princes and Merchants, 2 vols., (Princeton 1970), vol.1, pp.302-7; J.T. Noonan, The Scholastic Analysis of Usury (Harvard 1957), pp.16, 19; X. V. 19.9.

Chapter eleven

(1) R.I, 130c.

(2) op.cit., 157, 209b.

(3) R.I, 363i, k.

(4) op.cit., 206, 390f. The synodal statutes of Guillaume de Seignelay, bishop of Paris (1219-1224), ordered priests to frequently admonish their parishioners to confess before Palm Sunday (Pontal I, p.100f).

(5) R.I, 26c, 209b.

(6) op.cit., 42b, 84a, 167a.

(7) Pontal I, pp.59, 61, 72, 139, 187.

(8) R.I, 25a, 298c, 316.

(9) op.cit., 9e, 26g.

(10) E. Vodola, Excommunication in the Middle Ages (Berkeley and London 1983), p.32f.

(11) R.I, 9g.

(12) op.cit., 397g, 411b; R.II, p.301.

(13) R.I, 404e.

(14) op.cit., 26e.

(15) op.cit., 370g, 392c.

(16) op.cit., 178b, 184b.

(17) op.cit., 95c, 112.

(18) op.cit., 137b, d.

(19) op.cit., 408g.

(20) op.cit., 416i, k.

(21) op.cit., 42c, 95c, 112.

(22) op.cit., 147, 387b.

(23) op.cit., 172b, 173c, d, e, f.

(24) op.cit., 259a, b, 375e.

(25) op.cit., 365e.

(26) op.cit., 366g, h, 387a, 390a.

(27) op.cit., 375n, 416k.

(28) op.cit., 389q, 394b.

(29) op.cit., 414a.

(30) op.cit., 416h; R.II., pp.297, 302f.

(31) R.I., 4411g, 416e; R.II., pp.297, 302f.

(32) R.I., 397f, 408a.

(33) R.II., p.298.

(34) R.I., 415d, 418b.

(35) op.cit., 397i, 406, 410i.

(36) op.cit., 416d; R.II., p.297.

(37) Mansi, xxv, pp.73, 684.

(38) R.I., 9d.

(39) op.cit., 96c, 138b, 213b, 261b, 269.

(40) op.cit., 380a, 390g, k.

(41) Neveux, 'Marginaux et clerge', p.31f.

(42) op.cit., p.32.

(43) R.I., 13a.

(44) Chaline, Diocese de Rouen - Le Havre, p.60.

(45) R.I., 25c.

(46) op.cit., 26b.

(47) op.cit., 42a, d; R.II., p.297.

(48) R.I., 26b, 41a, 64a; cf. Adam, La Vie paroissiale, p.122f.

(49) R.I., 42a, d, 227.

(50) R.II., p.295.

(51) R.I., 42b, 167d.

(52) op.cit., 393d.

(53) op.cit., 137c, 140a.

(54) op.cit., 145, 383r, 384a.

(55) op.cit., 165a, 397f, 408a.

(56) Pontal I, pp.57, 87, 157.

(57) R.I., 9c, 84a, 114a, 167a.

(58) op.cit., 9c, 73a, 84a, 95a, 220.

(59) op.cit., 26b, 378; R.II., p.295.

(60) R.I., 9c, 144a, 167a, 298b.

(61) op.cit., 9c, 26b, 73a, 144a.

Chapter twelve

(1) C. Donahue, 'The Canon Law on the Formation of Marriage and Social Practice in the Later Middle Ages', Journal of Family History, viii (1983), pp.144-58.

(2) C. Donahue, 'The Policy of Alexander the Third's Consent Theory of Marriage', in S. Kuttner, ed., Proceedings of the Fourth International Congress of Medieval Canon Law Monumenta Juris Canonici, Series C, Subsidia, vol.v (Vatican City 1976), pp.270-9; 'The Case of the Man Who Fell Into the Tiber: The Roman Law of Marriage at the Time of the Glossators', American Journal of Legal History, xxii (1978), pp.48-53.

(3) Donahue, 'Canon Law on the Formation of Marriage', p.145f, 157.

(4) op.cit., pp.147-52.

(5) op.cit, p.149.

(6) op.cit., p.154 n.40 and p.155.

(7) op.cit, p.150f.

(8) Donahue, 'The Case of the Man Who Fell Into the Tiber', p.50f.

(9) Donahue, 'Canon Law on the Formation of Marriage', p.153f.

(10) op.cit, pp.147, 155-7; 'The Case of the Man Who Fell Into the Tiber', p.51f.

(11) This was the usual penance assigned in cases of fornication at Rochester. Certain English diocesan statutes also prescribed fustigation as a suitable penance for clandestinity. Thomas of Chobham considered that a clandestine contract was not to be accorded the status of marriage until the couple had been joined with due solemnity in church (Chobham, Summa, p.147; Sheehan, 'Marriage Theory and Practice', p.438.).

(12) Hence Thomas de Cerisy and Coleta de Quemiino were fined for illicit fornication after the court had dissolved their de facto marriage on the grounds of spiritual affinity (R.I., 4a, b).

(13) Esmein, i, pp.141, 145, 181, 184.

(14) She informed the plaintiff that she would have unum magnum stercus before she would have her son in sponsum. (R.I., 164b).

(15) op.cit, 60b.

(16) op.cit, 244, 309c, d.

(17) R.I., 25f.

(18) O.P., 200

(19) op.cit., 73, 85, 381, 385, 400, 440.

(20) op.cit., 100.

(21) cf. Helmholz, Marriage Litigation , p.183f; R.A. Houlbrooke, Church Courts and the People on the Eve of the Reformation, 1520-1570 (Oxford 1979), pp.64-7, 78f; Kelly, 'Clandestine Marriage', p.442.

(22) A. Lefebvre-Teillard, Les Officialités à la veille du concile de Trente (Bibliotheque d'histoire du droit et droit romain, xix; Paris 1973), pp.110, 148, 151f.

(23) Helmholz, op.cit., pp.165-8.

(24) Houlbrooke, op.cit., pp.165-8.

(25) op.cit., p.62f.

(26) Donahue, 'The canon Law on the Formation of Marriage', p.151.

(27) P.J.P. Goldberg, 'Marriage, migration, servanthood and life-cycle in Yorkshire towns of the later Middle Ages: Some York cause paper evidence', Continuity and Change, i (1986), pp.158-60.

(28) Three matrimonial causes from Pisa in the second quarter of the thirteenth-century demonstrate clearly how a combination of these factors could combine to lessen or enhance parental authority. In Jacopina c. Bonfilio Laniolo, the impression is one of a great deal of individual freedom and informality. The alleged marriage took place beside a public fountain when Bonfilio suddenly came up to Jacopina and asked her to be his wife. The woman then took him by his right hand, and had the presence of mind to inform those standing around of what had just occurred. Bonfilio later sent her a ring of silver and they lived together as man and wife for ten years. Neither Bonfilio nor Jacopina were natives of Pisa, and the man maintained some contact with his parents in Sens. Socially, they represent the lower echelons of Pisan society. One witness described himself as pauper homo, and another said that he was laborator terrarum. Bonfilio himself was described as having no craft (artem), but instead he earned his living by impersonating a Minorite or a hermit. He was said to have coolected a small following a a result of this. He lived with Jacopina in lodgings.

A different picture concerning the availabilty of individual choice is revealed by the other two examples. In Contissa filia Aliotti de Vico c. Ugolino Truffe, the woman had been betrothed while infra annos nubiles. On attaining her legal majority at the age of twelve, she repudiated the match, alleging that Ugolino already had a wife. She was represented by a proctor. The court found in her favour. Finally, in Sardinea filia Ugolini Vernacci c. Juncta filium Martini de Piro, the woman claimed that she had only entered into the

union because of coercion on the part of her parents et aliorum amicorum suorum. Judgement was also given in her favour. In both cases the defendants were given leave to appeal to the Papal Curia. (Dolezalek, Das Imbreviarturbuch, pp.129-32, 133f, 136f.) For examples of social factors affecting consent in sixteenth century Normandy and England see J-M. Gouesse, 'La formation du couple en Basse-Normandie', Dix-septieme siécle, 102-03 (1974), pp.44-58, pp.52-4, esp. p.54; M. Spufford, 'Puritanism and Social Control?' in Fletcher, A. and Stevenson, J. (eds.), Order and Disorder in Early Modern England 1500-1750 (Cambridge 1985), p.48.

(29) P.J.P. Goldberg, 'Female Labour, Service and Marriage in the Late Medieval Urban North', Northern History, xxii (1986), p.27; Houlbrooke, Church Courts, p.62f; L. Pommeray, L'officialité archidiaconale de Paris aux xv^{e}-xvi^{e} siècles (Paris 1933), p.345.

(30) One rector was given authority to absolve any of his parishioners who ha incurred excommunication in this way. The parishioners had pettitioned the bishop to allow this, since 'many' of the villagers had suffered this penalty for being parties to or present at clandestine marriages. Hitherto they had had to go elsewhere to be absolved. This had caused much inconvenience and disruption to their affairs. (J.N. Hillgarth and G. Silano, eds., The Register Notule Communium 14 of the Diocese of Barcelona (1345-1348) (Subsidia mediævalia 13; Toronto 1983) p,232; see also pp.61, 63, 70-3, 80).

(31) Sheehan, 'Marriage Theory and Practice'. p.458; 'Marriage and Family in English Conciliar and Synodal Legislation' in Essays in Honour of Anton Charles Pegis, ed. J.R. O'Donnell (Toronto 1974), p.9f. See also Noonan, 'Power to Chose', p.429.

(32) For a discussion of the rôle played by arbitration in law in general see: E. Powell, 'Arbitration and the Law in England in the Late Middle Ages', Transactions of the Royal Historical Society, 5th series, xxxiii (1983),pp.49-68.

(33) Pommeray, L'officialité archidiaconal, pp.313-17, 323-5, 335f; Pontal, pp.66f, 101, 180; Sheehan, 'Marriage Theory and Practice', pp.17, 422, 432f, 435-7, 459.

(34) Martí i Bonet, (ed.), 'Els processos de les Visites Pastorals', pp.61, 84.

(35) op.cit., pp.55, 73, 78.

(36) op.cit., pp.57f, 81, 89, 95. One of the priests in the officiality of Cerisy was defamed for charging for the celebration of sponsalia during 1341.

(37) F.W. Powicke and C.R. Cheney, Councils and Synods with Other Documents Relating to the English Church, 2 vols. (Oxford 1964), i, pp.65f, 116, 174, 310, 360, 615, 643; D. Wilkins, Concilia Magnae Britanniae et Hiberniae, 4 vols. (London 1737; reprinted Brussels 1964), ii, p.553f.

(38) Pommeray, L'officialité archidiaconal, pp.312f.

(39) J. Bossy, Christianity in the West, 1400-1700 (Oxford 1985), p.23.

(40) R.I., 68; R.H.H.,ii, 1016, 1031, 1039; Pommeray, L'officialité archidiaconal, p.338. See also the example dealt with by Bishop Martival of Salisbury in 1320 of a man who formed a clandestine marriage with a woman ad extorquendum carnalem copulam ad eadem. She had been refusing to sleep with him unless he married her (Owen, The Registers of Roger Martival, iv, p.133).

(41) A1779 ff.14b, 16b, 18b, 19, 19b, 21b, 24b, 25b.

(42) For sexual pessimism and the need to excuse sex in marriage see Chobham, Summa, p.343; T.N. Tentler, Sin and Confession on the Eve of the Reformation, pp.162-170, 223-32.

(43) Helmholz, Marriage litigation, p.72f; Houlbrooke, Church Courts, p.57; T.M. Safley, 'Marital Litigation in the Diocese of Constance, 1551-1620', The Sixteenth Century Journal, xii (1981), p.69f.

(44) J. Bossy, Christianity in the West; 'The Counter-Reformation and the People of Catholic Europe', Past and Present, xlvii (1970); 'Blood and baptism: Kinship, community and christianity in western Europe from the fourteenth to the seventeenth centuries' in D. Baker (ed.), Sanctity and Secularity: the Church and the World, Studies in Church History, x (1973), pp.129-43; 'The Social History of Confession in the Age of the Reformation', Transactions of the Royal Historical Society, Fifth Series, xxv (1975), pp.21-38.

(45) Christianity in the West, pp.29f; 'Blood and baptism', p.143f.

(46) Christianity in the West, pp.66-71; 'Blood and baptism', pp139-42.

(47) Muchembled, Popular Culture, pp.30-32, 40, 45f.

(48) op.cit., p.32f.

(49) op.cit., p.187f.

(50) op.cit., pp.189, 192.

(51) op.cit., pp.191-95.

(52) op.cit., pp.190f.

(53) op.cit., p.191.

(54) Bossy, Christianity in the West, pp.121-40; Muchembled, Popular Culture, pp.105, 209f.

(55) Hammer, 'Patterns of Homicide', pp.21f.

(56) J.M. Bennett, 'The Tie that Binds', pp.120, 128.

(57) P. Rushton, 'Property, Power and family Networks: The Problem of Disputed Marriages in Early Modern England', Journal of Family History, xi (1986), p.212.

(58) See above Chapter six, n.120.

(59) Matthew 5: 21-26; Connolly, G.P., 'Little brother be at peace: the priest as holy man in the nineteenth century ghetto', in W.J. Sheils (ed.), The Church and Healing, Studies in Church History, xix (1982), pp.191-206.

(60) J.W. Goering, 'The Changing Face of the Village Parish, II: The Thirteenth Century' in J.A. Raftis (ed.), Pathways to Medieval Peasants (Toronto 1981), p.328f.

(61) M. Ingram, 'The Reform of Popular Culture? Sex and Marriage in Early Modern England' in B. Reay (ed.), Popular Culture in Seventeenth Century England (London 1985); see also the comments of Margery Spufford, 'Puritanism and Social Control?', p.56f.

(62) Ingram, op.cit., p.131.

(63) For what follows see Ingram, op.cit., pp.132f, 137f.

(64) op.cit., p.138.

(65) M. Bowker, 'The Commons' Supplication against the Ordinaries in the light of some Archidiaconal Acta', Transactions of the Royal Historical Society, 5th Series, xxi (1971), pp.73, 75f; Spufford, op.cit., pp.50-52. A prosecution for adultery was brought by the archdeacon of Buckingham c.1290 (Helmholz, R.H. (ed.), Select Cases on Defamation to 1600 (Selden Society Publications, ci (1985), London 1985), p.3f). In a case brought before the King's bench in 1316, the plaintiff had been summoned by his parish priest to appear before the local official on a chrage of adultery (Arnold (ed.), Select Cases of Trespass, p.80).

(66) Ingram, op.cit., p.140.

(67) op.cit., p.159f.

(68) Martí i Bonet, ed., 'Els processos de les Visites Pastorals'.

(69) M. Merle, (ed.), 'Visite Pastorale du diocèse de Lyon (1378-1379)', Bulletin de la Diana, xxvi (1937-39), pp.217-356.