

**COURTS AND THE COMMUNITY: RECONSTRUCTING**  
**THE FOURTEENTH-CENTURY PEASANT SOCIETY**  
**OF WISBECH HUNDRED, CAMBRIDGESHIRE, FROM**  
**MANOR COURT ROLLS**

Thesis submitted for the degree of  
Doctor of Philosophy  
at the University of Leicester

by

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Kate Parkin, Courts and the Community: Reconstructing the Fourteenth-  
Century Peasant Society of Wisbech Hundred, Cambridgeshire, from  
Manor Court Rolls

This thesis assesses afresh the feasibility of social reconstruction based on court rolls, through a methodologically self-conscious analysis of records from Wisbech Hundred. It identifies a recent historiographical movement away from social history towards a 'legal' orthodoxy justified in terms of the nature of the records. It questions the definition of 'custom' implicit in this trend, while exposing and rejecting attempts to use Maitland's work to drive a wedge between legally- and sociologically-informed approaches to court rolls.

Computer-based analysis is applied to 316 sessions between 1327 and 1377 of the halimotes, leet, curia and hundred courts of Wisbech, Elm, Leverington, Newton and Tydd St.Giles. These villis were under the single lordship of the bishop of Ely, whose fourteenth-century privileges and jurisdictions are here defined.

Court rolls are taken to record court rôles (juror, essoin etc.) and these are defined in detail as attributes of individuals, whose activities and interactions are thus considered strictly within the arena of the court. The predominant business of regulating land transfer receives particular attention, shedding light on custom and 'deathbed transfers'. Rudimentary social network analysis is undertaken, proving more useful as an interpretative mode than a mathematical technique. Narrative case-studies relate individuals and families to observed trends.

Finally, a refinement of existing methodologies is offered. It is suggested that, although social historians should indeed be sensitive to the limited purposes of these records, they need not abandon social reconstruction. Rather, the nature and dynamics of individuals' 'court-lives' should be defined with detailed reference to local custom and circumstances. This done, other classes of records can be utilised, each to illuminate its own aspect of individual lives. 'Identity' is advanced as a theoretical basis for keeping these lines of investigation separate until their combination in social reconstruction reflective of the multifaceted nature of society.

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## ABBREVIATIONS

100	Hundred court.
A.&B.	E.Miller, <i>The Abbey and Bishopric of Ely: The Social History of an Ecclesiastical Estate from the tenth century to the early fourteenth century</i> (1951, repr. 1969).
Ag.H.R.	<i>Agricultural History Review</i> .
B.&P. Cases	<i>Select Cases in Manorial Courts 1250-1550: Property and Family Law</i> , ed. L.R.Poos and L.Bonfield, Selden Society 114 (1998).
B.&P. Deathbed	L.Bonfield, & L.R.Poos, 'The development of the deathbed transfer in medieval English manor courts', <i>C.L.J.</i> 47 (1988), pp.403-427.
Bracton	Henry de Bracton, (attrib.), <i>De Legibus Et Consuetudinibus Angliæ</i> , ed. G.E.Woodbine, tr. S.E.Thorne (4 vols, 1968-77).
C.L.J.	<i>Cambridge Law Journal</i> .
C.U.L.	Cambridge University Library.
E.D.R.	Ely Diocesan Records.
E.H.R.	<i>English Historical Review</i> .
Ec.H.R.	<i>Economic History Review</i> .
Hali	Halimote.
J.B.S.	<i>Journal of British Studies</i> .
J.F.H.	<i>Journal of Family History</i> .
J.I.H.	<i>Journal of Interdisciplinary History</i> .
L.H.R.	<i>Law and History Review</i> .
Lev	Leverington.
P.&P.	<i>Past and Present</i> .
P.C.A.S.	<i>Proceedings of the Cambridge Antiquarian Society</i> .
R.&S.	Z.Razi and R.Smith, eds, <i>Medieval Society and the Manor Court</i> (1996).
T.R.H.S.	<i>Transactions of the Royal Historical Society</i> .
V.C.H.	<i>Victoria County History</i> .
Wis	Wisbech.

## **BACKGROUNDS**

## HISTORIOGRAPHICAL

### Court Rolls and 'Community'

The central purpose of this research project is to determine the extent to which the court rolls of Wisbech Hundred, Cambridgeshire, can be taken to reflect the life, preoccupations, motivations and associations of the peasantry inhabiting the five adjacent vills which comprised it. By extension and implication the thesis will also suggest conclusions about the nature of Wisbech society in particular, and of court rolls in general, and about many subsidiary issues in medieval social history upon which the rolls touch. But in wording the title, the tense of 'reconstructing' has been carefully chosen. The dissertation is organised with a view to justifying, explaining and demonstrating a process of historical analysis.

Insofar as it goes beyond methodology to make statements about the past, the study is in part social history, in part local history, and in its mode of generalisation inevitably structural (though not 'structuralist') history. An ideal of objective truth is taken to be the basic tenet of the research, but with a strong awareness of the difference between an ideal and a possibility. Christopher Lloyd, whose ambitious but immensely suggestive work *The Structures of History* informs much of this introductory discussion, contends that

"truth" is not an absolute but should be seen in more pragmatic terms as the growing plausibility that results from a gradual convergence between our philosophical and methodological frameworks, our theories, our hypotheses, and data. Coherence between all of these is highly desirable but never fully attainable. Truth is neither just a matter of conceptual and theoretical coherence nor of empirical correspondence alone.<sup>1</sup>

I wish above all to avoid adding, by a lack of theoretical rigour, a merely incongruous shard to the pile of fragments that is the body of work hitherto carried out on the medieval peasantry. As Judith Bennett has pertinently noted, 'to date, attempts to generalize about the experiences of the medieval peasantry have been hindered by the particular interests and methods of each investigator ...[who has] used

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<sup>1</sup> C.Lloyd, *The Structures of History* (1993), pp.157-8.

different sources in different ways to answer different questions'.<sup>2</sup> On the positive side, however, one might have reason to expect that the wide recognition of methodological inconsistency between practitioners, will lessen the commonly found hostility to theoretical and methodological abstraction:

One of the determinants of the resort to methodological criticism is the degree of internal coherence of empirical disciplines... in terms of shared beliefs about rationale, goals, and procedures. When this coherence is not present - sometimes because of perceived failures in explanation or the creation of new approaches - then the resort to philosophy becomes more acceptable.<sup>3</sup>

The nature of both source-material and sphere of investigation would seem to rule-out an individualistically orientated attempt to represent the peasant society of fourteenth-century Cambridgeshire on anything like its own terms: 'Insight into local mentality... is difficult to ground without excellent literary sources, in the absence of personal testimony and the possibility of interrogation of subjects.'<sup>4</sup> Yet, the historian (as opposed to the biographer) is not exempted from the duty of generalisation simply because the participants in the particular episode of history fail to offer their own general categories. It is therefore necessary to identify the method of generalisation which will best address the subject whilst remaining faithful to the limited and nuanced conception of truth offered at the outset. And nor is it sufficient only to generalize - equally, one must explain. One might wish, if only for the sake of clarity, to develop a description of one's generalised social structure before having to explain the evolution of its form:

However multifarious the precipitants of change, it is not these that should concern us here but the implications of the shift itself to a new societal pattern, and the broad timing of the latter's assimilation to the level of social organization. Only when these matters have been determined would it be proper to turn to the problem of causation. We do need to describe first, and as neutrally as possible, before we seek to explain.<sup>5</sup>

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<sup>2</sup> J.M.Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock Before the Plague* (1987), p.200.

<sup>3</sup> Lloyd, *Structures*, p.28.

<sup>4</sup> Lloyd, *Structures*, p.101.

<sup>5</sup> C.V.Phythian-Adams, ed., *Societies, Cultures and Kinship, 1580-1850: Cultural Provinces and English Local History* (1993), p.6.



But it may be unrealistic to hope for a description thus hermetically sealed from the explanatory process - still less for one that can be carried out 'neutrally'. More pessimistically, Susan Wright has averred that 'it is not possible simply to describe society: any description orders facts explicitly according to the author's idea of how society is organised'.<sup>6</sup> And there is a more profound reason why description is not enough:

If causal explanation is not thought to be the goal [of structural history].... it is difficult if not impossible to see what another goal could be because however the commencement of empirical enquiry is justified (as by a desire for "understanding") it must boil down to a desire to answer questions of "why" and "how" as well as "what" and "when". The understanding of what and when cannot be divorced from temporal and structural relationships of a causal kind.<sup>7</sup>

Lloyd is dismissive of the 'common sense' with which he sees traditional interpretist historians tackling the difficult questions of why and how. More sympathetic critics of their work might have used the term 'imagination' and, for this, Lloyd can find room in his historical methodology: 'it is not the case that scientific history and sociology must dispense with creative imagination in favour of some wholly inductive or deductive method. Imaginative conjectures, metaphors, analogies, and intuitive leaps seem to be necessary in all empirical enquiry, especially for the framing of new hypotheses and models.'<sup>8</sup>

The group of historians whose work, on the face of it, should offer the closest precedents for the present study are those associated with the Pontifical Institute of Mediaeval Studies in Toronto: the pupils and associates of J.Ambrose Raftis. The stated object of their work was the individuality of the medieval peasant in the total context of his society. The village was felt to be the unit which best expressed 'the "humanity" of the medieval peasant' and thus the object was to undertake 'organized research into the life of the villager who has hitherto remained the anonymous, voiceless object of studies in medieval society'.<sup>9</sup> At first glance, this objective will seem far removed from the traditional interpretist history to which I have linked it; but

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<sup>6</sup> S.Wright, 'Image and analysis: new directions in community studies', in B.Short, ed., *The English Rural Community: Image and Analysis* (1992), pp.195-6.

<sup>7</sup> Lloyd, *Structures*, p.50.

<sup>8</sup> Lloyd, *Structures*, p.133.

<sup>9</sup> J.A.Raftis, *Tenure and Mobility: Studies in the Social History of the Mediaeval English Village* (1964), p.11; 'Social structures in five East Midland villages: a study of possibilities in the use of court-roll data', *Ec.H.R.* 18 (1965), p.83.

this is nothing if not 'people's history', 'one of the aims' of which, according to Lloyd, 'is to recapture the full complexity of the lives and social situations of ordinary, powerless people; to rescue them, as Edward Thompson put it, from the condescension of posterity.'<sup>10</sup> Lloyd saw traditional historical interpretists as concerning themselves with history as 'expressed in the recorded utterances and actions of important individuals'. In seeking to give voice to the voiceless among medieval society, the Toronto approach clearly aspires to a parallel goal of expressing the unrecorded utterances and actions of unimportant individuals; and, 'as in all the streams based on this methodological tradition, explanatory primacy is given to actors' understandings and perceptions of their situations, experiences and motivations.'<sup>11</sup>

For 'people's historians' of the early-modern and later periods, this ideal explanatory primacy might be realisable, but to be a 'people's historian' in the field of medieval studies, is to be severely hampered by the dearth of evidence deriving directly from the 'people'. The need to overcome this central difficulty certainly led the Toronto researchers to adopt at least quasi-structuralist approaches (as Lloyd points out, 'people's historians' 'are usually more theoretically informed and structurally aware' than 'traditional historical interpretists') but, in terms of rough dualities, their methodology seems to rest uneasily between, in particular, the individualistic and the holistic. Nowhere is this uneasiness more pronounced than in their treatment of issues arising directly from questions of social structure; and I therefore intend to centre my analysis of their work on their treatment of a fundamentally structural issue which remains as important and as hotly debated today as it was in the 'sixties: the concept of community.

That an examination of the use of the term 'community' is required is evidenced by the wide variety of circumstances in which it has been simultaneously adopted. This is typified for the medieval period by Judith Bennett's indistinct usage: within the two villages of Brigstock and Stanion (mother and daughter settlements), 'the lives of the residents of these two *communities* were inextricably intertwined; families often held lands or offices in both *villages*. The clerk of the Brigstock court usually treated these two *settlements* as one *community*.'<sup>12</sup>

Bennett's usage might have been made more distinct had she differentiated more clearly between community as a spatial entity (village, settlement) and community as a kind of social coherence (which

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<sup>10</sup> Lloyd, *Structures*, p.79.

<sup>11</sup> Lloyd, *Structures*, p.80.

<sup>12</sup> Bennett, *Women*, p.11 (my emphases).

could in fact unite several settlements). Susan Wright, indeed, believes that the only answer to these difficulties is to go even further than this, and have done with 'community' understood either as a spatial or as a social reality. 'Community', she maintains, 'is an idea, not a social or geographical entity', 'an arena of social activity between on the one hand, the household, and on the other, the state.'<sup>13</sup> Yet, increasingly it is being suggested that 'community' is not even a very concrete analytical concept: there 'is a need to subordinate "community" to a more appropriate, lesser, place than it once used to occupy conceptually'.<sup>14</sup>

For the medieval period, this problematic word occurs as often as not in the evocative phrase 'village community'; itself an amalgamation of two not necessarily compatible theoretical models - the spatially and/or administratively defined village, and an ideal notion of human connectedness and co-operation. While it has proven to be highly popular (as Anne DeWindt has noted, 'the mystique of the "village community" has retained a hold on the historian's imagination') this union is little more than a marriage of convenience.<sup>15</sup> It may be argued that the coincidence of the community and the village is no more relevant to an understanding of a medieval society than that between the manor and the vill. Indeed, the popularity of the 'village community' among medieval historians may derive not so much from a fondness for 'community' as from an unwillingness to abandon altogether the vill as a basic unit of investigation - a fact also highlighted by Anne DeWindt: 'historians of the medieval English peasantry have tended to assume that the history of peasants and their culture can best be revealed through the history of the village as a social and economic unit.'<sup>16</sup> By tying 'community' to the familiar 'vill' they perhaps sought to make it 'a secure analytical concept, on a par with the way "family" was considered at that time'.<sup>17</sup>

When historians searching for the 'humanity' of the medieval peasant broadened their horizons to encompass contemporary sociological and anthropological research, they did so primarily to justify their established concentration on the village; the sole virtue of which approach may have been that the community of the village at least evoked a clearer picture of the peasant among his contemporaries than did that approach which regarded him as an economic or legal unit of the manor.

Christopher Lloyd has implied that, for the 'idea' of community to have an objective application to the study of society, one must take it

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<sup>13</sup> Wright, 'Image and Analysis', p.205, p.204.

<sup>14</sup> Phythian-Adams, *Societies*, p.21.

<sup>15</sup> A.R.DeWindt, 'Redefining the peasant community in medieval England: the regional perspective' *J.B.S.* 26 (1987), p.163.

<sup>16</sup> DeWindt, 'Redefining', p.163.

<sup>17</sup> Wright, 'Image and Analysis', p.203.

beyond the stage of mere conceptualization and establish for it a correspondence with reality. The Toronto School's identification of peasant community with the village did offer, on one level, such a correspondence with reality: because of the spatial and administrative distinctions between settlements, the desire to uncover human individuality readily equated the peasant with the villager, a member of a community based upon the village - though this scarcely represented the totality of the peasant's experience.

The Toronto researchers noted that earlier historians, particularly legal historians, had attempted to reach the medieval peasant via the path of common law and legal status. This method looked at the way in which the peasant and his lord were related according to law. It imposed a hierarchy of lord, free and unfree, reflecting an assumed structure the distinctions of which were, in practice, blurred, since evidence could be produced to show unfree marrying free, and free land tenanted by villeins and vice versa. Another earlier approach, which they labelled 'manorial history', undertook an examination of the economy and institutions which were based upon the manor. This they criticised for viewing the peasant as part of the demesne economy only, ignoring his 'humanity'.

This brings to mind once again Lloyd's characterization of the practitioners of the more recent movement which has come to be known as 'people's history': 'they have a political, proselytizing zeal, attempting directly to link their historical work to grass-roots social criticism. Biographical, feminist and local history are often seen by them as ways of recapturing control of self and community.'<sup>18</sup> Here, 'community' is a nebulous ideal borne of a moral and social conviction, and 'local history', among other fields of enquiry, is merely a means to its fuller evocation. If the priorities are to be reversed; if the writing of sound local history is to be the end, and the concept of community a means to its achievement, then 'community' must be more precisely and more objectively defined. It is natural for historians to look to sociology for social definitions.

Enormously influential in this respect has been the American sociologist, G.C.Homans, on account of his attempt to set the lives of the medieval peasantry within a 'total picture of social organization', and it is in this tradition of social research that J.Ambrose Raftis, the first major figure whose work can be identified with the newly distinctive 'school', set his own research. Where Homans drew upon selective material in order to present a general, representative view of medieval English peasant life, Raftis was moved to 'approach more nearly the persons and human lives of many villagers in a fixed region over a

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<sup>18</sup> Lloyd, *Structures*, p.79.

certain time'.<sup>19</sup> The initial results of such an approach, though significant for the direction and intent to which they pointed, were disappointing because of the degree to which presentation of research was circumscribed by 'the limited range of enquiry possible to one volume'.<sup>20</sup> The individuality of the medieval peasant was, nonetheless, made a matter of prominent concern. Edwin DeWindt wrote of the advantages of the new 'village-directed historiography' which would investigate 'the social structures, human relationships and individual peasants of one specific locality, in order that the variety, diversity and personal individuality of peasant society may be realized in a way prohibited by more broadly-based and general comparative studies of villager institutions'.<sup>21</sup>

For all that peasants were to be viewed as individuals, however, they tended nonetheless to be confined to traditional, structural-functional rôles. In his pioneering study, Raftis looks at the peasant, first, as a tenant in relationship to the structure and organization of the village and, secondly, as a *nativus*, whose freedom is determined by his relation to his lord. This comparatively narrow structuring of the analysis, which seems to fall short of the Toronto researchers' own ideal of a notably flexible and individualistic approach, gives inevitably circumscribed results.

This is not to deny the very real contribution that this study made to research on the social history of the medieval peasantry, and it has the merit of attempting the integration of the individual into a wider structure as a means of adding depth to our understanding. Nor would one wish to ignore the fact that much of Raftis' published work was offered as a possible methodological framework for court roll studies. The title of his 1965 article reflects this, the object of the piece being to herald 'the fascinating possibility of organized research into the life of the villager'.<sup>22</sup> Few would deny the fascination of such research, but what has always been an issue is its 'possibility': as Raftis himself notes, 'our knowledge of social relations in the village has been limited by the nature of the sources available.'<sup>23</sup>

The Toronto researchers' most significant innovation was to shift the focus of interpretation from status under Common Law, or manorial position, to life within the village. The unspoken assumption behind this move would seem to be that Common Law and the manor are rigid structures which tend to distort our picture of 'real' life, while the

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<sup>19</sup> Raftis, *Tenure and Mobility*, p.13.

<sup>20</sup> Raftis, *Tenure and Mobility*, p.14.

<sup>21</sup> E.B.DeWindt, *Land and People in Holywell-cum-Needingworth: Structures of Tenure and Patterns of Social Organization in an East Midlands Village 1252-1457* (1972), p.2.

<sup>22</sup> Raftis, 'Social structures', p.83.

<sup>23</sup> Raftis, *Tenure and Mobility*, p.207.

village is not. The village is in fact as much a structured unit of analysis as any of the alternatives, indeed, the chief problem with the Toronto approach would seem to be that it is a structure singularly hard to define: 'It is impossible to identify the mediaeval villager except against the unique historical qualities of *his* village'.<sup>24</sup> It is recognised that the society which is under observation is 'very personal and often illogical, more flexible and varied than uniform', and that, when set in the context of village life, the rôles of the individual assume 'more complex and varied patterns'.<sup>25</sup>

Yet, the method by which the individual was seen as part of the village structure was not initially questioned at all, for all that the evidence does not always seem to fit. Later, however, Anne DeWindt began to argue for a more regional setting, with the village community giving way to the community of the region.<sup>26</sup> Also, Raftis himself demonstrates in an examination of migration that interpersonal relations were not exclusively bounded by the village; and, more recently still, he has attempted to place a small town society in a wider context. Indeed, he is concerned to state that consideration of the rôle of lordship and the history of various Warboys individuals and families throughout the West Huntingdonshire region is not deemed unimportant, but merely left for inclusion in a regional study.<sup>27</sup>

The term 'villager' is at once too narrow because of the variety of behaviour it purports to encapsulate, and too restrictive in that it fails to address the influences beyond this spatial entity. DeWindt looks upon the coincidence of manor and vill as a fact of great convenience. His objective is to locate the peasant within a community; his conviction that the village is synonymous with the community is bolstered, therefore, by the identity of village and manor, so that 'the object of study is readily delimited and confined'.<sup>28</sup> Yet, this approach surely smoothes over the very variety and diversity to which it is hoped to give expression.

Although Raftis expresses his concern with the individual, one of the reasons that he fails to get closer to the medieval peasant in his earlier work is that, despite his criticism of Homans' 'representative' peasant, he writes of 'the' individual peasant almost as an amalgam of details relating to many individuals as they appear in the court rolls, rather than individual peasants as such. Edwin DeWindt desires to 'take greater cognizance of [the peasant's] personal identity',<sup>29</sup> but he

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<sup>24</sup> J.A.Raftis, *Warboys: Two Hundred Years in the Life of an English Mediaeval Village* (1974), p.ix (my emphasis).

<sup>25</sup> Raftis, *Tenure and Mobility*, p.13, p.14.

<sup>26</sup> A.R.DeWindt, 'Redefining'.

<sup>27</sup> Raftis, *Warboys*, p.x.

<sup>28</sup> DeWindt, *Land and People*, p.6.

<sup>29</sup> DeWindt, *Land and People*, p.2.

nonetheless tends to emphasise the harmonizing relations creating the village community, and group activity. Like Raftis, DeWindt is searching for the typical peasant, aiming to find 'a means of letting the peasant speak directly for himself'.<sup>30</sup>

What, then, is the Toronto School's peasant community, the arena for the peasant's voice, which is so central to an understanding of peasant life? From Raftis' argument that, despite the post-plague breakdown in communal discipline, the village remained 'a vital social and economic community', it emerges that the key to his definition of 'community' is the organization of the village as a unit, and initially as an economic unit: economic organization is the most inclusive measure of community, since every villager is in some way involved in it. 'The village had not become tightly closed, nor had it lost its social cohesion. There was still an economic attraction in the village since many families were able to get established there over time.'<sup>31</sup> This economic unit is shaped by the common interests of individuals in the arable, pastoral and fen resources. Thus it is that a community is perceivable in the late thirteenth and early fourteenth-centuries. Those marginalised villagers who do not evidence such a visible involvement in this system (the wage-earners and occupational specialists, women, non-inheriting children, and more mobile villagers without substantial property) only offer a challenge to this economic model of community when their numbers increase and they play a greater rôle in the local economy, from the early fourteenth-century. The result is that 'by the second half of the fourteenth century the social ordering of Warboys was less submerged in the "community". Indeed the whole villata as a vague entity seems to disappear by this time.'<sup>32</sup> The social ordering is thus harder to delineate according to tenure and the community is less easy to see as bound by common agricultural practices.

Raftis argues instead that, by the late fourteenth century, 'the village social order became much more precisely articulated by byelaws and corresponding growth in officialdom'.<sup>33</sup> Yet this is not to argue that a 'community' was no longer important. Raftis' definition of 'community' is here grounded in an administrative structure, something objectively describable, as opposed to a subjective 'sense of belonging'. This is clearly expressed in connection with involvement in village government through pledging:

it would be misleading to give the impression that the social capital of Godmanchester derived from some primitive good fellowship or reservoir of euphoria. Godmanchester people had

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<sup>30</sup> DeWindt, *Land and People*, pp.22-3.

<sup>31</sup> Raftis, *Warboys*, p.215.

<sup>32</sup> Raftis, *Warboys*, p.222.

<sup>33</sup> Raftis, *Warboys*, p.222.

this great resourcefulness because the economic and social realities of their environment demanded this of them.<sup>34</sup>

The identity between the town, or village, and the 'community' is underwritten by the statement that 'involvement in administration was inevitable to every level of life': in other words, administration is identified with the community because it involves everyone resident in the village and its object is the organization of village, chiefly agrarian, life.<sup>35</sup> This argument fails to consider external forces: because the manorial court is not placed in the context of the wider administration of the lord of the manor, and indeed of the king, the community which is depicted appears both inward-looking and static. Because community is perceived as cohering naturally (and therefore not as an artificial institution defined by manorial organisation) it might be thought to express the real humanity of non-institutionalised relations; but, in fact, Raftis' view of natural cohesion disregards any active effort of association on the part of the individuals involved.

Furthermore, the range of sources upon which such an assumption is based is narrowly (and somewhat circuitously) defined: the evidence of involvement in village administration and therefore the village community is derived from administrative sources. It is highly dependent on the notion of 'community' as an administrative concept: peasants are distinguished by the degree to which they are involved in the administration of the village such that society is structured according to administration. The idea of community stemming from the organization of the village is followed by DeWindt, when he claims that an increase in work derelictions, regarded as indicative of a decline in a co-operative community, was 'a product of the gradual break-down of smooth village organization discernible in those post plague decades'.<sup>36</sup>

Yet it is the reconciliation of the individual with the community which remains methodologically problematic. This methodology is unable to reconcile variety within the village: Raftis concludes by noting the very great number of 'non-conformists' within the village community dependent upon co-operation for its strength. 'The very fact that non-conformity should move against the family, neighbourhood, customaries, as well as against the lord, defies rationalization.... The individuality of the villager escapes easy historical formulation.' Indeed, Raftis maintains that the individual's behaviour is often 'complex and varied' in a society 'often illogical, more flexible and

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<sup>34</sup> J.A.Raftis, *A Small Town in Late Medieval England: Godmanchester 1278-1400* (1982), p.232.

<sup>35</sup> Raftis, *Godmanchester*, p.232.

<sup>36</sup> DeWindt, *Land and People*, p.91.



varied than uniform'.<sup>37</sup> Such problems may arise because this method is actually straddling two methodologies, the absence of reconciliation between them causing difficulties. The (individualistic) concentration on the humanity of peasants and the means by which they, individually and collectively, seek to live, sits uncomfortably with the (holistic) view of an almost alien society, an autonomous structure. The lack of discourse between the two dichotomous positions results in such problems as are here encountered when the 'rôles of the individual' are 'set in the context of village life'.<sup>38</sup>

There is a shift in the methodological presentation of data, however, which moves from examples of what can be achieved through court roll analysis, in a series of articles, to book-length studies of particular settlements. As his model for research on the medieval villager is developed, so Raftis presents the type of individualistic data which remains the great achievement of the Toronto School. Thus he lists all identifiable individuals, broken down into family groups, resident in Warboys 1290-1458, and in Godmanchester 1278-1400. Having presented the data on individual villagers, Raftis asks, 'what human story do these data tell?'.<sup>39</sup> He subjects the inhabitants of Warboys to individual analysis and the final chapter of his study ('Individuals') makes more than rhetorical use of the ideal of elaborating individual lives. Here he genuinely goes beyond the structural definition of groups, to consider their individual members.

In so doing, he provides a partial response to Lloyd's resigned observation that 'insight into local mentality... is difficult to ground without excellent literary sources, in the absence of personal testimony and the possibility of interrogation of subjects.'<sup>40</sup> 'It is of course true', Raftis writes,

that court rolls can not expect [sic] to reveal the subjective understanding to be found in biographies or diaries, nor even those insights into *mentalité* derived from literary sources. But the pattern of individual behaviour, above all as seen from court rolls, does diverge in interesting particulars from that exposed by economic and familial circumstances.<sup>41</sup>

It is such a conclusion that I am inclined to take as a starting point. It is not necessary to start one's examination of the medieval peasantry with the village or the family in isolation, such that a search for the individual results in a miscellaneous collection of 'non-conformists'

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<sup>37</sup> Raftis, *Tenure and Mobility*, pp.210-11, p.13.

<sup>38</sup> Raftis, *Tenure and Mobility*, p.14.

<sup>39</sup> Raftis, *Warboys*, p.213.

<sup>40</sup> Lloyd, *Structures*, p.101.

<sup>41</sup> Raftis, *Warboys*, 241.

who do not fit consistently with rigid categories. Yet, any understanding which tries to work from the individual up and out to his society fails to accommodate the dynamic relationship between the two.

Paradoxically, it is Raftis who shows the way forward: to express the 'human story' from court rolls, the historian should 'endeavor to reveal this by analyzing *change*... in terms of total village community, family groups and individuals.'<sup>42</sup> By thus concentrating on change, Raftis, despite the strong structural-functional elements in his work, effectively counters one of the chief criticisms levelled against structural-functionalism - that its view of change is too rigid: 'change is seen as coming from outside, as impinging upon a system in equilibrium. Hence, change [like conflict]... is regarded as dysfunctional, for it disturbs the postulated harmonious balance. It is viewed as something of secondary importance.'<sup>43</sup> In a complementary vein, Richard Smith questions the assumption of lineal change which is often implied by arguments identifying a decline in community at a particular date, because they involve 'a notion of change as a once and for all affair: first we have communities and then we do not.'<sup>44</sup> Given a society of interweaving relations, the more realistic approach would be that which deals with 'changes in intensity and degree rather than with a major transformation in structure'.<sup>45</sup>

By breaking down 'the village community' into smaller groups more expressive of a sense of identity, and examining the ways in which different groups interact with others across time and space as part of a larger social structure, one can develop a more dynamic approach to change, which is also more faithful to the past. It is more responsive in that it pays greater attention to the constant ebb and flow of human interaction; the continual negotiation involved in the expression of relations between people and groups at all levels.

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<sup>42</sup> Raftis, *Warboys*, p.213 (my emphasis).

<sup>43</sup> J.Boissevain, 'Preface' to J.Boissevain and J.Clyde Mitchell, *Network Analysis: Studies in Human Interaction* (1973), p.vii.

<sup>44</sup> R.M.Smith, '"Modernization" and the corporate medieval village community in England: some sceptical reflections', in A.R.H.Baker and D.Gregory, eds., *Explorations in Historical Geography* (1984), p.160.

<sup>45</sup> Smith, '"Modernization"', p.177.

## Maitland Redivivus?

Large, long-anticipated and published by the Clarendon Press, *Medieval Society and the Manor Court* (1996) is the kind of publication which demands to be read as an authoritative reflection of the current state of mainstream research in its field. The book does appear to make a self-conscious bid for 'seminal' status in an historiographical introduction by the editors, who trace the origins of court-roll studies to 'the second half of the nineteenth century'. It is therefore striking that the first and last paragraphs of their thirty-five-page survey dwell on 'the 1960s and 1970s'. This historiography has a declared agenda: to correct what are described as the 'rather inaccurate historiographical observations' of three scholars, associated with the Pontifical Institute of Mediaeval Studies in Toronto and conspicuous by their absence from the volume - J.A.Raftis, E.B.DeWindt and E.Britton.<sup>46</sup> As will already have become clear, their innovative approach, while not uncritically reviewed, is an important precursor to the present study: prominent criticism of it cannot here be ignored.

Razi and Smith object to these historians' having claimed originality for their work in the 1960s and 1970s which emphasised 'the village community and...the peasants themselves' in contrast to the work of earlier historians who 'were interested in the manor and in the peasants' legal status...and made little use of court rolls.' To 'set the record straight', they attempt to show that Seeböhm, Vinogradoff and especially Maitland were in fact interested in such issues as much as a century ago. Given the Toronto researchers' efforts to the understanding of community discussed in the preceding section, and the fact that Razi and Smith themselves concede them to have 'made an important contribution to the study of medieval English villages', it is necessary at the outset of the present research project to understand quite what is being said in this important historiographical statement. The mystery is that that three authors whose works frame the Introduction are not included in the volume: an omission which casts doubt on the comprehensiveness implied by its title. Razi and Smith refer the reader to some four pages from one work by each of these authors.<sup>47</sup>

To begin with the pages from Raftis' *Tenure and Mobility* to which the reader is directed, it is first of all striking that Raftis does not

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<sup>46</sup> Z.Razi and R.Smith, eds, *Medieval Society and the Manor Court* (1996), p.1.

<sup>47</sup> Raftis, *Tenure and Mobility* pp.11-13; DeWindt, *Land and People* pp.1-3; E.Britton, *The Community of the Vill: A Study in the History of the Family and Village Life in Fourteenth-Century England* (1977), pp.1-4.

anywhere here claim that Maitland, or anybody else, 'made little use of court rolls'. He makes only one explicit statement about Maitland: 'F.W.Maitland was unhappy about the historian's knowledge of the villein, but tended to find a solution to his queries in the formulations of common law'; an observation he illustrates with two brief quotations from Maitland's *Domesday Book and Beyond* (1897). In one of these, Maitland suggests that 'there are half-a-dozen questions we would fain ask about' the villanus. Raftis does not list these questions, but they are illuminating: 'Is he free to quit his lord and his land, or can he be pursued and captured?'; 'whether he was subject to seigneurial justice'; 'whether the villani had a *locus standi* in the national courts'; 'whether, and if so in what sense, the land that the villanus occupies is his land'; 'what services do the villeins render?'; 'what was the English for 'villanus'?'<sup>48</sup> On the face of it, it seems not unreasonable to class these as essentially legal questions and to assume that the questioner seeks legal answers and is primarily concerned with legal issues. At least they might lead one to conclude, as Raftis moderately puts it, that Maitland 'tended' to seek his solutions in the law. Certainly they are not the questions of modern sociology, and modern medieval social historians might reasonably claim to be innovative by contrast. (It is not as if Raftis had chosen a work of Maitland's especially notable for its legalistic perspective: J.C.Holt has recently noted that, although 'the whole corpus of Maitland's work is stamped by a legal mind and training [and in *Domesday Book and Beyond*] the lawyer in Maitland is often in the foreground', 'on the whole the lawyer is less dominant than in Maitland's other work.'<sup>49</sup>)

The pages cited from DeWindt are if anything even less explicit about the deficiencies of Maitland's generation. Maitland and Vinogradoff are cited in support of only the opening two sentences, which are surely unexceptionable:

Descriptions or studies of medieval English rural society have long been devoted to detailed examinations of manorial institutions and economy or to the legal disabilities of servile peasants considered as a class. Much attention has consequently been given to questions of manorial administration, agricultural practices and productivity and the limitations or restrictions of villeinage.<sup>50</sup>

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<sup>48</sup> F.W.Maitland, *Domesday Book and Beyond: Three Essays in the Early History of England* (1897, repr. with a foreword by J.C.Holt, 1987), pp.55-8.

<sup>49</sup> Maitland, *Domesday Book and Beyond* p.vi.

<sup>50</sup> DeWindt, *Land and People*, p.1.

DeWindt does indeed contrast this with the approach which has subsequently evolved through the work of Homans, Ault, Duby and Raftis; but he considers that 'both approaches are extremely important and valuable in extending knowledge of medieval rural England'.<sup>51</sup>

Britton is more specific, but no more critical of earlier historians. Like Razi and Smith, he dates 'the advent of economic and social history [to] around the middle of the last century'.<sup>52</sup> Again, the passage that apparently bears upon Razi and Smith's argument, is brief enough to quote:

although such historians as F.W.Maitland, P.Vinogradoff, and F.Seebohm devoted a great deal of time to the status of English peasants, they approached the subject from a perspective which implicitly was dominated by considerations of Lordship. Consequently, they were greatly concerned with issues such as freedom and villeinage and the origin of the manor. Although Maitland was too great a historian not to realize that the question of lordship was only part of the picture and that the serf was a free man "in relation to all men other than his lord," he nevertheless concentrated almost exclusively upon the relationship between lord and man. Such an approach was certainly valid, ...but it is important to realize that it is only part of the story.<sup>53</sup>

In noting Maitland's acknowledgement of the serf's freedom in relation to people other than his lord, Britton is here quoting from *The History of English Law*. Razi makes much greater claims for this work's treatment of social history, maintaining that, 'in writing with Frederick Pollock the history of English law, Maitland utilized manorial court evidence to elucidate such topics as tenure and status, ancient demesne, seigneurial jurisdiction, and the village community.'<sup>54</sup> This final phrase, which resonates through recent debates in the field, is perhaps the most striking expression to find linked with Maitland. Contrast Helen Cam some thirty years previously: 'Maitland's treatment of the township in *The History of English Law*, even in view of the facts that he himself cites, seems over-legalistic to the student of social and constitutional history.'<sup>55</sup> But I do not wish here to make final statements about the nature of Maitland's work: plainly it remains important not only to

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<sup>51</sup> DeWindt, *Land and People*, p.1-2.

<sup>52</sup> Britton, *Community of the Vill*, p.1 (glossing a quotation from Eileen Power).

<sup>53</sup> Britton, *Community of the Vill*, pp.1-2.

<sup>54</sup> Razi is responsible for the historiography up to the 1930s; Smith for that from the 1940s onwards: see R.&S., p.1, n.2; R.&S., p.7.

<sup>55</sup> H.M.Cam, *Law-Finders and Law-Makers in Medieval England: Collected Studies in Legal and Constitutional History* (1962), p.83.

lawyers but to historians of many different persuasions. What I do wish to suggest, however, is that to characterise Maitland as a proto social historian concerned with the 'village community' is, to say the least, a by no means uncontroversial way of writing a historiographical survey. It is hardly the characterisation of him that first, or even secondly, springs to mind.

It is no very remarkable observation that Maitland remains relevant to current historical questions: or, to put it rather less reverently, that he 'presents the disconcerting habit of bouncing back - posthumously.'<sup>56</sup> But Razi and Smith seem to want to go further than this: they suggest that historians in the field are no longer concerned 'to identify the individual within a village from "the bottom upwards" through the use of nominative linkage and family reconstruction based upon the records of the manor court'; and that instead 'more recent work has been distinguished by the pursuit of issues that were central to the interests of those nineteenth- and early twentieth-century scholars who made substantial use of these sources.' There is no doubt that they see this as a good thing:

That the emphasis in more recent research on these sources is showing signs of moving full circle is amply demonstrated by the studies in this volume. We hope the essays in this collection may help to sustain the current momentum so that the circle is finally closed.<sup>57</sup>

The value of earlier scholarship is summarized by Razi, in terms by no means flattering to some of the moderns:

these scholars who pioneered both the social history of rural England and the use of court rolls for historical analysis had an advantage over many of the modern social and economic historians, in two important respects: they studied village society within the framework of the power structure and legal system of medieval England, and they had a far better grasp of the limitations of court rolls as an historical source.<sup>58</sup>

The first of these two points is the least debatable and the most important. Recent work has indeed concentrated on law, and its adjunct, custom. The key question for the social historian unwilling to abandon the project of working 'within a village from "the bottom upwards"...[using] the records of the manor court', is to what extent this 'law', if it is to be taken as the fundamental operative principle of the manorial courts, was itself created 'from the bottom upwards' by custom or derived from common-law and seigneurial structures 'above'.

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<sup>56</sup> Maitland, *Domesday Book and Beyond* p.ix.

<sup>57</sup> R.&S., p.35.

<sup>58</sup> R.&S., p.15.

## 'Custom' in Bracton

Accepting that there is indeed a growing consensus that court rolls must be read in the light of their original purposes, social historians will need the aid of legal historians in reading the records. The collaboration between L.R.Poos and Lloyd Bonfield would seem to exemplify the necessary working arrangements, the latter taking on specific responsibilities in accordance with his expertise: 'it was incumbent upon me as the team 'lawyer' to ponder the important question: what is this very odd court that at times spewed forth law to resolve civil disputes (but did so very much more) really like?'<sup>59</sup> Social historians will therefore naturally have recourse to their recent Selden Society volume for an authoritative legal perspective on the manorial court. The crucial question concerns the nature of 'custom' and this is focused in their striking expression, 'customary law'. The difficulty of this concept is revealed by the reflection that this phrase could almost be read either as a tautology or as an oxymoron. Poos and Bonfield recognise the need to justify their terminology here, and specifically to explain their 'insistence here upon the use of the term 'customary law' to describe the jurisprudence in the manor court'; indeed they are particularly concerned with defining terms:

those who have written about the manor courts of medieval England... have offered a wide range of implicit or explicit definitions and understandings about what 'custom' and 'customary law' meant in the context of these tribunals. It is therefore incumbent upon us to consider at length our own preferred understanding of these terms.<sup>60</sup>

The words 'insistence' and 'preferred' may make one a little uneasy about how objectively authoritative a statement this is to be.

Essentially, they

define 'customary law' to include the principles formulated as well as the procedures and reasoning processes of the various courts and their juries or suitors and officials.<sup>61</sup>

The 'reasoning processes' of jurors, suitors and officials are presumably as impenetrable as any other aspect of individual *mentalité* at this level - difficult, as Lloyd notes, 'to ground without excellent

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<sup>59</sup> L.Bonfield 'What did English Villagers Mean by 'Customary Law'?', in R.&S., p.106.

<sup>60</sup> L.R.Poos and L.Bonfield, eds., *Select Cases in Manorial Courts 1250-1550: Property and Family Law* (1998), p.xxx, p.xxvi. (Henceforth B.&P. Cases).

<sup>61</sup> B.&P. Cases, p.xxx.

literary sources'.<sup>62</sup> Poos and Bonfield perhaps go some way towards utilizing such sources in their discussion 'of the various uses of these terms by medieval lawyers as well as by the manor court rolls.'<sup>63</sup> Specifically, they find one medieval example of the expression 'customary law': Bracton used it, and they maintain that he did so in a way that 'arguably...may be interpreted...as the jurisprudence of local courts.'<sup>64</sup> They support this assertion, thus:

Bracton...recognized custom as the 'law' of a variety of jurisdictions, including the manor court. He reserved the use of the term 'customary law' for a body of jurisprudence in contradistinction to the *jus gentium*: customary law [*Ius autem civile, quod dici poterit ius consuetudinarium*] 'sometimes detracts from or supplements natural law or the *jus gentium*, for law different from that outside sometimes prevails in cities by force of custom approved by those who use it, since such custom ought to be observed as law.'<sup>65</sup>

Reference to the full text of Thorne's translation of Bracton reveals that this passage, as their supplementary Latin quotation leads one to suspect, comes from a larger, distinct section defining not customary but civil law. Bracton's meaning, though by no means transparent, is surely clearer if the passage is quoted in full:

**What the civil law is.**

Civil law, which may be called customary law, has several meanings. It may be taken to mean the statute law of a particular city. Or for that kind of law which is not praetorian; it sometimes detracts from or supplements natural law or the *jus gentium*, for law different from that outside sometimes prevails in cities by force of custom approved by those who use it, since such custom ought to be observed as law. Civil law may also be called all the law used in a state [or the like], whether it is natural law, civil law or the *jus gentium*.<sup>66</sup>

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<sup>62</sup> Lloyd, *Structures*, p.101

<sup>63</sup> B.&P. Cases, p.xxviii.

<sup>64</sup> B.&P. Cases, p.xxix.

<sup>65</sup> B.&P. Cases, p.xxix.

<sup>66</sup> Henry de Bracton (attrib.), *De Legibus Et Consuetudinibus Angliæ*, ed. G.E.Woodbine, tr. S.E.Thorne (4 vols, 1968-77), (Henceforth Bracton) II.27. I have made use of the hypertext version of this edition, which is made available on the internet and includes extensive search facilities. It is a co-production of the Ames Foundation, the Harvard Law School Library, and the Legal Information Institute of Cornell Law School. Like Poos and Bonfield I write as though 'Bracton' were actually the author, indeed the sole author, of *De Legibus Et Consuetudinibus Angliæ*. Modern scholarship has suggested that the work is most likely a compilation of material dating from the 1220s and 1230s, Henry of Bracton (c.1210-1268) being probably one of a number of later editors.



Poos and Bonfield's way of abbreviating this paragraph is misleading (even with the supplementary quotation from the Latin): anyone wanting to abbreviate the text and retain the original sense would have written, "civil law...sometimes detracts from..."; not 'customary law "sometimes detracts from..."

The phrase 'customary law' is here offered as a synonym to help explain 'civil law'. Civil law, it is being suggested, derives from custom, unlike the other kinds of law which Bracton defines in preceding and succeeding paragraphs: Equity, which 'is, so to speak, uniformity, and turns upon matters of fact'; The *praecepta iuris*, which 'are three: to live virtuously, to injure no one, to give each man his right'; Private law, 'which pertains primarily to the welfare of individuals and secondarily to the *res publica*'; Natural law, 'which nature, that is, God himself, taught all living things'; and The *jus gentium*, 'which men of all nations use, [and] which falls short of natural law since that is common to all animate things born on the earth in the sea or in the air.'<sup>67</sup> These brief quotations give a flavour of Bracton's writing here: the important point for present purposes is that he is laying the foundations for his work and is arguing as it were from first principles, using the very broadest terms. Civil law 'may be called customary law' insofar as it derives from custom. The point is made clearer on the preceding page, where Bracton adumbrates his definition of 'civil law (which may sometimes be called custom)' [*vel civile, quod dici poterit consuetudo quandoque*].

On succeeding pages, then, and in the same discussion, Bracton refers to 'civil law (which may sometimes be called custom)' and 'civil law, which may be called customary law'. Without wishing to be simplistic about semantics, it might seem fair to say that if Bracton offers both 'custom' and 'customary law' as synonyms for 'civil law', then, in this context at least, they are also synonymous with one another. 'Customary law' is just another way of saying 'custom'.

In particular, and as Poos and Bonfield recognise, Bracton is here distinguishing civil law from the other two sources of private law, namely natural law and the *jus gentium*. Very broadly, natural law is taught by God to all living things; the *jus gentium* is limited to humankind, but is agreed by all nations; and civil law is that which is more locally specific than these two. It takes a considerable leap of imagination to maintain that, because a concept is more specific than

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The briefest and most natural way of citing passages is by author, so I adopt the convention of 'Bracton writes that...' whilst acknowledging that this is not a true reflection of how the work was composed. See J.H.Baker, *An Introduction to English Legal History*, (3rd edn, 1990), p.201.

<sup>67</sup> Bracton, II.25-27.

the law of all mankind, it can therefore be equated with 'the 'law' of a variety of jurisdictions, including the manor court'.

Bracton does offer a specific explanation of the difference between law and custom, part of which Poos and Bonfield quote, but which again is clearer if left to stand in full:

**What law is and what custom.**

We must see what law is. Law is a general command, the decision of judicious men, the restraint of offences knowingly or unwittingly committed, the general agreement of the *res publica*. Justice proceeds from God, assuming that justice lies in the Creator, [*jus* from man], and thus *jus* and *lex* are synonymous. And though law (*lex*) may in the broadest sense be said to be everything that is read (*legitur*) its special meaning is a just sanction, ordering virtue and prohibiting its opposite. Custom, in truth, in regions where it is approved by the practice of those who use it, is sometimes observed as and takes the place of *lex*. For the authority of custom and long use is not slight.<sup>68</sup>

Poos and Bonfield quote only the penultimate sentence of this passage, which, though clearly a crucial statement in itself, does not convey the sense of 'custom' defined by contrast with 'law', which is the explicit purpose of the paragraph as a whole.<sup>69</sup> As has already been demonstrated, Bracton's definition of law in these opening sections of his work is extremely abstracted: it is a 'general command' deriving ultimately from God, 'ordering virtue and prohibiting its opposite'. The contrasted regional particularity of 'custom' is consistent with the subsequent explanation of 'civil law' (discussed above) but is surely at a considerable remove from jurisdictions as local as the manor court. It is hard to see even how the statement can be used, as Poos and Bonfield use it, to demonstrate that 'Bracton seems primarily to have regarded custom as regional variation of royal law': 'law' here is nothing so specific as the English common law - it is the idea of law in the abstract.<sup>70</sup>

Having quoted their extract from Bracton's definition of civil law, and also cited Britton, Poos and Bonfield go on, 'Thus 'custom' as used by medieval lawyers may signify individual principles of law, both in the royal law and in local jurisdictions, including the manor court; 'customary law', at least according to Bracton, was a body of jurisprudence.'<sup>71</sup> If Bracton can be read in this way, it is only because

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<sup>68</sup> Bracton, II.22.

<sup>69</sup> B.&P. Cases, pp.xxviii-xxix.

<sup>70</sup> B.&P. Cases, p.xxviii.

<sup>71</sup> B.&P. Cases, p.xxix.

he uses 'customary law' as a synonym for civil law *per se*: civil law is ultimately established and enforced by custom and may therefore be termed 'customary law'.

The word 'customary' occurs in three contexts in Thorne's translation: fourteen times as 'customary due(s)'; once, as noted above, as a synonym for 'civil'; and once when Bracton points out that his work 'must be set under ethics, moral science, as it were, since it treats of customary principles of behaviour.'<sup>72</sup> The latter usage would seem firmly to situate 'customary'/'custom' in the world of everyday human experience rather than that of jurisprudence. It is what people actually do, habitually, 'every day by custom' - and not only people but 'deer, peafowl and pigeons' which 'have been tamed...customarily go and come back, [*ex consuetudine eunt et redeunt*] or fly away and return'.<sup>73</sup> Custom can modify, over time, understanding of legal definitions: 'a gift of that kind, through custom and use, has another interpretation and meaning'; it can be at odds with the law, such that things are done 'in some places by custom, and improperly'; but, then again, '[in holding that] before condemnation...the land of a felon can never be the escheat of the chief lord, the law agrees with English custom'.<sup>74</sup>

Poos and Bonfield maintain that Glanvill uses 'law and custom' as 'formulaic synonyms', typically in the expression, 'according to the law and custom of the realm'; Bracton, too, couples the two words in similar expressions, but he just as often refers to the 'custom of the realm' only; and the fact that he elsewhere treats them as separate ideas which may or may not be in agreement, makes one wary of reading even his apparently formulaic juxtapositions as conventionally synonymous.<sup>75</sup> Broadly the distinction between custom and law seems to be between the *de facto* and the *de jure* ('though such persons are not bound to homages *de jure*, they do such every day by custom').<sup>76</sup> In more specific contexts, the separation of what is done from what ought to be done is further emphasised when it is said that a person 'ought and is accustomed' [*debet et solet*] to do or have something. Thus there are references to, for example, 'rightful dues and services, which they ought to and are accustomed to do'; 'those who are accustomed to and ought to come before the itinerant justices'; and 'common of fishery in his water of such a vill which he ought to and is accustomed to have'.<sup>77</sup>

The *de jure/de facto* distinction operates at several conceptual and spatial levels, the highest being that dividing the *jus gentium* from

<sup>72</sup> Bracton, II.172; II.169-71; II.27; II.20.

<sup>73</sup> Bracton, II.229; II.43.

<sup>74</sup> Bracton, II.160; II.249; II.101.

<sup>75</sup> B.&P. Cases, p.xxviii, n.2.

<sup>76</sup> Bracton, II.229.

<sup>77</sup> Bracton, III.409; II.310; III.194.

the civil law: in addition, there are, for example, the 'custom of England', 'the various customs of different counties', the 'custom of cities', 'local custom', and custom observed 'in some places'.<sup>78</sup> ('The custom of the manor' occurs only infrequently,<sup>79</sup> but then Bracton tells us plainly, 'I say nothing of the manor'.)<sup>80</sup> Bracton refers at the outset to customs 'in the various counties, cities, boroughs and vills' and the passage where he does so is another which demands to be quoted at length:

Though in almost all lands use is made of the *leges* and the *jus scriptum*, England alone uses unwritten law and custom. There law derives from nothing written [but] from what usage has approved. Nevertheless, it will not be absurd to call English laws *leges*, though they are unwritten, since whatever has been rightly decided and approved with the counsel and consent of the magnates and the general agreement of the *res publica*, the authority of the king or prince having first been added thereto, has the force of law. England has as well many local customs, varying from place to place, [*Sunt etiam in Anglia consuetudines plures et diversæ secundum diversitatem locorum*] for the English have many things by custom which they do not have by law, as in the various counties, cities, boroughs and vills, where it will always be necessary to learn what the custom of the place is and how those who allege it use it.<sup>81</sup>

From this, Poos and Bonfield derive the following:

He noted, however, that custom may also have been the law of particular jurisdictions: 'for the English have many things by custom which they do not have by law, as in the various counties, cities, boroughs, and vills'.<sup>82</sup>

Even their own brief quotation seems to run counter to the suggestion that custom may be the law of particular jurisdictions, since it appears quite clear that custom operates not as a different kind of law, but instead of law. Once again, however, the true meaning is made clearer by the broader context. England uniquely 'uses unwritten law and custom', and additionally has 'many local customs'. 'Custom' here is surely that which is subsequently defined as synonymous with 'civil law' and 'customary law'; the phrase 'local customs' ('varying from place to

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<sup>78</sup> Bracton, e.g. III.385, IV.237; IV.53; III.388-389, III.400; II.263; II.249.

<sup>79</sup> Bracton, e.g. IV.50, IV.284.

<sup>80</sup> Bracton, II.37.

<sup>81</sup> Bracton, II.19.

<sup>82</sup> B.&P. Cases, p.xxix.

place') has a quite different connotation, and, far from lending themselves to jurisprudential systematization, these diverse local peculiarities 'always' necessitate learning what the custom of the particular place is and how it is used there.

The more local the 'customs' the less Bracton is concerned with them. When he tries to summarise the law relating to ownership of swarms of bees (for example, 'a swarm that flies out of my hive is taken to be mine so long as it remains in my sight and its pursuit is not impossible') the word 'custom' introduces a note of desperation: 'All these rules are true, but sometimes and in some places other rules hold good by custom.'<sup>83</sup> Surely he is simply acknowledging here that there is a limit to the number of local practices with respect to bee-chasing that one can reasonably include in a work on 'The Laws and Customs of England'. The 'other rules' that 'hold good by custom' are not of a different kind from those recited here: they are simply the ones he has not found out about. Anyone wanting to go beyond abstractions and actually catch bees in a given vill would be best advised 'to learn what the custom of the place is', as well as taking other precautions. Bracton's inability to account for myriad local customs parallels Poos and Bonfield's reflection that 'merely to catalogue all the recoverable 'customs' of all the manors in medieval England would be a Herculean task. But more to the point, it is not the task that we have chosen to set ourselves here.'<sup>84</sup> Bracton clearly did not set himself such a task either, but then he was not attempting to synthesise 'the substantive law applied by manorial courts in medieval England.'<sup>85</sup>

Bracton's distinction between 'custom', as an adjunct of law (indeed as the essence of 'civil law'), and 'local customs', as the established peculiarities of particular places, is hard to define precisely; although it is hoped that the foregoing discussion at least gives a fair impression of it.<sup>86</sup> One helpful formulation occurs where Bracton is discussing the waste of property: if someone 'exceeds due measure by using and taking more than rightful estovers, he uses, so to speak, another's property, and the waste will thus be wrongful, unless

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<sup>83</sup> Bracton, II.43.

<sup>84</sup> B.&P. Cases, xxxii.

<sup>85</sup> B.&P. Cases, xxxv.

<sup>86</sup> Bracton's use of 'custom' and 'customary' in a would-be systematic way (as opposed to incidental references to the multiplicity of 'local customs' to be found across the country) would perhaps best be interpreted as an intended contribution to understanding of the Common Law. He thus adumbrates the usage of Matthew Hale (d.1676), whose works Baker regards as 'the first English law books to possess a coherence and style with which the modern reader can feel at ease' (*Introduction to English Legal History*, p.218). At the beginning of his posthumously published *The History of the Common Law of England* (1713), Hale refers to 'Common Law, or the General Custom of the Realm' and 'Laws that now obtain meerly as Common Law, or Customary Laws, by immemorial Usage'.

it is so slight that no inquest is to be taken'. There is thus a question of principle qualified by a question of degree: the law can lay down the point of principle but 'what is to be adjudged waste and what not because it is grave or trifling, depends on local rules and custom.'<sup>87</sup> Jurisprudence can take account of the nature and extent of the waste, but not its *significance* to the people of the vill in which it has occurred: that is a question of custom.

This might seem an extensive digression in a thesis on an ostensibly social-historical theme, but, as has already been noted, students in this field are being encouraged to take full account of the 'legal' nature of their records; and when a volume in the Selden Society series appears which explicitly recalls Maitland's famous *Select Pleas*, such historians will naturally have recourse to it for assistance. Interdisciplinary work is wholly to be welcomed, but it inevitably means that students working in one discipline must to some extent take on trust related statements by those whose expertise lies on the other side of the interdisciplinary divide - statements which they are not themselves qualified to test with any rigour. Thus I am acutely aware of how ill-qualified I am to tackle so monumental a work as Bracton's; but social historians who seek to do their legal homework as they have been enjoined to, have at present the choice between doing their best with the legal material themselves or taking on trust such statements as the following:

there was an understanding of how disputes between those who owed suit to the manor court ought to be resolved. In that sense, the application of custom was a system of jurisprudence, much in the way in which Bracton appears to have understood 'customary law'.<sup>88</sup>

'custom' as used by medieval lawyers may signify individual principles of law, both in the royal law and in local jurisdictions, including the manor court; 'customary law', at least according to Bracton, was a body of jurisprudence.<sup>89</sup>

Thus custom, according to Bracton, included the sources of royal law, divergences from it, and the law of a variety of local jurisdictions, including the manorial court. The term 'customary law'...arguably...may be interpreted...as the jurisprudence of local courts.<sup>90</sup>

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<sup>87</sup> Bracton, III.409.

<sup>88</sup> B.&P. Cases, p.xxx.

<sup>89</sup> B.&P. Cases, p.xxix.

<sup>90</sup> B.&P. Cases, p.xxix.

The point is so arguable, even in the light of the authorities which they themselves cite, that Poos and Bonfield's Introduction, rather like Razi and Smith's, emerges, somewhat disappointingly, not as an authoritative statement but rather as another contribution to seemingly endless controversy.

The medieval social historian undertaking court-roll studies, quite properly advised not to overlook the legal nature of the records, is left wondering quite why the legal background is being presented in this way. It might have been hoped that an informed legal perspective would help one to get 'outside', as it were, the historiographical controversies over the 'village community' and the 'individual peasant' which have rumbled on for so long and which are only amplified in Razi and Smith's 'Historiography'. But Poos and Bonfield merely emphasise the historiographical dichotomy which Razi and Smith are seeking to define:

Recent students of the manorial court and its records, then, have re-emphasised the nature of the manor court and its operations within the context of English legal development generally. In the meantime, another historiographical tradition has made much use of the court rolls to depict social relationships within the medieval village.<sup>91</sup>

Their legal approach to the manor court does not so much inform as avoid social history:

in approaching the manor court as a legal institution, we are thereby deliberately sidestepping some of the issues that have concerned those more interested in the social history of the English peasantry as enshrined in the records of the manorial tribunal.<sup>92</sup>

And, significantly, they, like Razi and Smith, see the latest historiographical developments in the field of court-roll studies as describing a circle which begins and ends with Maitland:

Considering the manorial court and the adjudication of rights therein as issues of legal history strictly defined brings us, in a sense, full circle back to Maitland's starting-point. In the century since the appearance of his *Select Pleas*, there has certainly been no lack of historical research and writing that has drawn upon the records of the manor court.... Only fairly recently, though, have the explicitly legal issues surrounding the manor court's complexion returned to the centre of debate.<sup>93</sup>

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<sup>91</sup> B.&P. *Cases*, pp.xxiii-xxiv.

<sup>92</sup> B.&P. *Cases*, p.xxvi.

<sup>93</sup> B.&P. *Cases*, p.xix.

Closing circles is usually, at some level, a process of exclusion. Razi and Smith seek to exclude those they term the 'Toronto School' from, as it were, the true path of court roll studies. They are, for them, an errant 'generation' who broke with the orthodoxy of their intellectual forebears, whilst others have kept the faith: they 'criticised and, in certain surprising ways, ignored the work of an older, nineteenth- and earlier twentieth-century body of scholarship'.<sup>94</sup> One hopes there is nothing intrinsically wrong with being critical or surprising; but, whatever the reason for the rhetoric of exclusion, it is important to understand its substantive effects. What is being left outside the pale, now that 'recent research' is 'moving full circle' back to 'the pursuit of issues that were central to the interests of...nineteenth- and early twentieth-century scholars'? One simplistic, but nonetheless irresistible, answer is, '*The Salt of Common Life* (1995)'.<sup>95</sup> One must suppose that the vagaries of the publishing process prevented any reference to this comparably substantial volume in Razi and Smith's 1996 book; but it does nonetheless give the lie to their never-quite-explicitly stated presumption that the research aims and methods associated with Toronto are part of an episode in the historiography of court rolls which, 'after a period of some reflection' is now behind us. Rather, 'It is an ongoing corpus of scholarly inquiry that ranges widely over the medieval English historical landscape, and it deliberately defies neat categorization, despite persistent efforts on the part of some to label it "the Toronto school."' <sup>96</sup> Poos and Bonfield's mode of excluding it as 'another historiographical tradition' is perhaps less inappropriate than Razi and Smith's exclusion of it as over and done with, but it has much the same effect. Divergent approaches are being encouraged to diverge still further until 'the circle is finally closed' with Maitland's devotees on the inside.<sup>97</sup>

The difficulty, and a measure of Maitland's iconic status - or greatness - or both, is that everyone seems to derive something from his work, and seemingly no-one can really claim to be his authentic heir. Thus Raftis, whom Razi and Smith accuse of ignoring his work in surprising ways, is said by DeWindt to have been 'inspired by the pioneering labours of Frederick William Maitland'.<sup>98</sup> For the future, Helen Cam's remark, in a different context, may be sage advice: 'Let us

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<sup>94</sup> R.&S. p.35.

<sup>95</sup> E.B.DeWindt, ed., *The Salt of Common Life: Individuality and Choice in the Medieval Town, Countryside, and Church: Essays Presented to J.Ambrose Raftis* (1995).

<sup>96</sup> DeWindt, *Salt of Common Life*, pp.xii-xiv.

<sup>97</sup> R.&S. p.35.

<sup>98</sup> DeWindt, *Salt of Common Life*, p.xii.



say with Powicke, "Maitland is one of the immortals" and leave it at that.'<sup>99</sup>

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<sup>99</sup> H.M. Cam, *Law-Finders and Law-Makers in Medieval England: Collected Studies in Legal and Constitutional History* (1962), p.234.

## GEOGRAPHICAL

This section is substantially informed by volume four of the Victoria County History of Cambridgeshire, supplemented by David Hall's invaluable East Anglian Archaeology Report No.79 (1996), which covers the Isle of Ely and Wisbech.<sup>1</sup> It is striking how little of the incidental economic and agricultural data to be found in the rolls reflect the distinctiveness of the fenland economy; indeed how little they reflect the physical/spatial environment at all. The following is offered as a necessary background, but the purposes of the present study chiefly lie elsewhere: as with other comparable studies, 'the purpose of this essay is to define the village as it is seen and understood by historians; this will lead to an emphasis on the village as a social entity.'<sup>2</sup>

The topographical map (figure 1) combines data from EAA Report figs. 90, 98 and 99 with OS 1:25,000 sheets TF 40/50, Wisbech (South), TF41/51, Wisbech (North) and TF 20/30, Peterborough (NE).<sup>3</sup>

### Topography and Drainage

Wisbech hundred consists of the parishes in the north-east of Cambridgeshire, bounded on the north by Lincolnshire and on the east by Norfolk. It comprises all of the region commonly known as the 'silt fen' in the county, being from north to south the parishes of Tydd St.Giles, Newton, Leverington, Wisbech St.Mary, Wisbech (St.Peter), Elm, Outwell and Upwell. The highest ground on which the main villages are sited (c.2.5m) lies to the east, near the estuary of the Wash. The estuary reached as far south as Wisbech until drained in the 18th century. To the west was fen, partly drained in the Middle Ages. As an area of silt

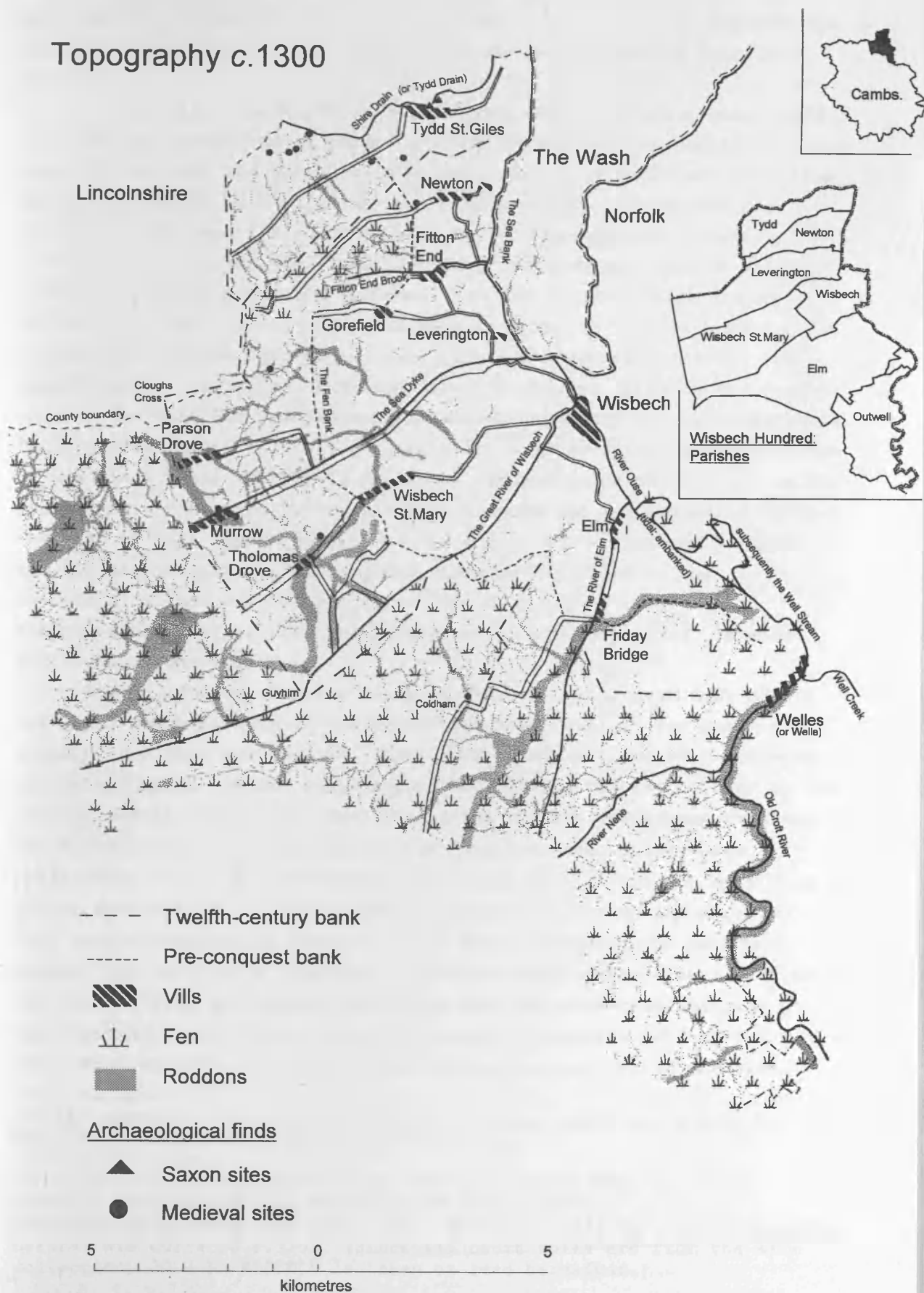
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<sup>1</sup> R.B.Pugh, ed., *V.C.H. Cambridge and the Isle of Ely*, 4 (1953; repr. 1967); D.Hall, *The Fenland Project, Number 10: Cambridgeshire Survey, The Isle of Ely and Wisbech*, East Anglian Archaeology Report No.79 (1996)..

<sup>2</sup> C.Dyer, *Everday Life in Medieval England* (1994), p.1.

<sup>3</sup> It was hoped also to produce a smaller-scale map setting Wisbech Hundred in a regional context, but it has not proved possible to establish the pattern of pre-drainage river systems - still less roads - at the regional level, and without these such a map would be relatively meaningless. Of some help is Darby's map of Fenland Waterways although this does not differentiate between waterways extinct by Roman times and those which flowed until the seventeenth century, H.C.Darby, *The Medieval Fenland* (1940), fig.14. See also O.Rackham, *The History of the Countryside* (1986), fig.17.3.

# Topography c.1300



fen, the land was substantially more productive than the inland peat fen: indeed, 'during the later Middle Ages, this silt zone, between sea and peat fen, seems to have been among the most prosperous parts of England.'<sup>4</sup>

Reading the topographical map roughly from north to south, 'Tydd St.Giles, the northernmost parish in Cambridgeshire, is situated 6 miles north of Wisbech. The Shire Drain divides it on the north and west from the sister parish of Tydd St.Mary in Lincolnshire. This stream has shrunk to a shadow of its former self but is an important boundary, separating, as it has done, two counties, two dioceses, and in all probability two Anglo-Saxon kingdoms.'<sup>5</sup> It has a linear form for no obvious physical reason: Hall therefore presumes it to have been planned, although at an earlier time than the drove settlements. The marshlands of the parish, inclosed from the sea and lying on the east side of the Sea Bank possess natural drainage and did not in consequence fall under any special drainage commission. Indeed piecemeal reclamation by individuals was apparently feasible, since tenants of virgates in the parish were encouraged to reclaim land towards the sea and marsh without increase of rent. Salterns are known from historical records at Tydd, and the six medieval archaeological sites marked there on the topographical map are all salterns.<sup>6</sup> One is referred to in 1251, returning only half a load yearly because it had been almost totally destroyed by the sea.

Newton is about 4 miles north of Wisbech, lying just west of the Sea Bank. The parish is of the elongated shape usual in the marshland areas of the Isle and Holland, stretching from the light silt soils by the Nene through heavier silts around the village to peat on clay at the extreme western end in the fen. Citing the obvious place-name evidence, the V.C.H. entry suggests that Newton 'may have been a very late settlement'. It is not mentioned in Domesday Book; it is not mentioned in the earliest of the Ely episcopal cartularies (1222) and receives only cursory mention in that of 1251.<sup>7</sup> Hall's observations tend to support the case for a relatively late settlement date: 'The fields in the fens of Tydd and Newton seem later than the other reclamations on the west and south. The place-name evidence suggests a 14th-century date. This accords with there being salterns using peat in the area.'<sup>8</sup>

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<sup>4</sup> Darby, *Medieval Fenland*, pp.130-131; see also p.128 and fig.21 for consideration of 1327 Lay Subsidy statistics.

<sup>5</sup> V.C.H. 4, p.224.

<sup>6</sup> The only family bearing the name Salter lives in Wisbech: Peter Salter's two sons inherit Wisbech land and his wife is party to transfers of Wisbech land too. C.U.L. E.D.R. C8/3/46 Wis Curia 8.3.1362, C8/3/41 Wis Curia 20.9.1353. (Since all court rolls are from the same collection, 'C.U.L. E.D.R.' is taken as read hereafter.)

<sup>7</sup> V.C.H. 4, p.202

<sup>8</sup> Hall, *Fenland Project 10*, p.185.

The medieval archaeological site marked there on the map is thought likely to be a saltern; additionally a saltern has been reported on the Sea Bank at Newton. Hall speculates that certain large banks on the seaward side of the marine defence, previously interpreted as breakwaters, are saltern mounds. They only occur at Newton, and although their linear form differs from the confirmed saltern mounds of Lincolnshire and Norfolk, this may be explained by their having been intended to serve the additional purpose of breakwaters.

Hall describes Fitton End as a linear settlement (now very shrunken) sited either side of a brook that divides the parishes of Newton and Leverington. The gaps between present houses, which are mostly arable ground, have yielded much occupation debris and sherds dating from the thirteenth to the fourteenth century.

The lay-out of Leverington parish shown here - a frontage upon the Ouse (later the Nene) outfall, a village site protected by the Sea Bank, and a landward extension into the fen - is the same as in the other marshland villages of the Isle; but the western part of the parish has subsequently been separated to form the parish of Parson Drove. (A division similar to that which, by 1300, had already taken place in the neighbouring parish of Wisbech, creating the parish of Wisbech St.Mary: 'Wisbech St.Mary...appears to have emerged from Wisbech (St.Peter) in 1109 when Wisbech vill was divided between the Bishop of Ely and the prior and convent.'<sup>9</sup>) Gorefield occupies a wide part of a drove from Leverington to the fen. A range of medieval sherds have been found there, the earliest being thirteenth century.

Reaney gives the place-name of Wisbech as indicating "the stream or valley of the Wisse," either the Wissey or the Ouse, or possibly both', with the river deriving from the Old English description of 'a tribe occupying a *provincia*'.<sup>10</sup> The first reference to Wisbech occurs in 1013. Like all these settlements the parish was originally long and narrow, stretching some 9 miles from the old course of the Well Stream, which divided Wisbech from Walsoken in Norfolk, to the far end of Wisbech High Fen beyond Guyhirn. Wisbech owed its existence to its situation at the point where the Well Stream joined the 'Wysbeck' from which the town derived its name.<sup>11</sup> The Well Stream, today represented by the Wisbech Canal, formerly carried the main outfall of the Great Ouse. In c.1300, however, the Ouse was diverted to its present more easterly course via the Well Creek. As Darby narrates it,

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<sup>9</sup> V.C.H. 4, p.232.

<sup>10</sup> P.H.Reaney, *The Place-names of Cambridgeshire and the Isle of Ely* (1943) p.292, p.13.

<sup>11</sup> At c.1300, these were The Ouse and the Great Wisbech River, respectively - see topographical map: the modern equivalents are the Wisbech Canal and the River Nene.

before the end of the thirteenth century, certain changes had taken place which caused nearly the whole of these fresh waters to change their courses. The complications were far-reaching, but the cause may be stated simply: the Wisbech estuary became choked by silt and sand brought in and deposited by the tides. By the later decades of the thirteenth century, part of the Nene, and the western branch of the Great Ouse, had begun to flow from Outwell along Well Creek, and so to the sea at Lynn, by the estuary of the Nar and the Gay. ... As the Wisbech outfall declined, the importance of Well Creek increased until, by the fourteenth-century, it had become the great water-highway between Lynn and the Midland counties.<sup>12</sup>

At the formation of the see of Ely in 1109 the vill of Wisbech was divided. The manor later known as 'Wisbech Barton' went towards the endowment of the bishopric, while that later known as 'Wisbech Murrow' was retained by the convent. There is a large moat at the north end of Barton Field, which is the probable site of Barton Manor House.

Elm was at this period of the long, narrow shape generally found in Wisbech Hundred, with the church and village on the firm silt land at the north-east, behind the Sea Bank. The form of the settlement itself is linear because it lies along a channel, almost certainly artificial, called the River of Elm. This cut, running from Friday Bridge to the natural Ouse, was intended to drain 'such water as ran up the Roman Nene'.<sup>13</sup> Elm is not mentioned in Domesday Book: a fact which has led to speculation in the V.C.H. 'that the district in which it lay was not reclaimed until c.1200 and that the fine 13th-century church is the first on the site.'<sup>14</sup> David Hall, however, notes that Elm is first recorded in 973 and considers it likely to have been founded 'well before the Norman Conquest'.<sup>15</sup> It undoubtedly grew rapidly in the first half of the thirteenth century, even despite the devastating floods which affected the whole region in 1236: in 1222, there were only 15 customary and 8 free tenants; but by 1251 these numbers had increased to 115 and 84 respectively. In 1349, the manor of Coldham, within the parish of Elm, was given by John Peverel to John de Lisle, knight and Hugh Bray; John de Lisle was brother to Thomas, bishop of Ely.<sup>16</sup> Aside from this there are no other references to this manor.

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<sup>12</sup> Darby, *Medieval Fenland*, p.96, p.98.

<sup>13</sup> Hall, *Fenland Project 10*, p.185

<sup>14</sup> V.C.H. 4, p.180.

<sup>15</sup> Hall, *Fenland Project 10*, p.182, citing C.Hart, *The Early Charters of Eastern England* (1966).

<sup>16</sup> C8/3/33 Wis Curia 20.11.1349; J.Aberth, *Criminal Churchmen in the Age of Edward III: The Case of Bishop Thomas de Lisle* (1996), p.5.

Upwell and Outwell lie astride the Well Stream. Each is therefore partly in Norfolk and partly in the Isle of Ely. In the Middle Ages they were collectively known as 'Welle' or 'Welles'. Hall considers that their linearity arises because they lie on the roddon of the Old Croft River, and he finds that the crofts associated with the houses pick out the full width of the silt roddon in a striking manner. The Bishop of Ely held the land on the Cambridgeshire side of the stream, according to an agreement made with the Abbot of Ramsey in 1295 which also provided for the abbot's steward to hold the court leet of Welle (the bishop's bailiff being entitled to attend), the bishop holding a separate court for his own tenants. His property in Welle never compared in importance with the episcopal property in other villas in the Isle, but the value of his fisheries was another matter: in 1251, rent from land amounted to £2 13s. 7d. whilst that from fisheries was £15. 10s. 4d.

The later settlements in the droves are very long, fitting in with planned landscape (Parson Drove, Tholomas Drove, Murrow Bank). Parson Drove is one of the second stage reclamation linear settlements. Underlying it is a large roddon, and its location is undoubtedly due to the convenient presence of this high ground. Where empty plots next to the vill are ploughed there are medieval sherds, mainly of the 14th century. Four salterns have been discovered in the fens nearby. The medieval site on the topographical map halfway between Parson Drove and Gorefield proved to be a saltern 'and that therefore brackish water backed through medieval arable land until the 13th and 14th centuries.'<sup>17</sup> Murrow is sited at the western end of the central drain of the siltlands, the Sea Dyke. It is split between the parishes of Parson Drove and Wisbech St. Mary and, like Parson Drove, owes its existence to a large roddon south of the Sea Dyke and a small one to the north, on which all the houses now lie. Sherds of the fourteenth-fifteenth centuries have been found nearby.

The medieval fields were irregular near the settlements, but more rectangular in the areas of later reclamation.<sup>18</sup> The High Fen, to the south west of the siltland parishes, stretched as far as Wryde in Thorney: 'in 1235, in disputes between Thorney and Ely relating to Leverington, it is stated that Heyefen belonged to the manor of Wisbech and to the villate of Leverington, Newton, Tydd, Elm and Welles, and that the said villas commoned there "horn under horn with their

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<sup>17</sup> Hall, *Fenland Project 10*, p.183.

<sup>18</sup> The court roll data on land transfers often locate holdings by field names and could thus be used to add to a wider study; the pattern of landholding has not yet been reconstructed, partly because the data justify a separate study in their own right. For discussion of the importance of dealing with themes fully and separately, see 'Implications'.

beasts".<sup>19</sup> Such fen was the likely subject of inter-commoning arrangements, but these are not easy to trace in the records. In 1337 jurors presented to the Wisbech leet that the abbot of Thorney through his villeins of Whittlesey *iniuste et maliciose fecerunt quamdam purpresturam in marisco de Wysebeche infra communiam hundredi de Wysebeche*; it was a league long and 8' or more wide, thereby disinheriting the church at Ely and to the £100 damage of the community of commoners of the hundred. This is a high-profile example of a common problem, since whatever the importance of ditches to the ongoing drainage, 'the practice of building new ditches was not always popular; and, frequently, they had to be filled in because they were a nuisance or because they were unjust.'<sup>20</sup> An amercement of 40s was set on this occasion but the level of damage was probably rhetorical - although 'Common rights were no incidental appurtenance in manorial economy.'<sup>21</sup>

The region was defended from marine flooding by the great Sea Bank on the east and the Fen Bank kept out fresh water on the west. The Sea Bank continued down the sides of the Ouse as far as Upwell (in the medieval period, 'Welle') to keep out the tides. Some idea of the scale of the sea defences is given by a 700-yard-long earthwork surviving east of Leverington, which is approximately 11½ft. wide at the base, 9ft. wide at the top and 8ft. high. 'By inquisition taken in 1437, a jury found that this bank beginning at Tydd Gote and extending to Bevis Cross in Wisbech ought to be kept 15ft. high and 6ft. wide at the top, and to be maintained by every tenant of lands in Wisbech, Leverington, Tydd St.Giles, and Newton according to the proportion of their holdings.'<sup>22</sup> Such real-life concern is reflected in the ordinances recorded in the leet record for Wisbech 1374: *capitalis fossatus marisci ex parte boriali Ripe in marisco de Wysbeche* is to be raised 2' where necessary from Piggesdrane to Guyhirne and widened as needed; and *le Newedyk ex parte boriali Ripe de Wysebech* from Guyhirn to William Monnpisson's marsh is to be heightened by another foot where necessary.<sup>23</sup> The task of supervising the banks fell to the bank reeves appointed each year. At the same leet in 1374, for example, two pairs of men were elected for the southern and northern wharves in Wisbech and another pair elected *prepositi fossati ex marisco de Wysebeche*.

In addition to the pre-conquest Fen Bank, there was a later bank further west, which is referred to in the V.C.H. as 'Fendyke Bank, the great bank stretching from Cloughs Cross on the Lincolnshire border

<sup>19</sup> Darby, *Medieval Fenland*, p.77.

<sup>20</sup> Darby, *Medieval Fenland*, p.150.

<sup>21</sup> C8/2/29 11.6.1337; Darby, *Medieval Fenland*, 52.

<sup>22</sup> V.C.H. 4, p.201.

<sup>23</sup> C8/4/53 24.5.1374.



southwards to Guyhirn'.<sup>24</sup> This V.C.H. entry (for the Chapelry of Parson Drove) somewhat misleadingly refers to this bank as 'the landward counterpart to the old sea bank on the east side of Leverington', whereas the original Fen Bank, further east, was the more contemporaneous counterpart of the Sea Bank.

Hall establishes the probable dates of the two inland banks largely on the basis of the field names and patterns within the areas they respectively enclose:

As a whole the fields of the region lie in two blocks, an earlier, inner group and an outer set that were later reclamations. The field names show that there was an inner flood bank facing the west running from Tydd to the River of Wisbech and another around Elm. Since Wisbech St.Mary was separated from Wisbech in 1109 on the creation of the see of Ely, it follows that there was supporting agricultural land. In order to be functional this would have to have fen defences and it is likely that the banks were in existence by that date. It is unlikely that they were built during the turbulence of the early Norman period and they are therefore to be dated before the Conquest.

The place-name evidence points to a date before the 13th century for some of the fields in the outer area, from which it follows that the outer fen bank had been constructed by 1200 at the latest. The intake from Wisbech High Fen was about 6,000 acres and the difference between the new fields and the old is very clear, the new being massive with strips running from one droveway to the next some 1.6km away. A similar intake was made at Coldham, Elm where a wide droveway interlocks with new fields making several right-angled bends.<sup>25</sup>

Once established, the later bank was a vital defence against the fresh waters coming down from the upland counties, protecting not just Leverington and Wisbech St.Mary, but also Newton and Tydd St.Giles. When it was breached in 1437, the lands flooded comprised 4,400 acres in Wisbech, 4,600 acres in Leverington, 1,400 acres in Newton and 2,000 acres in Tydd. The results of the great marine flood of 1236, when hundreds of lives were lost in Wisbech and its neighbourhood, are evident in the numerous references to messuages, especially in the New Market, totally destroyed by the sea. The only explicit record of flooding found in the fourteenth-century court rolls, however, comes from a single session from 1350: *nullus exitus quia inundatur exonerates*

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<sup>24</sup> V.C.H. 4, p.197.

<sup>25</sup> Hall, *Fenland Project 10*, p.186.

the beadle from accounting for the profits due from landholdings taken into the lord's hands after the deaths of two tenants.<sup>26</sup>

The main drains of the region are almost entirely artificial, except for the Shire Drain at the north and the Old Croft River to the east. The 'drainage activities seem to be part of large-scale planning by the manorial owners, Ely monastery and cathedral, to improve the silt lands.'<sup>27</sup> The system of flood control was very complex and when it broke down Commissions of 'Sewers' were set up to investigate and recommend improvements. Dugdale recounts such an episode from 1339:

the king being informed that the banks, ditches, and sewers about Wysbeche, Elme and Welle were broken, and out of repair, issued a commission unto Mr. John de Hildesley Chancellor of his Exchequer, Richard de Bayeaux, John de Walton, John de Stoken, and Will. Neuport, to enquire thereof; and through whose default they became so ruinous; and who were landholders thereabouts, or had safeguard by the said banks; and to distrain them for their repair, according to the proportion of their lands.<sup>28</sup>

There would have been sluices where the main brooks (Tydd Drain at the county boundary, Newton Brook, Fitton End Brook, the Sea Dyke and the River of Elm) ran through the Sea Bank. The sluices functioned by being left open at low tide to remove fresh water from the embanked area and closed at high tide to keep out the sea.

Much of the court-roll evidence relating to the maintenance of banks and sewers is found in the leet records. For example, three Leverington residents were presented at Leverington leet in 1340 for stopping *communem cursum aque Rype de Wissebeche*.<sup>29</sup> After 1360 there appears to be a greater concern with such issues, but the incomplete survival of records hinders an appreciation of whether the record reflects increasing concern expressed beyond the court or whether there is a change in curial/scribal procedure. Whereas the bank reeves may previously have issued orders for repairs in the normal course of their duties, presenting only offenders in court, the court was possibly now being used as a forum for such orders, formally recorded as ordinances in the rolls. In 1374 the ordinance was issued that the sewer from the marsh at Wisbech should be dug anew from Belymille to the manor of John de Wilton, knight, with each associated landholder paying a penny or whatever was necessary.<sup>30</sup> Similarly, an ordinance was issued concerning

<sup>26</sup> C8/3/40 Wis Curia 19.7.1350 lands in Elm.

<sup>27</sup> Hall, *Fenland Project* 10, p.186.

<sup>28</sup> W.Dugdale, *History of Embanking and Draining* (1662), ed. C.N.Cole (2nd edn, 1772), p.203, using Patent Rolls, 25 Edw. III, pt.i, m.23d: quoted in Darby, *Medieval Fenland*, p.159.

<sup>29</sup> C7/1/4 7.6.1340.

<sup>30</sup> C8/4/53 24.5.1374.

*vna pipa apud Mesesdrane ex parte australis Ripe de Wysebeche que iam est fracta ita quod de noua reperetur et emendetur ad custagium terrarum villate de Elm ita quod aqua ex parte australis Ripe de Wysebeche poterit habere cursum ad Getunesgote sicut habuit in antiquo tempore per.* Setting this down in writing had little apparent effect, for this 'ordinance' is repeated in the following year's leet.<sup>31</sup>

It was part of the duties of the bank reeves to ensure the free passage of water through the drains, and at Wisbech leet in 1370, three reeves for Newton were amerced 100s for having stopped the course of Wisbech's common sewer *ad graue dampnum domini Episcopi et villate de Wysebeche*.<sup>32</sup> They had abetted Thomas Sparcolf, chaplain, who is then amerced 40d because *fodiauit terras suas in communem esseweram de Wysebeche in villam de Neutone*. The gravity of the offence is reflected in the large amercement of 100s; indeed, this is no 'symbolic' amercement for it is specifically recorded that *affiratur pro inquis' ad Cs*, uniquely underlining that this amount has not been conjured for form's sake. All such entries are expressed in terms of the (grave) damage or nuisance of such actions to the community or the bishop and particular villas (*ad dampnum/ad nocumentum communitatis* or *ad graue dampnum domini Episcopi et villate de Wysebeche*). As Darby underlines,

It is overwhelmingly evident that the determining factor in the economy of the Fenland during the later Middle Ages was the condition of sewers and drains. ...It was upon the strength of their sewer-banks that the extent, to say nothing of the existence, of the "summer grounds" of the region depended. Indeed, it is safe to say that almost every stream and bank in the Fenland had, in one way or another, someone who was held responsible for it....<sup>33</sup>

Such entries also reflect the very real connections between the different villas, how a broken pipe in Newton or Elm could have serious consequences for residents elsewhere; indeed, the old market in Wisbech lay next to the river bank.<sup>34</sup> An ordinance was recorded in 1374 such that *Canellum in nouo mercato de Wysebeche emendetur per omnes quam [sic] ponunt fumarios in predicto Canello*.<sup>35</sup>

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<sup>31</sup> C8/4/53 13.6.1375.

<sup>32</sup> C8/4/50 Wis Leet 5.6.1370.

<sup>33</sup> Darby, *Medieval Fenland*, p.147.

<sup>34</sup> C8/2/28 Wis Curia 18.4.1336 reference to a cottage *iacens in veteris foro de Wisbeche super fossatum Ripe*.

<sup>35</sup> C8/4/53 Wis Leet 24.5.1374 Dungheaps were a problem in the marketplace too, e.g. C8/3/31 Wis Hali 23.4.1339.

## Economy and Communications

Comment is often passed on the particularity of the fenland economy, with the numerous eels rendered at Domesday, the fowl and other fen products. But the court rolls seem remarkably silent upon such things. True the account rolls are the more appropriate source for an economic study, but one might expect to find more explicit reference to the market at Wisbech for instance.

It has been argued that 'the central part of the town, between the two water-courses, is a good example of a manorial borough, with the site of the castle midway in the peninsula and dominating the Market Place.'<sup>36</sup> The Old Market, so-called as early as 1222, suggests that some kind of trading centre existed in Wisbech in very early times. It is on the left (west) bank of the river, not very far from the probable site of Barton Manor House, the administrative centre of the Ely estates in Wisbech prior to the erection of the castle and the division between bishop and convent in 1109. (The earliest dated evidence of episcopal tenure of the castle is in the vacancy of 1215-19.) From the twelfth century onwards the New Market by the castle, which became the headquarters of Wisbech Barton manor, outstripped the old market as a centre of trade. (In 1222, 39 messuages are listed for the old market and 52 for the new.)<sup>37</sup> In addition to the weekly market, Bishop Hothon obtained the right to hold a fair on the vigil, feast, and morrow of Trinity, and the nineteen days following, in 1327. Clearly the town drew people from its neighbouring, dependent hamlets into itself, through the central courts, the market and the works demanded by the Barton manor - on the walls of the castle for instance. The scale of commercial activity indicated in the present discussion is further illuminated when the 'Court Rôles' of brewers, bakers and ale-sellers are considered below.

Such references to the market as do occur in the rolls tend to come from entries recording the farm of the market and associated tolls. In 1347 the year's rent for *forum et nundinarias de Wysbeche* was £16, although this fell to 18 or 19 marks the following year; in 1353 the annual rent was 10 marks.<sup>38</sup> One of the two farmers in 1353 reappears in 1362: Thomas Baconn and Thomas Cammylle (Canville) lease *Ballivam mercato de Wysebeche*, namely to raise all *tolneta Custuma* and other profits pertaining to the market and market-tolls, for 12 years paying

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<sup>36</sup> V.C.H. 4, p.240.

<sup>37</sup> G3/27 Liber R, The 'Old Coucher' Book.

<sup>38</sup> C8/3/46 Wis Curia 5.11.1347, C8/3/37 Wis Bond 28.11.1348, C8/3/41 Wis Curia 28.11.1353.

20 marks cash each year in four instalments.<sup>39</sup> The farming of such profits explains the absence of other references to market tolls; since there is no statement about levels of tolls, no assessment can be made as to the profitability of the lease for the bishop. One might infer that the lease was profitable for the two men since they took it on for 12 years and Thomas Baconn had also held the lease previously.

The market was not the bishop's only commercial asset at Wisbech, although it was one which was farmed out. In 1251 there were four fisheries, and a water mill, a horse mill, at which the customary tenants were obliged to grind their corn, and a newly constructed windmill. The fourteenth century court rolls occasionally contain the names of individuals who have not milled at the lord's mill, but the only specific reference to a mill in Wisbech itself comes from the description of land lying in Hervyfeld *iuxta molendinum Episcopi* which is transferred in 1371.<sup>40</sup> Tydd also possessed a windmill. In 1362, the whole manor of Tydd, with all lands, meadows and pastures and the mill were leased for six years to Nicholas Clerk for the annual payment of £8 cash.<sup>41</sup> The conditions according to which Nicholas was responsible for the mill are set down in detail (regarding the mill-spindle, cogs, splints and sailcloth), yet there is little in the rolls which would link him to the mill.

Other references to Wisbech's market are to be found. For example, the appointment of *prepositi porcorum et servisie in Mercato de Wysebeche*,<sup>42</sup> the transfer of land lying at *Oldmarketisende* or in *(Olde) Tymbermarket*<sup>43</sup> or the presentment that Joan Lister and John Skinner have dungheaps in the market.<sup>44</sup> Such occupational surnames might be taken to provide a very rough indication of the trades undertaken: the example of William Cok *carpentarius* provides the salutary note that such names may be hereditary surnames rather than statements of occupation, although even this example indicates that actual occupations are sometimes given to distinguish individuals.<sup>45</sup> At Wisbech's leet in 1360, six individuals are amerced for having made a *purpresture in novo mercato de vno stallo*.<sup>46</sup> One man and one woman are also presented as bakers at the same session, the wives of three of the other men similarly appear as brewers or regraters of ale, and the remaining female is cited in other sessions for brewing and selling.

<sup>39</sup> C8/3/46 Wis Curia 19.1.1362.

<sup>40</sup> C8/4/51 Wis Curia 4.7.1371.

<sup>41</sup> C8/4/46 Wis Curia 25.2.1362.

<sup>42</sup> C8/3/44 Wis Leet 27.5.1360.

<sup>43</sup> C8/4/53 Wis Leet 24.5.1374, C8/4/51 Wis Curia 4.7.1371 and 31.7.1371.

<sup>44</sup> C8/3/31 Wis Hali 23.4.1339.

<sup>45</sup> C8/2/25 Wis Curia 15.5.1332.

<sup>46</sup> C8/3/44 Wis Leet 27.5.1360.

Glimpses of the reality beyond the court often come in such presentation of behaviour *ad nocumentum communitatis*: four men and two women are amerced for having a pigsty in the highway in spring 1339.<sup>47</sup> Presentments are also made regarding the overstocking of the commons with animals, and these entries also provide a sense of the connections between different villis through inter-commoning. Two of the three men presented at Wisbech leet in 1363 for overstocking Wisbech common *cum diversis animalibus* have toponymic names - de Sutton and de Reyerwyke.<sup>48</sup> Seven years later, Henry Frerre, who *tenet vnum fferye in comitatu Lincoln, feriauit bestias domini* wrongly from Cambridgeshire to Lincolnshire.<sup>49</sup> Elsewhere, other references to rights of commoning relate to turves and more specific references to animals come in the details attached to litigation or court orders. *Petrus de Walpole de Norfolch qui non est comunitarius* is presented because he dug some 10,000 ( $x^{mill}$ ) turves in Elm common and carried them into Norfolk.<sup>50</sup> In 1334, 180 cart-loads of turf ( $ix^{xx}$  carectatas turbarum) were the subject of a trespass plea between William Halleman and John de Fordham.<sup>51</sup> Such vast amounts of turf must have been used for the production of salt.

Distraints taken in connection with litigation - like the turves price 40d taken from John *filius Willelmi* Halleman to encourage his response to Simon Cok's trespass plea - provide the more specific evidence of animal-husbandry.<sup>52</sup> Two cows and two calves priced at 1 mark were thus taken from William Halleman himself, and John Adam lost the immediate use of one horse worth 10s and a cow worth 5s in the course of two debt pleas before the hundred court in 1339.<sup>53</sup> That 30 sheep were claimed in one plea of caption and detinue and 20 ewes in a trespass plea likewise provide some sense of the land use and local economy.<sup>54</sup> Details of litigation often flesh out part of the background to women's lives. One intra-familial dispute over rights to 1½ acres of land in Leverington shows a daughter claiming that her brother was party to the theft of her crops and the recently widowed mother that her cart had been used to carry away the crops.<sup>55</sup>

The degree of commercialisation is to be inferred from the numbers of brewers and separate sellers of ale, in both Wisbech and its dependant villis, and from the presence of wine sellers in the town. In

<sup>47</sup> C8/3/31 Wis Hali 23.4.1339 X *habet j porcariam in communi strata*

<sup>48</sup> C8/3/46 24.5.1363.

<sup>49</sup> C8/4/50 5.6.1370.

<sup>50</sup> C7/1/5 Elm Leet 4.6.1344.

<sup>51</sup> C8/2/27 Wis Curia 15.2.1334.

<sup>52</sup> C13/2/20 Wis 100 3.10.1342.

<sup>53</sup> C13/2/20 Wis 100 3.10.1342; C13/2/19 4.3.1339 and 22.4.1339.

<sup>54</sup> C13/2/19 Wis 100 1.4.1339 and 17.9.1338.

<sup>55</sup> C8/2/27 Wis Curia 20.9.1334.

1369, two casks of ale worth  $\frac{1}{2}$  mark were taken as an attachment.<sup>56</sup> Market day was Saturday, reflecting the antiquity of the market, but it is clear that trading was not confined to this day. Debt pleas stemming from sales of goods often note that the original arrangement was concluded on a Monday, and such agreements were often for large sums, reflecting both the scale of trade and the ability to offer credit and to raise such sums. Walter Brid *capellanus* sold the crops from 1 acre of maslin and 4 acres of oats to Henry de Pekbrigge on Monday 20 July 1338 for 28s, to be paid before the feast of the Purification (2 February); by this date 18s had been repaid but the balance was outstanding.<sup>57</sup> On Easter Monday 1331, William Halleman sold 30 quarters of oats for 60s to John Therne; the entry is illegible here but it would appear that payment was set for 1 August. John failed to repay 10s 4d of the money, but he had nonetheless raised nearly 50s within four months.<sup>58</sup>

Aside from the turves and the pasture, the local topography offered fish and fowl: the latter are never recorded in the court rolls, and with one exception, fish appear only in the context of the renting of various fisheries. This is in marked contrast to Darby's experience of fenland records in general: 'To repeat all the evidence concerning the importance of fisheries in the Fenland during the subsequent [i.e. to Domesday] centuries of the Middle Ages would be tedious and pointless; there is scarcely a document that does not make some reference to fishing.'<sup>59</sup> On the basis that the value of the farms to the bishop reflected the resources of the fisheries, then that of Levermer was by far the most profitable for farmer and bishop alike. In 1353 the fisheries of *Upstane* and *Welle* were each farmed for 60s whereas that of Levermer was leased for £4 for the year.<sup>60</sup> Coinciding with the arrival of a new bishop Simon de Langham at the beginning of 1362, such farms, like that of the market noted earlier, were granted for periods longer than one year: in September 1362, Levermer fishery was leased by Adam Russell de Welle for six years at 6½ marks (£4 6s 8d) *per annum*.<sup>61</sup> In 1348, however, two other men from *Welle* and one from Elm had jointly paid £12 for the year's rental.<sup>62</sup>

Aside from these rentals, the one reference to a fish is connected with the bishop's rights of royal fish, which he enjoyed along with the rights of wreck. In 1339, Simon Mowere was ordered to respond as to why

<sup>56</sup> C8/4/50 Wis Curia 15.5.1369 They were taken from William Silveronn's servant Robert Godard, neither of whom are known brewers or sellers of ale.

<sup>57</sup> C13/2/19 Wis 100 8.7.1339.

<sup>58</sup> C13/2/19 Wis 100 17.9.1338.

<sup>59</sup> Darby, *Medieval Fenland*, p.29.

<sup>60</sup> C8/3/41 Wis Curia 28.11.1353.

<sup>61</sup> C8/3/46 Wis Curia 1.9.1362.

<sup>62</sup> C8/3/37 Wis Bond 28.11.1348.

he stole a fish vocatur *Swerdfichs invenit super sabulonem domini Episcopi in Tyd*.<sup>63</sup> Possibly he claimed that he had been the finder of the fish and therefore due the fourpenny payment for his find.<sup>64</sup>

While account rolls may provide an institutional economic framework, the court rolls provide, if patchily, small, often oblique references to the economies of individuals. By no means do they offer standard quantifiable data for the detail is individual-focused and inconsistent. The entry recording the goods taken from Agnes Belle of Wisbech, on suspicion of larceny, provides rare details of the chattels about which others litigated and which linked individuals through commerce in the world beyond the court; but the rarity of such detail means that the rolls can only supplement the wider picture derived from other sources.<sup>65</sup> And though it is possible to see the moveable goods, for many individuals their landholding was of greater value: Richard Whelp de Neuton senior fled after the death of Adam Alcok and his chattels were seized; they were ultimately sold to his widow and son, the corn for 18s and his other goods for 3s.<sup>66</sup> Since the Wisbech rolls do not by any means provide a complete register of land transfers it is this resource which is difficult to piece together comprehensively on an individual basis.

Similarly, population figures have not been derived from court roll data: any such calculations risk the possibility of bearing little relation to the numbers on the ground within Wisbech hundred. The period studied is neatly enclosed by the 1327 lay subsidy and the 1377 Poll Tax figures, but unfortunately only the former survive. At this point there were 192 taxpayers listed for Wisbech, 138 for Leverington, 82 for Tydd, Newton had 71 and Elm 58.<sup>67</sup> One might allow for under-enumeration of taxpayers on the basis that a maximum of 66% and minimum of 33% are included in these lists, use a multiplier of 5, and produce a rather blunt guide to the populations of these different villis. Poos calculates that roughly 30-40% of resident families in Waltham and High Easter appear in the 1327 and 1332 lists but only works around Glasscock's caveat that such figures of taxpayers should not be used to estimate the total population because of the survival of tithing data. Since there is

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<sup>63</sup> C8/3/31 Wis Curia 30.7.1339.

<sup>64</sup> V.C.H. 4, p.227.

<sup>65</sup> C8/3/42 Wis Curia 27.6.1354 Her haul comprised a string of beads, a tapestry, 3 old linen sheets, an old canvas, a short jacket and 3 old kirtles, eventually sold by the castle reeve for half a mark.

<sup>66</sup> C8/3/42 Wis Curia 15.1.1356.

<sup>67</sup> C.H.Evelyn White ed., *Cambridgeshire and the Isle of Ely Lay Subsidy for the Year 1327* (n.d.) Wisbech hundred produced the largest sum of tax in absolute terms (£87 12s).



no control against which to set the Cambridgeshire data, population figures have not been hazarded.<sup>68</sup>

The first mention of the bridge over the Well Stream is in 1317 in the context of a dispute between Bishop Hotham and Sir Geoffrey de Colville, who had lands in Walsoken, on the opposite bank in Norfolk. Given the local topography such bridges were of crucial importance. Drawing on the work of D.F.Harrison, Masschaele has stated that 'the supply of medieval bridges only makes sense in the context of a well-developed medieval transportation system.' From his own work on Huntingdonshire he concludes that there was 'one bridge for about every five miles of the Ouse's route through the county.' Therefore 'any waterway that might have created an insuperable obstacle to land traffic could have been crossed by travelling no more than several miles to the nearest bridge.'<sup>69</sup> Wisbech obviously provided such a site; and in 1374 reference is made in the court rolls to a new bridge there called *Stonbrigg*.<sup>70</sup>

It is now argued that Lynn was the main outport of the fenland waterways even before the silting of the Ouse at Wisbech in the late thirteenth century.<sup>71</sup> Certainly, Wisbech may have been a link in the transport chain from Ely to Lynn for instance (and through Ely to Cambridge and London).<sup>72</sup> On a more individual level, there are clear trade links between Wisbech and Lynn. As a result of the bishop's jurisdiction over stolen goods apprehended in his territory, the details of John *filius Katerine* de Lenne's arrest are known.<sup>73</sup> John was caught 'red-handed' with six marks of gold; when charged he claimed that William Draper de Burgh, *magister*, had given the gold to him to take to Lynn. A similar east-west axis is illustrated by a comparable entry: John Bretonn de Fakenham was arrested in 1373 in possession of various cloths to the value of 9s allegedly stolen by him.<sup>74</sup> Darby concluded 'from the frequent mention of boats and boat-hire... that the ordinary

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<sup>68</sup> R.E.Glasscock, ed., *The Lay Subsidy of 1334* (1975), p.xxiv, L.R.Poos, 'The rural population of Essex in the later Middle Ages', *Ec.H.R.* 38 (1985), pp.528-9.

<sup>69</sup> J.Masschaele, *Peasants, Merchants and Markets: Inland Trade in Medieval England, 1150-1350* (1997) p.198, citing D.F.Harrison, 'Bridges and Economic Development, 1300-1800' *Ec.H.R.* 2nd ser. 45 (1992) pp.240-61.

<sup>70</sup> C8/4/53 Wis Leet 24.5.1374 a unique reference to *elemosina* of 2d each Easter for the bridge.

<sup>71</sup> Masschaele, *Peasants, Merchants and Markets* n.4 citing N.S.B.Gras, *The Early English Customs System* (1918), pp221-2.

<sup>72</sup> Since Wisbech was not classed as a port of shipment for wool and woollen cloth, it is not separately listed in the series of Enrolled Customs Accounts; in the fourteenth century, such goods from Wisbech would have been shipped from Boston or Lynn. E.M.Carus-Wilson and O.Coleman, *England's Export Trade 1275-1547* (1947) appendix II pp.178ff.

<sup>73</sup> C8/4/46 Wis Curia 1.9.1362.

<sup>74</sup> C8/4/52 Wis Curia 27.1.1373.

"sewers" were the highways from place to place'<sup>75</sup> and he gives some indication of the comprehensiveness of the communications system in the fourteenth century:

The fourteenth-century sacrist rolls of Ely show the sacrist and his fellows using the fenland waterways as their normal means of transport; whether it was to synods at Barnwell, or to buy cloth, wax, tallow, lead and other necessities at Lynn and Boston, or merely to conduct their ordinary day-to-day business at Shippea, Quaveney, Littleport and elsewhere among the fens.<sup>76</sup>

Mark Bailey offers a glimpse of communications between Wisbech and the and other East Anglian manors of the bishop:

Unfree tenants on the Bishopric of Ely's estates [in the East Anglian Breckland] were...expected to perform a variety of carriage services for the lord. At Bridgham, they were required to cart demesne produce from other bishopric manors in central Norfolk and Suffolk. This produce was invariably destined for the breck-fen edge, whence it was shipped to Ely, Wisbech and Littleport by tenants of Feltwell, Northwold and Brandon.<sup>77</sup>

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<sup>75</sup> Darby, *Medieval Fenland*, pp.100-1.

<sup>76</sup> Darby, *Medieval Fenland*, p.103.

<sup>77</sup> M.Bailey, *A Marginal Economy? East Anglian Breckland in the Later Middle Ages* (1989), p.157.

## METHODOLOGICAL

The aim of this section is to sketch the scope of the records, and their limitations, as evidence for a social study; in terms of both their status as legal records of a particular kind and their completeness and condition. An effort is made to come to terms with the difficulties inherent in inferring actual social action and interaction from terse and formulaic entries. The sustained attempt to test the boundaries of the evidential usefulness of the material has given rise to what may seem an unduly negative tone as caveat piles upon caveat: but, while these reflections may limit the conclusions of the finished research, they should mean that the conclusions will be substantive and supportable, even if restricted.<sup>1</sup> The following offers an interpretative background to the analysis of the Wisbech rolls found in the succeeding sections.

### The Nature of the Records

This study is based on fourteenth-century court rolls from the Bishop of Ely's manors in the hundred of Wisbech, Cambridgeshire. These derive from four types of court - hundred, leet, *curia* and halimote - with rolls surviving from the reign of Edward III. A regnal period was taken to define the period of study since, although the period is very nearly arbitrary at such a very local level and among peasant society, it is at least not entirely ahistorical. It was chosen as coinciding with a relatively good period of survival of rolls, to avoid duplicating Edward Miller's work on the same manors during the previous century, and to encompass the events of the Black Death, with their immediate prelude and aftermath. Since this is neither an economic nor a demographic study, this last factor does not perhaps appear to loom large. However, the chapter on the deathbed transfer and its implications points to small but significant changes in attitudes to the custom of land transfer in these manors, coinciding with the great increase in such transactions as a result of plague mortality. Although perhaps not a dramatic conclusion it is at least one relating to matters with which the rolls were centrally concerned.

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<sup>1</sup> I fully endorse the least arguable conclusion of Poos and Bonfield: 'On the other hand, as usual, one may cite counter-examples'! *Select Cases in Manorial Courts 1250-1550: Property and Family Law*, ed. L.R. Poos and L. Bonfield, Selden Society 114 (1998), p.cxxxix.

## Record Survival

Extant records derive from 316 sessions of the hundred, *curia*, leet and halimote courts. The curial timetable is summarised in a court roll for the hundred court session held after Michaelmas 1342, at the end of the accounting, and also curial, year. There were seventeen sessions of the hundred court, six of the *curia*, and then one leet and two halimotes held for each of the five villis.<sup>2</sup> The hundred court was held quite regularly at three week intervals, and when four or even five weeks separated sessions, a note to this effect was entered in the rolls. The sessions of the *curia* tended to be less regular. While there are the expected six surviving court records for the sessions during 1353-4, there are eight for the year 1355-6.<sup>3</sup> December 1352 to September 1356 provides a more or less complete sequence of *curia* records, and the sequence after July 1361 is also comparatively full.

While a complete series is important in tracing particular cases, there is no reason why the historian faced with a good but incomplete series should avoid using them; the qualitative nature of a series of court rolls should not be judged only upon the quantity that survive.<sup>4</sup> The fact that different types of court for different villis all within the single lordship survive goes some way to making this collection a 'good' series. The nature of the bishop's jurisdiction, which is discussed in greater detail below, means that the data contained in the different rolls depict a wide range of activity. Personal pleas, land transfer, baking, battery, refusal to perform services, efforts to prevent inundation of land from flooding and more are evidenced - not everything that occurred but enough to give some sense of the particular society.

No attempt has been made to use the data for demographic purposes, but they nonetheless have much to illumine. There is no reason to suppose that the entries in the non-extant rolls are any more representative than those in the surviving records, and if, therefore, all the entries in all the extant rolls are examined, one can hope that such interpretations as can be drawn are supported by firm foundations. At least recognition of methodological difficulties can encourage a little resourcefulness; and a positive aspect to come out of this research has been the considerable amount of solid inference that can be drawn from the minutiae of the records, once one gets into the habit of

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<sup>2</sup> C13/2/20 Wis 100 3.10.1342.

<sup>3</sup> C8/3/41-43.

<sup>4</sup> see Z.Razi 'Manorial court rolls and local population: an East Anglian case study' *Ec.H.R.* 49 (1996), p.758 and p.760 The Gressenhall court records are of 'much better quality' than those of Waltham and High Easter because more sessions survive.

imagining what might have prompted a scribe to make this or that correction or annotation; or to choose a non-standard formulation in an apparently normal entry.

In addition to the partial survival of court rolls it is necessary to keep in mind the gaps left by the wholesale non-survival of complete classes of more ephemeral records, ancillary to the rolls themselves, but which presumably may once have existed.<sup>5</sup> The cross-referencing between rolls from different courts, and indeed previous sessions of the same court, necessarily implies the use of the rolls in a systematic fashion. The reorganisation of information and the compilation of supplementary lists would make practical sense. Cam observed that 'Presumably every holder of a court had a list of the suitors who were bound to be present... but few such lists survive.'<sup>6</sup> The rolls of the hundred court proceedings include for some sessions separate lists of pleas and of essoins, each list appearing on a manuscript containing only such lists and not the full transcription of the actual court. If these were incidental to the main record of proceedings, they may have had a temporary value, designed to enable the court officials to check on the progress of each plea; for example, to check the names of a suitor's pledge so that the demand for money or the issuing of a court order could be addressed to the right person. As such, their survival is ancillary to that of the main court roll.

Their survival raises the question of what other documents there might have been. In the same way that there may have been lists of suitors, there may have been lists drawn up of amercements and fines, against which the amounts collected were checked off.<sup>7</sup> Record of each amercement or fine is accompanied in the margin by the name of a vill, and this can be taken to indicate the residence of the person from whom the money is due. The summation of court profits is subsequently divided vill by vill. If the responsibility for its collection was also divided vill by vill, then one might presume that separate lists of monies may have been produced. Such working lists would have been essentially ephemeral, and once all the monies had been accounted for there would have been no need to keep them.

Similarly, lists of suitors or particular tenants were ordered to be drawn up, but none survives. Documents were also exchanged among

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<sup>5</sup> see P.D.A. Harvey, *Manorial Records* British Records Association, Archives and the User 5, (1984), p.43 'The formal record of its proceedings would not be the only written document that the medieval manorial court produced: it is just that others have seldom survived.'

<sup>6</sup> H.M. Cam, *The Hundred and the Hundred Rolls: An Outline of Local Government in Medieval England* (1930; repr. 1963), p.173.

<sup>7</sup> Cam argues that to prove their efficiency, hundred court bailiffs kept lists of fines and amercements and that 'the rolls bear the marks of the pen that ticked off a name when the business was wound up.' Cam, *The Hundred* p.155.

tenants beyond the court. The record of a land transfer in 1331 makes reference to the terms of an apprenticeship of John *filius Elie* de Tydd to William Rust *secundum formam Indenture inter eos facte*; and Margaret, widow of John de Bekedale is ordered to produce the charter which purports to show that 20s and not some larger sum is due as relief for the 100-acre holding in which her husband had died seised.<sup>8</sup> Neither of these records now survives. The scrutiny of alienations of villein land by charter, as if free, was one of the chief concerns of the episcopal administration. Such charters were confiscated and kept at the castle, although these have not survived for this period either.

### Scribal Practice

Scribal entries are usually very terse; abbreviations are used wherever possible and the information recorded seems generally to be the minimum necessary for the purposes either of the case in hand or of future reference. Indeed it must be a fundamental premise of this study that scribes were thus sparing with their words: they included only what was essential and therefore the historian can be confident that everything recorded has significance - every detail will bear the weight of historical interpretation. Where additional detail is given beyond that normally expected for a given type of entry, the unproductive assumption that the scribe was merely being uncharacteristically fulsome has been ruled out: the additional information is deemed relevant to some feature (whether recoverable now or not) peculiar to the case. Variations in recording practice relating to the appearance of different scribes do not affect this issue. Indeed, if styles change with the change in hand, it is more likely that the new scribe leaves more unsaid in the contraction 'etc.' rather than the previous clerk had been elaborate in their entries. Whether or not such supplementary details can be utilised in building the prosopographical picture of the individual in question, they do sometimes offer valuable insights into the ways in which legal formulations were translated into social reality.

The concentration of court business in Wisbech tended to emphasise the unity of the hundred rather than the diversity of the villis within it; but distinctions between the villis were not wholly disregarded. Indeed, the concern to maintain an awareness of these within the records is of vital importance for the historian. Clarity had to be the watch-word of the scribe, whether the record was to be used by the scribe in the next court or to allow for possible consultation in a land dispute

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<sup>8</sup> C8/2/21 Wis Curia 26.6.1331, C8/3/37 Wis Curia 16.7.1347.

in a subsequent year. Thus, while the villis are administered together, the marginal annotations alongside each entry naming a specific vill partially re-establish the local perspective of tenant business.

As remarked above, the summation of the profits of jurisdiction was usually broken down vill by vill at the foot of the manuscript. And a further distinction was also made, transcending that between the villis: this was to take account of the fact that the prior of Ely also had tenants in Wisbech, Elm, Leverington and Newton. From a hundred court roll from 1302, Cam found

the Prior of Ely claiming his court in respect of his tenants within the hundred. Here, it seems probable, the prior is content to have his tenants' cases heard in the bishop's hundred court by the ordinary procedure, provided the profits of jurisdiction are made over to him.<sup>9</sup>

This is generally true. The later rolls contain just one reference to a similar concern over jurisdiction: the seneschal of the prior of Ely claimed Geoffrey de Fenne, impleaded in a plea of trespass by John Elverich, as a tenant of the prior's land.<sup>10</sup> Attention to the division is regularly drawn in the halimote and leet rolls, both in the form of separate accounting at the end of the record, and in the marginal annotations, indicating bishop or prior, alongside lists of brewers and regraters. Items giving rise to a payment are marked either 'E' or 'p' in the margin: at the end of each roll there appears the total due to the bishop (the sum of all the entries marked 'E') and the total due to the prior (the total of all those marked 'p').<sup>11</sup>

Many of the manuscripts show signs of scribal annotation. Records were updated as pleas developed in subsequent courts, implying that the rolls were actively used as reference material. At the hundred court held in November 1338, John Noche was ordered to be attached to respond to Joan attebrigge in a covenant plea; the entry in the roll has the words *non pros'* entered as superscript above Joan's name, and the record for the following court, in December, does indeed detail Joan's threepenny amercement for non suit.<sup>12</sup> Similarly, the superscript *prece parcium* appears above the name of suitors in various pleas, and if the

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<sup>9</sup> Cam, *The Hundred* p.212.

<sup>10</sup> C13/2/19 Wis 100 1.4.1339. The bishop's constable, as the official in charge of the hundred court, was to check this claim, but his verdict is not known. Whether or not Geoffrey was the prior's man rather than the bishop's did not prevent him from pursuing the same John Elverich in a plea of debt - settled out of court. C13/2/19 Wis 100 20.5.1339.

<sup>11</sup> C7/1/4 Lev Hali 4.5.1340 *Summa* 32s 11d unde pro parte Prioris 6d; C8/2/26 Wis Hali 8.10.1333 *Summa* 57s 3d unde prior 7s 3d; and C8/2/27 Newton Hali 6.5.1335 *Summa* 15s 3d unde prior 18d.

<sup>12</sup> C13/2/18 Wis 100 26.11.1338, 17.12.1338.

same case is traced to the subsequent court record, it can be seen that a day was given 'at the request of the parties'.

The elucidation of details pertaining to many cases suggests careful scrutiny of the rolls: clearly there was a concern to ensure that cases of personal litigation were followed through to their conclusions according to due procedures; and, correspondingly, to ensure that the records left the smallest possible room for subsequent confusion or debate. The particular concern to avoid ambiguity is evidenced by a citation of Augustine Sekker: though this is scarcely a common name, liable to confusion with others, the scribe has taken the trouble to correct the original spelling by adding a second 'k' to his surname. In other circumstances, where one widow is initiating dower pleas against several different parties, the amount of land claimed is sometimes added above the relevant plea. (A sensible expedient which would also serve to answer the tenants' own frequent requests that the rolls be examined to establish the justice of land claims.)

The historian benefits greatly from this concern for precision; particularly in the vexed area of individual identification. Henry Ofthechaumbre impleaded Richard Copping regarding an outstanding debt. In one of the entries relating to the plea Henry is recorded as Henry Chamberleyn, but this has been corrected to read Ofthechaumbre, thus making the record consistent with previous identifications of the litigant. To prevent confusion the John Pecker impleaded by John *filius Roberti* Pecker in a land plea at the hundred court in 1332 has been identified as John Pecker senior through a scribal annotation. Possibly, they were brothers.<sup>13</sup> In addition, surnames deriving from occupations could apparently be as misleading to contemporaries as to the modern historian, witness the citation of William Cok *Carpentarius*, for example.<sup>14</sup> In piecing together citations of the same name I have tried to account for the possibility that a surname may be a statement of fact, a description and not a stable surname, but the impact of potential duplication is lessened to some degree if the subject is the individual rather than the family grouping.

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<sup>13</sup> C8/2/35 Wis Curia 15.5.1332.

<sup>14</sup> C8/2/25 Wis Curia 15.5.1332.



## Nominal Identification

### Identification by Place

Individuals are additionally distinguished by place. Marginal annotations indicating vill of residence appear in the *curia* and hundred court records - the courts held centrally at Wisbech. (Marginal indications of vill alongside land transfer entries, however, refer to the location of the land itself.) John Cake *de Leverington* is cited in litigation before the hundred court in 1338; the reference to the vill is no doubt to distinguish this John Cake from the Wisbech resident recorded as a brewer and juror in the Wisbech halimote rolls.<sup>15</sup> Occasionally, there is some doubt as to which vill an individual should be associated with. At two consecutive hundred court sessions in 1338, Robert Vernoun is ordered to be distrained to respond to William de Fressyngfeld's debt plea, but in the first Tydd is marked in the margin, in the second Elm. Fortunately, the entry of Robert's death survives from the Elm halimote in spring 1339, and this gives his landholding as being in Elm. He could, of course, also have held land in Tydd, but the companion halimote session for Tydd recorded no such presentation of death and subsequent admission of his heirs to land there.<sup>16</sup> Halimote and leet records for each vill provide a more reliable indicator of the vill of residence. Those that are cited there as jurors, under the assizes of bread and ale, or as tenants involved in the surrender of land can clearly be identified with the vill for that session.

Individuals are also identified by vill in the main text of the records, but this evidence is not always easily interpreted. What appear to be toponymic surnames may in fact be descriptive statements of fact: *de Tydd* may be established as a name, or it may be a piece of information recorded for the purposes of one particular record only. *Johannes Doundale de Elm, Reginaldus Tilly de Welle et Thomas Hildebrond de eadem* together rent the fen and fishery of Levermer in 1348.<sup>17</sup> Here, clearly the references to vill can be taken reliably to indicate vill of residence, yet one of the recipients of a message in the new market surrendered by William Neuehous is recorded as Geoffrey Caly *de Walpole manens in Wysebeche*.<sup>18</sup> Elsewhere Adam *de Walpole de Leverington* is

<sup>15</sup> C13/2/18 Wis 100 12.3.1338; C8/2/27 Wis Hali 20.10.1334 baker and C7/1/4 Wis Hali 5.5.1340 juror.

<sup>16</sup> C13/2/17 Wis 100 23.10.1337 and 4.12.1337; C8/3/34 Elm Hali 9.4.1339

<sup>17</sup> C8/3/37 Wis *Curia Bondorum* 28.11.1348.

<sup>18</sup> C8/4/52 Wis *Curia* 27.1.1373.

recorded and the entry recording his amercement for default is marked Leverington in the margin.<sup>19</sup>

Use of local names, particularly of villis within the hundred, is problematic. Geoffrey de Tydd, for example, is regularly and frequently recorded with this nominal style, yet he holds land not in Tydd but Leverington and Wisbech. Ultimately, the decision as to whether these individuals were in fact residents or emigrants of such villis must rest on the accumulation of evidence, but it is not always possible to decide one way or other.

The presence of reliably identified and clearly reconstructed family groups with this form of identification must point to residence within the hundred of Wisbech, whereas isolated appearances, of plaintiffs for example, might suggest inter-regional connections. William *filius Johannis* de Beverlee was charged before the Wisbech leet in 1337 of battery against Peter Jekoun, whose wife had, as a consequence, justly raised the hue upon William.<sup>20</sup> William did not deny he was the bishop's tenant and one can assume that he was in fact a resident of the hundred rather than of Yorkshire. John de Beverley's wife was amerced at the Wisbech halimotes in 1333 and 1334 as an ale-seller, and the wife of William de Beverley appears on eight occasions at Wisbech halimote and leet for selling and brewing between 1350 and 1370.<sup>21</sup> Unfortunately there are no records of a John de Beverley.

Locational names (or more strictly *identifications*) might be potentially less reliable and less stable when the places in question are local. Names denoting migration from further afield, being more distinctive, were perhaps more likely to become stable from one generation to the next; and this issue itself may throw light on what was considered local: if names like Sutton or Newton were considered indistinct as surnames (merely being adopted to aid identification of villagers before the courts at Wisbech and only used as 'surnames' by subsequent generations), then those place names which can be verified as becoming stable family names (such as Borewelle, perhaps Beverley), may indicate places which, though perhaps only slightly further afield, were nonetheless perceived as being outside the perceived extent of the 'local'.

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<sup>19</sup> C8/3/38 Wis Curia 20.7.1349.

<sup>20</sup> C8/2/29 11.6.1337.

<sup>21</sup> C8/2/26&27, C8/3/39, C8/3/44, C8/3/48 & C8/3/50, C7/1/8.

## Matching Names to Individuals

On the most basic level, anyone attempting to distinguish the prosopographical details of one individual from another has to contend with the occurrence in the records of different individuals under the same name. The name of John Reynald, for example, appears with striking ubiquity. In 1339 John Reynald is amerced for non-appearance at the Tydd halimote and ordered to appear at the hundred court to respond to William Halleman's debt plea.<sup>22</sup> At a comparable date, a John Reynald can be seen to have served on the halimote jury for Newton, and it is clear that there are two John Reynalds for most of the period under study, one from Tydd and one from Newton, but it is not always easy to distinguish them. In addition, a wife of John Reynald is presented under the assize of ale at halimote sessions for Leverington (1330), Newton (1334, 1335 and 1340) and Wisbech (1339 and 1340).<sup>23</sup>

Generally, the records do not suggest the opposite problem of a capricious use of different names for the same individual, but this is one elusive assessment that is made all the more slippery by incomplete record survival. The very fact that there are different types of court may also affect the situation. In copying the business of one session from another, there would be little likelihood that one individual would be recorded with varying names, but this possibility cannot be excluded from an examination of different courts or even sessions of the same court over several years.

The hundred court roll for June 1338 contains the record of William de Tyrington's essoin by John Pye in a debt plea against Richard Baxter de Lakyngithe. This has been crossed out and in the margin is written *quia Willelmus Streyth*.<sup>24</sup> Further in the roll is recorded the amercement of William Streyth's pledge for failing to have him respond to Richard Baxter de Lakyngithe's debt plea, and 'Elm' is noted in the margin. Certainly, all other references to this litigation refer to William Streyth not William de Tyrington. In 1335, William Streyth de Tyrington is elected in the Elm halimote to be rent collector, and William Streyth can generally be taken to be resident in Elm - in 1350 he is described as William Streyth de Elm. William Streyth is also elected rent collector again at the Elm halimote in autumn 1343.<sup>25</sup> However, William Streyth, William Streyth de Elm and William Streyth de

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<sup>22</sup> C8/3/31 20.4.1339.

<sup>23</sup> C8/2/23 Lev Hali c.18.10.1330, C8/2/27 New Hali 24.10.1334 and 3.10.1335, C7/1/4 New Hali 8.4.1350 and Wis Hali 5.5.1340, C8/3/31 Wis Hali 23.4.1339.

<sup>24</sup> C13/2/18 4.6.1338.

<sup>25</sup> C8/2/27 Elm Hali 6.10.1335, C7/1/5 Elm Hali 24.10.1343.

Tyrington is not to be identified with William de Tyrington. It thus appears that William Streyth came from Terrington and settled in Elm and from henceforth was known as William Streyth in distinction from the man known as William de Tyrington. At hundred courts in November and December 1338 William Streyth and William de Tyrington are both recorded and are quite separate individuals.<sup>26</sup> The probable reason for the essoining entry being crossed out is that William [Streyth] de Tyrington had already been essoined three times: it is for this reason - that no excuse could be made for his absence - that subsequent record is made of his pledge being amerced. Because William de Tyrington has in this case been mistakenly entered for William Streyth, when the clerk crosses out the essoining entry he takes the opportunity to note the error. This provides an intriguing example of how the historian must deal with what is written and interpret it in order to get to the meaning behind - not always easy when the scribe makes the mistaken identification himself!

The manner in which many individuals are nominally identified by reference to their father, or in a few cases their mother, adds another reason for nominal instability. Names denoting familial relationship may indicate a persistent use of this form of identity for an individual, or that it was felt appropriate to note the relationship in a particular entry. Walter *filius Walteri* frequently appears in the records, and often when acting in some official capacity, suggesting that he was regularly known as his father's son rather than by any other name. (He has four citations as juror, six as pledge, seven as essoin, was affeerer for Leverington and Wisbech halimotes, and was elected reeve for Wisbech Barton and Castle, as well as being involved in his own litigation.) When he dies, his son, another Walter is his heir, but he does not appear during his father's lifetime; afterwards, though, he too is recorded as Walter *filius Walteri*.<sup>27</sup> No other name has been attributed to the first Walter *filius Walteri* but it is not absolutely safe to assume that continued use of such names precluded other forms of identification for other individuals.

The different ways in which an individual might be recorded may also be a reflection of a deliberate policy by the scribe: as Bennett has noted, the marriage of a son was often marked in the court roll by a loss of his nominally dependent status as, for example, Henry *filius Petri Coci*, in favour of his identification by his own name Henry *Cocus*.<sup>28</sup> The marriages of only 24 men can be dated, of whom only four are identified in the style 'Nicholas *filius Galfridi attebrigge*', for

<sup>26</sup> C13/2/18 5.11.1338, 26.11.1338 and 17.12.1338.

<sup>27</sup> C8/3/33 Joan *que fuit uxor Walteri filii Walteri* and Walter *filius Walteri* are impleaded by John *filius Walteri attecrosse*.

<sup>28</sup> J.M.Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock Before the Plague* (1987), p.58.

instance; it is only this Nicholas who appears to have been thus identified for the purposes of recording his marriage - all subsequent citations are made under the name Nicholas attebrigge.<sup>29</sup> Such hopes of dating a man's marriage, with the implications that this might have for the process of nominal identification as suggested by Bennett, therefore prove rather forlorn.

There are additional instances in which identification by reference to the father is far from stable. In April 1338 Geoffrey *filius Johannis filii Ricardi* appears as the defendant in debt pleas brought separately by Richard Drake and John Lewyn, but in the previous hundred court session he had been recorded as Geoffrey *filius Ricardi*.<sup>30</sup> Rather than argue that Geoffrey's identification with his father's name was less than constant, it seems that scribal error in copying the details from one session's record to another causes the anomaly. This is certainly the most reassuring suggestion, but it has to borne in mind that differing identifications may have other significances. Given that a woman might be identified by reference to a spouse as well as a parent, one fears one may be looking into a problematical abyss. The name of Christine *filia Gilberti* is notable for being one of the few women stated as hundred court suitors. If one traces her appearance in the list of such suitors essoined or paying to respite their suit then she has to be identified with Christine, wife of John *filius Gilberti*.<sup>31</sup> Is this bypassing of the significance of the conjugal bond to stress the link of the lineage peculiar to Christine and her status as a female freeholder, or does this example underline more generally the separation of the wife from her natal family (as found by Bennett from an examination of court networks of single and married women in Brigstock)? More basically, how do I know that when I find a daughter I haven't actually found a daughter-in-law?

Of all the historians engaged in family reconstitution from court rolls, Judith Bennett has been the most methodologically conscious and rigorous. But it is this concern with *family* reconstitution which dictates that faith in the reliability of manorial records for nominal identification is sometimes stretched too far. Such confidence, on the

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<sup>29</sup> C8/4/50 Wis Curia 15.5.1369, he married Isabella *filia Simonis* Payke, also of Tydd, her father being one time juror and bailiff, and generally much involved in the court. Whether Nicholas was drawn into the world of the court through his father-in-law is beyond assessment; there only joint activity comes through land tenure after 1374, when Henry attebrigge surrenders land in Edykfeld next to that of Simon *ad opus* Simon, Nicholas, Richard Warde and Simon Canchonn. C8/4/53 Tydd Hali 11.10.1374.

<sup>30</sup> C13/2/18 12.3.1338, C13/2/19 2.4.1338

<sup>31</sup> C13/2/18 12.3.1338 Christine *que fuit uxor Johannis filii Gilberti*, C13/2/19 23.7.1338 Christine *relicte Johannis filii Gilberti*, C13/2/22 13.10.1345 Christine *que fuit uxor Johannis ffitz Gilberti*.

grounds that individuals presumably neither wanted to be assessed twice for taxation nor wished for uncertainty over various land and contractual arrangements recorded before the court, is undoubtedly appealing but, in the case of the Wisbech records, cannot be stated with sufficient certainty.<sup>32</sup>

Bennett cites a John Kroyl and a John Wolf who turned out to be one-and-the-same person. She betrays little anxiety over the implications of the discovery, since 'many of the problems of linking names to individuals,... redound less upon the reconstruction of personal histories than upon demographic calculations; treating John Kroyl and John Wolf as two separate people would have artificially inflated the count of adult males in early fourteenth-century Brigstock.'<sup>33</sup> She argues that 'in the final analysis,... we must admit our dependence on the written records. If the Brigstock records had never betrayed the identity of John Wolf with John Kroyl, these two names would have been treated as two separate individuals.'<sup>34</sup> What is remarkable about this statement is the comfortable tone in which it is phrased: surely such a reflection offers historians a sickening glimpse of the treacherous quicksand of multiple names unreliably pinned on fugitive individuals, on which all their efforts are founded. One understands what is meant when Bennett claims that 'without the linkage with John Wolf, the picture [of John Kroyl's life] would have been incomplete, but nevertheless both accurate and worthwhile', but really it is pretty cold comfort.<sup>35</sup> No, the spectre of unrecognised individuals inhabiting the records under aliases does not directly affect 'the reconstruction of personal histories'; but it very materially distorts the picture derived from tracing how those individual histories interlink. If Kroyle and Wolf had been erroneously treated as two separate people, remarkable similarities would almost certainly have been noted in their respective circles of contacts within the courts, yet they would not themselves have been found to be connected anywhere in the records. One could envisage oneself expending many words on the futile elucidation of such a result and its implications for the function of weak ties within a network!<sup>36</sup> If we are to disregard the truth of past actuality and treat the records as though they were all there was, just because they are all we have now, then we must confine our conclusions to statements about records and not about people. Bennett maintains that 'the challenges of linking names to individuals

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<sup>32</sup> Bennett, *Women*, p.201.

<sup>33</sup> Bennett, *Women*, p.206.

<sup>34</sup> Bennett, *Women*, p.202.

<sup>35</sup> Bennett, *Women*, p.202.

<sup>36</sup> M.S.Granovetter, 'The strength of weak ties', *American Journal of Sociology* 78 (1973), pp.1360-80.

are not insurmountable because all administrative bodies... needed to ensure that their records firmly identified and differentiated all persons';<sup>37</sup> and one may take heart from this, but if, in the final analysis, too many problems prove undecidable, then it will be better to offer a clear-sighted, if incomplete, picture of past reality, than to complete some kind of picture, real or not, by turning a blind eye to the evidential problems. This is not to argue that Judith Bennett is less than rigorous with her data; after all it is she that states 'in the final analysis,... we must admit our dependence on the written records'. It is more a question of how willing one is to accept the inevitable once the limits of nominal identification have been reached. Increasingly sophisticated arguments can be put forward to convince oneself that the records can yield what one feels they ought to, but in the end the best thing is be straightforward about their limitations: 'In examining inheritance it is often not possible to identify remote relatives who bear different surnames. I have had to assume that individuals with different surnames were not related, and that individuals with the same surname were related. This is clearly unsatisfactory,' but at least it is clear.<sup>38</sup>

### Identification by Familial Relationship

From his study of the court rolls of Halesowen, Razi observed that 'pedigrees of villagers are given very rarely in court rolls; the genealogical data found in them are largely incidental.' However, he then makes two further points: 'as many of the social and economic activities reflected in these records were conducted within a family framework, it is possible to discover the familial ties of villagers. In a good series of court rolls like that of Halesowen genealogical data are so abundant that most of the peasants can be linked to families.'<sup>39</sup> Genealogical data are not abundant in the Wisbech rolls, and while much of the social and economic activity in the world outside the court may well have been conducted within a family framework, this is not so easy to see in the records themselves.

The fundamental problems of reconstituting families from the mass of citations for individuals - dealing with the problem that individuals with the same surname may not be related and that different surnames

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<sup>37</sup> Bennett, *Women*, p202.

<sup>38</sup> C.Dyer, 'Changes in the size of peasant holdings in some west midland villages 1400-1540', in R.M.Smith, ed., *Land, Kinship and Life-Cycle* (1984), p.279.

<sup>39</sup> Z.Razi, *Life, Marriage and Death in a Medieval Parish: Economy, Society and Demography in Halesowen 1270-1400* (1980) p.17.

might obscure family relationship - have not been solved in any easy way. This should be a direct reflection on the type of data with which the historian of the court rolls deals. Yes, it is likely that all the individuals with the surname de Borewelle were related, but it is less easy to prove how and thereby assess the importance of particular family relationships. Since there are just over 70 individuals with this name this is a task which needs addressing if one is to understand the significance of the family framework.

The obverse of this is that individuals apparently unrelated through surnames are in fact related by birth or marriage. This is the easier statement to prove. However, if one does not give primacy to families but focuses instead upon the individual, then the problem of needing to relate everyone becomes less of a constraint. Evidence which does permit the reconstruction of family ties around particular individuals is extremely valuable, and it is at this level of individual analysis that analysis of family relationships is the more meaningful. The historian can thus constructively use that evidence which demonstrates a link rather than be overwhelmed by that which does not. This does not mean, however, that common surnames without explicit genealogical statements are to be ignored in all cases; as with all data the historian has ultimately to decide, balancing probabilities, on what was the most likely.

The Wisbech rolls contain much that is indicative of familial relationship. There are obviously the entries detailing *post mortem* transfer of land, which for the purposes of the change in tenure, draw a link through customary inheritance procedures between the tenant and the next heir or heirs. The rolls do not, however, contain an explicit statement of custom regarding inheritance applicable to all villein holdings. When John Lewyn died, his son by his first wife and three other sons by the second wife, all inherited his villein lands as joint heirs (*quatuor [sic] filii et vnus heres*); partible inheritance thus pertained.<sup>40</sup> When John Faireye died, however, his 18 acre holding was inherited by his son John, but it is clear that he had another son William.<sup>41</sup> The two sons John and William inherited together the land that their father had surrendered on his deathbed to one of his daughters; she also died in 1349.<sup>42</sup> John Faireye was a villein but it is possible that the reason for impartible inheritance in this case derived from the status of the land: a relief, rather than heriot, of 6s was demanded. In the case of Henry Godefrey, his land is explicitly stated to be free and succession is clearly by impartible inheritance. The knowledge that the

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<sup>40</sup> C8/2/24 Wis Curia 14.2.1331.

<sup>41</sup> C7/1/7 Elm Hali 8.10.1349 Though this holding (in three tenements) lay in Elm, John Faireye lived in Wisbech.

<sup>42</sup> C8/3/40 Wis Curia 11.5.1350.



free land was impartible derives from the evidence that Henry had two surviving sons, only one of whom is to inherit. The evidence is contained in the same entry which records the death: since it is said that William, the elder son of Henry is an idiot, custody is granted to his mother Katherine and brother Richard.<sup>43</sup>

Generally, *post mortem* transfer of villein land appears to have followed partible procedures, and thus entries relating the descent of such land can be taken to provide an accurate statement of how many surviving sons a tenant had, or in the absence of sons, daughters, in which latter case the full family details are visible (daughters will be hidden by inheritance by their brothers).

Statements of genealogy are not limited to entries recording tenant deaths, which is just as well since land transfer through inheritance is not strongly evidenced in the Wisbech rolls. It is frequently the statements which are made outside these entries which are the more valuable because they bind individuals with different surnames into familial relationships. For example, Richard Lambekyn was charged with alienating an acre of villein land to John Homine and his wife Margaret. The scribe has added that afterwards, John *filius Ricardi* Lambekyn, as Margaret's heir, came and was admitted to the land. For further clarification, the word *fr[ater]* has been added as a superscript; thus Richard Lambekyn had two children, John and Margaret, the latter marrying John Homine. In fact what happened was that the land was eventually seized into the lord's hands because of the alienation and in June 1336 John Homine begged admittance to the land. On the grounds that the land had been given to John and Margaret and their issue but that Margaret had died without heirs, seisin was granted by the lord to John for his lifetime, after which time it was to remain to Richard Lambekyn and his heirs in perpetuity. John Homine pays 2s to have entry, but it would appear from the earlier record that Richard's son was also admitted, possibly to underline the conditional nature of John Homine's tenure.<sup>44</sup>

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<sup>43</sup> C8/2/27 Wis Curia 19.7.1334.

<sup>44</sup> C8/2/27 Wis Curia 1.2.1335, C8/2/28 Wis Curia 18.4.1336 and 6.6.1336. However see Wis Curia 26.7.1336: John Homine surrenders all right which he has in an acre and appurtenances in Leverington which he holds by curtesy (*libertatas Anglie*) for his lifetime to John *filius Ade Agge de Tydd* who is admitted, paying 12d. C8/2/28.

## Balancing Probabilities

A plethora of detail in the rolls extant can be only partial compensation for the complete absence of whole rolls which have been lost. At the end of the day, though, historians have to use their own judgements as to whether or not to place their faith in the reliability of the source material or their ability to decipher it thoroughly. It is through close reading of the surviving material that this is possible; seeking to understand the particular in the context of the general applies just as much to multi-source study as it does to the rich vein of data contained in court rolls alone.

Scribal error as well as consistency and the occasional piece of detailed recording can be usefully interpreted to demonstrate the nature of court roll data, both in terms of what is recorded and what is not. Learning how to read the record - and to read behind what is actually written - enables the historian to understand the world of the court; it will be possible to draw inferences about the world outside the court. Geoffrey *filius Johannis Cok, nativus domini*, Henry Cok *nativus domini* and Richard Godard *tenentes terre native domini* are all presented for not providing their labour at the castle as required. The precision with which the three men are identified - two as villeins the other the tenant of villein land - allows the historian a degree of confidence in the recording style.<sup>45</sup>

It is also possible to understand the limitations of the court roll, and there are many silences. Many individuals are notably absent: through presentments of brewers and regraters of ale many wives are regularly and consistently identified as resident in the vills and yet no trace can be found of their husbands. Conversely, wives have to be assumed from the citations of many men. John Faireye, resident of Wisbech, regularly appears in the court rolls between 1330 and 1349. When he died in 1349 he left two sons and two daughters, but nowhere does his wife appear. Faireye is a distinct, stable name; and members of this surname group are frequently cited. Despite their ubiquity, the women are hidden. Any prosopographical study must be based upon a multi-source approach, but the present exercise is aimed at understanding the

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<sup>45</sup> C8/3/41 Wis Curia 20.9.1353 see also 28.11.1353 where they are listed *Galfridus filius Johannis Cok nativus domini Henricus Cok similiter nativus domini et etiam Ricardus Godard tenentes terre native domini*. Reginald Basely, as beadle of Tydd is amerced for not having attached them *per corpus* as was ordered; this duty now falls to the new beadle. Perhaps Reginald decided he would rather be amerced than perform such duty at the end of his year in office (although he was supposed to do so *sub pena* 40s such penalties are rarely levied).

scope of a particular set of records. Evaluating the gaps in the source can be as important as understanding what is there.<sup>46</sup>

The masking of women's personal identities is a commonplace in the court records: *uxor Ricardi Bolewer* or *soror Willelmi Bolewer*.<sup>47</sup> The entries concerning Thomas de Bery emphasise the legal aspect of this dependency. In the first entry Thomas, his wife and daughter are presented, and amerced two shillings, for making illegal recovery from the reeve for the marsh bank (*prepositus fossati marisci*). But this is an emended version of an earlier entry which cited not *Thomas de Bery et uxor eius et filia eiusdem Thome*, but *uxor Thome de Bery et filia eiusdem Thome*. The crossing out of the original *uxor* and the insertion of *et uxor eius* after Thomas de Bery suggests that Thomas is named not because he took part in the offence but because he bears legal responsibility for his womenfolk, whose identification focuses completely upon him. Indeed, reading the next entry confirms this suspicion: it is presented that the reeve justly raised the hue *super manupastum eiusdem Thome*, for which the amercement is an additional sixpence.<sup>48</sup> A comparable situation exists in connection with servants, usually referred to in the form *Beatrix servienta Willelmi Hood* or even *William nuper serviens Willelmi Roper*.<sup>49</sup>

As to the silence of the records, it is possible to bridge these gaps; if one has read all records one can hope to both perceive the possible connection and make it, on the basis of an understanding of connections defined elsewhere. For example, Augustine de Borewelle makes four out-of-court surrenders, to each of his sons William and Robert, to his underage daughter Alice (of whom the mother has custody), and to Thomas le Clerk and his wife Innocence and their legitimate heirs.<sup>50</sup> A reading of similar out-of-court surrenders suggests that these four entries reflect a father, on the point of death, making landed provision for his four children, two sons and two daughters one of whom had married Thomas le Clerk; and the fact that the stress is upon the

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<sup>46</sup> Matilda Fayreye appears in the list of those assessed in Wisbech for the 1327 lay subsidy. This is a tantalisingly citation, not just because she has not been found in the court rolls (although she may appear in those before 1327), but because the Cambridgeshire roll of the 1327 lay subsidy lacks the details of the assessment found at Huntingdon or for Suffolk which might contextualise her assessment for 3s 8<sup>3</sup>d. C.H. Evelyn White ed., *Cambridgeshire and the Isle of Ely Lay Subsidy for the Year 1327* (n.d.)

<sup>47</sup> C7/1/8 Wis Hali 7.4.1361 both *regrators*.

<sup>48</sup> C7/1/4 Lev Leet 7.6.1340.

<sup>49</sup> C7/1/8 Tydd Hali 2.5.1356 both *braciatores*. C7/1/8 Wis Hali 22.4.1362 The list of ale-sellers includes *Willelmus Pottus pro servient'*. Although presentments were individual-based rather than household-based, this can be taken to imply that William Potter took legal responsibility for his servant's selling.

<sup>50</sup> C8/2/24 Wis Curia 26.6.1331.

couple's legitimate heirs rather than those of any subsequent union by Thomas add weight to this.

Similarly, when land is transferred to underage children, custodians are named. Frequently, the unnamed mother is granted custody, as in the example above, but elsewhere the custodian is the child's uncle by marriage. At the spring halimote for Wisbech in 1334, Gregory Snell is given the wardship of Robert, the under-age son and heir of John *filius Roberti* Broun senior, because he espoused Robert's aunt.<sup>51</sup> The following month in the *curia*, custody of John Large's son and heir, John, is handed to John Criket junior. In this case it is not clear whether John is a minor or not. He does not attend the *curia* session to be admitted to his father's holding, but where it would normally be recorded that it was ordered to attach him to attend, the record states *preceptum est facere venire in propria persona ad examinand' etc.* Added to this is written *ad Curiam sequint' [sic] predictus Johannes visus est et examinatus et traditur in custodiam Johannis Criket junioris qui desponsavit sororem eiusdem Johannis ex electione sua propria.*<sup>52</sup> The reason the court examines him and ensures he has no apparent objection to being looked after by his sister and her husband is that he is *non compos mentis*.<sup>53</sup>

The richness of detail in these instances allows one to speculate as to the possible choice of custodian in other instances where the mother is not named. Equally these two examples could be taken to imply that since the clerk has been at pains to explain why the custodian and child do not have the same name, then other cases where the two appear unrelated by surname should be taken as indicating that they were in fact unrelated. But what is unknown to the historian may have been common knowledge to contemporaries; the historian might try to reconnect families through surnames but contemporaries may not have expected brothers or sisters to be recorded with the same surname. I am not trying here to argue one way or another that all custodians can incontrovertibly be taken to be related to the charges or not, but that by reading individual entries in the light of others, amassing detail, one can balance probabilities and posit what appears most likely for particular individuals, comparing and matching one situation with another perhaps more illustrative. Thus, if x dies leaving an underage son who is placed in the custody of y, and there is evidence that x's daughter has paid a fine for merchet just before, one might speculate that y may have been related through marriage to his charge.

<sup>51</sup> C8/2/27 Wis Hali 6.4.1334.

<sup>52</sup> C8/2/27 Wis Curia 3.5.1334.

<sup>53</sup> C8/2/24 Wis Curia 8.8.1341 for the court's rôle in ensuring care of idiotic heirs see E.Clark, 'Social welfare and mutual aid in the medieval countryside', *J.B.S.* 33 (1994), p.390.

In dealing with the existence of children known to be underage, the possibility has to be faced that minors might appear without record being made of their age. Since a prosopographical study for every individual recorded in these rolls is not being attempted, this possibility is not so damaging to the overall analysis as it might be. However, any attempt to analyse connections and possible motivations behind inter-personal relationships, relies upon the attempt to squeeze as much out of the data as possible. Thus, data which can thus illuminate a marital connection between two apparently separate families is invaluable. Similarly, in assessing the intensity of a relationship between two individuals depends on knowing that they could interact with each other at any point; an awareness that one of them is a minor and thus unable to interact within the court to the same extent as an adult will affect the number of citations for them. Interpretation of the quality of the relationship is thus affected.

In 1335, Joan, widow of Gregory Swan, claims land in Wisbech from John Curteys' widow Rose and two sons Geoffrey and William.<sup>54</sup> Yet it is clear from the record of John's death that William was not even three years old.<sup>55</sup> How many other references to land pleas might shelter children in this fashion? In the same year Joan, widow of William Bette claims land in Tydd as her dower from Robert *filius Radolphi* Bette, who calls John Robert to warrant his title. The latter in turn calls William *filius Walteri* Gerard to warrant. On both occasions that William is cited he is either described as being underage or as being in the custody of one Matilda Made.<sup>56</sup> Similarly, John *filius Willelmi* Man appears as a defendant in a dower plea, and it is noted that it is his custodian who acts for him.<sup>57</sup>

It is at the level of the individual that such detail is best exploited. Whether or not a series of court rolls is of sufficient quality to provide reliable demographic data, the Wisbech data show that it does not amount to a chronicle of all that happened in the world beyond.<sup>58</sup> For the purposes of aggregating the data of all interactions into large structures of interconnection there is no room for such particular circumstance because for one reason or another there is insufficient data from which to form meaningful, general categories; only in the context of particular lives can individual circumstance and detail be given its context. It is at this discursive level of analysis that the myriad of possible circumstances that may lie behind an

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<sup>54</sup> Wis Curia 13.12.1335 C8/2/27.

<sup>55</sup> C8/2/26 Wis Curia 24.11.1333.

<sup>56</sup> C8/2/27 Wis Curia 1.2.1335, C8/2/28 Wis Curia 12.4.1336.

<sup>57</sup> C8/2/27 Wis Curia 13.12.1335.

<sup>58</sup> S.Olson, *A Chronicle of All That Happens: Voices from the Village Court in Medieval England* (1996).

apparently bland facade of the court roll entry can be interpreted according to what were the more probable.

### Data Collection and Processing

Writing in connection with Holywell-cum-Needingworth, Edwin DeWindt explains:

in this present study, aggregate analysis of 53 court rolls from the late thirteenth to the middle of the fifteenth century results, first in an index of over 1000 separate cards, each containing data on individual peasants ranging in number from one to over 50 items for specific persons. The process whereby such information is obtained involves the notation of every time a specific peasant name occurs in the court rolls, together with the context of the entry.<sup>59</sup>

Coincidentally, this study is also based on the analysis of 53 rolls, though in this case the figure does not mean very much since the court sessions are always enrolled in groups. Thus the 53 rolls record the business of 316 court sessions. Each entry in each session has been transcribed in complete but abbreviated (not standardised) form on a separate index card. The aim has been not only to bear in mind the nature and purposes of the court records, but actually to structure the data collection and analysis around the categories and divisions of the material itself. Thus the fundamental unit is not the individual peasant but the individual court-roll entry. Yet the individual peasant remains the ultimate object of study, so a further refinement is required. Each court-roll entry may be considered as a citation of one or more individuals, so it might be said that the smallest unit for aggregate analysis is the individual citation - of one person in one entry.

The 'Toronto school' has been accused of perpetrating 'a style of research intent upon depicting the presence of a certain kind of village community in medieval England': whether or not they are guilty as charged, it is easy to see how presupposing the significance of families reconstructed and categorised in a particular way will lead to the 'discovery' of a particular kind of society.<sup>60</sup> It is equally clear that, if the unit of analysis is to be the individual peasant, then families will inevitably be fundamental to structuring the data. Except

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<sup>59</sup> E.B.DeWindt, *Land and People in Holywell-cum-Needingworth: Structures of Tenure and Patterns of Social Organization in an East Midlands Village 1252-1457* (1972), pp.3-4.

<sup>60</sup> Z.Razi and R.Smith, eds, *Medieval Society and the Manor Court*, (1996), p.15.

tangentially (in such matters as the succession to landholdings) the court rolls are not concerned with families; and nor are they concerned with individuals as such; but, before the advent of powerful and accessible relational computer databases it was simply not conceivable to base a large-scale study on a unit of analysis 'smaller', as it were, than an individual. More particular elements of the data could be sorted prosopographically to represent the court-histories of particular, reliable names, and each 'named' succession of court roll entries could be treated as representing the individual whose existence gave rise to it. Such individuals could then be subjected to attribute analysis, and their family and other relationships could to some extent be traced. But the flexibility to manipulate the data without first aggregating it into 'individuals', or to restructure it in alternative ways, was severely curtailed by the limited time available for shuffling cards. Thus, the very project on which Raftis and his associates had embarked, was bound in a sense to depict, because of the limited technical means available for its achievement, 'a certain kind of village community'. The fault is at least as much technical as ideological and perhaps therefore more forgivable than some have been willing to allow.

The extraordinary potential of computer analysis is, incidentally, the most substantive refutation that can be offered to those who wish to close the historiographical 'circle' and return to Maitland.<sup>61</sup> It may be true that 'already in the late nineteenth and early twentieth centuries historians successfully obtained from the medieval court rolls abundant evidence...by employing both qualitative and quantitative techniques', but it is nonetheless obvious that we have the means to carry out more, and more effective, analysis than they could have dreamed possible.<sup>62</sup> Far from closing any circles, historians should be looking ahead to new possibilities. Expectations will not always be fulfilled, and innovators will claim too much for their new approaches, but that is nonetheless the way forward - and incidentally the only real offence committed by the 'Toronto school'.

As has already been observed, those who choose to see the efforts of Raftis and his colleagues as another of the aberrations of 'the 1960s and 1970s', wish to hasten their replacement, 'after a period of some reflection', with 'issues that were central to the interests of...nineteenth- and twentieth-century historians'.<sup>63</sup> This backward-looking historiography might be partially supportable if Raftis' methodological foray really could be demonstrated to have come to a dead end in the controversies of demography and family reconstitution that

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<sup>61</sup> R.&S. p.35.

<sup>62</sup> R.&S. p.15.

<sup>63</sup> R.&S. p.35.

have closed in on it latterly. But, because the essence of the approach lay in the exhaustive sorting of large amounts of detail, it is peculiarly amenable to computer-aided enhancement.<sup>64</sup> And, as I have suggested, the greater capabilities which the computer offers are sufficient not just to improve on established techniques but actually to offer additional methodological options.

A 486sx50 computer with 16Mb of RAM and a 250Mb hard-drive (soon necessarily upgraded to 1Gb) was employed for the analysis, running Paradox version 4.0 for DOS. A faster processor and twice as much memory would have been required to accomplish the same tasks under Windows - which would have been the natural choice by the time the research was being completed. Although Windows relational databases are more intuitive and therefore easier to master from scratch, they do not actually do anything more than the earlier DOS versions in terms of the analytical capabilities required for work such as this. For this reason, I do not think the methodological reflections which I offer here, will quickly be overtaken by the accelerating pace of hardware and software development; although the ease of use offered by the latest versions of Windows will hopefully make thoroughgoing computer analysis a more widely appealing option for historians.

Having begun data collection by familiarisation with the recording practices of the court, through the manual transcription of each court-roll entry, Paradox tables were constructed to focus upon the individuals cited in each entry. Each court-roll entry was assigned a number to reflect the order in which it appeared in the roll. Each line in the Paradox table thus represents the citation of one individual recorded in a single court-roll entry, and contains its identifying reference in the key fields of entry number, type and vill of court, date of session and classmark. Thus, by sorting all computer records, the integrity of the court roll is maintained: all individuals cited in the same entry can be identified and the entire session can be reassembled. Separate fields include a description of the type of entry, the reason for the individual's citation, amount of fine or amercement, and amount and location of land involved in land transfers. Since the aim was to search the entire database for, say all land pleas (activity) or all essoins (attribute), it was essential that the two fields 'type of entry' and 'reason for citation' contained standardised information, so a list of such categories was produced to aid data entry.

The combination of different citations of the same individual, however, depends not upon the increasing sophistication of the computer, but resolutely remains a problem of historical analysis, interpretation

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<sup>64</sup> A.R.DeWindt and E.B.DeWindt are now engaged on the computerisation of their mass of data using Paradox.



and decision-making, as the previous discussions have illustrated. In terms of using the computer to sort through the mass of citations to reconstitute individual court 'careers', it was felt necessary to begin by recording different spellings of commonly-identified surnames in standardised form, sort through the surnames and forenames and assign identification numbers to different individuals on the basis, in the first instance, of common nominal style. Increasingly, reliance upon citation in the same nominal style could be reduced since reference could be according to identification number and therefore accommodate different styles clearly referring to the same individual. Citations which could not clearly be linked with an individual at all - perhaps because the entry was damaged - were excluded from the analysis.

The following discussions are based upon analysis of 15,395 separate court-roll entries, 29,601 citations and 6,902 different identification numbers. The more analysis given to the data then the more the final figure will be reduced, as two identifications of the same person can be made. Since excluding as little data as possible from the analyses is the best way of depending upon the written record, and because the focus remains upon the citation of individuals rather than the linkage of individuals into families, no attempt has been made to follow Bennett (who otherwise provides a sound guide to individual identification) in excluding those with 'isolated appearances'.<sup>65</sup>

With one exception, the following discussions are based not upon samples but upon all entries denoting, say, essoining, essoins or the relationships between essoins and essoinees. The figures studied include everything that is in the court rolls during the period under examination; they are not taken to equate with or be representative of life outside the court. It is the world of the court itself which provides the focus for the attempt to understand and assess the court roll. For this reason, the following sections deal first with the courts themselves, the rôles which are defined by citation in the roll and then an examination of one particular type of business, land transfer, which provides a means by which court procedure and individual players can be drawn together. Secondly, an attempt is made to integrate the analyses further, through the interpretation of links and connections (relationships and networks) between individuals and activities. Attempts are made to relate what is recorded in the court roll to the world beyond, but none is made to equate the two. Thus, population figures are not advanced because the data will not stand such interpretation. Bennett, for example, argued that 'changes in the total

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<sup>65</sup> J.M.Bennett, 'Spouses, siblings and surnames: reconstructing families from medieval village court rolls', J.B.S. 23 (1983), and Bennett, *Women* pp.203-4.

population of Brigstock can be broadly reconstructed by tracing shifts in the numbers of adult males who appeared before the court in different periods' and therefore produced 'adjusted' counts of adult males to account for periods of poor record survival.<sup>66</sup> Such calculations fail to consider what might dictate appearance in a roll, and thus Bennett follows Razi into the error, identified by Poos and Smith, of relating fluctuations in types of recorded business, even different recording practice, to population changes: most notably, an increase in the number of tenant deaths, thereby recording the late tenant and the heirs as new tenant(s), would result in a larger number of individuals visible through the court roll, but a reduction in the actual population.<sup>67</sup>

Aside from the attraction of using the court rolls for demographic analysis, Bennett does recognise the problems inherent in converting court roll data for statistical analysis. Justifying her decision to present rounded percentages and no statistical tests, she states 'it seemed deceptive to apply a veneer of precision to figures that are necessarily more suggestive than definitive.'<sup>68</sup> Unfortunately, not all historians are so circumspect. Graham notes 'the *predominance of women*' as transters (sellers of ale and/or bread) before 1350, in particular that in ten of the years between 1328-50 only women were amerced. These ten years contain two years when this 100% consists of one woman!<sup>69</sup> When technology facilitates the handling of large amounts of data it is easy to be beguiled into correlating almost anything with almost anything else. I do not produce, for instance, figures of citations per individual on the grounds that comparative analysis at the *general* level is meaningless: certain types of activity are likely to give rise to more citations than others. The litigant who is essoined and then refuses to attend court will be cited on each occasion he is essoined and the court orders his distraint or attachment, and this could give rise to 15 citations - hardly the same sense of involvement in the court displayed by the individual who is actually present in court as a juror on 10 occasions. It is therefore vital that such comparisons involve meaningfully comparable data; I hope that the following use of statistics remains firmly based on the ground of historical relevance.

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<sup>66</sup> Bennett, *Women* p.206.

<sup>67</sup> L.R.Poos and R.M.Smith, "Legal windows onto historical populations?" Recent research on demography and the manor court in medieval England', *L.H.R.* 2 (1984).

<sup>68</sup> Bennett, *Women* p.205.

<sup>69</sup> H.Graham, "A woman's work...": labour and gender in the late medieval countryside', in P.J.P.Goldberg, ed., *Woman is a Worthy Wight* (1992), pp.131-3, my emphasis.

## **FINDINGS**

## COURTS

### Privileges and Jurisdictions

As Edward Miller observed from his study of earlier material, 'Wisbech hundred was a peculiar hundred' in which 'we may classify jurisdictions, but these have little relevance to practice.'<sup>1</sup> The reader of the fourteenth-century court rolls who would seek to understand them by reference to a template of conventionally understood jurisdictions, may well echo his words. Within Wisbech hundred, the bishop exercised his franchisal and manorial rights in a highly distinctive fashion - grist to the mill of recent historians who have stressed the importance of considering the specificity of local custom when studying the 'legal' procedure of the manor.

The court structure is a reflection of the ascending levels of the bishop's very comprehensive jurisdictions, which Miller summarises as follows:

We have to deal, so to speak, with successive layers of privilege superimposed one upon the other. There was a common substratum uniform throughout the bishop's lands and hundreds. At certain points this common basis was built upon by the addition of those powers which the king would exercise in royal hundreds. Finally, at one point only, in the Isle of Ely, there was yet another storey: a complex of privileges which may almost justify Coke's description of the Isle as a county palatine, a description which would imply that the bishop's power and authority within the Isle was kinglike.<sup>2</sup>

It has been long established that the peculiarity of these jurisdictions was of very ancient origin. As long ago as 1939, Helen Cam pointed out that 'There is good reason to think that some hundreds had never been in the king's hands; the rights of the Bishop of Worcester in Worcestershire, for instance, are probably older than the hundredal system itself, and the same may be true of the two hundreds of the Isle

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<sup>1</sup> E. Miller, *The Abbey & Bishopric of Ely: The Social History of an Ecclesiastical Estate from the tenth century to the early fourteenth century* (1951), p.264, p.272.

<sup>2</sup> A.&B. pp.199-200.

of Ely.'<sup>3</sup> And some dozen years later, Edward Miller offered a plausible explanation of how this discreet hundredal evolution might have come about, at least in Wisbech Hundred: 'At Wisbech... the hundredal jurisdiction may well have been tacked on to the court of an economic complex, the old 'ferthyng' of Wisbech; and the fact that most of the land in the hundred was the bishop's land meant that there was no very real necessity to distinguish between tribunals in which the bishop exercised franchisal and domainal rights.'<sup>4</sup> The often perplexing confusion of franchisal with domainal *business*, within a court structure which nonetheless does appear to make some distinction between franchisal and domainal *jurisdictions*, is the crux of the problem of characterising the competences of the bishop's courts. Again, such difficulties have long troubled researchers in the field: in the 1920s A.E.Levett, researching another ecclesiastical administration, that of St.Albans Abbey, reflected that, in considering the 'hundreds, free courts, views, and halimotes', 'the crux of the problem concerns the *liberas curias* [sic]. Were these the sessions of the court of an honour, the court of a franchise, or simply a court for free tenants? Or, alternatively, was baronial, franchisal, and domainal jurisdiction... exercised in one court?'<sup>5</sup>

### Court Hierarchy

The present study is based upon the surviving rolls from four courts between 1327 and 1377, with 316 sessions from the hundred, *curia*, leet and halimote courts. The court roll for the hundred court session held after Michaelmas 1342, at the end of the accounting year and also curial year, summarises the curial structure within the hundred.<sup>6</sup> There were seventeen sessions of the hundred court, six of the *curia*, and then one leet and two halimotes held for each of the five villis. The fourteenth century data support, essentially, the curial structure observed by Miller from earlier rolls.

Miller placed the hundred court at 'the apex of the hierarchy'.<sup>7</sup> Below were the leet, which corresponded with the sheriff's tourn, although in Wisbech the leet was held annually, the Wednesday in Pentecost, and the halimotes held in and for each vill every spring and

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<sup>3</sup> H.M.Cam, *The Hundred and the Hundred Rolls: An Outline of Local Government in Medieval England* (1939; repr. 1963), p.138.

<sup>4</sup> A.&B. p.230.

<sup>5</sup> A.E.Levett, *Studies in Manorial History*, ed. H.M.Cam, M.Coate and L.S.Sutherland (1938; repr. 1963), pp.117-8.

<sup>6</sup> C13/2/20 Wis 100 3.10.1342.

<sup>7</sup> A.&B. p.229.

autumn. (Miller observed there to have been a single leet held for the whole hundred with each vill being represented in turn; by 1327, it is clear that each vill had its own session.)<sup>8</sup>

With regard to the overall hierarchy of courts, the halimotes of the individual vills were the lowest point, at the grass roots as it were, of a hierarchy of centralised authority focused very much upon Wisbech. They functioned by way of juries of presentment, with jurors presenting such matters as tenant deaths, alienations of land, merchet, infractions of the assizes of bread and ale and work derelictions. But they also dealt with litigation. The halimotes were only held twice a year and thus they had to be integrated into a scheme with the other courts - litigation could hardly be conducted only every six months. Thus there are references to pleas being referred to the hundred or to the *curia*.

### Hundred and Curia

Miller was struck by the fact that 'Wisbech hundred court did very many things which can only be described as feudal or domainal business'; and in particular he found that it 'was much concerned with the buying and selling of villein land'.<sup>9</sup> In stark contrast, by 1327, no such business is recorded in the hundred court rolls; indeed none of the rolls for the hundred contains anything other than details of litigation or essoins for common suit. So peculiar is the liberty in Ely that it is hard to say whether this dramatic change is consistent or inconsistent with Helen Cam's clearly germane general observation that 'there is no doubt that the judicial importance of the hundred court was on the wane, that it had less to do under Edward I than it had had under Henry II, and that it would have still less to do under Edward III.'<sup>10</sup> Certainly the business of the Wisbech hundred court had substantially diminished by the fourteenth century; but, on the other hand, the 'judicial' business which Cam identified as having been lost by the court is precisely the business it retained in Wisbech. The tendency was for it to lose not so much its judicial as its administrative rôle - especially the huge volume of business connected with the transfer of villein land. This bucking of the national trend, like so much at Ely, may be explained in terms of the liberty's relative imperviousness to the agents of the common law. Recent work, notably by Paul Hyams, has pointed towards a

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<sup>8</sup> See C7/1/3 *Elm Leta tenta apud Wysebeche* 11.6.1348 which also makes reference in a summation of profits to the separate leets held for the five different vills.

<sup>9</sup> A.&B. p.272, p.273.

<sup>10</sup> Cam, *The Hundred* p.179.

significant degree of symbiosis between common and customary, national and local, legal forms and jurisdictions - directly affecting the legal options open even to the more prosperous villagers.<sup>11</sup> Forms and procedures in the manorial courts (and even the very fact of their business' being written down) have been ascribed to the necessary response of local lords to the challenge of the alternative, professionally administered courts of the king.<sup>12</sup> The general change in the business of the hundred courts observed by Cam presumably fits into this nexus of common/customary legal imperatives. The jurisdiction of the Bishop of Ely was exposed to no such challenge: within the Isle, the operations of its courts were apparently altered not so much by national, incremental changes as by episcopal fiat.

The business of the hundred did not leech away in accordance with any national trend; rather, it was quite deliberately hived off into a court which Miller saw emerge as the *curia bondorum* and which, by the second quarter of the fourteenth century was almost exclusively referred to simply as the *curia*. Like the hundred court, it was held at Wisbech; and, at the time of its emergence in the reign of Edward II,

Its records were enrolled with the proceedings of the hundred court, even on the same membrane; its jurisdiction extended over the whole hundred of Wisbech; and like the hundred court it seems to have met at three-weekly intervals. The business it transacted was also much like that of the hundred court: on the one hand, the usual trespasses, assaults, and pleas of debt and convention; on the other hand, much seignorial business in connection with the alienation and inheritance of customary land, the enforcement of labour services, and so on.<sup>13</sup>

Given this apparent overlap in business, one is bound to question the distinction between the two courts. Miller answers, with remarkable prescience but no further explanation, that, 'If from this point of view it is difficult to distinguish between the hundred court and the "*curia bondorum*", there does seem to be some sort of theory that the latter was the proper court where a villein or villein land was concerned.'<sup>14</sup> As has been suggested, examination of fourteenth century court rolls seems conclusively to confirm this speculation. By this later period, the

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<sup>11</sup> P.R.Hyams, 'What did Edwardian villagers understand by law?', in Z.Razi and R.Smith, *Medieval Society* pp.69-102.

<sup>12</sup> Z.Razi and R.M.Smith, 'The origins of the English manorial court as a written record: a puzzle', in Razi and Smith, *Medieval Society* pp.36-67.

<sup>13</sup> A.&B. pp.221-2.

<sup>14</sup> A.&B. p.221.

hundred court no longer handles land transfers: they have become instead the staple business of the *curia*. What emerged as 'a kind of special session for villein affairs' became a court which, in Miller's words, 'had a great future', as the fourteenth-century evidence amply illustrates.<sup>15</sup>

By the mid fourteenth century, then, the curial structure had crystallised, with a much clearer distinction between hundred and *curia*. The episcopal administration had, more-or-less completely, hived off from the hundred court all issues touching the unfree into that bond court first seen in the initial decade of the century. Significantly, the rolls for this court are rarely headed *Curia Bondorum*: of the extant records one roll is headed *Curia Bondorum*, one other *Curia Nativorum*, and the remaining 155 rolls bear the simple session heading *Curia*. The way in which these two sessions fit into the curial timetable and, more importantly, the fact that business can be traced across the differently headed sessions, indicates that the only difference is one of nomenclature.<sup>16</sup> Presumably the fact that it was no longer felt necessary to specify 'bondorum' was an indication of the extent to which the *curia*'s rôle as the forum for the unfree had been accepted as the normal and proper order of things. To describe this court as *curia bondorum* or *nativorum* was almost tautological by the time of Edward III.

### Referrals to Hundred and Curia

As has already been briefly mentioned, the halimotes were only held twice a year and so had to be integrated with the other courts so that litigation initiated in them could proceed with reasonable speed. Hence the references to pleas being referred to the hundred or to the *curia*. In 1340, Richard Copping, for example, was amerced sixpence for not attending the spring halimote in Tydd to respond to Albreda Dogge's debt plea; he was therefore to be attached to be at the next *curia* to respond.<sup>17</sup> Conversely, litigation, as well as other business, is sent from these courts to the halimotes. John Criket claimed that Adam Potok had taken his horse unjustly as a distraint regarding the non-payment of

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<sup>15</sup> A.&B. p.273, p.221.

<sup>16</sup> See C8/3/37 *Curia bondorum* 28.11.1348 and *Curia* 19.12.1348, for example, the trespass plea between John Lombe and Adam Domipisday, or the land plea between John de Parys and his wife Katherine, and Thomas Dousing.

<sup>17</sup> C7/1/4 Tydd Hali 8.5.1340 Three other defendants were similarly amerced and ordered to respond at the following *curia*, but the record for this session no longer survives.



four pence in rent. The *curia* roll records that the parties were given a day at the next halimote.<sup>18</sup>

Contemporaries clearly distinguished between litigation at the hundred and that before the *curia*. Although there are examples of pleas moving between the halimotes and the hundred or the halimotes and the *curia*, there is no conclusive evidence that a plea found in the *curia* can be found, except when clearly enrolled in error, in the hundred court. (This is based upon an analysis of all litigation, not just that for which an outcome is known.) Further, when Thomas Ganderonn and Richard Clerk separately pursued Thomas Ballard for debt in the *curia*, the corresponding entries, consecutively entered in the roll, are annotated to the effect that the pleas are not in fact prosecuted here because they are in the hundred court (records of which unfortunately no longer survive).<sup>19</sup> At the spring halimote held for Tydd in 1339, it was noted that Simon Copping failed to respond to Thomas Constable's plea of debt, and he was therefore to be attached to respond in the next hundred. This entry has been altered to read the next *curia*, rather than hundred court. In terms of referring pleas from the halimote to a higher court, and one held more regularly, the hundred court session may have been the obvious choice in this instance if only matters of convenience were at issue, for the next session was held only two days later. But such convenience was not the factor which determined to which court the plea was referred: the plea fell more properly within the jurisdiction of the *curia*, hence the correction. The plea between Thomas Constable and Simon Copping does in fact appear in the following session of the hundred court, but again the entry has been annotated. Above Thomas' name is the note *quia in curia bondorum*, and similarly in the margin it is recorded *habent diem in curia bondorum*.<sup>20</sup>

The same Tydd halimote roll from spring 1339 contains entries recording William Halleman's pleas of debt against Emma Elnoth, John de Fenne and John Reynald. All are referred from the halimote to the next hundred, but then a subsequent annotation has been made indicating that day at the *curia bondorum*. The first entry has then been altered to refer to the hundred court rather than the *curia*, leaving the suspicion that the other two entries should also have been altered. Certainly, it is in the hundred court held two days after this halimote that these pleas appear, with the hundred court roll of 17 June finally recording William Halleman's payments to settle out of court.<sup>21</sup> It is perhaps

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<sup>18</sup> C8/3/31 Wis *Curia* 1339.

<sup>19</sup> C8/4/51 Wis *Curia* 31.7.1371 see the superscript *non pros' hic quia in hundr'*.

<sup>20</sup> C13/2/19 Wis 100 22.4.1339.

<sup>21</sup> C13/2/19.

significant that the full title of the *curia bondorum* is evident in this annotation: as in the correction to the hundred court roll entry referring Thomas Constable's plea to the other court, specific inclusion of the word *bondorum* probably indicates the justification for the change of court - the defendant was unfree and therefore should be pursued in the *curia* rather than the hundred court.

This casts an interesting light on Paul Hyams' suggestion that 'The real crux is the artificiality of villein status in common law. Its connection to the weight of real-life lordship and servility is quite distant.' Clearly Hyams is right to point out that 'no villager walked round his village wearing on his sleeve a badge that proclaimed his unfreedom as a ghetto Jew did', but at least in Wisbech it is untrue to say that 'the question of villein status only arose when some villager attempted to sue an opponent who chose to object to his capacity to sue': here, the very creation of the *curia bondorum* demonstrated that villeinage remained a live issue *per se*.<sup>22</sup> It seems highly unlikely that Thomas Constable's opponent objected that his villein status precluded the pursuit of the case in the hundred court (as, according to Hyams, litigants might do in the royal courts) because the alternative jurisdiction (the *curia*) was simply another of the bishop's courts presided over by the same officers and likely to come to the same judgement and impose the same penalty. There is no evidence that villagers felt strongly about the type of court in which their litigation was pursued. Rather my impression is that such emendations are indicative of an administration keen to maintain the distinctions of villeinage through distinctions between courts. This finding is consistent with Christopher Dyer's association of ecclesiastical lordship with the survival of serfdom in certain manors of Worcestershire and Gloucestershire: 'A common feature of all the manors was that they had experienced centuries under the lordship of powerful ecclesiastics. So there was a preponderance of customary tenure, and serfdom continued on the estate into the mid-sixteenth century.'<sup>23</sup>

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<sup>22</sup> Hyams, 'Edwardian villagers', p.71.

<sup>23</sup> C.Dyer, 'Changes in the size of peasant holdings in some West Midland villages 1400-1540', in R.M.Smith, ed., *Land, Kinship and Life-Cycle* (1984), p.280.

## Status

The redrawing of jurisdictional boundaries according to status explains why the hundred court rolls no longer bear witness to 'domainal' business. What distinguished the two courts was the fact that the hundred no longer dealt with matters touching villeins or villeinage. Specifically, there are no land or dower pleas before the hundred court, just as there are no transfers of land, whether *inter vivos* through surrender and admittance in court, or *post mortem* through inheritance: these fall properly within the ambit of the *curia* - the bond court. In May 1331, John *filius Willelmi* Nenour had apparently asked at the Wisbech *curia* for land to be divided between himself and Thomas Wedercok, and a sixpenny fine was demanded. This entry had then been crossed out; and the explanatory note *quia terra libera* indicates that this transaction had, because the land was free, been inappropriately - and unnecessarily - brought before the *curia*.<sup>24</sup> This neatly illustrates the extent of the jurisdiction of the *curia*, although it fails to provide reasonable explanation of why such an entry was made in the first place. Although in practice the boundaries between personal condition and tenurial status were far from impervious, with tenure of free land by a villein, and vice versa, in this instance it is difficult to perceive why the tenant himself brought the matter to court.

The segregation of business into the *curia* left the hundred court a shadow of its former self. (It appears the more shadowy because there are no extant rolls between 1351 and 1376.) What was left to it was litigation, not over land since jurisdiction over unfree land had passed to the *curia*, but pleas of debt or detinue, of covenant and trespass. Yet the scope of its jurisdiction patently did not encompass all litigation since the unfree litigants fell within the jurisdiction of the *curia*. Unfortunately, this distinction is not always adhered to, as an analysis of the evidence for litigation from the different courts shows.

Distinguishing between the hundred court and *curia* on the basis of status provides an apparently simple hypothesis consistent with the surviving material; what is more difficult is to distinguish between particular pleas, or particular litigants. Litigants brought their charges in the court which could enforce the response of the defendant, yet there are examples of the same individual being impleaded in the hundred court and the *curia*. Richard attebrigge for example, a juror at the Tydd halimote between 1338 and 1362, was impleaded in pleas of debt

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<sup>24</sup> C8/2/23 Wis Curia 2.5.1331.

at both the hundred and *curia*. There are other instances of villeins initiating pleas at the hundred against other villeins, but a full understanding of such pleas is hindered by the lack of detail for such cases. The episcopal administration within the hundred of Wisbech was clearly bucking the observed trend in drawing the unfree into a court of their own. Recent research by Hyams has suggested that an indepth awareness of - and indeed concern for - the condition of every litigant, seems improbable. Personal unfreedom was a bar to proceeding in a 'free' court only if the opponent had the power to object to the neifty of the litigant, and since this right was restricted in courts beyond the manor to the lord of the plaintiff, the issue of status must therefore have been irrelevant to the bulk of interpersonal relations witnessed in the court rolls.<sup>25</sup> Similarly, Beckerman wrote: 'At least one major obstacle stands in the way of an evaluation of the importance of status distinctions in private litigation. For unless a man's status led to an exception in pleading or had some other bearing on the lawsuit, it was taken for granted and generally went unmentioned in enrolments. Consequently, ordinary court roll entries of litigation between villagers reveal distinctions of status but rarely.'<sup>26</sup> The observation of a separate bond court might be thought to obviate this problem, but it is also apparent that distinctions between free and unfree on the basis of which court they made their appearances retain areas of confusion.

To some extent this may reflect the practical problems of imposing a dichotomous, black-and-white structure onto a reality which contained varying shades of grey. Unfree tenants did hold free land and villein land was held by the free: witness the lord's successful attempts to trace and distinguish through their record free tenants holding *per virgam*, for instance. Pollock and Maitland noted that while there might generally be little concerning the transfer of freehold land in the 'manorial' court, 'a careful lord would oblige the manorial jury to present deaths and descents which took place among his freeholders'<sup>27</sup> (This also resonates with Miller's theory about convenience - examples can be found from the fourteenth-century material too to show free tenants coming to perform fealty. Similarly, to pay relief rather than heriot, although, as Hyams has pointed out these are more likely tenurial obligations rather than personal.) In addition, there may have been tenants whose parents and grandparents had taken their litigation to the hundred court before the *curia* had emerged, and perhaps they

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<sup>25</sup> Hyams, 'Edwardian villagers', p.71.

<sup>26</sup> J.S.Beckerman, 'Customary law in English manorial courts in the thirteenth and fourteenth centuries', unpubl. Ph.D. thesis, University of London (1972), p.256.

<sup>27</sup> F.Pollock and F.M.Maitland, *The History of English Law before the time of Edward I* (2nd edn, 1968) p.591.

continued to do so despite being unfree. There is almost no evidence in these rolls of contested personal status - usually the debate is over land - certainly no claim that because a tenant had been a litigant at the hundred court they were therefore free.

## Leet

Miller found that

At Wisbech... the business of the leet and tourn were fused in a single court leet for all the villis of the hundred held annually on the Wednesday after Pentecost; in that court, each vill came forward in turn by a presenting jury of twelve (there is no sign of the capital pledges), and the business of that vill was completed before passing on to the next.<sup>28</sup>

It is important to remember that, as Miller stated, 'the liberty the bishop had in the Isle constituted an immunity against every sort of royal justice.'<sup>29</sup> The bishop could hear those pleas which the sheriff could hear, with or without the king's writ, in his tourn, royal hundreds or county courts. Miller found that this liberty was exercised in the leet, but in this collection of fourteenth century rolls, there is no such evidence. Instead one suspects that the rationalisation of courts which drew off unfree business from the hundred into the curia, may also have resulted in the hundred court becoming the arena for such business.

In addition, for all that the immunity from royal interference may have been asserted, it is apparent that some erosion of this franchisal jurisdiction had occurred. Although the liberty of Ely had 'full criminal jurisdiction', J.B.Post indicates that 'even the bishop of Ely... conceded that his bailiffs usually took offenders to trial by the justices in eyre.'<sup>30</sup> Similarly, he cites a case from 1355 where a prisoner of the bishop's was sent to gaol delivery.<sup>31</sup> This did not, of

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<sup>28</sup> A.&B. pp.230-1.

<sup>29</sup> A.&B. p.235.

<sup>30</sup> J.B.Post, 'Local jurisdictions and judgment of death in later medieval England', *Criminal Justice History* 4 (1983), p.6, p.8.

<sup>31</sup> Post, 'Local jurisdictions', p.14. See E.G.Kimball, ed., *A Cambridgeshire Gaol Delivery Roll, 1332-1334*, Cambridge Antiquarian Records Society (1978), p.55, where the bailiff of the Ely liberty escorts the accused to his trial.

course, prevent the bishop from claiming the goods of criminals, and records of this do survive in the court rolls.<sup>32</sup>

There is little evidence for the bishops' exercising view of frankpledge as part of leet jurisdiction in Wisbech: it is limited, in fact, to references from one leet record which presents individuals who are outside tithing. More common is evidence of a kind usually associated with 'the "police court" for the presentment of offences and for the punishment of minor offences' - the presentment and amercement for bloodshed and the unjust levying of the hue and cry, for example.<sup>33</sup>

## Halimotes

Miller states:

circumstances were such that the bishop could consult convenience in determining what character and what powers his courts should have. Those circumstances arose out of the fact that the bishop enjoyed a veritable immunity in the Isle of Ely, which gave him a free hand to order his courts as he would, provided such justice was done as would satisfy a king's demands.<sup>34</sup>

It has already been suggested that the convenience of the administration in 'far-off' Ely largely determined the development of the Wisbech courts; it may readily be supposed that the same considerations strongly influenced their operation. And a jurisdiction which was administered conveniently rather than according to strict jurisdictional procedure is suggestive of flexibility: a systematisation which was not determined exclusively by rigid legal procedure. It has already been noted that the bishop's administration appears to have 'rationalised' the curial structure within Wisbech hundred; the evidence of the way the halimotes were used provides additional material to view the way in which this structure functioned.

Attention has earlier been drawn to the way in which litigation was referred from the halimotes to the appropriate higher courts, but it is clear that litigation was far from the only business before these sessions; secondly, that a more functional link existed between the courts. While some of the business before the halimote was identical to that in the leet, the difference lay in the fact that the jurisdiction

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<sup>32</sup> For example, C8/3/42 Wis *Curia* 24.2.1354 and 15.1.1356 In both cases the criminals fled - one having been indicted, the other before being indicted - could this have been with the connivance of the bishop's officials? Their chattels were sold back to their families.

<sup>33</sup> Pollock and Maitland, *History of English Law* p.532. See below, p.156.

<sup>34</sup> A.&B. pp.231-2.

that the bishop exercised in the halimotes derived from his position as lord over the manorial tenants, and that in the leet arose from his possession of the hundred as a private franchise. To this extent, the halimotes are the closest one gets in Wisbech to the court commonly designated the 'manorial court'. But this was not just lordship over the unfree, as the records of the halimote indicate. Miller found this in the rolls from an earlier period, noting that 'reliefs were exacted ... [and] free tenants were called upon to perform homage in the halimotes'.<sup>35</sup> In addition, the bishop's franchisal jurisdiction, with the enforcement of the assizes of bread and ale, more normally exercised in the leet, is also evidenced by the halimote rolls. Noting the differences between manors held by the bishop in different parts of the country, Miller wrote, 'there is much variety in the sort of business which might come before the same sort of court in different places.'<sup>36</sup> In the light of the fourteenth-century Wisbech data, his statement might be supplemented with the observation that the same sort of business might come before a variety of courts in the same place. Again, what the rolls probably witness is overlapping jurisdictions. Given the overlap between hundredal and manorial jurisdictions, the bishop might exploit the opportunity of holding both the leet and halimotes in order to punish infractions of the assizes at both these courts. Possibly, it was amid a period of transition, with the business before the halimotes subsequently divided between the *curia* and the leet. As Miller perceptively surmised, his *curia bondorum* was 'a kind of halimote for the whole hundred', or 'a kind of super-manorial court for the whole hundred'.<sup>37</sup>

As evident in the rolls between 1327 and 1377, the halimotes met twice a year and were held in each of the five villis. (Although there is at least one exception even to this basic rule: entered on the same manuscript that records the business before the halimotes of Elm and Tydd in autumn 1374, are the records of the sessions for Emneth and Welle. These are stray records since these villis are more properly part of the Norfolk Marshland, although these two areas were obviously connected. A note appended to the summation of profits deriving from the Emneth session points away from Wisbech: *memorandum quod ista summa patet in Curia de Walton quia onerand' est in compoto de Walton.*)<sup>38</sup> The idea that the individual halimotes are at the base of the curial hierarchy goes some way towards explaining the relationship between the halimotes and the higher courts, with litigation referred to the hundred

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<sup>35</sup> A.&B. p.271.

<sup>36</sup> A.&B. p.272.

<sup>37</sup> A.&B. p.221, p.229.

<sup>38</sup> C8/4/53 Emneth Hali 6.10.1374, Welle Hali 9.10.1374.

court or *curia*. It has similarly been observed that infringements against the assizes of bread and ale were also duplicated in the halimotes and the leet. Possibly the mechanism of the halimote is being used as a local vehicle for gathering information leading to presentment at the leets, held centrally in Wisbech. Certainly the spring halimotes always precede the leets held the Wednesday after Pentecost. One should take note of the contemporary gathering of six skins, tied at their heads with a piece of vellum, as an indicator of the relationship between these halimote and leet sessions. Five of the manuscripts contain the business of the set of halimotes held on the consecutive Thursday, Friday, Monday and Tuesday after the 3 May 1340 (*Inventio Sancte Crucis*), with the final manuscript being the annual leet for Leverington held on 7 June 1340.<sup>39</sup> There is something very striking about this tangible identity of sessions and it provides solid confirmation of a relationship suggested by the correspondence of time and business. Many of the individuals listed in the leet records as having infringed the assizes are also to be found in the halimote rolls, but not all; it is possible, then, that the distinction may reflect the degree of involvement in the trade.

In fulfilling the rôle of a manorial court, the halimote was also the arena for the regulation of the manorial economy; hence derelictions of work services were reported and fined, and manorial officials were elected, usually at the autumn halimotes. As at the leet, juries of presentment were employed, and, in addition to the names of individuals infringing the assizes of bread and ale, they also presented tenant deaths and the resultant change in tenancy, and alienations of villein land. Such business directly overlaps with that found within the more frequent *curia*. Two land transactions between William, son of Geoffrey Pigge and Peter Godefrey provide a pertinent illustration of this facet of the curial structure. William surrenders land in Tydd on two occasions to the use of Peter Godefrey. The first transaction, involving 1 rood and 15 perches of land with its appurtenances, is noted in the *curia* roll for 3.5.1334.<sup>40</sup> The second transfer appears in the Tydd halimote roll from the following autumn, and is more complicated, involving the transfer of land in two stages; the first portion taking the customary 'surrender to the use of' form, and the second being a subsequent grant of the reversion of rights in the remainder in perpetuity.<sup>41</sup> It is not different jurisdictions which separate the

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<sup>39</sup> C7/1/4.

<sup>40</sup> C8/2/27.

<sup>41</sup> Tydd Hali 24.10.1334 C8/2/27, med. 3r. marshland and med. 3r arable land with appurtenances in Tydd surrendered *ad opus* Peter Godefrey; afterwards, William grants that the reversion of the other half of the marshland and arable, held, of his inheritance, in dower by Basilia



transfers between two courts, since there is no conflict between them. Instead, the transactions are recorded in different sessions probably as they happen. In May 1332, William had surrendered another tiny holding in Tydd for Henry Godefrey; and in February 1335 when an even smaller amount was surrendered for Laurence de Sutton, William's brother Geoffrey leased the same amount to Laurence for ten years.<sup>42</sup> One suspects, therefore, that such involvement in the land market may have arisen from the death of Geoffrey Pigge the father, and the second transfer to Peter Godefrey in the autumn halimote was certainly part of William's inheritance.<sup>43</sup>

## Juries

Paul Hyams argues that

The realist notion that law is what those who run the particular legal system... do ought to prompt village historians to juxtapose their descriptions of office-holding and jury service on the manor with the adjunctive business of the manorial court.<sup>44</sup>

It was the juries themselves which provided the link between the two types of court; more specifically they acted as the conduit between the halimotes for each vill and the Wisbech *curia*. The rolls for the halimotes list the jurors at the head of the manuscript after the heading of each session,<sup>45</sup> and it is these halimote jurors who are to be found as the jurors at the *curia*, where they come to be described as the homage of each vill. When the death of John de Coldham is presented at the *curia* held in January 1362, the corresponding entry states this is

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'widow' of Geoffrey Pigge, is owed to Peter and his heirs after Basilia's death.

<sup>42</sup> C8/2/25 Wis *Curia* 15.5.1332 14 perches and the third part of one cottage with appurtenances in Tydd to Henry Godefrey; C8/2/27 Wis *Curia* 1.2.1335 5 perches and a cottage and appurtenances in Tydd to Laurence de Sutton, and the lease of the same amount of land from Geoffrey *filius Galfridi Pygg*.

<sup>43</sup> The outright transfer between William and Laurence de Sutton and the lease of the same amount of land by William's brother possibly indicate the division of a holding between the two sons; the lease was retrospective, from Michaelmas 1334, and therefore contemporary with William's first surrender *ad opus* Peter Godefrey. See also C8/2/27 Wis *Curia* 2.6.1334 for evidence of the marriage of the other son Geoffrey to *Letia filia Thome Toly*, perhaps facilitated by inheritance.

<sup>44</sup> Hyams, 'Edwardian villagers', p.97.

<sup>45</sup> Exceptionally, at the Newton halimote held in the autumn of 1335, no jury is listed, but the process of presentment is the same: the first entry reads *presentatum est per xij homines quod RP fregit assisam panis*. C8/2/27 3.10.1335.

by *Hal[imota] de Elm videlicet xij Jur[atores]*. The historian benefits here from the spelling out of procedure more usually hidden from view.<sup>46</sup> Specific lists of jurors (not defaulting jurors) are entered in the curia rolls on only two occasions, and in both instances reasons for such deviation are apparent. The first session in which twelve individuals for each of the villis of Wisbech, Leverington, Tydd and Elm are named dates from January 1362 and, as the heading of the court roll describes *tempore Johannis Cheyne et Johannis de Lyonns Custodum temporalium Episcopi Eliensis existentium in manu domini Regis sede vacante per mortem Thome Episcopi Eliensis*.<sup>47</sup> In the second example of curia jury lists, the names of *Juratores Generales* are entered just below the session heading, just as for halimote or leet sessions, although here there are four columns, one each for the names of individuals from Wisbech, Leverington, Elm and Tydd. In the top left margin, above the heading, are the words *Curia post festum Sancti Michaelis*, the key curia session of the year since it marked the beginning of the new curial year: suit of court, for example, was always respited until Michaelmas. This session is the first that is extant for the episcopacy of Thomas Arundell, and although the seneschal William attenewehous had presided over previous sessions, certainly from 1367,<sup>48</sup> it is possible that the new bishop, or perhaps the further outbreak of plague, determined the formal written record of jurors.

The fact that the jurors were identified in the halimote rolls probably explains why there is usually no separate list made in the rolls of the curia. Although these individuals are not regularly identified as jurors in the curia rolls their rôle in the curia is far from incidental. The manuscript of the session dated 18.9.1349 provides a particularly pertinent illustration. The first ten entries record the amercement of individuals for default, five from Elm, four from Leverington and one from Tydd. Records survive for the Elm halimote of autumn 1349 and spring 1350, at which all five of these individuals from Elm are listed as jurors. That their names are entered for default as the first item in the curia roll underlines the centrality of jurors in the working of the court, just as the first entry in the halimote rolls is the list of jurors. Elsewhere the link between being a halimote juror and the resulting requirement to present matters concerning their vill at the central curia is made more explicit: for example, the amercement of Reginald *filius Thome*, from Leverington, *vocatus super Halimotam quia*

<sup>46</sup> C8/3/45 Wis Curia 17.1.1362.

<sup>47</sup> C8/3/45 Wis Curia 17.1.1362.

<sup>48</sup> see C8/4/49 Wis Curia 13.8.1367.

*non venit*<sup>49</sup> and the sixpenny amercement *De Thoma Donsyng vno hali' quia recessit extra Curiam sine licencia*.<sup>50</sup>

The juries are a regular and essential part of the business of the *curia*, and they also act as a pool from which particular inquest juries are selected once litigants seek recourse to a jury. Eleven of the twelve jurors given a day to render a verdict at the Wisbech *curia* in the plea between Thomas Trampyl (Elm juror) and John de Patteshulle are evidenced to have been members of halimote juries: John Potekyn, William Vaus, Ralph Rat and Richard Flyng all from Elm, the first three jurors; Robert Sweyn, John *filius Ricardi* Faireye, John *filius Walteri* Faireye, John Broun, John de Borewelle, William de Marche and Gilbert Broun all Wisbech jurors; and Martin Lewyn, juror of Leverington.<sup>51</sup>

Pollock and Maitland found that, generally, leet jurors were freeholders to whom presentments were made either by the reeve and four men of each village or by the chief tithing-man of each tithing.<sup>52</sup> The apparent practice in the Wisbech *curia*, whereby halimote jurors 'represented' the business of the vill as its homage, and joined with others to act as a jury, would seem to parallel Pollock and Maitland's reeve and tithing-men acting in the leet. Whether or not it was an arrangement which served the episcopal administration well is difficult to assess; the records contain only the instances where the juries made a false presentment or failed to present altogether which were detected, successful concealment necessarily remaining beyond the notice of the court. It is nonetheless evident that the juries were considered to be founts of knowledge. The range of business which jurors had a duty to present lay far beyond that expected of any one individual. The appointment of jurors as particular officers reflected a delegation of responsibility: ale tasters, for example, compiled lists of those who had 'infringed' the assizes of bread and ale, but the rolls always record this business as being presented by the jurors. An entry in the *curia* roll reflects the collective nature of presentments: William Blac senior is amerced threepence, as are his fellow Tydd halimote jurors William Martyn, Peter Gaunt and Richard Sylak, *quia non venit ad pres' cum soc' suis etc.*<sup>53</sup> Similarly, individual jurors are expected to assume collective responsibility for their presentments. *Tota hal[imota]* is amerced at the *curia* held November 1349 for failing to present in what

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<sup>49</sup> C8/3/46 Wis *Curia* 8.4.1362.

<sup>50</sup> C8/4/50 Wis *Curia* 14.1.1371.

<sup>51</sup> C8/3/37 Wis *Curia* 16.7. 1347.

<sup>52</sup> Pollock and Maitland, *History of English Law* p.559. This did not in fact occur in the particular example of Wisbech: it was the jurors themselves who make the presentments. Leet jurors are not the same individuals as halimote/*curia* jurors.

<sup>53</sup> C8/3/42 Wis *Curia* 17.9.1354.

land Peter Plomer had died seised.<sup>54</sup> The following March, a shilling amercement is demanded *de tota hallimota [de Leverington] quia variauerunt in presentationem suam.*<sup>55</sup>

Juries were ordered to present the names of, among others, all servants, tenants of homesteads or those who held by knights' service, and suitors.<sup>56</sup> In February 1366, the Leverington 'homage' was again given a day to make a list of all the lord's rents in Leverington on pain of 100s. The considerable size of this potential financial penalty reflected the bluster of the episcopal administration given its reliance upon the jurors for the information: in the following court, the Leverington halimote jurors were amerced one shilling for failing to make the rental; this they were to do before the next court, on pain of 40s.<sup>57</sup>

'It remains uncertain exactly how the forum determined... issues of fact: perhaps the homage (a jury of the lord's tenants) was presumed to have personal knowledge regarding the transaction or possessed the means to obtain it.'<sup>58</sup> The halimote/curia jurors were indeed required to have or be able to acquire a detailed knowledge of family histories and personal circumstance. In 1331, John White and his wife Joan, plaintiffs, and Martin attecross, the defendant, placed themselves on the inquest of the homage. On oath, the jurors then proceeded to retell the family history of John Lewyn: how he had had one son, John Lewyn *capellanus*, by his first wife and then three more sons, Bartholomew, Stephen and Adam, by his second and surviving wife, and the four sons had together inherited six acres of land. John Lewyn *capellanus* had given his part to sisters Joan, the wife of John White, and Alice, the latter dying without heirs. The transfer of the acre with appurtenances in Leverington was not outright, since it was the rights to the reversion of the land after the death of the widow of John Lewyn the father. She had subsequently remarried, and it was this husband, Martin attecross, who was considered to have unjustly deforced John White and Joan of the land, although they had falsely claimed an extra rood of

<sup>54</sup> C8/3/33 Wis Curia 20.11.1349.

<sup>55</sup> C8/3/39 Wis Curia 2.3.1350.

<sup>56</sup> C8/3/40 Wis Curia 27.1.1350 *Datus est dies ad inquirendum et presentandum nomina serviciorum contra proximam Curiam etc.*; C8/3/38 Wis Hali 5.10.1349 *Datus est dies Homagio ad faciendum vnum rotulum de omnibus tenentibus haustall' contra proximam Curiam*; C8/4/46 Wis Curia 8.3.1362 *Adhuc datus est dies Jur' Halimota ad presentandum nomina eorum qui tenent per servicium militare*; C8/3/36 Wis Curia 15.12.1346 *Et adhuc datus est Jur[atores] Hall[imote] de Tydd ad presentandum nomina sect' ad Curiam debent'.*

<sup>57</sup> C8/4/48 Wis Curia 27.2.1366, 20.3.1366.

<sup>58</sup> L. Bonfield, 'The nature of customary law in the manor courts of medieval England', *Comparative Studies in Society and History*, 31 (1989), p.521.

land. The jurors may have had to seek confirmation of the family structure rather than ascertain it outright, but what is of further note is the fact that an awareness of previous custom was called for. Joan and Alice were seised in the land held as dower by John Lewyn's widow, *secundum [quod tunc fuit inserted] consuetudo patrie*. Recognition of the new husband's rights to hold the land had not then been necessary, *nec tunc fuit consuetudo manerij nec consuetudo patrie*.

Yet the relationship between Martin attecross and the Lewyn family was more complicated than depicted in the statement by the homage. In October 1331, Martin surrendered a charter which attested to the fact that he and his daughter Amabilla had purchased five acres of land from Bartholomew and Stephen, the sons of John Lewyn. It was from these five acres that John White and his wife Joan had recovered their acre with appurtenances; the remainder had been seized in the lord's hands because of the purchase by charter as if free land.<sup>59</sup>

John White and his wife Joan simultaneously pursued John Rust in a land plea concerning a rood of land with appurtenances, possibly that for which they had unsuccessfully claimed against Martin attecross. An inquest jury was also required to render a verdict. This time, it was the actions of Stephen, a son by John Lewyn's second marriage which were important. The jurors said that Stephen had endowed his widowed mother, Alice, with a rood and appurtenances, which Martin attecross held having married Alice. In addition, *predictus Stephanus relaxavit et quietum clamavit predicto Martino atte Crosse totum Jus quod habuit in predictam terram rodam terre cum pertincijs secundum quod tunc fuit consuetudo manerij*. Martin had then given the land to John Rust and his daughter to hold according to the custom of the manor, and therefore, the jurors said, *Johannes Rust habet melius ius in tenura sua*.<sup>60</sup>

Since the succession to land was important to the lord, if not so much as a means of regulation as of financial profit from the fines for admittance, heriot and relief, juries were commonly required to present how a tenant held land and how the land was transferred. It was necessary to know, for example, whether heriot or relief was levied on land at the tenant's death. In the autumn halimote held at Leverington in 1338, the jurors presented that Geoffrey Hamund *molendinarius* had died having held three roods of land. Similarly, that John Siwe had died seised in two acres. In both cases the land was said to owe relief, but both in the text of the entries itself and in the marginal notes, the word *relevium* has been crossed out and replaced by *herietum*.<sup>61</sup> More

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<sup>59</sup> C8/2/24 Wis Curia 15.10.1331 Martin and his daughter, and their heirs, now came to court to be admitted *per virgam*.

<sup>60</sup> C8/2/24 Wis Curia 14.2.1331.

<sup>61</sup> C8/2/30 Lev Hali 13.10.1338.

fundamentally, just what the late tenant had held needed to be identified, and this was not always easily ascertained if a series of surrenders had been made just before death, or if sub-letting had occurred. In 1337, the Tydd homage presented to the *curia* that Peter Godefrey *Nativus Ecclesie Elyensis* had died and that he had not held some homesteads, but eight acres of land and appurtenances in various virgates of land in Tydd, which owed relief, but they were ignorant as to the services by which the lands were held.<sup>62</sup> By contrast, the Leverington homage that presented the death of Thomas de Pokedich was remarkably precise in its identification of the land which he had held.<sup>63</sup> The scribe, presumably on the basis of what the jurors said rather than any other information, recorded that Thomas had died seised in a rood of villein land with a cottage and appurtenances in that vill *de hamstall* 'Ade Sweyn et iacet in ffencroft inter mesuagium Simonis Blithe ex parte et Roberti Rote ex altera et vnum capud abuttat super communem viam versus orient'. Relief of tuppence was owed and the next heir, Thomas' daughter, on the basis of the homage's presentment, came to court and was admitted as the new tenant. For all their accuracy in locating the land, however, the jurors had overlooked one thing: as a note to this entry explains, *compertus est per rotulos Curie quod predictus Thomas reddidit in lecto suo mortali dictam terram et tenementum etc.* The roll from the following session contains the note of the amercement of 12d *de tota Inquisicione halimote* [de Leverington] for their 'unjust' presentment, and the statement that this presentment was to stand for nothing.<sup>64</sup> It is somewhat ironic that the homage was adjudged wanting by that record which their knowledge was supposed to inform. Unfortunately, the record of the surrender does not survive, so the identity of the new tenant remains unknown - no doubt it was they that challenged the presentment, presumably not when it was made but when Matilda as heir sought admission to the land in reality.

There are other instances which show that the jury was responsible for bringing such deathbed surrenders to the notice of the court, even when the donor had surrendered *in manus domini per manus ballivi*. The Tydd halimote jurors were amerced the considerable sum of 6s. for concealing that Hugh Elnoth had surrendered 24 acres of land. In fact, as is patent earlier in the roll, Hugh had surrendered on his deathbed indirectly to the lord via the bailiff. In such instances, it was through the office of the bailiff that the surrender came before the court, and this he did directly without having to report to the homage. One wonders therefore, whether the bailiff had failed to bring the

<sup>62</sup> C8/2/29 Wis Curia 28.1.1337.

<sup>63</sup> C8/4/49 Wis Curia 18.1.1369.

<sup>64</sup> C8/4/50 Wis Curia 16.2.1369.

details of the surrender to the next session immediately after Hugh's death, and that as a matter outstanding it fell within the duties of the homage to present. During the same period of plague, John Faireye had made a deathbed surrender in favour of his daughter Agnes. He had surrendered in *manus domini per manus Galfridi de Tydd*. The entry recording John's death is dated October 1349, but evidence of this surrender appears in the *curia* record from the following May: it is Geoffrey de Tydd, fulfilling the rôle of the bailiff as the lord's deputy in such surrenders, who is amerced for contemptuously concealing the land, highlighting the duty of the bailiff to bring the surrender before the court.<sup>65</sup>

This last example is of additional note for illustrating the often contorted passage of tenure which the jurors were required to trace. John Faireye's death had been reported at the autumn halimote session held at Elm in 1349, when his son John, as heir, had been admitted to the 18 acre holding. The father had in fact died three months earlier, as is evident from the record of another deathbed surrender in favour of a different daughter, Emma.<sup>66</sup> Agnes, the recipient in the second deathbed surrender, was not to benefit from the transfer of land; as the record of the transfer states, she died 'etc.' and her heirs were given as William and John her brothers, who were admitted to the two acres and apparently paid a transfer fine and a heriot. According to this entry, Agnes was never admitted as the tenant of this land, yet the jury presented that her brothers inherited it from her. They were thus accepting the validity of a transfer which had never been completed in court, and technically, the land should have passed to the heirs of the father, John Faireye, whose son, John, was the single heir according to the formal entry of death. Usually, the scribe is quite consistent in noting the admission of new tenants, although it is possible that the severe mortality of this time made him less expansive as regards to the intervening passage of right. At the same *curia* session it was also recorded that Albreda Sewall had died seised in 2½ acres of the Mathes and Smythes tenements, which therefore owed relief at 2s 6d. The homage then presented that the heir was her brother Thomas *qui mortuus est in dictam terram et debet relevium etc.* His heir in turn was his brother Martin *qui in lecto mortali alienavit dictam terram Galfrido Richard sine licencia Curie per Cartam etc.* Possibly the Sewalls regarded the land as free, which is why neither brother came to be admitted in court and why Martin transferred the land by charter; the episcopal administration obviously had other ideas since it regarded this transfer as an alienation. Further, over a year later the land was still ordered

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<sup>65</sup> C7/1/7 Elm Hali 8.10.1349; C8/3/40 Wis Curia 11.5.1350.

<sup>66</sup> C8/3/38 Wis Curia 20.7.1349.

to be retained, the reason given was that *heres non venit*. Only afterwards was it presented that Geoffrey Richard had purchased the same land by charter, hence its being taken into the lord's hands.<sup>67</sup>

Whenever jurors are referred to and identified by name in the rolls of the hundred court, they are part of juries summoned specifically as juries of inquest, to render verdicts between litigants. Thus the session dated 10.7.1343 contains the entry *Preceptum est ballivo quod venire faciet tot et tales pro defectu Jur' inter Willelmum Ganne querentum et Johannem Spercolf de placito debiti*. The next entry records the amercement of Bartholomew son of William *quia non venit ad Jur' inter Willelmum Ganne querentum et Johannem Spercolf de placito debiti*; like his fellow jurors from Newton named in the following four entries Bartholomew is amerced threepence.<sup>68</sup> As in the hundred court, inquest juries are deployed in the *curia* at Wisbech. Unlike in the hundred court, however, the juries are not necessarily adhoc bodies summoned for particular pleas. Instead the jurors also have the duty of presenting business, notably the death of tenants but also such matters as instances of unlicensed villein marriage, infringement by bakers and brewers of regulations regarding quality and price of their products and certain *inter vivos* transfers of land. Here the juries are a regular and essential part of the business of the court. There are only two occasions on which individuals are formally recorded as *curia* jurors rather than as part of specific juries of inquest, but it is nonetheless apparent that there is a body of jurors permanently part of the *curia*.

### Higher Authority

Miller noted that 'The hundred court itself was, in turn, subject to supervision. Many cases were postponed when unforeseen difficulties arose.... In such cases, no doubt, it was necessary to consult the records or higher authority.... Such consultation might be with the bishop and his council, for it was they who pronounced upon the need for appointing a temporary beadle in Leverington. In more routine matters, the authority of the seneschal might be enough....'<sup>69</sup> In the later period, too, both seneschal and constable generally surface as part of an authority beyond the court: a day was given to John Elverich and Geoffrey de Fenne whilst the constable was consulted as to whether or not the latter was a resident of the prior of Ely's land in Leverington, and if he owed suit to the prior's court rather than to that of the

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<sup>67</sup> C8/3/40 Wis Curia 15.6.1351.

<sup>68</sup> C13/2/21

<sup>69</sup> A.&B. pp.228-9.



bishop.<sup>70</sup> Significant grants of land or leases are made on their authority, often with reference to the *consilium domini*: *Concessum est per Willelmum Peiceworth seneschallum et Willelmum Newehous subconstabularium Castri de Wisbeche Willelmo Cokere tot' piscar' domini Episcopi Eliensis pertinens ad manerium suum de Welle.*<sup>71</sup> On 10 June 1349 the bishop withdrew his claim that certain land was unfree on the basis of an inquiry by the constable held before the whole of his council, where a memorandum by a previous constable confirming the state of the land, was produced.<sup>72</sup> It was to this higher authority that difficult issues were referred when inquest juries could not safely reconcile existing fact with custom. At the *curia* in 1335, jurors had ascertained that the land claimed by Adam de Brokene against John Potekyn was free but that it was part of the Aylemer homestead in Brokene which had owed customs and services; therefore the plea was placed in respite in order for consultation with the lord's council (*ad consulendum cum consilio domini*).<sup>73</sup>

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<sup>70</sup> C13/2/19 Wis 100 22.4.1339.

<sup>71</sup> C8/4/51 Wis *Curia* 4.7.1371.

<sup>72</sup> C8/3/38 Wis *Curia* 10.6.1349.

<sup>73</sup> C8/2/27 Wis *Curia* 13.12.1335.

## COURT RÔLES

The following analyses individual citations according to 'attributes' given to different rôles recorded in the court rolls. Statistical representation of this attribute data is contained in the Appendix.

### Suitor

The attribute of suitor to the various courts should lie at the heart of any attempt to draw the wider society into the world of the court, providing a means of identifying all those who were bound to attend, both for those who held the courts and for the subsequent historian. And yet, amassing a list of all such individuals from the records of these different courts is palpably far from possible. Although orders were recorded that the names of suitors be returned, the results are not among the surviving evidence. While fundamental to the court, the lists may have been incidental to the court rolls themselves. The significance of such lists lay beyond the presentment at any one session, and it is likely that the names would have been recorded and kept separately from particular court rolls, and hence more likely to have been lost in the intervening years.

What evidence of suit that does survive in the court rolls derives from the fining for suit to be respited or, at the hundred court, the essoining for common suit; this therefore means that only those suitors who were not present can be retrieved. Lists of jurors can also be used to provide the names of those who owed suit - with liability for such service deriving from suit to the court more generally. As with the identification of particular individuals as suitors, such lists provide only partial coverage (only 7.5% of individuals cited in the rolls appear as jurors). A further difficulty involves isolating those recorded in the rolls who were definitely not suitors. Clearly, tenants of other manors were drawn into the bishop's courts through their dealings with his tenants but the distinction between the two is not always so obvious. John Scot *de Walpole* surrenders a cottage in Wisbech's old market in 1335; although he had been a tenant of the bishop he need not have owed suit to his courts, being tied instead to the court in Norfolk.<sup>1</sup> John *filius Roberti de Walpole*, and also John *de Walpole de Leverington* also held land of the bishop, but these two resided within Wisbech hundred rather than Walpole itself and as such may have owed suit. Reference to common toponymic names does not then

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<sup>1</sup> C8/2/27 Wis Curia 1.2.1335.

provide an easy means by which to distinguish between those owing suit and not. Even among those without such locative references, the obligation of suit might be in doubt. Geoffrey de Fenne, for example, was impleaded in a plea of trespass by John Elverich in the hundred court. However, the seneschal of the prior of Ely claimed Geoffrey as a tenant of the prior's land.<sup>2</sup> The obligation of suit may also have varied across time and between individuals or holdings - perhaps some joint tenants rotated which of them provided it. For such reasons, the term suitor has not been used as an attribute for analysis.

## Administrative Rôles

### Juror

All courts within the hundred depended upon individuals acting in the rôle of juror, although it is only the halimote and leet courts which regularly and formally identify these individuals. In part this reflects the rôle of the jury in each of the four courts, but it is also indicative of the interrelationship between the courts. The absence of regular lists of jurors in the *curia* records is explained by the fact that it was part of the duty of the halimote jurors from each of the villis to act at the central *curia* too. No jurors are formally listed in the hundred court rolls because the type of business that fell within this court's jurisdiction - litigation - was not the sort which necessarily required presentment: on all six of the occasions when jurors are named, they form part of juries of inquest. Discussion of the rôle of the juror has already been made in connection with the curial structure within the hundred; here the emphasis is upon the attribute of juror, and the ties between the individuals with or without this attribute rather than between the courts in which they acted.<sup>3</sup>

There are 116 sessions at which jurors are named. Generally these are presenting juries rather than inquest juries. There are some 522 individuals who have been identified as jurors on one or other type of jury. This equates to 7.6% of all individuals cited in this period, or, to give a comparative context for this figure, the same proportion as

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<sup>2</sup> C13/2/19 Wis 100 1.4.1339 The bishop's constable, as the official in charge of the hundred court, was to check this claim, but his verdict is not known. Whether or not Geoffrey was the prior's man rather than the bishop's did not prevent him from pursuing the same John Elverich in a plea of debt - settled out of court. C13/2/19 Wis 100 20.5.1339.

<sup>3</sup> see S.Olson, 'Jurors of the village court: local leadership before and after the plague in Ellington, Huntingdonshire', *J.B.S.* 30 (1991), pp.237-56 for a comparable examination of the 'juror' and other 'attributes'.

those presented as brewers or one-third of the number engaged in land transfers. The regularity with which individuals are seen as jurors is chiefly determined by the varying survival of halimote and leet records, and therefore comparisons between patterns of service between all villis across the whole period cannot be drawn. The best documented juries are those for the Wisbech and Elm halimotes between 1327 and 1350, when there are 18 and 14 extant sessions respectively. Four-fifths of the jurors appearing five or more times (10% of all jurors) and all of those acting ten or more occasions come from these two villis. Data from these records have therefore been used to provide a sense of the continuity or otherwise of jury service. In both villis, the majority of jurors appear in less than five different sessions (73.5% in Elm and 75.7% in Wisbech). At the other extreme a similar pattern is also found, with 8.2% of Elm jurors and 10.8% of Wisbech's jurors acting ten or more times. (It is probable that a higher proportion would be observed for Elm if four more sessions had survived, as at Wisbech: if the four individuals who served between six and nine times also acted four times more, then 16.3% of Elm jurors would have acted on 10 of the 18 occasions.)

When a comparison is made with other attribute groups, it is unsurprising to find that 6 of the 8 Wisbech jurors and 2 of the 4 Elm jurors who act 10 or more times, are to be found as officers. Yet it is not frequency of juror citation which is significant, but citation as juror at all. Certain officers were relieved of the duty of acting as juror while they held the other office; thus there are times when officers - 'typical' jurors - are absent from the jury lists. At the autumn halimote in 1333, John de Weldon is elected as beadle by the homage; hence his name is crossed from the jurors for the following spring halimote with the explanatory note *Bedellus*.<sup>4</sup> Similarly, John *filius Galfridi* de Tydd's name is crossed from the Leverington halimote jury list and the note added *prepositus Bertone*; Adam Caze's name is added as the replacement.<sup>5</sup>

The connection between being an officer and a juror is illustrated by the fact that 51.6% of officers also act as jurors. Indeed, if there was no connection between these two rôles, then roughly seven times as many jurors hold other office as would be expected. (see Appendix for correlation figures.) From the observations made from other collections of court rolls, one would have expected a much higher proportion of officers to have been jurors.<sup>6</sup> Incomplete record survival affects figures from Wisbech hundred in two ways. First not all of the jury lists

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<sup>4</sup> C8/2/26 Wis Hali 8.10.1333, C8/2/27 Wis Hali 6.4.1334.

<sup>5</sup> C7/1/9 Lev Hali 7.10.1367.

<sup>6</sup> Olson, 'Jurors', p.239, n.8.

survive so it is not possible to locate each officer as having been a juror, it has been noted that some officers were excused jury service while holding other office. Secondly, although it was at the halimotes that officers were elected, by and from within the jurors, these elections were recorded at the end of the court proceedings - to take effect for the coming year - and it is this type of entry which is disproportionately affected by damage to the manuscript which tends to occur at the foot. Therefore, companion lists of jurors and officers from the same session rarely survive.

Serving as a juror, then, determined whether an individual held other office, although not all jurors were officers. A similar finding is observed with the attribute group of pledges. Roughly one-fifth of jurors amount to one-half of all pledges, and just over four times as many jurors pledge as would be expected if no connection existed between the two rôles. Aside from jurors and officers, where the connection is institutional, this connection between juror and pledge provides the highest level of correlation between separate attributes. Jurors are also far more likely to offer pledging support than to require it; similarly twice as many jurors act as attorneys as employ attorneys. Involvement in land transfers and litigation were common attributes shared by many jurors; from the other perspective, acting as juror tended to be the second most common attribute observable for tenants and litigants, second to being a litigant or tenant in either case. Since jurors were commonly involved in litigation, the distinction between being or needing a pledge or attorney is not to be found for essoining interactions: roughly similar proportions of jurors act as essoins as require such excuses.

Certain attributes can be associated with that of juror - pledge and attorney in particular. There is also an observed tendency for jurors not to appear in the lists of ale sellers (1.5% of jurors do so despite the fact that regraters account for 14.1% of all individuals). These two attributes represent extremes of integration within the court, with regraters rarely cited in any of the attributes more central to the procedure of the court itself.

As a source of information, jurors were in a position to control much of the business before the courts, both in terms of the type of business and particular individuals. Recovering the extent of their influence is almost impossible since the historian is as dependent as was the court itself on their choice of presentments; there is no picture of the wider actuality which could act as the yardstick by which to measure their rôle. (If there were, historians would hardly have need of methodologically fraught recourse to the court rolls.)

The jurors at the Wisbech halimote in autumn 1349 presented that the Borewelle homestead had been prostrated; as a result, John *filius Gilberti* de Borewelle and his parcener were ordered to make repairs, on pain of twenty shillings.<sup>7</sup> The next entry baldly records the amercement of Robert Fuller for contempt. Robert Fuller was one of the jurors at this halimote; in addition he may have been a member of the Borewelle family, using his father's occupational name as his surname. The next entry still is more expansive. John *filius Gilberti* de Borewelle is also amerced *pro eodem [contemptu] contradicendo et repugnando socios suos in presen[tatione] sua [sic]*. John's name first appears in this roll immediately after the list of jurors, when his penny amercement for default is recorded. This suggests that he should have been acting as a juror at this court but perhaps failed to show up at the start of the meeting. (This may explain the addition of extra names to the columns of jurors, listed as replacements possibly.) Whatever influence he (and perhaps Robert Fuller) tried to exercise over his fellow jurors to forestall record being made of his homestead, it failed. Such discussion among jurors may have been considered as a contempt, but it provides a sense of the way in which, through discussion with one another presumably more usually in advance of the session, jurors acted to filter business before the court.<sup>8</sup> As Paul Hyams has suggested, 'It was their investigations between sessions that decided what information reached the next court, what acts (and by whom) would or would not be treated as offences.'<sup>9</sup>

John *filius Gilberti* de Borewelle may have only been doing what others did, but less successfully; only obvious cases of unsuccessful attempts to influence business are likely to have been recorded. John attebrigge, for example, was amerced six pence for suborning the jurors from Tydd at the central *curia*.<sup>10</sup> Yet other evidence survives to suggest concealment of business which the jurors should have presented. In 1360, for example, the whole halimote of Leverington was amerced half a mark for the failure to present that John *filius Willelmi* Nenour, villein, had taken holy orders without the lord's licence.<sup>11</sup> Similarly, one of the halimotes represented by its jurors at the Wisbech *curia* in 1349 had

<sup>7</sup> C8/3/36 Wis Hali 5.10.1349.

<sup>8</sup> see also C8/3/33 Wis Curia 20.11.1349 wherein five men, of whom three were known Wisbech jurors from the halimote, were each amerced a penny for the contempt of chattering in court (*garuland' in Curia*). The same roll contains the earlier amercement of one of them, Robert Martyn, for contradicting a presentment by the homage.

<sup>9</sup> P.R.Hyams, 'What did Edwardian villagers understand by law?', in Z.Razi and R.Smith, *Medieval Society and the Manor Court* (1996), p.84.

<sup>10</sup> C8/3/41 Wis Curia 20.9.1353 *quia procur' Jur' hallimote ad dicendum fals' etc.*

<sup>11</sup> C8/3/44 Wis Curia 24.1.1360.

been amerced six pence for not presenting the death of Peter Plomer and therefore the changes in tenure.<sup>12</sup>

An attempt has been made to gauge the influence of the attribute juror - both in the sense of the identity it conferred upon the individuals themselves and in the way the exercise of that office might have determined who and what was presented. To reflect the different rôles of juries within the courts, two avenues have been followed: a broad assessment has been made of the potential influence over the outcome of litigation on the one hand and, on the other, over the names presented for 'infringing' the assizes of bread and ale.

Of the pleas for which a settlement in court is known, the majority appear to have been concluded through juries of inquest. In distinguishing between plaintiffs and defendants who have been given the attribute of successful or unsuccessful litigant according to the statement of a jury, the matter of whether the litigant also held the attribute juror has also been considered. Like the other comparisons between types of attribute, this involves a rather large scale perspective, and ignores the temporal dimension - it does not link the timing of the litigation to the period(s) in which the litigant was a juror. It is not possible to perform such analysis at this level, since the surviving evidence can often only be studied in such depth for a few, particularly well-represented individuals.

Initially, the focus is upon the jurors who brought their claims before the same courts in which they acted as juror; thus it is questioned whether halimote/curia juries favoured the litigants who were halimote/curia jurors. Of the citations of plaintiffs involved in cases with a known outcome, 44% involve the plaintiff settling out of court, whereas 31% of the citations where the plaintiff is a juror are similarly settled (in fact, 51% of plaintiff citations lead to non suit where the plaintiff is not a juror). Where the plea is withdrawn by the defendant paying *pro licencia concordandi*, this applies to 17% of all defendant citations and 14% of juror-defendant citations (18% of defendant citations where the defendant is not a juror). Thus, in terms of the way that litigation is pursued in the courts, it is immediately apparent that defendants overall are less willing to seek extra-curial means of settling litigation than are plaintiffs, and that jurors are less likely than other litigants to withdraw.

It is possible that the difference between the figures for withdrawing pleas might point to the use of the court and its record as a means of enrolling an obligation. When A fined to withdraw a plea of debt against B, this may not have been with the intention of settling beyond the court an active claim; instead impleading B for the 'unjust'

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<sup>12</sup> C8/3/33 Wis Curia 20.11.1349.

detinue of money or goods may have been one way of getting the court to enrol an obligation; the plea is less a claim to a past debt than a recognisance of a current obligation. None of the entries in which the plaintiff fines for non suit gives further details, but it is sometimes the case that once a defendant has sought to halt the litigation, the court roll entry then provides the terms by which an obligation is to be met. Martin Elger and Adam Caze pay a threepenny amercement *pro licencia concordandi* with Thomas Ganderonn, and acknowledge themselves bound to Thomas in 10s, to pay half at Michaelmas and half the following Christmas; if they do not, then they agree that the bailiff is to make good the debt from their goods and chattels.<sup>13</sup>

It is also true that plaintiffs who are jurors are more willing to stick with court procedure to obtain an outcome. If this were based upon the assumption that they would have been granted a favourable hearing by the inquest jury, one might have expected a greater difference between the figure for all defendants withdrawing pleas and that for juror-defendants. Just as plaintiffs would have desired a biased jury, so too would defendants have sought to avoid one. It may only have been scribal practice, but in those entries which provide details of the debated claims, it is the defendant who is recorded first as wanting the matter put before a jury. When Simon Hugge and his wife Joan respond to the land plea initiated by John Everard and his wife Amicia, the entry states that the former denied the plaintiffs' claims and then *petunt quod inquiratur per Inquisitionem etc. Et alij similiter*.<sup>14</sup>

Given the defendant-jurors' apparent confidence in court procedure it remains to be seen how justified this was. Generally, all litigants who sought settlement of the litigation within court and who were not halimote/curia jurors, were more likely to be found unsuccessful than successful (52% of both such plaintiff and defendant citations involved the litigants having their claims rejected, and 48% of the citations upheld claims.) When it comes to litigants being jurors, it appears that inquest juries were no more likely to favour fellow jurors as defendants than any other defendant: 54% of corresponding defendant/juror citations involved the failure of the defendant, 46% their success. Although a higher proportion of jurors who were plaintiffs took their own pleas beyond the court, they were actually more likely than not to have their rights upheld in court, with 55% of their plaintiff citations in in-court conclusions, resulting in a favourable verdict.

To test whether acting as juror at the halimote and curia gave a sense of influence limited to these courts, a similar approach was undertaken for those litigious halimote/curia jurors who are to be found

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<sup>13</sup> C13/2/19 Wis 100 2.4.1338.

<sup>14</sup> C8/3/46 Wis Curia 1.9.1362.



in litigation reaching a conclusion recorded in the hundred court. Again, plaintiff-jurors were more likely than defendant-jurors to seek to settle beyond the court (45% against 37% of citations). Again, the fact that a litigant was also a juror only appears to have been significant when they were the plaintiff initiating the plea. Of the citations that lead to settlement in court, 69% of citations of defendants who were not jurors indicated that the defendant was found to have behaved unjustly, comparable to the 68% of defendant-juror citations. Of the citations of plaintiffs who were jurors, 83% reflect the success of the claims, against 63% of citations of plaintiffs who were not jurors.

The data are not strong enough to support the hypothesis that jurors pursued litigation on the basis that they would receive a favourable verdict compared with those litigants who were not jurors. To take a particular juror, John attebrigge acted as a juror at the Tydd halimote in spring 1339; at the same session he was amerced sixpence after the inquest found his debt plea against John de Fordham (never recorded as a juror) to have been false.<sup>15</sup> Certainly jurors were no more likely to be found to have been unjustly charged when pleas were initiated against them, than were non-jurors, whether or not this was in the court at which they acted as juror. Instead, the data suggest that acting as a juror perhaps encouraged a knowledge of rights and claims and of how to formulate them. As plaintiffs, jurors were confident that they would be successful litigants, not on the basis of their attribute as jurors, but because their claims were just; they were much less willing to withdraw their pleas from court (non suit explains 30% of citations of juror-plaintiffs but 51% of citations for plaintiffs who were not jurors), and when verdicts were expressed within the court, jurors as plaintiffs were more often than not successful.

The second issue is that presentment juries may have acted to filter out appropriate business or shield particular individuals from the court's view. The most comparable and consistent data available to address this question derives from the halimote and leet records where the names of juries and those whom they presented for infractions of the assizes of bread and ale are recorded. (It is not important in this respect whether one sees the presentments as part of a licensing system involving all traders or as genuine infractions of the assize: the important question is whether jurors were able to help favoured individuals avoid payments.) 41 of the 120 bakers presented at any session have surnames which appear at some time on a jury list: 61 of the 416 individuals who were jurors have surnames which appear among the bakers. But since citation with any one type of attribute can be derived

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<sup>15</sup> C8/3/31 20.4.1339.

from any point in an individual's recorded life, these figures are too blunt. More illuminating are the data which illustrate that there are 12 jurors who act to present 14 bakers who have the same surnames at the same session. The overlap between surnames is not due to imprecise identification through unstable nominal forms. Further, eight of these jurors were themselves among the bakers, which also reflects the limited opportunity for concealment of something so much in the public domain as the sale of bread.<sup>16</sup> Richard de Ruddeham's name appears in the companion lists of jurors and bakers on three of the halimote records for Elm between 1367 and 1374.<sup>17</sup> Three of the fourteen bakers appear in the records for baking on five or more occasions, and two of these are jurors, the other being the wife of a juror. In fact, this wife of Walter Taillour, like William Overe's wife, was presented for baking at the same session that her husband was a juror; both these jurors were themselves bakers and presented themselves as such.<sup>18</sup>

The same exercise can be performed for jurors who present the names of brewers against the assize: there are some 61 jurors who are thus connected by common surnames with 65 brewers at the same session. Again, none of these names takes the form x son of y, or wife of x son of y, where x son of y is unknown or an irregular nominal form. Five of the jurors are themselves presented for brewing, and the wives of 32 serving jurors are presented in the same sessions that their husbands serve - eight of them having five or more citations for brewing. The wife of Walter de Reymerstone, for example, is presented on seven occasions between 1345 and 1367 by a jury that includes her husband.<sup>19</sup>

As with brewers of ale, so too can jurors be found to present members of their own surname groups at halimote or leet sessions specifically for the sale of ale (39 jurors have the same surnames as 44 of the regraters at the same session). The name of no juror appears in the accompanying list of regraters, yet this is hardly surprising since less than 2% of all jurors are ever found in these lists, and less than 1% of regraters ever appear on juries. The familial connection in terms of jurors presenting their wives for selling ale against the assize is still present, thereby suggesting that in practice jurors did present the names of their own family for amercement. However, citation as an ale-seller could be far less regular and consistent than the appearances

<sup>16</sup> Bennett observes 'public oversight of aletasters was so compelling that some aletasters presented themselves or their own wives for brewing'. J.M.Bennett, *Ale, Beer and Brewsters in England: Women's Work in a Changing World, 1300-1600* (1996), pp.161-2.

<sup>17</sup> C7/1/9 Elm Hali 1.10.1367, 13.10.1368; C8/4/53 Elm Hali 6.10.1374.

<sup>18</sup> As discussed below, (p.143) such presentments were probably based upon individual activity rather than that of the household; husbands were therefore presented for their own trade not that of their wives.

<sup>19</sup> Elm halimotes: C7/1/5 6.10.1345; C7/1/7 9.4.1350; C7/1/8 29.4.1356, 9.4.1361, (Elm Leet) 27.5.1360, 21.4.1362; C7/1/9 1.10.1367.

for the actual production of ale or bread, reflecting the less substantial and secure type of trade. It was quite possible for individuals to flit in and out of the regrater lists, and the likelihood that this might have coincided with the presence of a family member on the presenting jury would be less remote compared with the more stable trades of production, particularly that of baker. The names of Walter Taillour and his wife and of John Toly and his wife therefore make rare joint appearances in four Elm halimote sessions, between autumn 1334 and autumn 1338, and spring 1351 and autumn 1368 respectively.<sup>20</sup> The other six wives appear on only one occasion when their husbands were acting as jurors, and five of these eight wives have five or more citations for selling ale, thus increasing the chances of being presented by their husbands as jurors.

Conversely, it is possible that the women may have been regular regraters, but coming from families not well integrated into the world of the court, it was their husbands that were unlikely to appear often as jurors. The wife of Adam Dagelard, for example is cited on five occasions for selling ale, once when her husband was due to serve as a leet juror, and on three other occasions she was presented for brewing. Adam's name only appears once in a list of jurors, in fact he defaulted with three other 'jurors' and was amerced threepence.<sup>21</sup> His other citations relate to a debt plea brought by William Nenour in 1363.<sup>22</sup> Adam's citation as juror, deriving as it does from the very last court session in this study period, may represent the first of many such appearances, but this could lay within the future rolls.

Equally, an instance can be found where the husband of the frequent ale seller did have a high court profile. The wife of Bartholomew Trampyl was presented at the Elm halimote on six occasions for selling ale, and on one occasion her husband was part of the presenting jury.<sup>23</sup> There is only one other surviving piece of evidence which places him on the halimote jury, back in 1349, possibly before his marriage. But, the paucity of his juror citations is not a reflection of his marginal position vis-à-vis the court; rather he was elected to the office of beadle from autumn 1367, again in the following autumn and

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<sup>20</sup> Elm halmotes: C8/2/27 21.10.1334, 6.5.1335, 6.10.1335; C8/2/30 16.10.1338; C7/1/8 9.4.1361, 21.4.1362; C7/1/9 1.10.1367, 13.10.1368.

<sup>21</sup> C8/4/54 Wis Leet 20.5.1377 *non venerunt ad essendum super Inquisitionem qui exacti fuerunt*.

<sup>22</sup> C8/3/46 Wis Curia 9.3.1363 and 12.5.1363 both occasions Adam is to be distrained to respond.

<sup>23</sup> C7/1/9 Elm Hali 1.10.1367 The wife was also presented three times at the leet held for Elm between 1360 and 1370; jurors were primarily halimote jurors or leet jurors, not both.

similarly in autumn 1374; as beadle, he would not have served as a juror.<sup>24</sup>

It would seem then, that jurors did not fail to present the names of relations, more particularly their wives and even themselves, in connection with the assizes of bread and ale. This does not mean categorically that they always presented members of their families when they should have done, since the records obviously only contain those instances when they did. Further, it may be possible that more junior members of their families might have been shielded, but then this might be true for any family group, not just those of jurors. In practice, the wife who brewed may have sent a child out to sell the ale, but the responsibility for its sale remained with her. The sale of such staples as bread and ale was too public a concern for jurors to conceal the activity of their own family. In addition, the amounts of amercements demanded for such sales do not appear to have varied according to whether the individual was a juror, or wife of a juror or not (and the affeerers were jurors). Indeed, the wife of Bartholomew Trampyl paid five amercements of a penny and one of threepence for regrating, and the highest was set in the session when her husband was a juror. As the section on bakers, brewers and regraters below discusses, amercements for such sales often fluctuate without any obvious reason contained in the court rolls, such that tying such variation into whether it was affected by the composition of presentment juries is difficult.

It is apparent that the families of jurors did contain individuals who were presented for selling ale at some stage, on the broad equation of surname group with family, for one third of regraters had the same surnames as jurors throughout the period 1327-77. Jurors themselves were highly unlikely to be found in the list of ale sellers, however, and generally it appears that jurors were rarely obliged to present their own relations for selling ale. The data do not allow one to say categorically that this was because the jurors were shielding the activity of their families from the view, literally, of the court; more that the sale of ale was a less regular occupation resulting in sporadic citation in the rolls. Further discussion is made below in connection with the attributes of these traders. The value of such data here lies in the light it sheds upon the attribute of juror. Presumably on the report of the ale tasters, jurors were obliged to present the names of all who, purportedly, broke the assizes of bread and ale, and this included themselves and their wives or other members of the same surname group. (39% of bakers, 45% of brewers and 33% of ale sellers had the same surnames as individuals who served as jurors at some stage in the

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<sup>24</sup> C7/1/9 Elm Hali 1.10.1367, 13.10.1368, C8/4/53 Elm Hali 6.10.1374 also acted as affeerer at this session.

halimote and leet.) The proportions of each trade who were presented at the same session as their juror-relative tended to reflect the nature of economic stability to each trade, just as the number of jurors to be found with the different attributes baker, brewer or ale seller mirrored the varying capital needs of the occupations.

## Officer

This category of attribute is not central to the court in the way that that of the juror is, for although some of the duties of, say, the bailiff, result from court business, the rationale of the office was not defined exclusively by the court - although it would be through the court that the officer would be answerable to the lord and fined for maladministration. Nonetheless, such amercements and other citations of officers often relate to events that are beyond the court: for example, when the rent collector is impleaded for unjust detainment of money, the rent collector has the court attribute of defendant, the attribute of officer is one that is brought, as it were, from outside the court and is not defined by the court itself. Nevertheless, the election of officers, chosen from amongst the jurors, is often to be found in the records of the halimotes, and such evidence significantly extends the range of attributes an individual might possess.<sup>25</sup>

For some, office was a burden; others may have seen it as an important opportunity to improve their lot, to be exempt from labour services or perhaps curry favour with other potentially influential men associated with the episcopal administration. Towards the end of his year in office as Tydd's beadle, Reginald Basely was amerced for not carrying out the order to attach three men, this duty falling to the new office-holder. Although performance of this task was *sub pena* 40s, such fines were rarely levied; perhaps Reginald knew that the administration's bark was worse than its bite, it was dependent on men like him anyway.<sup>26</sup> Aggregating all individuals who were elected as

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<sup>25</sup> see for example, C8/2/26 Wis Hali 8.10.1333 The homage elects John Maryot, John *filius Ricardi* Faireye or Robert Beanneys as candidates for the office of the Barton reeve for the coming year. Since it is John *filius Ricardi* Faireye's name which has been crossed from the list of jurors at the head of the roll, and replaced by Stephen Crouche, it is assumed that he was chosen. S.Olson notes the same procedure of selection with the final selection being made by the court steward, *A Chronicle of All That Happens: Voices from the Village Court in Medieval England* (1996).

<sup>26</sup> C8/3/41 Wis Curia 28.11.1353 See C8/3/40 Wis Curia 27.1.1350 and 11.5.1350 Simon Hugge was to pay 18d for not taking responsibility of the Sot homestead to which he was elected head - the entry states *visus in Curiam et non venit*; five months later he had still not taken the

suitable for office does not take into account how they performed their duties.

While the historian can uncover the duties performed by an officer, it is difficult to discover the more personal identity of the officer. Generally, when officers, particularly the beadle, are cited in the rolls it is just the name of the office - *Bedellus*, or just the abbreviation B. - which is given. After 1349, however, officers are sometimes identified personally, perhaps because these offices had come to be particularly identified with certain individual holders.<sup>27</sup> This has implications for a study of relationships. In the first instance, it is not absolutely clear whether some individuals are acting in a personal or official capacity. For example, a litigant might claim money for rent arrears owing from the time when he was rent collector; but should this connection be excluded from an analysis of inter-personal relationships on the grounds that it is an official relationship and it is only in exceptional circumstances that official relationships can be witnessed? It may be more correct for the purposes of analysis to consider this in terms solely of court attributes: whatever other attributes the litigants have, this relationship has been recorded at this point in the court roll because they are litigants. Further, officers were able to use the machinery of the court to enforce their authority and it is often once they cease to hold office that they appear as litigants, using reference to their tenure of office to justify their claim.

An additional problem about official involvement in court procedures comes when officers can be seen with a court attribute and in relationship with other individuals, but their own personal attribute is unknown. Thus, Agnes Large is fined 12d as payment of merchet and, because this needs pledging, she also has the court attribute of pledgee; however, Agnes has been excluded from the collection of pledging relationships because the identification of the pledge - the bailiff - cannot be pinned upon anyone. This is not to say that this instance of official pledging is completely excluded from the analysis: in considering the attributes of pledgees and the reason for the pledging, such instances are valuable in assessing whether a distinction was drawn between personal and official pledging.

The definition of officer does not include jurors, who have been treated separately, although many officers were selected from among the jurors. The category does include those individuals selected as

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responsibility. Robert Mayheu and his co-tenants initially refused likewise in 1362, C8/3/45 Wis Curia 17.1.1362.

<sup>27</sup> see, for example, C8/3/40 Wis Curia 10.6.1349 Nicholas Clerk *Bedellus de Tydd*, or C8/3/40 Wis Curia 19.7.1350 John son of William Faireye *Bedellus*. Such men were generally prominent in the rolls, cited in a more private, non-official capacity.

sufficient for office, but not necessary chosen to hold that particular officer by the seneschal of the court. Officers have not, however, been treated as a key court attribute because the identification of individual officers is not consistently obvious in this collection of rolls.

In theory, officers could be considered as a sub-group of the attribute group juror, and in practice, although just under a half of officers are not seen on juries, the proportions that are visible with other attributes mirrors those of the group of jurors. Generally any correlation between the attribute officer and any of the other main groups is low, but comparatively higher for being an attorney rather than a principal, an essoin rather than an essoinee and a pledge rather than a pledgee. Officers are more likely to provide the assistance in court than require it. Similar proportions of jurors and officers have land which they transfer, but the tendency of the officers to make such transfers is lower than that of jurors. Any connection between being an officer and impleaded in litigation is lower than the correlation between the attributes juror and defendant.

## Interactive Rôles

### Attorney

Attorneys appear predominantly in the context of litigation and almost twice as many of the relationships between attorney and their principal appear in the hundred court as in the Wisbech *curia*; only two others appear in any of the halimotes. Two attorneys are appointed to perform suit to the hundred court, both on behalf on Laurence de Flete, *miles*. The arrangement between this suitor and his attorney Thomas de Thorneye was a regular one, since Thomas is essoined, as attorney, for common suit on ten occasions between 1342 and 1343. Two other hundred court sessions which form part of the surviving sequence of sessions for 1343 do not evidence such essoins and therefore it is to be assumed that Thomas de Thorneye performed his principal's service in person.<sup>28</sup> There is not quite the same amount of data by which to witness the other attorney, Martin Coroner, performing his duties. As Laurence de Flete's other attorney for common suit he is essoined at the hundred court in January 1349, but he appears not to have undertaken this duty of representation regularly.<sup>29</sup> In March 1350, Martin is fined 12d *pro secta*

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<sup>28</sup> He was certainly present on one of these occasions, engaged in his own litigation, C13/2/20 Wis 100 10.7.1343

<sup>29</sup> C13/2/23 8.1.1349.

*vsque festum Sancti Michaelis proximum futurum pro tenement' Laurencii de fflete militis.*<sup>30</sup> In his capacity as attorney Martin thus fined for respite of Laurence's suit. This fine was the convenient option for a suitor who did not wish to come to pay his suit in person every fourth session: in February 1350, Laurence de Flete himself was amerced for not warranting his essoin for suit and, as a result, further amerced *quia non venit pro secta facienda* etc.<sup>31</sup>

Few individuals have been identified as attorneys, only 1% of all individuals found for the whole period (69 individuals). Significantly, then, those that do act in this rôle tend to be involved directly in the business of the court, not in presentments for extra-curial activity such as battery or baking, but through other positions such as juror or essoin and as party to land transfers. Most notably, individuals acting as attorneys also have the court attribute of essoin (some 68% of attorneys; whereas only a little under 6% of the population as a whole act as essoins). The relationship between the two attributes, attorney and essoin, produces one of the higher correlations, thus bolstering the suggestion that individuals who were attorneys also acted as essoins.

A comparison of relationships between attorney and principal (125 relationships) and between essoin and essoinee (1,118 relationships) shows that five individuals act in both capacities for the same individual. The notably slight overlap need not, however, be taken to discount the possibility that being an attorney necessarily required acting as essoin for the same litigant. In the cases of Alice Blak and Thomas *filius Ricardi*, they appoint as attorneys those individuals by whom they have just been essoined. This does in fact suggest a functional link between acting as attorney and essoin, since it is this essoining which marks the first point at which the attorney acts for the principal - he is already deputising for the litigant. This is underlined by the entries referring to the relationship between John Lamberd and his attorney William Broun. The hundred court roll of June 1338 records that Robert Drye is essoined in the debt plea brought by John Lamberd, and that the latter appoints attorney William Broun. In the very next entry, it is John who is essoined in this same plea, and by his attorney. It is significant that it is the first entry which records the attorney: from a procedural point of view he is already standing in for his principal named when the defendant is essoined; as part of his rôle as attorney he then acts as essoin. In the following session held on July 2, it is difficult to know whether John Lamberd is actually present in court himself or represented by his attorney, since the only reference made to this plea is the amercement of Robert Drye's

<sup>30</sup> C13/2/24 Wis 100 4.3.1350.

<sup>31</sup> C13/2/24 Wis 100 11.2.1350, both amercements 2s 8d.



first pledge for not having him to respond and the order that he be distrained to appear. At the session after this a sixpenny amercement is set against John Lamberd's name for non-suit.

The lack of evidential opportunity for seeing an attorney acting for his principal applies also to the fourth example of a common relationship. William Symond, present in the hundred court of 9.1.1343, appoints Peter *Clericus* as his attorney in the debt plea brought against John Lomb, and the same Peter acts to essoin William in this plea on 27.3.1343. In the following hundred court session, William seeks to withdraw the plea from the court. In the remaining case, the essoining relationship predates that between attorney and principal. Geua Dromond, plaintiff against John *filius Galfridi* de Neuton is essoined by Reginald Ingelot in the hundred court of 5.11.1338 and he is named as her attorney in the session dated 22.4.1339; further references to the plea disappear after 29.7.1339 due to the poor survival of rolls from the hundred court.<sup>32</sup>

It has already been seen that there was a link between attribute as attorney and essoin for a few individuals involved with the same principals, but the large proportion of attorneys who have this attribute and that of essoin for individuals other than their principal indicates that these two rôles were frequently held independently. The five cases which evidence the repeated relationship offer little by which the historian can understand the rôle of the attorney. The fact that it is noted that when the essoin is given he is also the attorney signifies that there is a difference in rôles, if the attorney was merely to act as essoin then there would be little purpose in their being appointed as attorney. The rôle of the attorney goes beyond that of the essoin who merely makes the excuse for the litigant. (It is nonetheless highly significant that of the attorneys over 68% were also essoins; the chief characteristic of whom is the fact that they were present in that session where they make their essoinee's excuse.)

Attorneys are appointed to represent litigants more generally in court, to prosecute their pleas. They thus require two qualifications: they must be present in court and have some knowledge of the plea or of pleading. The former may explain why two individuals are sometimes named as possible attorneys. *Willelmus Clericus vel Thomas Ballivus* are named as attorneys for John *filius Gilberti* de Borewelle.<sup>33</sup> Should one of his nominees not attend court for whatever reason, John could expect that the other would take his place; William was certainly present in the following session.<sup>34</sup> The appointment of two alternative attorneys may

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<sup>32</sup> C13/2/18-19.

<sup>33</sup> C13/2/18 Wis 100 19.2.1338.

<sup>34</sup> C13/2/18 Wis 100 12.3.1338. This would parallel common law procedure, where two attorneys were recommended, and characteristically employed

reflect the importance of the litigation to John. Certainly, he was claiming damages of 20 shillings: Thomas Yue had allegedly destroyed the hurdles and stakes that John had set up to keep in his two colts (*pullani*).<sup>35</sup> John may also have been relying upon the greater experience of the attorney, but if he hoped that they would be more effective than he in claiming such a sum, he was to be disappointed: while the jury found that Thomas had trespassed, they assessed the damage to be one shilling.<sup>36</sup>

The actual number of attorneys identified as such in these rolls is small and so it is unsurprising that there is little evidence by which the historian can observe their activity. Their rôle, however, is not incidental. During the course of one hundred court session, attorneys are employed in eight different pleas; in four cases the attribute of the attorney can be found and they are all different individuals.<sup>37</sup> To some extent it appears that the rôle of the attorney was repeatedly to represent the absent principal without the latter having to attend court after every third *essoining* (as would normally be required of an individual excused by an *essoin*), rather than to deploy any special expertise in litigation. When the Suffolk man *Ricardus Baxtere de Lakyngithe* initiated pleas of debt against four of the bishop's tenants, he did so via William *Clericus* his attorney.<sup>38</sup> Richard Baker was in fact one of the bishop's tenants, but *de Lakyngithe* may still be an accurate indication of his vill of residence since he had leased 1½ acres of land in Wisbech to William *Streith*.<sup>39</sup> The appointment of an attorney thereby avoided the necessity of travelling to Wisbech for every session (or at least every fourth session) of the court. The fact that the bailiff or beadle was appointed by one plaintiff highlights this aspect of the use of attorneys: the official was bound to attend court anyway.<sup>40</sup>

On this basis it is understandable that eleven of the sixteen women listed as wives who appoint attorneys, appoint their husbands and always in pleas jointly pursued. It is not the need to travel long distances to court in these instances, more that one partner could be

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about 1280, in case one was sick or otherwise indisposed, although Paul Brand suggests this was less common after 1300. P.Brand, *The Origins of the English Legal Profession* (1992), pp.75-6.

<sup>35</sup> C13/2/18 Wis 100 12.3.1338 *Thomas Yue venit vi et armis et dictum cleram cum palis fregit et prosternavit et omnia deposuit.*

<sup>36</sup> C13/2/19 Wis 100 2.4.1338.

<sup>37</sup> C13/2/18 Wis 100 4.6.1338.

<sup>38</sup> C13/2/19 Wis 100 2.4.1338. William *Clericus* also acted as attorney for John *filius Gilberti* de Borewelle, as noted in the previous example, and two other litigants at the hundred court 1338-9.

<sup>39</sup> C13/2/18 Wis 100 5.11.1338 details of lease from debt plea against subtenant William *Streith*, of Elm, against whom William *Clericus* acted as Richard's attorney.

<sup>40</sup> C13/2/24 Wis 100 22.4.1350 *Et querens ponit loco suo B.*

represented by the other.<sup>41</sup> In the land plea brought jointly by Robert Sweyn and his wife Agnes, Edward Hiptoft as attorney is to act on behalf of both husband and wife.<sup>42</sup> In practice, husbands may have acted on behalf of their wives anyway - as *femmes couvertes*, they *had* to be represented by their husbands, unable to plead on their own. This is difficult to substantiate from the evidence in these rolls. The fact that wives may not have been able to plead on their own does not mean that they needed their husbands as attorneys to take their place, but that husband and wife be joint litigants. John Adam acts as his wife Joan's attorney when they are impleaded for debt, but he has to find separate essoins for himself and his wife, not one.<sup>43</sup> When a male litigant appoints an attorney, he does not appear as a joint litigant with the attorney. Clearly, wives did appoint their husbands as their attorneys but this was to avoid the wife having to be present in court. There is also one case in which the wife acts for the husband: Albreda, wife of William de Fordham is her husband's attorney at the hundred court when he is accused of not paying 2s to John Gilling.<sup>44</sup> Elsewhere, Albreda uxor Petri Jekel is cited as a litigant quite independently of her husband.<sup>45</sup>

These examples all tend to suggest that the rôle of the attorney was merely to enable the plaintiff to avoid the necessity of attending court; each litigant could be essoined thrice, but the progress of litigation was often prolonged beyond three sessions. It is an analysis of relationships, between attorney and principal on the one hand and between essoin and essoinee on the other, which highlights this aspect of the rôle of the attorney. Similarly, a comparison of attorney-principal and pledge-pledgee relationships provides an insight into the function of the attorney when undertaking the duty more normally associated with the term. At the same time, it underlines how essential a close reading of the rolls is to an understanding of entries, citations and attributes.

Thomas de Welle acts as both attorney and pledge for Thomas Ussher and these rôles overlap. In the hundred court of March 1350, it is ordered to retain the horse taken from Thomas Ussher and to take more

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<sup>41</sup> The partner absent from court would then be able to carry on uninterrupted their normal activity. On a related point see Olson, *Chronicle* p.55 'because regulation of brewing was the first order of business, alewives would have been able to leave the court early, having lost little time from their busy schedules.'

<sup>42</sup> C8/4/50 Wis *Curia* 14.11.1370 and 16.12.1370.

<sup>43</sup> C13/2/24 Wis 100 22.4.1350.

<sup>44</sup> C13/2/23 Wis 100 17.7.1348.

<sup>45</sup> C8/2/30 Wis *Curia* 27.5.1338. Bennett maintains that 'we know that many marriages functionally ended while they remained legally valid.... some apparent "wives" might have, in fact, acted as the real heads of their households.' Bennett, *Ale, Beer and Brewsters* p.169.

until he responds to Joan the widow of Richard de Reddyk in two pleas, one of debt and the other of trespass. As a superscript entered above the defendant's name it is entered *ponit se per Thomam de Welle attornatum suum*. Three weeks later Thomas Ussher, as defendant in the same two pleas, is amerced sixpence *pro licencia concordandi ... per plegium Thome de Welle*.<sup>46</sup> The reason that Thomas de Welle stands pledge for the payment is not because Thomas Ussher is unable readily to find the money *but because he is absent from court*. Unable in person to seek the court's agreement to settle out of court, Thomas Ussher has to send an attorney in his stead, hence the pledging. (This point has likewise to be borne in mind when interpreting the pledging data: it provides another explanation for why pledging was required.) This, like the attorneys to provide suit to the hundred court, conforms to the typical notion of an attorney's rôle.

Further, it is possible that many women lacked the experience and knowledge of court procedure possessed by many male tenants, and they therefore appointed attorneys. Although Mariot wife of Robert Brid had been cited as a joint litigant with her husband, it is not until she appears in litigation as a widow that an attorney is named for her. Perhaps significantly, Humfrey de Bitering is recorded as her attorney even when she is a defendant in a debt plea rather than as plaintiff. The entry which records her *essoins* against John Wynnok continues to note the appointment of the attorney: where it was initially noted that the plaintiff appoints, this has been amended by a superscript to refer to Mariot, defendant.<sup>47</sup> Similarly, Lora attemersh and Matilda, widow of John Cok, use attorneys, although both almost immediately seek to settle out of court.

Almost one third of the individuals who are cited as attorneys appear with this court attribute acting for more than one person. Three of these twenty-two individuals do so because they are to act for joint litigants, married couples, and so are not involved in different circumstances as attorney. The fact that a dozen men appear as attorney on three or more occasions, given the rarity of such citations, indicates that this is a category of attribute capable of being specifically associated with particular individuals, of being a court 'identity'.

Only two women act as attorney. The example of Albreda, wife of William de Fordham has already been given. The atypicality of women appearing as attorneys is emphasised by the circumstances of the other citation. The appearance of Innocence, widow of Peter Markannt in the rôle of the attorney also underlines the more narrowly defined character

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<sup>46</sup> C13/2/24 Wis 100 4.3.1350 and 25.3.1350.

<sup>47</sup> C13/2/24 Wis 100 13.5.1350.

of the attorney as stand-in. In February 1341 Robert *filius Petri* Markannt grants to his brother John the reversion of that land which Innocence holds for her lifetime. John is to hold the land to himself and his heirs according to the customs of the manor, but, the entry continues, instead of John coming to pay the 2s fine and be admitted, *predicta Innocencia venit et attornavit predicto Johanni* [sic].<sup>48</sup> It is unlikely that Innocence deputises for her son because he is underage: an earlier appearance in the rolls results from the inheritance with his (older) brother Robert of land from their father, a point at which underage heirs would normally have been noted.<sup>49</sup> Aside from the point that John was going to be absent from that session and needed a representative, there was an additional advantage to having his mother as his attorney. His mother was ideal because she could never challenge his right of tenure; she already held the land and his right to it belonged in the future after her death.<sup>50</sup>

More generally, distinguishing attorneys on the basis of their gender does not affect the general statistics relating to those found in other rôles. None of the attributes are exclusively female, for even three merchet payments are paid by men, and although both women can be found in other rôles, the effect of subtracting them from the number who could pledge or essoin (both male activities) is insignificant.

## Principal

Twice as many cited individuals appoint attorneys as appear in that rôle itself (137: 2% of all individuals). The character of these principals is radically different from that of their representatives. It has already been seen that all but two of the attorneys were men, whereas almost one third of principals were women (43 of the 137). Further, of the 106 principals for whom the identity of their attorney is clear in the rolls, (29 of them women), eleven women appointed their husbands to act for them and one other shared the surname of her principal. Allowing for the fact that women did not act as jurors or to essoin or pledge, it is apparent that the male principals who are to be found in these rôles are pretty typical of the proportions of all men so cited.

Generally, principals are little involved in the business before the court compared with their attorneys. As the above discussion noted, an albeit constricted connection could be drawn between depending upon

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<sup>48</sup> C8/3/32 Wis Curia *nativorum* 9.2.1341.

<sup>49</sup> C8/2/27 Wis Curia 9.10.1335 the recording of underage children is discussed above p.70.

<sup>50</sup> see C8/3/31 Wis Curia 30.7.1339 for the original conditional surrender by Robert to Innocence.

an attorney and upon an essoin. There is a greater correlation between the attributes principal and essoinee than all other key attributes except plaintiff, but since it was such litigants that appointed attorneys this latter correlation does little to illumine the attribute of principal. While individuals cited as essoinees include just over 10% of all individuals, 33.6% of principals are essoinees. This is only fractionally higher than the proportion of principals who are evidenced transferring land, again higher than the figure of all individuals cited as donors. There is no other attribute defined by court citation which encompasses so many of the individuals who use attorneys, certainly nothing comparable with the high proportion of attorneys with the attribute of essoin.

### Essoin

Essoins were allowed for suitors to the hundred court and for litigants at both the hundred court and curia (410 essoins: 6% of all individuals). The defining characteristic of the essoin was that he (and all essoins were men) was necessarily present at that session. It is probably significant then that 29% of essoins can be seen to be jurors (who were also necessarily present in court) and that 22.8% of jurors are essoins, when citation as essoin includes 5.9% of all individuals and citation as juror 7.5%. The more meaningful comparison involves the proportion of all men as juror and essoin since women did not act in these rôles, respectively 11.9% and 9.4%, still smaller than the overlapping attributes. All these court attributes take rather a broad-brush approach - not only is it sufficient for an individual to have a single citation in a particular rôle to be assigned that court attribute, but no allowance has been made here to give a sense of timing, either to an individual's citation in different rôles or to whole categories of attribute at different times. However, in asking whether it was the fact that they were in court or that they were jurors which meant that many jurors were essoins, it is necessary to distinguish between essoins at the hundred court (where there were no presenting juries) and those at the curia, when linking this attribute with that of juror. Drawing this distinction, however, does not necessarily ensure a firmer correlation between the attributes. The proportion of all individuals who act as essoin at the curia is 2.6% and 7.2% of all individuals are jurors named either at the halimote or curia, the juries of the latter comprising the halimote jurors. Of the essoins at the curia, 36.4% are among these juries, and this is a higher proportion than the figure given initially of all essoins as all types

of juror. However, it is also true that 43.2% of individuals cited as essoins in the rolls of the hundred court are also halimote/curia jurors. This suggests that it was not merely the practical presence of the jurors at a particular session but something more pertinent to the character of the individuals as jurors generally which meant that overall one-fifth of jurors acted as essoins with 30% of essoins cited as jurors.

The strongest correlation between the attribute essoin and other key attributes points to a link between acting as essoin and attorney, less so between essoin and juror, officer and pledge, and a distinct lack of correlation between being essoin and principal. Of the 27 individuals who have ten or more citations as essoin, 67% are attorneys, 45% jurors, 45% officers and 41% pledges; none employ attorneys.

It has already been seen that, in representing their principals at particular sessions, a few attorneys also acted as their essoins. It is also conceivable that pledging that a defendant would respond to an impleading could involve the pledge in essoining the defendant's absence from court; failure to fulfil the pledging obligation brought financial penalties, as indicated by the numerous amercements charged against first and/or second pledges for not having their pledgee to respond to the plaintiff. Statistical data potentially provide support for this speculation: of the essoins some 18.8% are pledges, and the attribute pledge contains only 3.2% of all cited individuals, while 34.8% of pledges also act as essoin and citations as essoin include only 5.9% of all individuals.

It is possible that a greater overlap between essoin and pledge in court is hidden by the court roll. While the identification of the essoin necessarily accompanies that of the essoinee, the same is not true in the evidence of pledging relationships. Aside from those entries where the identification of the pledge is hindered by the physical condition of the manuscript, the actual identification of the pledge is rarely given in those entries which record the failure of the defendant to respond to litigious charges. As a result, although pledging is frequently referred to, there are only 401 pledging relationships between pairs of individuals compared with the figure of 1,118 for essoining connections.<sup>51</sup> Even so, there are only 4 relationships to which both the essoining and pledging data bear witness. It is therefore impossible to generalise on the degree to which the hypothesised relationship of power between essoin and essoinee might influence the same relationship through pledging, or the degree to which being a

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<sup>51</sup> The balance was reversed in the court-roll evidence from Redgrave, Suffolk: Smith found 1,844 essoining interactions but 8,062 pledging interactions. R.M.Smith, 'Kin and neighbors in a thirteenth-century Suffolk community', *J.F.H.* 4 (1979), p.223.

pledge lead to being an essoin. In the four cases, two of the essoins act as pledges for their essoinees, one essoin is himself pledged, with the fourth relationship displaying reciprocity - the pledge is both essoin for and essoined by the pledgee.

The almost total lack of overlap between essoining and pledging relationships could speak loudly if one could be sure that the pledging relationships so central to the procedure of the court were as visible in the court roll as they were in the court. Evidence from the reign of Edward II survives for the hundred court to show that such a link between identity as essoin and as pledge did exist, but the evidence of such relationships is divided between separate lists of essoins and pledges given in different pleas. Such lists are supplementary to the record of the main court record; without their survival, the reality of pledging and its possible connection with essoining as a result of being a pledge would be so much the harder to ascertain. Ten lists survive for the period studied here, but they are the lists of essoins; although this provides additional evidence of essoining in litigation - the main court records from the sessions which also have the essoin lists contain only common suit essoins - links with pledges cannot be made.

### Essoinee

The right to an essoin, as noted above, was allowed for suitors to the hundred court and for litigants at both the hundred court and *curia*. Suitors and litigants alike were permitted three essoins.<sup>52</sup> Suitors to the *curia* were amerced for failure to attend but could pay for their suit to be respited for six or twelve months. There is one exception to this, coming from the later part of the period: in October 1364 the *curia* accepts John Roper's essoin (Thomas Baconn) for common suit.<sup>53</sup> This unique entry helps explain an earlier citation of John Roper. The previous March, he was amerced threepence *quia non venit ad Warrantandum essonium suum*.<sup>54</sup> There is no litigation in which he is involved at this time, and so this must refer to a still earlier essoining for his suit contained in a roll now no longer extant. His absence from the March session explains why his surrender of land, also recorded in that session, is entered as having been *in manus domini per manus ballivi*.

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<sup>52</sup> The number of consecutive times a suitor has been essoined is often noted in the hundred rolls: *Johannes Bee de iij per Johannem Chamberleyne* C13/2/20 9.1.1343.

<sup>53</sup> C8/3/47 16.10.1364 This is the first entry in the roll, just as in the hundred court rolls where the common suit essoins precede those for litigation (where essoins for litigation and common suit are not recorded on separate manuscripts).

<sup>54</sup> C8/3/47 Wis *Curia* 22.3.1364.



Essoining was not just determined by the number of times a litigant had already been essoined but by court procedure. Repeated instances can be found where a day is granted to litigants without essoins. Indeed, the record of William Canchonn's essoin for Peter Noche, defendant in a trespass plea, was crossed out with the explanatory note *non iacet quia habent diem sine esson[iis]*.<sup>55</sup> Three essoins offered at another hundred court session were disallowed because distrainments had already been taken to enforce the attendance of the defendants.<sup>56</sup> Elsewhere, essoins are employed even when the progress of litigation was beyond the hands of the litigants themselves. In April 1343, John de Weldon, defendant, is essoined by Geoffrey de Tydd in a debt plea against Alan Beanneys. Both litigants had appealed to a jury, but this did not mean that they were not required to attend the sessions, or provide essoins for their absence, while the jurors reached their verdict.<sup>57</sup>

The majority of essoins are provided in the hundred court (67.2% of essoinions) and the majority of these concern inter-personal litigation (88.6%). Although the rôle of essoin is not recorded for women, 3.5% of women are cited as essoinees and they account for 12.4% of all essoinees, again an attribute possessed predominantly by men.

The hundred court rolls contain 171 essoins for common suit, but unfortunately these data are not as useful for identifying suitors as they at first promise. But, by the same token, the fact that these citations depict a narrow group of individuals (35), points to a regularity of citation with an attribute, with regard to both those suitors that performed their suit and those that did not. Laurence de Flete, *miles*, has already been noted as a suitor who was absent for certain sessions and who also employed attorneys to do his suit. (The fact that he was obliged to find essoins or attorneys before finally being able to pay to respite his suit suggests that the episcopal administration eagerly enforced its jurisdiction over all tenants whatever their social status.) One of the three women essoined as hundred court suitors was cited on eight occasions. The way in which the scribe identifies her in the roll provides an interesting note upon her tenure. Six of her citations derive from the sequence of sessions from 1338, when she is recorded as *Christine que fuit uxor Johannis filii Gilberti* and then *Christine filia Gilberti*.<sup>58</sup> Unlike for the two other women, Christine de Beaupre and Matilda de Fitton, the nominal

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<sup>55</sup> C13/2/18 Wis 100 2.7.1338.

<sup>56</sup> C13/2/19 Wis 100 17.9.1338 *non iacet quia post districcione[m]*.

<sup>57</sup> C13/2/21 Wis 100 17.4.1343 An annotation records that settlement was delayed *pro def[ectu] Jur[atorum]*.

<sup>58</sup> She is cited elsewhere in the same rolls as *Cristiana que fuit uxor Johannis ffitz Gilberti* C13/2/22 13.10.1345.

identification of this Christine appears to stress the obligation of suit as a result of being the wife of Gilbert's son John, of being Gilbert's daughter[-in-law], rather than as a result of land which was held of her own personal right.

Six of the essoined suitors to the hundred court are to be found elsewhere in the hundred court rolls as essoined litigants. Only one of these is engaged in litigation at a time when he does not appear in the rolls for common suit; but of the five others, curiously all have citations as essoinee in litigation at sessions at which one might naturally interpret them to have been present since no essoin is given for suit. The essoining relationships between John Bee, Nicholas Arnald and John Chamberleyn evidence a network of cooperation carried across several years. They essoin one other for common suit or litigation in 25 hundred-court sessions between July 1333 and August 1346. At least one of the three could be absent from court: if one suitor was to attend court then he would make the excuses for another. John Bee's citations shed an interesting light on attitudes to litigation. The earliest reference to the debt plea which he initiated against Geoffrey Pigge comes from the session of early October 1337; he is present but Geoffrey is essoined. At the next session, John again is apparently present but Geoffrey's absence results in the amercement of his pledge. There follows a string of sessions each containing the order to distrain Geoffrey to appear until finally he seeks to settle out of court. John Bee was present for most of these sessions, thereby allowing Nicholas Arnald to stay away since John could act as his essoin for common suit. The one time in the sequence of sessions in which the debt plea appears and John Bee is absent, Nicholas acts as his essoin for common suit and John Chamberleyn as his essoin in the debt plea. John Chamberleyn acts as John Bee's essoin for suit and another debt plea at the same session; still later, John Bee acts as an essoin in a debt plea for Geoffrey Pigge. This trio of John Bee, Nicholas Arnald and John Chamberleyn, are part of the larger group of essoinees who act as essoin (one-fifth of all male essoinees are cited as essoin).

Just over one-fifth of male essoinees are jurors and these include John Chamberleyn (for the suitors at the hundred court that are essoined, slightly under 20% are jurors). Generally, John Chamberleyn is atypical of his fellow essoinees in that he is also to be found with the attributes pledge, pledgee, donor and recipient, office-holder (he was beadle) as well as juror and essoinee. Such a pattern of citation thus suggests an identity defined by more than an attribute of essoinee, indeed he is more likely to have been regarded as having an identity as an essoin within court. The one type of attribute that a majority of essoinees share is that of defendant. (There is not the complete overlap

which might have been expected because essoins were also given for common suit.) When the analysis is shifted to focus on the proportions of litigants that are essoined, then it is apparent that approximately 30% of plaintiffs are essoined but 45% of defendants are essoinees. At this stage the analysis has not been furthered to question whether those litigants that were essoinees settled in or out of court, and what proportion were found to be successful or not at law. Such analysis would be better performed at the individual level where one can distinguish between essoinees who are defendants and plaintiffs and take account of the possibility of one individual having different essoinee citations with different known outcomes to different pleas.

If repeated citations as essoin or essoinee can be witnessed for an individual the potential exists whereby repeated, or multiple, interactions between the same pair of individuals could be observed. Similarly, if more than one individual has both attributes, essoin and essoinee, it is possible that there might be reciprocal relations. Just over two-fifths of individuals who act as essoins do so more than once and one-third of essoinees have at least two citations (169 or 41.2% of essoins and 249 or 35.2% of essoinees have two or more citations).

It is important here to distinguish between the essoins given for common suit and for litigation: suit to the court was a permanent obligation, and unless the suitor paid to respite this they had to attend court or find essoins continuously; although the course of litigation often appears to drag through the sessions this was only for a limited time and a litigant could only receive three essoins in the course of the plea. It is more likely, then, that the records will contain more repeated relationships through essoining for common suit than for litigation, which is the case. Comment has already been made on the eleven occasions on which John Bee acted as Nicholas Arnald's essoin for common suit. Generally, essoining interactions are limited. Of the 1,118 relationships witnessed from essoining activity, there are 56 relationships which are visible through repeated interaction (5% of all essoining relationships). The bulk of these (42) are evidenced by two instances, and there are just five pairs of individuals who are tied through essoining on five or more occasions, which are common suit essoinings. In addition, there are only six reciprocal essoining relationships.

## Pledge

As a means of guaranteeing that one person would do what was required of them, pledging was an arrangement which need not have been exclusively part of court procedure. Arrangements concluded outside the court can easily be conceived in which an individual 'pledged' to ensure that a debt would be repaid by the 'pledgee', regardless of whether the credit relationship was ever brought before the court or not. However, it is the point at which court procedure intersects the wider reality, producing citations in the court roll as pledge or pledgee, that is analysed here. Evidence of pledging and pledging relationships is derived from all types of courts, but mainly from the regular *Wisbech curia*. Here there was greater variety in the reason for the pledging interaction. The following analysis does not, however, distinguish at the level of general statistics, between the pledge given to rebuild a ruined house during the following year on pain of 20 shillings, from that provided to ensure the payment of a threepenny amercement. When analysis is made of relationships, the data is potentially further restricted in that pledgee has been defined by citation in a pledging relationship in which the pledge can be identified. This reduces the number of individuals with the attribute pledgee, but a key purpose of this research was to piece together a social framework from the relationships evidenced by the rolls in which individuals were seen to operate and try to generalise from this. This issue is discussed further below, in the context of the discussion of the attribute 'pledgee'.

Assigning a direction to the pledging relationship depends on a sense of benefit being derived for the pledgee, and that for this reason the pledgee is somehow dependent upon the pledge. In the case where Nicholas attemathes was pledged by John Nenour and Adam Caze to rebuild a house, it is to be assumed that perhaps without pledges, Nicholas would have lost any land he held or been distrained until he made good the repair.<sup>59</sup> Equally, the threat of future financial loss might have been used to enforce the court's order - other such orders to repair ruined houses use the *sub pena* formula, although this could also apply to the pledges as well. Did this system of personal surety depend on a pre-existing relationship between pledge and pledgee?<sup>60</sup> The fact that institutional pledging is recorded suggests that this was not always

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<sup>59</sup> C8/3/43 *Wis Curia* 29.3.1356.

<sup>60</sup> Previous studies suggest that payment of the pledge was possible: M.Pimsler, 'Solidarity in the medieval village? the evidence of personal pledging at Elton, Huntingdonshire', *J.B.S.* 17 (1977), pp.1-11. D.Postles, 'Personal pledging: medieval "reciprocity" or "symbolic capital"?', *J.I.H.* 26 (1995), pp.419-35.

necessary, but this complicates an understanding of the function of pledging anyway. In the case of Nicholas attemathes, did he produce two individuals to act as his pledges in order to avoid, say, being threatened with a crippling financial demand if he failed to rebuild the house, or were the pledges assigned by the court on the grounds that this was the best way of ensuring that the lord's interests would be served? And if so, was it best to have pledges that were committed to ensuring the repair was made because of their connection to the pledgee or because of a concern to protect themselves from the consequences of him failing to rebuild? Did the pledgee have to prove that he was capable of rebuilding the house by calling upon friends to attest that he would be as good as his word - quasi oath-helpers? Presumably, if a personal commitment was at stake then the pledgee might have been more willing to meet his obligation, otherwise if he left it to the pledges to pick up the pieces following his default he might find it difficult to find such support in the future. Presumably, an officer accountable to the court would have been the best pledge, but such institutional pledging is foreshadowed by the apparently 'personal' pledging interactions.<sup>61</sup> Perhaps John Jeconn and Adam Caze were selected as Nicholas' pledges because they had arranged to supply him with the means by which to make the repair, in which case the court would have been satisfied that there should be no obstacle to the rebuilding. Generally, the data suggest that pledges were named to satisfy the court an obligation would be fulfilled by supporting the pledgee; but further analysis would be required to understand the involvement of officials in what has been termed institutional pledging.

Compared with other collections of court rolls, there is very little data available on pledging activity from the Wisbech courts: there are 221 individuals cited as pledges in 401 pledging relationships.<sup>62</sup> That there must have been a contemporary restrictive definition of pledge is suggested not only by the glaring fact that no women ever pledged, but also by the finding that only 5.1% of all males are cited as pledge. Of these 221 men, 16 have five or more citations in this rôle (7.2%). Just over half of all pledges act as juror, which is one of the largest overlapping pairs of attributes found. Notably, 13 of the 16 frequently cited pledges are jurors, emphasising the intersection between these two observed attributes. Similarly, over one-third of pledges were essoins, a significant characteristic of many individual

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<sup>61</sup> Institutional pledging comprised only a minority of the pledging interactions found in the thirteenth-century rolls for Redgrave, Suffolk. (Smith, 'Kin and neighbors', p.223.)

<sup>62</sup> In his study of 13,592 interactions between pairs of individuals over the period from 1259 to 1293, evidenced in the court rolls of Redgrave, Suffolk, Smith found pledging to account for 8,062 interactions. (Smith, 'Kin and neighbors', p.223.)

pledges since less than 10% of men were essoins and 5% were pledges. The attribute of pledge is further restricted in practice; the proportion of men who received pledging support is more or less identical to that of pledges in the male population (all pledges were men), but only 18% of male pledgees also acted as pledge (16.3% of pledges were pledgees). Thus, the vast majority of people cited in pledging relationships (91.5%) appear either as pledge or as pledgee, rarely in both rôles. It is subsequently noted that when analysis is focused upon those jurors who interact with other jurors, the attributes pledge and pledgee are mutually exclusive: although the pledging network of connections between these jurors was relatively dense, these individuals were involved either as pledge or as pledgee, never as both.<sup>63</sup>

Involvement in land transfers is another activity evidenced for a large proportion of pledges, and the proportion of pledges thus engaged is higher than the proportion of all men cited as donor or recipient (22.7% and 24.7% of all men are donors or recipients, but 50.7% and 53.9% of pledges are cited in these rôles). The link between an identity as pledge with involvement in the land market is further highlighted by the finding that a higher percentage of the pledges that are party to land transfers are both donor and recipient as compared with the number of all individuals cited in transfers (60.4% of pledges are both donor and recipient, 20.0% of all individuals in land transfers appear as donor and recipient.) In fact, there are three times as many pledges appearing in both rôles as is to be expected if there could be no link between the attributes. Further, the majority of individuals observed in five or more pledging interactions are also to be found as party to land transfers.

The comparison with involvement in land transfers is not made to indicate that an individual had a particular social identity, but to provide a sense of their involvement in the business before the court. The attribute donor describes just the way in which the individual appears in that entry, and does not take account of the size of land transferred and how it might relate to other land held; nor is there speculation as to the motivation for the surrender - the donor who surrenders land to a daughter as a marriage portion may be in quite different circumstances to the donor who needs to liquidate his landed assets to meet financial obligations.<sup>64</sup>

The attributes possessed by the most frequently cited pledges are useful in highlighting possible links between attributes, but at this

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<sup>63</sup> see below, 'Interpretations: Networks'.

<sup>64</sup> For a discussion of land market activity and its relationship to events beyond the court, particularly harvest failure, see P.R.Schofield, 'Dearth, debt and the local land market in a late thirteenth-century village community', *Ag.H.R.* 45 (1997), pp.1-17.

level it is difficult to make the assessment of whether this prominence as pledges derives from a personal prominence in the records or one related to the attribute of pledge or one or a combination of other attributes. Certainly, the individuals involved in several pledging interactions are often cited in different rôles; more than might be expected from the distribution of all pledges in each attribute-group are to be found as jurors, essoins, recipients of land or of pledging support themselves.

### Pledgee

It is obvious enough to define the attribute pledgee according to citation as one who requires pledging support, and this includes 472 individuals (6.8% of all cited individuals: 405 men, 66 women and one of unknown gender). However, an analysis of pledging relationships requires that the identity of both parties be known; such data are not always available, and thus the number of pledgees is much smaller for this type of analysis (256 individuals). The result of this is to hide from view the degree to which pledging was institutional, with pledges being provided by the beadle or constable of the peace. Similarly, many amercements are made against the first or second pledges for not having the defendant to respond in court to the plaintiff, but only in a handful of cases is the identity of the pledge possible to uncover.

The requirement to find a pledge to ensure the defendant would respond to the charges brought by the plaintiff was essential for the progress of the plea, but it is a requirement that is poorly evidenced in the Wisbech rolls. In many cases, the failure of this system of personal surety is recorded, with numerous amercements, nominally at least, charged against the unidentified pledges. A superficial reading of the language might suggest that the frequency of such entries indicates not functional pledging but a facade of symbolic pledging, symbolic in that the language of the court roll is an archaism reflecting procedure no longer current. William *filius Johannis* Curteys is required to produce at least one pledge to ensure that he repair his holding: the record singularly states that *venit et invenit pleg' videlecit etc.* Possibly it was the bailiff or beadle who pledged. Whatever, it is apparent that William was subsequently amerced for not having made the repair.<sup>65</sup> Similarly, one wonders whether the requirement to name pledges had in every case much practical consequence or whether it too was a formality. When John Talyour de Whaplode is impleaded by John Lewyn for detinue, he opts to wage his law, offering Thomas Donsyng

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<sup>65</sup> C8/3/38 Wis Hali 5.10.1349.

and Gilbert Hillary as his pledges to this effect.<sup>66</sup> However, it is clear that when John fails in compurgation the following session, neither of these two is held responsible. Instead, John is himself amerced sixpence and a different pledge John Cachop is named to guarantee the two shilling payment for damages.<sup>67</sup> However, the argument adopted in the following is based upon the belief that all references implying that an individual has pledges should indeed be taken at face value, and that it was possible for one pledgee to require different types of pledging support.

There are three principal reasons for this. First, there is the example of John Mosse's pledges. At the *curia* session in late July 1339, the first pledges of John Mosse junior were amerced sixpence for not having him to respond to the lord for trespass manifest in the previous session.<sup>68</sup> The language is the same as in any of the more numerous and usual entries for litigation, except that Thomas Everard and *Bedellus de Wysebeche* are explicitly named as the pledges. This entry provides proof of the reality behind the empty phrase of the 'first pledge(s)', and provides still further since it is then ordered *ponere per iiiij plegios*. Similarly, John de Derby and John Jeconn are together amerced tuppence for not having their pledgee, John de Norfolk, in court to answer Margery de Bedyngfeld's debt plea.<sup>69</sup>

Related to this are the entries which throw into relief entries which only imply the existence of a pledge. The example of William *filius Johannis* Curteys requiring a pledge to guarantee the repair to his holding was cited before to question whether *invenit pleg' videlecit* etc. really indicated a pledge. Not all tenants in this position were required to produce pledges, but it is also apparent that if the need for security was recorded then this was a real requirement. The tenement which Thomas *filius Laurencii* had allowed to fall into ruin was to be retained in the lord's hands *quousque invenit securitatem ad dictum tenementum reedificare* - for the lack of such security he lost his land.<sup>70</sup>

Secondly, as entries such as John Mosse's illustrate, there appears to be a sense of logical progression from first to second or better pledges. In some cases, the responsibility of producing the defendant to answer charges belongs to those that stand bail as security

<sup>66</sup> C13/2/19 Wis 100 23.7.1338.

<sup>67</sup> C13/2/18 Wis 100 20.8.1338. As with many entries which detail the assessment of damage, a smaller sum is entered in the right margin - in this case 12d. This may indicate either the sum the defendant paid towards this in court or the amount outstanding after such a payment.

<sup>68</sup> C8/3/31 Wis Curia 30.7.1339.

<sup>69</sup> C8/3/38 Wis Curia 18.9.1349. Margery subsequently settled out of court, C8/3/33 Wis Curia 20.11.1349.

<sup>70</sup> C8/3/31 Wis Curia 30.7.1339.



without being termed pledge: the mainpernor of William Elys is amerced sixpence for not having him respond to Robert Wantonn's debt plea, and William is to be distrained by better security.<sup>71</sup> Others order the defendant to be produced by better pledges (*meliores plegios*).<sup>72</sup> Such orders are often followed by entries such as *misericordia vj d. De secundis plegiis Ade Bylky quia non habent ipsum ad respondendum Hugoni Elnoth in placito debiti*, and this bears as a superscript above Adam's name *quia non venit et non se iustificar*'.<sup>73</sup>

Further, it is apparent that once the pledges had failed to produce their pledgee, the court moved on to order the attachment or distraint of the defendant, such orders often being repeated across several sessions. Geoffrey Godard and John attemersh junior both pursued John Reynald for debt in 1354: his first pledge then eight mainpernors having failed to produce him against John, the court ordered his distraint and *diverse bestie* worth 20 shillings were taken; in the plea against Geoffrey, John Reynald's eight then sixteen mainpernors were amerced before the same distraint was taken.<sup>74</sup> Such entries imply that the responsibility of producing pledgees in court really did fall on the pledges' shoulders, albeit that they are unidentified in these entries.

The third reason springs from outside these court rolls, but not necessarily beyond the court. Evidence from the hundred court rolls dated according to the reign of Edward II, indicates that separate lists of pleas were made, detailing the pledges for prosecution and the pledges to ensure the defendant's response. A single manuscript begins with the lists of essoins accepted for litigation at four successive hundred court sessions; on the reverse are the data of complaints for the corresponding sessions, with an additional session's essoins at the foot.<sup>75</sup> This provides an explanation of why pledges were not identified in the main court record: the subject for concern was the progress of the litigation between the litigants, and quick reference to the court record would be hindered by the entry containing names of individuals not continuously central to the plea; these people were to be found identified on supplementary lists. The fact that the identity of a pledge is absent from the roll does not imply, then, that there was no meaningful pledging relationship. For these reasons, all citations of an

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<sup>71</sup> C13/2/19 Wis 100 17.9.1338 the abbreviation of some of the text leaves uncertainty as to whether it is one or more mainpernors.

<sup>72</sup> C8/4/54 Wis Curia 20.3.1376 John Reynald *preceptum est ipsum ponere ad [sic] meliores*. C13/2/19 Wis 100 17.9.1338 following the failure of John Halleman's second pledges to produce him, he is to be distrained by a better pledge.

<sup>73</sup> C8/3/37 Wis Curia 19.12.1348.

<sup>74</sup> C8/3/42 Wis Curia 27.6.1354, 17.9.1354 and 26.11.1354.

<sup>75</sup> C13/2/16 the skin has been mistakenly rolled and labelled with the rolls for 8-9 Edward III.

individual as pledgee, whether the pledge can be identified or not, have been taken to reflect a meaningful attribute which had practical significance and function within the court.

Basing the examination of the attribute of pledgee upon all those individuals with such citations, focuses upon 9.3% of all men and 2.6% of all women visible in the court rolls. (Discounting those not in easily defined pledging relationships, 149 pledgees, would mean a study based upon 4.6% of men and 2.1% of women, and one which would have given women a greater presence in the group.) The distinction between standing as pledge and receiving a pledge now appears greater, with 15.6% of male pledgees also recorded as pledges. To some extent, however, this proportion may well be distorted since the identity of many more individuals as givers of pledges might be hidden by the practice of record keeping.

In some circumstances the citation of a pledgee in another position within the court derives solely from the particular need for that pledging. Of the individuals who require a pledge for the payment for merchet (24 individuals including those pledged by the beadle), none requires pledging support on any other recorded occasion. Elsewhere it is apparent that an individual's identity as pledgee was unconnected: for example, at least 115 of the pledgees cited as recipients of land required pledging for other than their payment of the fine for transfer.

The evidence for pledging provides the context for the pledgee requiring a pledge, but it does not provide the reason why particular individuals are pledgees. No single type of behaviour requires all with an attribute derived from it to be pledgees, and the need for pledging support must reflect a broader identity, more particular and pertinent to the individual concerned. This reflects back on the other attributes. Of all the 976 individuals presented for selling ale against the assize, only one requires a pledge for the related amercement. The wife of Adam Cade is amerced threepence at the Tydd halimote in May 1335, and Richard attehorne, juror at the same session, stands pledge. This was the commonest amercement levied on regraters, and this ale seller had paid the same at the previous halimote in autumn 1334. Without having constructed an economic identity for all individuals, the degree to which levels of amercement reflect the particular activity or reflect an ability to pay cannot be assessed, although the two might easily be connected, with an individual regularly engaged in the ale trade potentially having the means to pay high amercements. In terms of the single regrater observable as a pledgee, it is perhaps telling that threepence was the lowest level of amercement; of the nine citations indicating pauperism, three record the condoning of threepenny amercements. The same situation pertains for brewers and bakers: only

two brewers, for instance, require pledging for the brewing amercements, although fourteen others are cited as pledgees in other contexts.

Distinguishing between individuals with the same category of attribute according to whether they require pledging or not, can be extended still further to distinguish between pledging requirements. Of the 136 individuals cited for committing battery, 22 (16.2%) required the support of pledges. Within this group of pledgees, different shades of identity are expressed by the need for one or two pledges, and the identification of some of these pledges as manorial officers, usually the beadle or constable of the peace. For example, at the Wisbech leet in 1363, 27 men are cited for bloodshed of whom 13 appear as pledgees as a result of these presentments. The number and type of pledges do not appear to be related solely to the size of amercement: Ralph Lyere and Adam Honyter both receive pledging assistance from two pledges, one non-official and the constable, but Ralph is amerced a penny, Adam a shilling. William Gladwin is also amerced a shilling, but only requires one non-official pledge. In the presentment immediately after the latter, Walter Thurkel is amerced 40d which he pays without surety. Indeed, John Page is amerced sixpence for his attack on Thomas Horn, and the scribe has noted him to be *suff[iciens]*.<sup>76</sup> Similar annotations noting the sufficiency of wrongdoers appear in the leet record of Wisbech, 1331. Adam Hillary, however, is amerced a shilling for unjustly raising the hue and yet no pledge is named though it is noted that *defficiens*.<sup>77</sup>

In terms of distinguishing between those possessing the same observed attribute according to whether they did or did not require pledging, it must also be borne in mind that pledging was not the only way of guaranteeing behaviour. When the agreement concerning the repayment of 10 shillings to Thomas Ganderonn by Martin Elger and Adam Caze was enrolled in the court record, the latter did not have to provide the names of pledges to ensure payment; instead, it was the lord's bailiff who was to recompense the creditor from their goods and chattels in the event of non-payment.<sup>78</sup> At the same session, William de Barwe paid sixpence for licence to agree with John attemersh; as a result the roll records that he acknowledged himself bound to John in 16 shillings payable *de die in diem*.<sup>79</sup> Such entries suggest the use of legal procedure through litigation as a facade for enrolling a new financial obligation rather than seeking remedy for an outstanding debt, and presumably John attemersh as creditor was personally satisfied with the

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<sup>76</sup> C8/3/46 Wis Leet 24.5.1363.

<sup>77</sup> C8/2/24 Wis Leet 22.5.1331.

<sup>78</sup> C13/2/19 Wis 100 2.4.1338 The details of this recognisance followed from the two defendants having paid threepence for licence to agree in the debt plea.

<sup>79</sup> C13/2/19 Wis 100 2.4.1338.

ability of William to repay. Possibly, it was the very fact of recording the obligation that dispensed with the necessity of requiring more personal surety in the form of pledges.

It has already been noted that the possession of the attribute pledgee has sometimes been divorced from the event which provides other attributes. But is also true that the overlap of attributes might nonetheless be linked but through separate citations. Thus, standing as pledge to ensure the pledgee repay his debt might result in the pledge being pursued through the court in the event of the pledgee's non-payment. It is also apparent, however, that there are a few instances where there is an overlap in attributes which arises from witnessing the same relationship between pairs of individuals through different types of activities. Four relationships are evidenced by both pledging and essoining interactions. Another four are seen from interactions recorded for pledging and litigation. In June 1353, John Nene pledged that Albreda Madeking would rebuild a ruined house before the following Easter, on pain of half a mark. Two years later, this pledgee Albreda reappears as a plaintiff bringing a debt plea against her former pledge: and again it is as a pledge that John Nene has been drawn into litigation, for it is as the pledge of Martin Warner that he was found to have detained 2s 1d from Albreda.<sup>80</sup>

When a relationship between a pair of individuals is witnessed by only one type of interaction, say pledging, it might be broadly categorised as reflecting the pledgee being dependent upon the pledge. Evidence of further interactions serves as a reminder of how much this is an uneasy generalisation. In an example given earlier, Nicholas attemathes was fined six pence for carrying away and selling a house, valued at five shillings, from the Rote tenement belonging to the lord; he was given two years in which to repair and rebuild the house, to the same or better state, and John Nenour and Adam Caze pledged that this would be so.<sup>81</sup> Interpreted simply, one might say that Nicholas was, so to speak, in debt to his pledges, and other evidence shows this literally: Nicholas acknowledged that he had unjustly detained 2 shillings from John and the inquest jury found that an additional 15d was also involved. Yet, this relationship was more than one-dimensional. In the very next entry, John Nenour is himself amerced threepence on the jury's finding that he had unjustly detained threepence for a cart of turves and tuppence *pro j ollea* from the same Nicholas.<sup>82</sup>

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<sup>80</sup> C8/3/41 Wis Curia 3.6.1353; C8/3/42 Wis Curia 27.11.1355.

<sup>81</sup> C8/3/43 Wis Curia 29.3.1356 but see also C8/3/42 Wis Curia 16.2.1356 where the details are entered as a superscript to the original presentment by the Leverington homage.

<sup>82</sup> C8/3/43 Wis Curia 29.3.1356.

A similar pattern to the relationship between Nicholas Broun and John Trowon is visible. In *curia* sessions held in January and September 1354, Nicholas was found to have detained money and goods from John. Between these two dates, John was pledged by Nicholas. The entries are in fact quite curiously linked, and it is further possible that at least the second debt plea is less indicative of a personal relationship than of an institutional one. In June 1353, *Johannes filius Thome Trowon prepositus Berton* was charged with demonstrating how he wished to be exempt from office; in response he said *expresse in plena Curia quod ipse est liber homo* and begged the matter be inquired into.<sup>83</sup> The jury's verdict was that *predictus Johannes filius Thome est nativus domini Episcopi Eliensis de sanguine*. As a result, John was admitted into the lord's grace, having the support of two pledges Nicholas Broun and John Newman junior, and was eventually fined 6s 8d for his contempt.<sup>84</sup>

Data on pledging is clearly not as prolific as in other court roll collections, and it is therefore less easy to draw connections between the attribute pledgee and comparatively better documented attributes. The proportion of male pledgees who also act as pledges (17.9%) is comparable to the proportion of pledges who are pledgees (16.3%), but the vast majority of individuals cited in pledging relationships appear either as pledge or as pledgee (92.5%). Most attribute groups contain higher proportions of individuals also appearing as pledgee than are contained in the total number of individuals cited, but there are no striking correlations between receiving a pledge and being cited with other attributes.

### Litigant

Litigation appears in all courts except those of the annual leets, and citations of plaintiffs and defendants are generally divided between the hundred court and *curia*. On first glance the proportion of all individuals cited with these attributes appears small. Though litigation was the predominant type of business within the hundred court in particular, where 23.4% of all individuals appear, only 12.4% of individuals are plaintiffs and 12.6% are defendants. It is the

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<sup>83</sup> C8/3/41 Wis Curia 3.6.1353.

<sup>84</sup> C8/3/42 Wis Curia 27.6.1354 *pro contemptu facto domino dicendo se esse liber vbi compertus est quod ipse est nativus domini* the fine appears to have been assessed once accounts were set before the auditor and lord's council, until which time John Trowan's lands, whether free or unfree were to have been seized. see original account in C8/3/41 Wis Curia 3.6.1353.

definition given to these attributes, however, which means that these figures constitute a narrow group of litigants.

Litigation and land transfers result in the largest numbers of entries and individuals cited in this collection of rolls. Land transfers, however, tend to be uniquely referenced and at least clearly decipherable to the later reader. By contrast, the data regarding litigation are, *en masse*, considerable yet generally incomplete. A broken series of court rolls means that it is not always perfectly clear whether a debt plea between two individuals appearing before and after the break in the sequence of rolls is indeed the same plea or another, and the outcome to other pleas will be contained in such gaps. As a way of taking a meaningful sample of pleas which facilitates the formation of clear attributes, only those pleas for which an outcome can be established have been considered here. Thus if either litigant sought to settle beyond the court (paying the amercements for non suit or licence to agree), or litigants were judged at fault (plaintiffs with false complaints or defendants with unjust detainment of money or goods or enforcement of land), these instances were used to identify an individual as plaintiff and/or defendant. The fundamental result of this sampling is that the proportion of individuals examined in either of these rôles is likely to be lower than the actual proportion of all individuals cited as litigants. There is nothing to suggest however, that the sample is unrepresentative of the whole: individuals have been excluded only upon the grounds that no outcome is known for their case and no other type of outcome could possibly be contained in the records which are no longer extant.

Selecting this method of sampling provides a way of being sensitive to the legal aspect of the courts, for plaintiff and defendant are truly court-oriented attributes. In some instances litigation is used as the procedure for enrolling agreements, but the interpretation of these attributes in terms of the in-court settlement of the plea can add to an understanding of the use of the court. Settlement of claims within the court means that the attributes can be refined because the court itself distinguishes between successful and unsuccessful litigant. One might then extrapolate from this to the social identity of the individuals concerned and to a more dynamic sense of relations of power - the creditor over the debtor for example. A discussion of the way pleas were settled is found in the section on jurors above.

The fact that litigation was clearly a significant part of court business combined with the number of different individuals involved, means that a general discussion of litigation as a court activity is hampered by the inability to follow the entire course of so many complaints, which the incomplete series of rolls entails. Motivation is

thus much harder to draw out from unconnected parts of a chain than for other types of more discreet court interaction. At this stage of analysis, questions as to how antagonistic litigation might be, can only effectively be approached at the level of specific pleas or of relationships between specific individuals.

If a creditor wished to have his loan enrolled then he might implead the debtor who could then pay *pro licencia concordandi*, as a result of which he would acknowledge in court that he was bound to the plaintiff in so much money to be paid at a certain time. Roger Stokman pays a threepenny amercement to settle out of court with Robert de Staynton, but acknowledges in court that he is bound to Robert in 5s cash payable from day to day. There are no pledges given to ensure repayment. Such imprecise and casual terms sit at odds with the notion of an antagonistic litigious relationship between the two litigants. The extension of credit for 10s 6d, again with repayment from day to day, from Thomas Bateman to William Gannok was similarly recorded in the rolls, but the bailiff was to raise the outstanding money from Thomas' goods and chattels in the event of his default. Yet Robert de Staynton had been pursuing Roger Stokman for at least three months for this 'debt'. There are not, however, any indications that Roger had provided pledges to ensure that he would respond to Robert's plaint. Yet it is a step too far in the current state of analysis to maintain that pledges were only required when litigation was genuinely antagonistic.

The length of time that some pleas remain before the courts points to a laxity of curial authority. Roger Stokman himself impleaded Thomas de Frenge for debt; during 1338, the hundred court ordered that Thomas be attached or distrained seven times, on two other occasions an essoin was offered and at the other session a day was awarded, although to no effect since the orders to distrain are then resumed.<sup>85</sup> Unfortunately, considering citations as litigants *en masse* leaves no room for consideration of whether one party was obstructive or not, or to compare the time between, for example, a debt falling due and the impleading of the debtor in court. The court rolls do, however, contain such evidence but it is best suited to less aggregated analysis.

Citation as litigant accounts for 20% of all individuals, the second most common broad attribute, second to involvement in the transfer of land (40% of all individuals). Equal proportions appear as plaintiff as defendant, and roughly one-third of plaintiffs and of defendants are also evident as defendants and plaintiffs. The main distinction between plaintiffs and defendants is that a higher proportion of defendants are essoined (46% as against 30%). Neither

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<sup>85</sup> C13/2/18 and C13/2/19.

attribute group contains many individuals presented for selling ale, and individuals cited as litigants are unlikely to appear as regraters.

## Non-Interactive Rôles

### Infringement of the Assize

Regulation of baking and brewing activity is evidenced in the rolls of the leet and halimote courts, where individuals are cited for breaking the assize of bread or of ale. Typically, the entries communicate just that: *Juratores presentant quod TH furnavit panem contra assisam*, or *quod TH braciavit cervisiam contra assisam*. By referencing the presentment to the assize, such entries emphasise the illegality of the activity and hence the justification for this type of business being the concern of the court; as a recent commentator on the theory of ale presentments as a *de facto* rather than *de jure* licensing system says, 'brewing is not a crime, and the statute requires no license to brew.'<sup>86</sup> The statement that Thomas Halleman *furnavit et fregit assisam panis* can be interpreted such that it appears that it is the very act of baking which was illegal. If the court roll is to be taken as a source for the wider world beyond then one has to start with the task of understanding the language of the roll as a specific language within a defined arena. The key point here is that the law is used to amerce individuals and such presentments provide attributes within the court. Baking and brewing, and selling such products, is an activity beyond the court and from a strict legal interpretation of the statute, could be an activity much wider than that seen through court presentments.

One cannot, however, dismiss the possibility of the bishop's right to profits from infractions of the assizes of bread and ale being employed as a means of licensing such activity. Whether or not the presentments can be read as a licensing system affects the way in which the data can be interpreted, both in terms of the use of the courts and of how we regard the numbers of individuals thus cited. There is much in the rolls which suggests that presentment was for particular infractions rather than general activity. The wife of John Bedellus and Nicholas de Weston are both amerced sixpence for brewing at the spring halimote for

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<sup>86</sup> R.Hanna III, 'Brewing trouble: on literature and history - and alewives', in B.A.Hanawalt and D.Wallace eds, *Bodies and Disciplines: Intersections of Literature and History in fifteenth-century England* (1996).



Wisbech in 1336. Against the woman's name it is noted *def[ecta] l[agena] bis*, against Nicholas's name *ter[s] non t[ulit]*. Such annotations are common. They surely reflect the number of times on which substandard ale was brewed or sold by false measures, rather than the number of times it was brewed at all. Similarly, references are often made to false measures or gallon, pot and quart vessels not being sent for measurement, while Christine Brus' entry in the list of ale sellers at Wisbech halimote noted that she overcharged for her ale.<sup>87</sup>

There are other instances in which an ale wife or seller apparently challenges the presentment. The names of Agnes Dowe, Katherine Chewell and Martin attecross's wife each have the word *Inquir[ere]* attached; that the whole entry in each case is crossed out and no ameracements entered suggests that, on further enquiry, these three were found not to have infringed the assize and therefore erroneously presented.<sup>88</sup> Elsewhere, as with the entry for Mabilla attehalle in the Wisbech leet roll from 1337, names are crossed out with the note error made alongside.<sup>89</sup>

At the spring halimote in Wisbech, 1343, the wife of Hugh Taillour was presented and amerced for selling ale. Subsequently it is recorded that Hugh is himself amerced *quia negavit uxorem suam esse regratriatricem*.<sup>90</sup> Significantly, he does not claim that his wife did not infringe the assize - there is no proof offered that she had proper measure for instance - but that she did not sell at all. The majority of names of bakers, brewers and sellers of ale do not have annotations to explain how their activity infringed the assize. The most probable explanation is that all bakers, brewers and regraters are presented and that where the product was over-priced or of poor quality then this was noted. This would be consistent with Bennett's finding that, in Brigstock, 'persons who sold bread or ale illegally - with improper measures, at exorbitant prices, without adequate quality control - paid especially heavy, punitive fines, but all vendors of those products were liable for some payment.'<sup>91</sup> Unfortunately, the amount of ameracements, whether for the same person or for the same type of infringement do not appear easy to standardise from this distance of time.

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<sup>87</sup> C8/2/27 Wis Hali 3.5.1335 *vendidit ad tres obolos*. See S. Olson, *A Chronicle of All That Happens*, p.56 n.20 where she notes similar abbreviations in the rolls of the Ramsey manors of Ellington and Upwood; the Wisbech scribe uses the word *lagena* rather than *galona*.

<sup>88</sup> C8/2/27 Lev Hali 25.10.1334 C8/2/27 Lev Hali 25.10.1334.

<sup>89</sup> C8/2/29 11.6.1337.

<sup>90</sup> C8/3/34 Wis Hali 23.4.1343.

<sup>91</sup> In addition, 'some brewers purchased long-term licenses (*licencia braciandi*) to cover several months of brewing activity.' There is no evidence of this in the Wisbech rolls. J.M. Bennett, 'The village ale-wife: women and brewing in fourteenth-century England', in B.A.Hanawalt ed., *Women and Work in Preindustrial Europe* (1986) p.21 and n.3.

The order in which the particular names of individuals are entered in the different sessions' lists suggests that names were copied from one to another almost automatically, perhaps with variations caused by additional presentations by the ale tasters of other members of the same families or particular notes about how their behaviour was an infringement. Certainly, such annotations are entered in a different hand, if not ink, to the names; pre-existing lists of all traders makes greater practical sense than supposing that the clerk was prejudging the names of all who infringed the assizes in one way or another. The lists having been drawn up in advance of the actual session would explain the emendations and annotations - such as *mortua* above the name of Emma Laurence in a list of regraters.<sup>92</sup>

Further, there is evidence that traders were amerced twice - once for acting *contra assissam*, or as payment for licence to trade, and secondly for genuine infringements. Thus four of the five individuals presented as brewing against the assize at the Leverington halimote in autumn 1367, are recorded in a separate entry for having sold without proper measures, and amerced. Interestingly, the first presentment is made, as usual, by the jurors, but the second more specific presentment comes from *tastores cervisie*.<sup>93</sup> The facade of the system is highlighted further by the triple amercements - in three separate entries - at Tydd in 1374. Seventeen individuals are amerced for brewing and selling ale, and four for selling ale, *contra assisam*. All twenty-one are then amerced again because they sold without sealed measures, and thirteen are additionally amerced *quia non tulerunt galonas et potellas*.<sup>94</sup> In the Elm halimote at the same time, the baker (and juror) Richard de Rudham was separately amerced *quia non tulit ponder'*.<sup>95</sup> Such observations echo Bennett's findings in early fourteenth-century Chedzoy, Somerset, that 'aletasters presented brewers twice: once for brewing and once for using false measures.'<sup>96</sup>

For such reasons, presentments against the assizes have been taken to be broadly indicative of the trading activity within the vills, of all traders, however frequent or regular, and not just errant traders. This therefore makes the overall numbers of individuals witnessed in the rolls closer to the actual numbers, since fewer would have been neglected by such an inclusive presentment policy.

<sup>92</sup> C8/2/27 Tydd Hali 24.10.1334 A similar procedure was adduced for the lists of landless residents on Glastonbury Abbey estates - the steward's clerk updated the prepared list on the presentation of the affeerors. H.S.A.Fox, 'Exploitation of the Landless by Lords and Tenants in early Medieval England', in Razi and Smith eds, *Medieval Society* p.522.

<sup>93</sup> C7/1/9 Lev Hali 7.10.1367.

<sup>94</sup> C8/4/53 Tydd Hali 11.10.1374.

<sup>95</sup> C8/4/53 Elm Hali 6.10.1374.

<sup>96</sup> Bennett, *Ale, Beer and Brewsters* p.162.

## Bakers

Of the 120 bakers presented, the majority are men (63.3% of bakers, 76 men) but baking was far from being an all-male activity. In terms of the number of all individuals cited for baking, equal and very small proportions of men and women are involved in this activity (1.7%). Of the women, 20 of the 44 are cited alternately with their husbands, and four husband-and-wife baking partnerships are also to be found in the brewing presentments, two as ale-selling couples, with one couple appearing in all three rôles. Eighteen of the women are presented on more than one occasion for baking, and six appear at four or more sessions - only one of these can be linked to a husband who bakes.

Seeking the appearance of all bakers in other rôles naturally dilutes the overlap with the attributes of juror, essoin and pledge, since over one-third of bakers did not appear in these rôles by virtue of their gender. Refining the data to concentrate on the male bakers, it is apparent that the proportion of bakers who are also jurors is higher than the proportion of jurors in the population as a whole; and a similar correlation is to be found between bakers and pledges. The connection between baking presentments and acting on the presenting juries is worthy of further attention since it marks a potential point at which an individual's two attributes combine within the court.

It has indeed been seen that key bakers were jurors, appearing in both jury and baking lists at the same session. The tenure of other office could also be connected. Martin de Bitering is one of the main Wisbech bakers and therefore ideally suited to the task of assessing the trade in bread and ale.<sup>97</sup> He is twice elected as joint ale taster and custodian of pigs for Wisbech market.<sup>98</sup> Whether he used office to his own ends is difficult to say. Large traders today might take advantage of their advisory status to recommend standards and regulations to the detriment of the small trader, but whether this was practical in fourteenth-century Wisbech, where trade was more face-to-face, is another matter. The jurors at the 1375 leet do not present Martin for baking, but this may be because he was exempt as officer.<sup>99</sup> However, his wife, a regular regrater, is presented. When her amercement purports to

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<sup>97</sup> In 1362 he is recorded as Martin de Bitering *pistor* and fined 40s for selling at inflated prices, and in 1353 he leases the mill called *Galonmyln'* for 4 marks. This was the more profitable mill for the bishop: William Miller paid 20s *pro molendino de Leverington* and 45s *pro molendino vocato Kempesmiln'*, in Wisbech. William Miller is never presented for baking, although his identity may be hidden by a non-occupational name. C8/3/45 Wis Curia 17.1.1362, C8/3/41 Wis Curia 28.11.1353.

<sup>98</sup> C8/4/50 Wis Leet 5.6.1370, C8/4/53 Wis Leet 24.5.1374.

<sup>99</sup> C8/4/53 Wis Leet 13.6.1375

result from her husband's presentation to the jurors it is higher than that set the previous year, but she is amerced much higher sums on other occasions when he does not hold office.

### **Brewers and Reqraters**

In her study of ale, beer and brewsters, Judith Bennett maintains that it is not always possible to distinguish firmly between brewers and alesellers in medieval records.... But there can be little doubt that the more concentrated and profitable ale markets of towns especially encouraged some persons to specialize exclusively in the selling of ale.... Alesellers appear in some rural records in the fourteenth century: they represent 9 percent in Stockton, and 4 percent in Ingatestone....in early fourteenth-century Oxford, however, they were comparatively much more numerous. In 1311, they accounted for 46 percent of those involved in the ale market (118 reqraters and 139 brewers).<sup>100</sup>

On this basis, the market for ale in Wisbech must be taken to indicate a comparatively commercialised occupation: throughout the period 1327-77 and for all villis, both brewers and reqraters of ale are recorded in the halimote and leet records.

The fact that the Wisbech records contain a distinction between the production and sale of ale is therefore significant. There are 521 individuals who engage in brewing for public consumption, which is why the quality and price of their product requires regulation; it is, ostensibly, when their activity is found wanting that these brewers appear in the rolls for breaking the assize of ale. There are 976 individuals who are presented for infringement of the same assize through the sale of ale. For the majority of individuals involved in the ale trade these were quite distinct occupations: 62% never appear to have brewed their own ale (836 of the 1357 individuals), and only 15% of sellers brewed ale at some stage (140 of 976 reqraters).

None of the individuals who have separate presentments for brewing and for selling (140) are amerced for both activities in the same court session. Indeed, all seven of the women whose names do appear in concurrent lists as brewers and sellers, have one of their entries

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<sup>100</sup> Bennett, *Ale, Beer and Brewsters* pp.191-2, n.26 See also R.H.Hilton, 'Women Traders in Medieval England', in his *Class Conflict and the Crisis of Feudalism* (2nd edn, 1990), p.136ff for a discussion of 'tapsters', and H.Graham, '"A woman's work...": Labour and Gender in the Late Medieval Countryside', in P.J.P.Goldberg ed., *Woman is a Worthy Wight: Women in English Society c1200-1500* (1992) pp.131-136.

crossed out. The name of Margaret de Sutton has been crossed from the list of brewers presented at the Tydd halimote in October 1338 with the note *vacat quia regrat[iatrix]*, and her name appears in the list of ale sellers, with the amercement of threepence.<sup>101</sup> Similarly, the wife of Baldwin Dunham is recorded in the list of ale sellers in the Wisbech halimote roll of May 1335, but the entry is crossed through with the marginal note *quia brac[iavit]*, and her name rightly appears in the brewing list, with a shilling amercement.<sup>102</sup> Each of the five other instances falls into one or other of these patterns. If an individual sold their own ale they appeared in the list of brewers, if not, then they were recorded as regraters. Commercial selling therefore existed as an independent activity.

In order for this to be possible, surplus ale must have been available through wholesale trade. The entry referring to the list of gannokers at the Elm halimote in autumn 1345 declares that the fifteen individuals sold ale *which they had purchased*.<sup>103</sup> From whom and how the sellers purchased the ale is difficult to uncover. The data contained in the court rolls provide two distinct possible arrangements. Clearly, regraters were selling ale that they had purchased. It is also apparent that members of the same household were engaged in the ale trade together. In some cases, with activity thus centred upon the household, husbands and wives produced and sold the ale. Thus, Baldwin Dunham and William de Welle were presented as regraters at the same session that their wives were amerced as brewers.<sup>104</sup> The evidence of the spring halimote record for Wisbech, 1351, suggests greater specialisation, with Richard Palfreyman's servant John helping Richard's wife to sell the ale she had brewed.<sup>105</sup> This is the only reference to the servant; Richard and his wife continued to sell their ale, as is witnessed by the presentments in the surviving leet records, but no evidence exists to show whether they employed another to sell, or indeed whether they sold as wholesalers.

The Wisbech halimote record from May 1335, perhaps hints at this wholesale trade: the wife of Henry Ballard is recorded as having sold ale and amerced a shilling; alongside her name is the note *vendidit ad iij obulos de Emma Heruy*.<sup>106</sup> There are no other references to this Emma, and there is insufficient material by which one might identify her as

<sup>101</sup> C8/2/30 12.10.1338.

<sup>102</sup> C8/2/27 Wis Hali 3.5.1335.

<sup>103</sup> C7/1/5 6.10.1345 *emerunt cervisiam et vendiderunt contra assisam Ideo etc.*

<sup>104</sup> C8/2/28 Wis Hali 12.4.1336 Baldwin de Dunham and wife, C8/4/48 Wis Leet 27.5.1366 William de Welle and wife.

<sup>105</sup> C7/1/8 Wis Hali 7.4.1361 wife of Richard Palfreyman amerced one shilling as a brewer, the servant one penny as regrator.

<sup>106</sup> C8/2/27 Wis Hali 3.5.1335.

related to any of the brewers with this surname, but it would appear that Henry Ballard's wife was presented for selling Emma's ale. Similarly, *vendidit ad tres obulos per Joh' Kok/Kak* is written against each of the names of Christine Brus and the wife of William *filius Cecilie*, also ale sellers. Possibly John or Joan was an agent. The same list of ale-sellers contains the names of Agnes Denyas and Mabilla Thedrik, amerced one and two shillings respectively. Again they are noted as having overcharged their ale, but the two entries are then linked by a line and the words *de Ely*. In addition to these citations, Agnes is amerced as an ale-seller on 11 other occasions between 1329 and 1345, Mabilla another five times between 1334 and 1338, in each case at the leet or, more usually, at the halimotes held for Wisbech. Neither appears in the records as brewing her own ale. Reference is made in a coroner's inquest at the beginning of the fourteenth century, to *quodam batello in quo vendebatur cervisia Elyensis in portu Lenne*; these two women may have purchased their ale from a boat docking for trade at Wisbech.<sup>107</sup>

The sale of ale purchased from wholesalers or from within the same household provides two explanations for regraters. Gauging the level of purely commercial selling as against that of households is difficult. In part such an attempt is hampered by the inability to reconstruct relations between members of the same household and family; citation deriving from activity in the ale trade accounts for 47.0% of all women, yet few of these women are to be found recorded in other contexts. Two difficulties in particular arise from these citations.

First, a proportion of women appear in the ale citations with the nominal style such as Katherine Chewell for example; only rarely from this distance in time can they be identified as the 'wife of Simon Chewell' for instance. Secondly, it has proved difficult to find every husband identified by the nominal style of his wife. Current examination of the dataset *en masse* has not been possible because of the numbers involved, but the impression formed is that a large proportion of these husbands are not visible in the records. No instances have been uncovered to doubt the scribe's portrayal of a woman's marital status - if she is recorded as the wife of Simon Chewell, for instance, there is nothing to suggest that she would have this same style if Simon Chewell was dead. There are twelve widows recorded in the rolls in connection with the ale trade, five of whom make similar appearances as wives as well as widows, with another two having more than one citation with the

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<sup>107</sup> D.M. Owen, *The Making of King's Lynn: A Documentary Survey* (1984), p.426. Bennett states that ale was not suited to long-distance trade in general, but 'Lynn boasted an extensive export trade in ale'. Bennett, *Ale, Beer and Brewsters* p.20.

designation widow. None of the wives appears as wife when she should more accurately appear as widow. Therefore, it follows that for every woman recorded as a wife, there was a husband; true though this must be in the society beyond the court, this is not true for the world illuminated by the court rolls.

Whether married women are listed without reference to their husbands is a thornier problem, and one to which Judith Bennett has given much consideration. She finds 'as a general rule, married women were identified not only by forename and surname but also by their marital relationship.' However, 'two other factors complicate easy assumptions about women's marital status from assize presentments: some married women were presented like not-married women, and some not-married women were presented like married women.'<sup>108</sup> It is unlikely that widows - not-married women - are identified as married after their husbands' death, but there is evidence to suggest the other possibility, indeed, Bennett suspects that this is more probable than widows appearing as wives. 'The extent to which wives were included among counts of apparently not-married women not only is impossible to estimate but also probably varied according to place, clerical custom, and time.'<sup>109</sup> Matilda de Spalding is cited, with this nominal style, as a regrater or brewer in all eight extant Wisbech halimote rolls between 1329 and 1338, and once at the leet in 1331. This is the name by which she was customarily identified but it is apparent that it does not portray her marital status. Indeed this was recognised by the *curia* scribe himself: in 1337 he records a surrender of Wisbech land as having been made by Matilda de Spalding *que fuit uxor Roberti Huberd qui mortuus est vt compertus est per Inquisitionem*.<sup>110</sup> Whether it was the fact that she had recently come from Spalding, Lincolnshire, or because she independently traded ale which gave her a separate identity from her husband is not known - she may have been a widow when she married Robert.

The broader problem of identifying familial ties, even within the same surname group, is also of relevance in understanding the employment of different members of a household in the trade in ale. Comparing brewers and regraters presented at the same leet or halimote session, there are 74 brewers who have links through surname with 81 regraters. Of these the only known connections which arise from within a household are the three mentioned above - between William de Welle, Baldwin de Dunham and their wives, and between the wife and servant of Richard Palfreyman. But household activity is also to be identified in

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<sup>108</sup> Bennett, *Ale, Beer and Brewsters* p.167.

<sup>109</sup> Bennett, *Ale, Beer and Brewsters* p.170.

<sup>110</sup> C8/2/29 Wis *Curia* 28.1.1337.

presentments at different sessions, not necessarily showing a division of labour between brewer and seller. Forty husband-and-wife partnerships are evidenced by the brewing presentments, and thirty from the ale-selling, and in three instances both partners brew and sell. However, there are no occasions on which husbands and wives are presented at the same time as each other. The Wisbech presentments generally appear to be individual-focused rather than household-focused, such that the evidence that sometimes the wife is presented and sometimes the husband indicates that both were actively engaged in the trade, rather than the husband being cited for his wife's activity. There is no consistency in when husbands are named to suggest one particular clerical practice or another. Adam Erl's wife, for instance, is presented for brewing at the spring halimotes for Wisbech in 1343 and 1344 and at the leet in 1348, but it is her husband who is amerced in the autumn halimotes of 1345 and 1349. If this is because the presentments focus on the household rather than the actual brewer, this would fail to explain why Nicholas Bolewer's wife is presented in autumn 1345 instead of her husband who is amerced in 1349 and 1350. At this stage, the Wisbech presentments have been taken to reflect actual activity rather than the engagement of households.

That some households were concentrating their commercial activity on retailing rather than brewing and selling together is indicated by the number of regraters who cannot be linked to brewers. The identification of a regrater as a servant might be thought to point to their employer being the provider of the ale, and yet of the eight individuals cited as servants and appearing in the list of ale-sellers, the employer of only one is to be found as a brewer, in fact these employers are rarely to be found at all. Other employers had servants who brewed as well: Beatrix the servant of William Hood is amerced for brewing in 1356; it may have been similar activity which results in the appearance of John, servant of William Hood, in a debt plea four years later.<sup>111</sup> The lack of surviving rolls for the Tydd halimote after 1356 prevents the recovery of further citations of William Roper's former servant, but it is possible that his engagement in the ale trade allowed him a degree of financial independence, however precarious: in the spring of 1356 he is recorded in the list of brewers as *Willelmus nuper serviens Willelmi Ropere*.<sup>112</sup> Either William de Wardale or his wife appears in all but one of the lists of brewers from the Wisbech halimote rolls between 1333 and 1350, William also appearing before the leet for brewing in 1337 and 1350. During this time it is apparent that there was

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<sup>111</sup> C7/1/8 Tydd Hali 2.5.1356, C8/3/44 Wis Curia 4.12.1360 William Sylak, the defendant, pays to settle out of court with John.

<sup>112</sup> C7/1/8 Tydd Hali 2.5.1356.



a servant in the household, but she never appears for brewing or selling her employers' ale. Her absence is not because the activities of servants are hidden in the presentment of their employer: there are thirteen servants amerced as brewers or regraters.

Comparing the numbers of individuals presented for brewing or regrating provides a greater sense of the degree of regrating as a separate commercial activity. Companion sets of rolls for the halimotes of different villis have been examined.<sup>113</sup> A notable distinction is apparent in the presentations of traders at Wisbech as compared with the dependent villis. In general, the numbers cited from the outlying villis can be expressed in a ratio (brewers to regraters) of 1:1.3. For the central vill of Wisbech, with its market, the ratio is 1:2.97. There may in fact have been a greater difference between the numbers presented as brewer or regrater: since the list of regraters always follows that of the brewers, which in turn follows the lists of jurors and bakers, damage to the court rolls which tends to be at the bottom of the manuscript will affect the number of visible ale-sellers. However, there is no reason why the manuscripts for one vill should be any worse affected than that of any other vill, since they are rolled together; this does not affect the comparison of figures between Wisbech and its villis, but it might hide a greater rôle in the ale trade for the regrater of ale as distinct from that of the brewer.

Presentments for brewing against the assize are one of the main sources for the existence of women in these court rolls, with almost half the cited women appearing in lists of brewers and/or regraters.<sup>114</sup> Although over four-fifths of brewers were women, less than one-fifth of all women are thus cited.<sup>115</sup> Further, for many women citation as an alewife is usually the only type of attribute visible in the court rolls. Continuing this distinction along gender lines is of importance in forming an understanding of the way in which different attributes might overlap. The proportion of brewers who act as jurors, for example, is distorted, and in fact a slightly higher proportion of male brewers are jurors than compared with the proportion of all men appearing on juries. Similarly, while the figures are still low and only relate to a minority, almost one-tenth of the male brewers pledged at some stage,

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<sup>113</sup> C8/2/27 May 1334 halimotes of Wisbech, Elm, Leverington and Tydd (Newton's record has been ignored here because of its poor condition), May 1335 Wisbech, Elm and Tydd; C8/2/30 October 1338 Wisbech, Elm, Leverington and Tydd; C8/3/31 April 1339 Wisbech, Elm and Tydd; C8/3/39 and C7/1/7 April 1350 Wisbech, Elm and Leverington.

<sup>114</sup> 1,185 women (432 as brewers, 882 as regraters with 129 as both) from a total of 2,521.

<sup>115</sup> For comparative figures see Hilton, 'Women Traders', p.141.

nearly twice the proportion of all males, and obviously higher than the 1.5% of all brewers appearing as pledge.<sup>116</sup>

The majority of the individuals in each category, brewer and regrater, are women (82.9% of brewers and 90.4% of ale-sellers, 87.3% of all individuals cited in connection with the ale trade); but more women never brew compared with men (63.5% of women compared to 48.5%). A comparison of the Wisbech and Brigstock data (also individual-focused) shows that fewer women were involved in the ale trade in Wisbech than in Brigstock. (Brigstock data comprise 331 individuals cited for selling ale as brewers, of whom only 1% were men. There is no distinction between brewers and regraters.)<sup>117</sup> Bennett concludes that 'because at least one-fourth of the women identified in pre-plague Brigstock paid ale fines, selling ale must have been characteristic of many households on the manor. Indeed, the high proportion of women known to have sold ale suggests that all adult women were skilled at brewing ale, even if only some brewed ale for profit.'<sup>118</sup> Undoubtedly in Wisbech a high proportion of visible women were engaged in the ale industry (47.0% of women). However, unless the historian knows how many households there were on the manor, conclusions as to brewing being characteristic remain speculative and beyond the data contained in these court rolls. It is also obvious that there was a greater variety of contexts for the appearance of women in the Brigstock rolls than for Wisbech.

After land transfers and litigation, the presentment for ale selling provides witness to the presence of the largest number of individuals cited within the rolls. These individuals are notably not cited as parties to land transfers or pleas and therefore the attribute regrater is a quite separate one. As with the actual production of ale, selling is predominantly a female occupation (90.4% of regraters are women). The attribute regrater unites the largest number of women visible in the rolls. Even this category of citation does not encompass the majority of women, which, with the fact that rôles within the court were not so relevant as for men, points to limited appearance in the business before the court. Indeed, the fact that there are ten times as many women presented for selling ale as for merchet payments, a liability theoretically, on all villein women, highlights the underenumeration of the latter.<sup>119</sup>

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<sup>116</sup> If the presentments were in fact household-oriented, then one might suppose that the pledges who are presented as brewers were not actually brewers but only husbands of brewers.

<sup>117</sup> Part of the difference in datasets results from Bennett's methodological exclusion of 'isolated individuals', individuals only incompletely identified or having single citations or unstable surnames.

<sup>118</sup> Bennett 'The Village Ale-Wife' p.23.

<sup>119</sup> See below, 'Payment of merchet', p.150.

All individuals presented as regraters are sellers of ale, and sometimes the list is specifically headed *Gannok'*. Individuals who produced bread and ale for the market are obviously involved in trade, but as traders of their own produce. There is other evidence of retail trade in food: from 1366, the records make mention of retailers of wine.<sup>120</sup> In each of the extant Wisbech leet session records through to 1377, wine sellers are presented and amerced.<sup>121</sup> There are seven individuals thus recorded, including John and Simon Taverner; the amercements tend to be higher than those connected to the sale of ale - nine of 12d, the other three being 2s, 3s 4d and half a mark. The regular appearance of one of the men with this attribute points to economic specialisation.

The servant of Thomas Taverner was additionally presented for the sale of ale in 1370, 1374 and 1375, although Thomas Taverner himself never appears in the records under this name. The fact that wine was traded points to an unusual economic specialisation within Wisbech, adding to the impression already gained of separate ale-sellers. Wine was an expensive commodity, but the fact that there are individuals regularly connected with its sale - and bearing the name Taverner - suggests more of a retail than wholesale market than would be expected. The full extent of this may be underrepresented in the court rolls. The wife and daughter of Roger Taverner are also presented for selling ale, while Roger is himself regularly recorded as a commercial baker in the first part of this period. In 1345 he and three others (two men and one woman) are amerced for selling wine without sealed measures.<sup>122</sup> This is a singular presentment regarding wine before 1366, but another entry from 1348 suggests that wine is more generally to be associated with taverns in Wisbech: *[Juratores] presentant quod omnes Tabernar[ias] villate de Wysebeche freg' assissam domini Regis vendendo vinum contra proclama[ationem] domini Episcopi videlecit vendendo galon' pro viijd et vjd vbi proclam' facta fuit ad iiijd et vjd.*<sup>123</sup>

Eight individuals, all women, are presented and amerced as common forestallers of butter and cheese in the Wisbech halimote of spring 1339, and nine as forestallers of fish, three of whom were women.<sup>124</sup> Such presentments are rarely evidenced. The identification of these

<sup>120</sup> C8/4/48 Wis Leet 27.5.1366 *Johannes Baxtere vendidit vinum contra assisam.*

<sup>121</sup> C8/4/50 5.6.1370, C8/4/53 24.5.1374 and 13.6.1375, C8/4/54 20.5.1377

<sup>122</sup> C8/3/35 Wis Hali 5.10.1345 *vendidit vinum per mensuram non sigillatam et contra assissam.*

<sup>123</sup> C8/3/37 Wis Leet 11.6.1348.

<sup>124</sup> C8/3/31 Wis Hali 23.4.1339. These presentments are quite separate from the regular entries listing baker, brewers and regrators; they follow from presentments concerning the public nuisance caused by pigsties or dungheaps.

forestallers is of interest for the picture it provides of the reality of trading so often only to be surmised from the claims set out in debt pleas. Further, the precise nominal identification is illuminating: all fishmongers are identified by vill, five from Wisbech itself but there is also John Buk de Walsoken, Agnes Wynnok from Leverington and William Fikeys and William Edelyn from Over. This does not apply to the dairy forestallers, but the list is headed by Margaret de Wygenhale, Beatrix daughter of Christine de Wygenhale and then her sister Alice.

### Payment of Merchet<sup>125</sup>

The striking aspect of merchet payments within this collection of rolls is their absence; only 84 women (3.3%) were the subject of this villein due.<sup>126</sup> It should be stressed here that the analytical inclusiveness which has been adopted as a central methodological strategy means that this remarkably low figure is not a sample of marriages, but the sum total of all such entries. One must resist the temptation to treat the cases recorded in the rolls as somehow *de facto* samples of activities in society at large: they are no sample, and they are not straightforwardly representative of anything outside the court. The figures studied include everything that is in the court rolls during the period under examination; they are not taken to equate with life outside the court. For statistical purposes the few marriage entries must be regarded as a list of the atypical, recorded marriages.

Fines for licence to marry or which followed from the jurors' presentation of actual marriages without licence, appear in the *halimote* and *curia*, and there are 84 such instances, 22 relating to unlicensed marriages.<sup>127</sup> Some attempt needs to be made to derive an understanding for this underenumeration. The fact that unlicensed marriages are presented highlights the rôle of the vill's jurors in bringing this matter before the court; did they similarly present women who had made their marital plans known or did the women themselves come to court genuinely requesting the lord's licence? The jurors were far from

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<sup>125</sup> For a recent debate concerning the nature and purpose of merchet see bibliographic references under J.Scammell, E.Searle, P.Brand and P.Hyams and R.Faith.

<sup>126</sup> A comparable finding has been made in the court rolls from Alrewas, Staffordshire: 'Merchet was only paid infrequently, there being just fifty-four cases for the whole period 1327-75.' Graham, 'A woman's work', p.128

<sup>127</sup> Similar proportions were found in the Essex manors of Great Waltham and High Easter, 1327-89: 97 marriages of which 27 were unlicensed. Poos puts the increase in proportions of unlicensed marriages after 1349 down to 'greatly increased seigneurial scrutiny'. L.R.Poos, *A rural society after the Black Death: Essex 1350-1525* (1991), p.245.

consistent in naming women, suggesting a general collusion in favour of evasion of merchet, a matter which would concern any of their daughters since they were unfree. It is notable that one-quarter of women cited in these entries are specifically stated as being *nativa*, almost a tautology in this instance since this was the very condition which justified the lord taking payment to marry. This reiteration of unfree condition combined with the rarity of merchet entries points to an almost rearguard action on behalf of the bishop's administration, and highlights its dependence upon the jurors. The evidence suggests that merchet was being used far more as an opportunity to reassert the bonds of neifty than as a means of adding to the profits of the court. The opportunity was taken to underline the status of future offspring.

However, it is also true that the records of merchet payments could serve the interests of those cited. Baker notes that one of the ways in which a villein could achieve freedom was by marriage: 'if a female villein married a free man, she was free, at least during the marriage.'<sup>128</sup> It was thus an advantage in law for the villein woman who married a freeman to have this fact recorded, and eight of the 21 husbands who are named are described as free. Perhaps this explains why a father sought to have his daughter's marriage known to the court: Thomas Wethercok *nativus domini* paid sixpence *pro licencia habenda ad maritandum Clariciam filiam suam cuidam libero homini*.<sup>129</sup> Elsewhere, the Wisbech halimote jurors present at the *curia* that Agnes *filia Johannis de Chewell nativa domini maritata est libero homini per licenciam sen[escali] Curie*.<sup>130</sup> It is perhaps significant that five of the eight entries which identify the free husband by name, are presentments of marriages that have already occurred.

Typically it seems, it is difficult to interpret payments for the licence to marry and for already having married as indicating whether or not the marriage has already happened. In her examination of the Ramsey data, Bennett pointed to a distinction between open-ended licences and those for specific unions.<sup>131</sup> It is less easy to make this observation with the Wisbech material. The fact that a number of husbands are identified through the *finis pro licencia se maritandi* might suggest that here too was a distinction between a woman's general intention to marry and the actual marriage to a specific man. The free status of nine identified husbands might explain why they were named, but there are

<sup>128</sup> J.H.Baker, *An Introduction to English Legal History* (3rd edn, 1990) p.535 n.21

<sup>129</sup> C8/2/24 Wis Curia 26.6.1331.

<sup>130</sup> C8/3/47 Wis Curia 3.1.1365.

<sup>131</sup> J.M.Bennett, 'Medieval peasant marriage: an examination of marriage license fines in the *Liber Gersumarum*', in J.A.Raftis ed., *Pathways to Medieval Peasants* (1981), pp.196-7.

three others who are explicitly recorded as villein. Two points are troublesome. Four examples from the *curia* of January 1350 appear to fall into the first 'general' category, and yet the notes in the margin, *sine licencia*, suggest that these four women are in fact paying for the lord's licence after the event. Secondly, women who pay for a future marriage presumably bring the prospect of their marriage before the court rather than the presenting jurors; this suggests that at Ramsey liability for merchet was more strictly enforced since the payment in advance of a specific marriage implies a knowledge that payment for a marriage would definitely be demanded.<sup>132</sup> This was obviously not the case in Wisbech where so many marriages have gone unrecorded. There would therefore be no benefit to the villein women in paying a fine because they *might* marry, and thus the merchet payments in Wisbech may more reliably be taken to reflect actual marriages.

The data are not sufficiently large to provide a sense of whether it was particular individuals or particular events which lead to presentation in the court. It has already been seen that marriages between partners of different personal status were noted. There are other instances where evidence of marriage has become visible in the court roll, and possibly inevitable, because of its relation to other business before the court. John Wynnok surrenders 3½ acres of land with appurtenances in Leverington to the use of Adam Fadyr and Margaret, John's own daughter, and their legitimate heirs. The conditional nature of this transfer, with the land reverting to John and his heirs in the event of the recipients dying without legitimate heirs, points to a *maritagium*. Whether or not women paid merchet unprompted by any presentment by jurors, the following entry contains the inevitable record that Margaret *filia Johannis* Wynnok gives sixpence *de fine pro licencia se maritandi etc.*<sup>133</sup> Two decades later, the entry recording payment of two shillings for merchet by Matilla *filia Johannis* Wynnok similarly follows an entry in which she and her new husband are named as the joint recipients of land.<sup>134</sup> Elsewhere it would appear that the fine for land transfer between father and daughter encompasses an amount for merchet.

For the reasons given above, payments for merchet have been interpreted as indicating actual unions rather than expressions of an intention to marry. The language of the court roll is quite specific: in

<sup>132</sup> Yet even the Ramsey data do not include all possible marriages: 'one of the possible functions of the *Liber Gersumarum* was to keep track of families which had grown beyond the bounds of a single village.' Bennett, 'Peasant marriage', p.196.

<sup>133</sup> C8/3/41 Wis *Curia* 3.6.1353.

<sup>134</sup> C8/4/52 Wis *Curia* 27.5.1373 transfer by Simon Beuerych to John *filius Laurencii* Kydewyne and Matilla *filia Johannis* Wynnok.

all but three cases, it is the woman who pays the fine, whether or not a husband is named.<sup>135</sup> At the *curia* held in February 1330, the Leverington jurors presented that *Alicia filia Godefridi Flint nativa domini maritavit se sine licencia domini et in custodia predicti Godefridi. Ideo in misericordia* [40d.]. The entry continues in a new hand, noting that Godfrey pledges the fine. One might argue from this that in reality it was the father who paid the fine which is why he is named as pledge. One cannot, however, extrapolate from this to argue that all merchet fines that were pledged were actually paid by the pledge - that the reason an individual is named as a pledge is because the payment is guaranteed by payment by them. Fourteen fines were pledged by officials, others explicitly come from fathers. Rather it would appear that it was the woman herself who was to pay the fine.<sup>136</sup> In addition, the words *quia pauper* are entered in the margin alongside the sixpenny fine to be paid by Lora, daughter of Godfrey *filius Matilde*, implying again, that it was the woman who is being assessed.<sup>137</sup>

No clear explanation has been adduced for why three of the marriage fines are paid by fathers, there is nothing exceptional in the amount or timing of the payments, and there are no other data available to gauge the age of the daughters. Thomas Gocche, for example, gave two shillings, pledged by the beadle, *pro licencia habenda pro Alicia filia sua maritanda*. The other citation for Alice is dated two and a half years later, when she is named with her sisters Agnes, Christine and Emma as Thomas' heirs, at which stage none is described as being under age, although Alice may well have been the youngest given her position as the last of the heirs named.<sup>138</sup> At the same court two indirect transfers are also recorded, between Thomas and each of his daughters Emma and Christine. Perhaps the other two were already provided with land through marriage.

The fact that three merchets were paid by men accounts for the apparent anomaly whereby those who pay merchet also have the attribute *essoyn* and pledge, but none of the three men serve as jurors, another all male rôle. Since the sample of the total number of cited individuals provided by those paying merchet is so small it is unsurprising that so few are visible in other contexts within the rolls. As has already been noted, some are cited in land transfers, but as with appearance with any

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<sup>135</sup> The language of brewing and baking presentments is also quite specific but it is clear from other evidence that the lists are of all traders not just those who acted *contra assisam*. In the case of merchet it seems more likely that the fine is paid by whom the language indicates.

<sup>136</sup> C8/2/23 Wis Curia 15.2.1330.

<sup>137</sup> C8/3/31 Wis Curia 1339/1340.

<sup>138</sup> C8/2/21 Wis Curia 8.4.1327; C8/2/24 Wis Curia 26.6.1331.

other attribute, identification is made harder by the fact that future citations of three-quarters of the women are likely to be as wives of unknown husbands. In terms of understanding the different attributes that individuals might possess, the only other overlap of note is the fact that some also receive pledges of support. In fact, the number of individuals paying the marriage fine and who are pledgees is larger, since the figure in the appendix is based upon those pledgees that can be placed in pledging relationships with identifiable pledges, and the latter have not included references to official pledging by the beadle. All ten of the merchet-paying pledgees receive this support in order to pay the marriage fine, and fourteen others are similarly pledged by the beadle or unidentified individuals. Distinctions were thus made between those who needed pledges and those that did not, but lack of other material obviates further elucidation.

The size of the marriage fine does not appear in general to have determined the need for pledging, which must therefore be related to the personal circumstances of each pledgee. The example of Lora *filia Godefridi filii Matilde* being fined sixpence *quia pauper* and yet not finding a pledge for this small amount, is suggestive of this.<sup>139</sup> Although she is a pauper, this is not the smallest fine, nor is she the only person to be fined sixpence, although she is the only one described as a pauper. The differing fines appear to be determined by ability to pay, perhaps proportionate to goods or land.<sup>140</sup> The need for pledges is separate from this and provides a more qualitative comment not on whether the woman could pay the fine but whether she would - a comment on trust.<sup>141</sup> Indeed, the Leverington halimote jurors are given a day at the *curia* session in January 1360, to attach *per corpus*, Isabella, daughter of John Caze, *nativa domini*, until she produces security for her dowry or until they, the homage, can account for its value.<sup>142</sup>

From a study of Halesowen data, Razi raises the possibility that levels of fine might differ according to whether the woman married within the manor or without.<sup>143</sup> This might also provide another reason why a woman needed to provide a pledge, for absence from the manor would

<sup>139</sup> C8/3/31 Wis *Curia* 1339/1340.

<sup>140</sup> In the light of a debate over merchet, Poos conveniently states: 'merchet is usually regarded... as a combination of a tax upon villein marriages and a tax upon land transfers which potentially followed upon such marriages.' Poos, *A rural society* p.134 n.4.

<sup>141</sup> Bennett presumes that pledging for merchet indicates 'payment was not simultaneous with the granting of the license, and the purchaser's credit was, in such cases, sufficiently dubious to warrant a pledge requirement.' Bennett, 'Peasant marriage', p.198.

<sup>142</sup> C8/3/44 Wis *Curia* 24.1.1360 the word *adhuc* is added in a superscript above Isabella's name indicating that the security or money was not found immediately.

<sup>143</sup> Z.Razi, *Life, Marriage and Death in a Medieval Parish: Economy, Society and Demography in Halesowen 1270-1400* (1980) p.9.



make the task of collecting payment more difficult. Having examined merchet payments on Ramsey Abbey manors, Bennett posited the notion that payment by the brides themselves should, in many instances, be taken to indicate their economic independence.<sup>144</sup> A woman's independence might make her more likely to require a pledge for the merchet payment. It is striking that only one of the entries which name or imply a husband records a pledge, suggesting the presence of a husband was sufficient security.<sup>145</sup> The instance of a pledge being given for an unlicensed marriage is the singular case of the daughter in her father's custody. It is possible that one reason for a woman requiring a pledge, in the absence of a specific husband, is that her father had died. Eve *filia Roberti* de Shortefeld, for example, is pledged by the bailiff; her father had died some eight years' previous.<sup>146</sup>

Although merchet is seriously underenumerated in these court rolls, there is one point which can be made concerning the individuals thus cited. Although there is little evidence by which to judge why particular women are liable for merchet, certain surname groups appear more liable than others.<sup>147</sup> Discounting women with unstable names, 47 different surnames are represented by the merchet payments. Fifteen of these names account for over half of the fines (43). In most cases it is only two women who share the same surname, but the Chewell, Lewyn and Thurger surname groups have three women named and four of the Broun women make merchet payments. Dominating the scene, however, are the Borewelles with payments made by eight different women between 1329 and 1350, two of whom were sisters. This family was a large one with the male members of different natal families frequently present in the court, often as jurors in the halimotes, and therefore the *curia*. Perhaps this may explain the women's prominence among those cited for marriage fines: their appearance lay not only in the condition of their family of birth but also in its prominence in the court.<sup>148</sup> Fifteen merchets were paid in the halimotes, and three of these - from Agnes daughter of Gilbert de Borewelle senior, Mariot daughter of Walter de Borewelle and Emma daughter of John Faireye - were paid in sessions at

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<sup>144</sup> Bennett, 'Peasant marriage', pp.207-8.

<sup>145</sup> This contrasts with the Ramsey material: '23 out of the 37 instances of pledging for merchets involved licenses purchased for specific marriages'. Bennett, 'Peasant marriage', p.198.

<sup>146</sup> C8/2/23 Wis *Curia* 11.1.1331, C8/3/31 Tydd Hali 20.4.1339

<sup>147</sup> This echoes Bennett's finding that 'certain family names from villages frequently recur'. Bennett, 'Peasant marriage', p.196.

<sup>148</sup> Bennett has suggested that the diffusion of one family across different vills might be determine concentration on particular women. The Borewelles are associated with Wisbech rather than any other vill; possibly on marriage the women would have left Wisbech for another vill, even married a tenant of the prior. The noting of marriage to freemen certainly indicates a concern that *native domini* should not slip away. Bennett, 'Peasant marriage', p.196.

which members of the same family sat as jurors. More generally, though, such surnames and families are elsewhere visible in the rolls.

## Petty Crime

### ***Hue and Cry***

Like the attribute 'dying tenant' or *pistor*, attributes assigned to individuals from the evidence of the hue, hamsoken and bloodshed are not strictly court attributes, although the identification of an individual as, say, one who raised the hue derives solely from the record of the court. As an out-of-court activity, its significance arises from the fact that particular instances are presented at the court, and individuals judged to have behaved justly or unjustly; an analysis of these attributes in conjunction with others evidenced within the court gives a greater sense of the particular presentments and the more dynamic way in which the court itself fits in with the wider society.

The sparsity of data ensures that interpretations as to the level of violence outside the court cannot be drawn.<sup>149</sup> The details set out in many trespass pleas imply violence. In the absence of all leet records, however, it is impossible to establish how these citations might relate to presentments concerning the raising of the hue. John Trowon was found to have assaulted John Nenour *serviens suus*. The entry is recorded in the *curia* roll of late June 1354, just three weeks after the leets would have been held. Possibly it was an isolated attack and no hue had been called, the jurors at the *curia* agreeing to the servant's claims on the basis of visible injury.<sup>150</sup> In any case presentments at the leet did not result in the record there of financial redress for victims of violence.<sup>151</sup>

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<sup>149</sup> This is a point discussed below in relation to the 'criminal' bishop Thomas de Lisle. p.271. Hanawalt found that the Norfolk fenland area west of Lynn had the highest number of crimes per square mile in the early fourteenth century, a factor determined by its large population and in response to scarcity. B.Hanawalt, *Crime in East Anglia in the Fourteenth Century: Norfolk Gaol Delivery Rolls, 1309-1316* Norfolk Record Society, (1976), p.17.

<sup>150</sup> C8/3/42 27.6.1354 John Trowon had been Barton reeve the previous year.

<sup>151</sup> Bennett suggests, from comparing crime and litigation data, that many female victims did not then seek such redress through civil pleas: 'women passed by many opportunities for litigation, either obtaining compensation through informal channels or dropping such matters altogether.' *Women in the Medieval English Countryside: Gender and Household in Brigstock Before the Plague* (1987), p.30.

As part of the view of frankpledge exercised through the leet, jurors were bound to report cases of the raising of the hue and amercements were due from those who either raised the hue unjustly or, more normally, were the legitimate subject of this literally public outcry. The halimotes also contain such evidence. In fact, these figures derive from only two entries and are aberrations, and indeed were noted as such at the time. Jurors at the spring halimote of Wisbech in 1339 present that John Lomb recovered from John Broun a cow which had been distrained for rent arrears, upon which the latter justly levied the hue upon the former.<sup>152</sup> The following entry reads that the same John Lomb assaulted Adam Blak *nativus domini* and drew his blood against the peace, and that the hue was similarly raised justly on John. In the margin of this second entry the amercement of sixpence has been crossed out with the note *error quia in leta*. As recognised, this presentment belongs rightly at the leet rather than the halimote, but unfortunately the corresponding leet session for Wisbech is no longer extant. These stray references to the hue appear in the halimote record because of the involvement of John Broun. In the entry preceding either of these two the same John Broun is named as the rent collector and it fell correctly within the jurisdiction of the halimote for the jurors to present that John Lomb had taken back his cow, the court providing an arena in which the manorial officials reported and enforced their authority.<sup>153</sup> Adam Blak may have been responsible for custody of such distrainments and had been assaulted as a result of John's action to recover his cow. However connected in reality the events behind such entries, the entries themselves should nonetheless be separated for reasons of jurisdiction and procedure, hence the reference to the leet which would have been held three and a half weeks later, the Wednesday after Pentecost.

Although the present concern is less with particular cases than with the broad statistics, this example is nonetheless useful in illustrating the link between the hue and actions of violence. The numbers involved as either accused or victim in the reported cases of hue, hamsoken or battery do not account separately for more than 2% of all individuals, a tiny proportion, therefore. One fifth of the individuals whose blood was drawn and almost one half of those who suffered hamsoken were raisers of the hue, while 25.4% of those causing bloodshed and 45% of the house-breakers had the hue raised upon them. Categorisation of these separate attributes depends on the court having distinguished between different aspects of the same event to relate to its jurisdiction. Looking at relationships evidenced by these

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<sup>152</sup> C8/3/31 Wis Hali 23.4.1339.

<sup>153</sup> The previous entry records that Simon Dromond of Leverington *abduxit vnam herciam precii vj d. que districta fuit pro Redditu per Johannem Broun Collectorem Redditus*.

interactions therefore is of value in adding to the understanding of each attribute by piecing together that which the roll has separated. Of the 115 relationships witnessed by the entries recording the hue being raised, only 20 are found where both parties are connected through battery, and all instances of violence between the same parties are presented at the same court session, usually in consecutive entries. However, in five instances either the hue is noted earlier than the battery or the hue is raised unjustly on the violent individual. Similarly, only 9 of the 115 relationships are witnessed through hue and hamsoken entries, presented simultaneously, and it is not always the case that the householder victim then raises the hue on the housebreaker.<sup>154</sup>

The high proportion of individuals cited for raising the hue who are also cited in connection with battery or hamsoken is not as significant in terms of a separate attribute as first appears, because there is a degree of inevitability about the link, stemming as it does from the fracturing of an external reality by the method of presentment. It is also true that the reason for the hue is not given in the majority of cases, and that not all instances of bloodshed or hamsoken resulted in the hue. (The example of John Lomb and John Broun above does however highlight the possibility that the context for the leet presentments might lie in other courts, and in addition to cases of illegal recovery it might be possible to make connections with certain pleas.)

If one concentrates upon the attribute of raiser of the hue itself, it is more useful to consider not just the identification of an individual with this attribute, but the added significance provided by the court - whether their actions were upheld by the court, whether the hue had been levied justly or unjustly. For the majority of individuals, the jurors do present the hue to have been just: of the 106 individuals who raise the hue, 61 are judged to have done so rightly, 40 unjustly and for five others the evidence is unclear. Making this distinction offers a possible explanation for the comparatively high proportion of individuals who are also cited as officers, 16.4% of just-raisers are officers, a category of attribute which includes only 4% of individuals. As with bloodshed, however, these are not necessarily unconnected attributes, as the above example with John Broun illustrates: it is as a result of his office that he is involved in raising the hue. The attribute of pledge is unconnected and it is perhaps notable that 11.5% of the individuals cited for justly raising the hue are pledges, an attribute which encompasses none of the unjust raisers (and 3.2% of all individuals are pledges). The numbers of each category of hue-raisers

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<sup>154</sup> B.A.Hanawalt, *Crime and Conflict in English Communities, 1300-1348* (1979) provides explanations of these actions.

who appear with other attributes in absolute terms is in any case small, which makes statistical analysis rather a blunt tool. Almost 15% of the just raisers are jurors compared with 5% of the unjust, which might appear of note when read in conjunction with the fact that jurors include 7.6% of all cited individuals. However, these categories contain only 11 people. (None of the 9 just raisers are cited for unjust hue, so the attribute is, for these individuals, distinct.) This, combined with the basic point that such attributes might come from citations widely spaced temporally, emphasises the value of narrowing the focus to particular individuals and using these statistics as the broad framework for an observation of individuals. Nonetheless, in broad-brush terms, these figures provide the elementary suggestion that those presented for raising the hue tend not to be particularly evident in other rôles before the court, and those presented for abusing the facility of the hue are generally less visible, suggesting a marginalisation through the court.

### ***Hamsoken***

The evidence from citations for hamsoken (house-breaking), whether judged as perpetrator or victim, cannot warrant a serious consideration in terms of a separate attribute within the court since it is contained in only 19 court roll entries, and in one of these it is not possible to identify one of the parties involved. As can be imagined, hamsoken can be associated with the raising of the hue or bloodshed, but this is not an exclusive identification and the numbers cited are so small as to make highly improbable citation with any particular attribute. The sample is too small to be of use in typifying attributes, yet within these strict limitations it is still valid to note the paucity of evidence itself. This goes beyond the incomplete survival of all court rolls from the leets; one might speculate that there were particular motivations for these reports, and further research could seek answers from a more focused analysis of the individuals identified.

### ***Bloodshed***

Presentments for battery are restricted to the annual leets and comprise the largest category of inter-personal violence presented, in itself still a small proportion of all business. Some 139 entries from the 20 surviving leet sessions witness battery compared with 114 for hue and only 19 for hamsoken; 234 individuals are named in these entries

compared again with 198 for hue and 38 for house-breach. Citation for battery has already been linked with presentments concerning raising the hue, but it is nevertheless apparent, from the proportion of individuals cited in both types of activity and from a study of the actual relationships, that the majority of instances of battery were not connected, whether the hue followed from the bloodshed or bloodshed resulted from the raising of the hue. A higher proportion of individuals cited for drawing blood are to be found with attributes such as juror, officer, litigant and particularly pledgee than would be expected compared with the figures for all cited individuals. Requiring a pledge to guarantee payment of the amercement for battery is necessarily connected to the presentment for bloodshed, and it is apparent that official duties could draw an individual into trouble with others, but citation as litigant is separate. This is supported when the actual relationships witnessed by such interactions are examined.

Of the 128 relationships between individuals evidenced by presentments for battery, only two are repeated in connections through litigation. John Lomb and Adam Blak who have already been noted, clashing possibly over a cow, are shown by the hundred court rolls to have expressed their differences also through litigation. In November 1338, John was cited for non suit in his trespass plea against Adam, Adam's wife Alice and sister Margery.<sup>155</sup> Yet the interpretation of even this is not straightforward. Single events beyond the court might be fragmented in the court rolls, such that the separate citations of one relationship may in fact be related.<sup>156</sup> Since presentments for battery only appear before the annual leet, it is possible therefore that other court sessions held during any of the previous or following year might contain evidence of related litigation between the same parties (battery by John Lomb was presented at the 1339 leet, no more than six month's after his non suit). Further, the number of relationships which have this dual nature - connection through battery and litigation - is potentially reduced by the nature of the definition of litigant; unless the outcome of the plea can be recovered from the rolls, citation as plaintiff or defendant has been excluded. In April 1327 Robert Har' sought to remove his trespass plea against Thomas Vernon from the hundred court; at the subsequent leet held for Elm, Thomas was twice amerced 2s 8d on the jurors' presentment that he had drawn Robert's blood, against the peace, and that he was rightly the subject of the hue raised by Robert.<sup>157</sup>

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<sup>155</sup> C13/2/18 Wis 100 5.11.1338.

<sup>156</sup> Separate pleas and presentments may thus be inter-related: such data may evidence reprisals, tit-for-tat, action.

<sup>157</sup> C13/2/14 Wis 100 2.4.1327; C7/1/3 Elm leet 3.6.1327.

Observations derived from the general statistics about individuals presented for battery can tend then to be rather simplistic. Categorising individuals on the basis of such citations shows that the dominant factor which unites them is the fact of the presentment. This is obviously true for all other defined attributes, but perhaps what is of note here are the categories in which those that did draw blood are comparatively under-represented. The largest attribute groups to which many individuals belong are donors and recipients of land and ale sellers. In all three cases, the numbers cited for bloodshed are lower than all those cited; on the theoretical basis that citation with all attributes was equally likely, then one would expect over three times as many to be presented for selling ale (4.3% of those presented for battery are also presented as regraters, 14.1% of all cited individuals).

Similar observations can be made for those who were the recorded victims of battery. Where the proportions who occupy other positions are slightly higher than average, possible explanations (official duty or separate presentments deriving from single events) exist. A genuine exception to this appears to concern those who also acted as pledges. Just over 10% of these victims acted to pledge others, a general category which includes only 3.2% of all individuals. (When this overlap is expressed in terms of the numbers of *men* that were also pledges, then the proportion of battery victims is slightly higher at 11.5%.) Presentment for baking, brewing or selling ale, and citation as party to land transfers tends not to include significant numbers of these victims, in fact they are almost completely absent from the lists of brewers (the figure of less than 1% derives from only one individual).

Women are atypically cited in cases of battery, and when they are it is more often as victims. In the majority of such citations women are attacked by men, but there are five instances of attacks being perpetrated by women which are deemed worthy of presentment - two on other women and three on men.<sup>158</sup> Only two cases represent an attack on an individual bearing the same surname, two presentments which were probably related to one attack. Richard Ferour's servant Robert is amerced a shilling for drawing the blood of Emma, widow of Roger Ferour, presumably whereupon Roger Ferour (a son?) attacked Robert with the result that he was amerced sixpence. The variation shown in levels of amercement leaves uncertainty as to whether the lower amercement

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<sup>158</sup> Courts may have acted favourably to women victims of crime more generally; Hanawalt found 12% of indicted women but nearly 23% of indicted men were convicted. Hanawalt, *Crime and Conflict*, p.54. Bennett, however, argues that within the manorial court it is possible 'male assaults [against women] went either unpunished or unreported because those in control of court processes minimized their importance.' Bennett, *Women*, p.26.

reflects the financial circumstances of Roger Ferour or the severity of Richard's attack. In 1370, Adam Clerk was amerced 6d for attacking Simon Taverner, but the entry recording Simon's amercement of threepence for his retaliatory action is explicit in stating that this was in self defence. This is perhaps the more likely explanation, with the amercement set against the behaviour rather than the individual, and particular punishment of a servant is unlikely, since in 1370 it is the employer that is presented for his attack on his servant.<sup>159</sup>

It is difficult to assess the nature of the personal relationships evidenced by presentments for battery, particularly the degree to which an essentially antagonistic interaction, visible because of the jurors' presentment, might be indicative of a relationship generally less hostile (in the same way that the fact that one individual impleads another need not imply actual hostility beyond the stylised terms of the law, in part one aspect of the problem of imputing motive to static records). Adam Honyter, for example, was amerced a shilling at the 1363 leet for Wisbech because *traxit sanguinem de [sic] Willelmo Cartere versus pacem*.<sup>160</sup> In the previous year the two parties had been involved in an exchange of land: Adam surrendered two acres and appurtenances in Wisbech to William and his wife Gena, William then surrendering an acre also with appurtenances in Wisbech for Adam.<sup>161</sup>

One significance of the data lies in the fact that there is relatively little evidence of bloodshed. It is difficult to assess whether, like the recording of villein marriage and tenant deaths, this is a true reflection of the wider actuality. The data presumably reflect cases of severe physical antagonism, those disputes which were either witnessed by people part of the hue, or by obvious injury, rather than petty disagreements which individuals kept to themselves. Such behaviour would be inconsistent with a desire for social stability, hence the justificatory use of the words 'against the peace' in these records.

In which case, the presentments of particular amerceable behaviour provide a sense of social stigmatisation, the court is not impartially presenting that which falls within its jurisdiction, but making a judgement - in the same way that an individual's action at law or in raising the hue is or is not upheld. This is consistent with the fact few individuals are presented for committing the assault at the same time as being the victim: less than one-tenth of individuals cited in cases of battery attack the same person by whom they are assaulted (20 of the 233 individuals, 9 others are cited with both attributes either on different occasions or in conjunction with different people.) It has

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<sup>159</sup> C8/4/50 Wis Leet 5.6.1370 *Augustinus Cok traxit sanguinem super Johannem servientem eius contra pacem [misericordia 3d.]*

<sup>160</sup> C8/3/46 Wis Leet 1363 sixpence amercement amended.

<sup>161</sup> C8/3/46 Wis Curia 1.9.1362.



already been observed in one of these tit-for-tat actions, that Simon Taverner's attack on Adam Clerk in self defence is somehow more excusable, but nonetheless still unacceptable and therefore amerceable, than Adam's attack on Simon.<sup>162</sup> The evidence provided by Simon's surname and his presentments for brewing and selling ale, and selling wine, suggests that he could easily have been in an environment in which personal attack could arise and be witnessed; in which case, he was perhaps ideally suited to the office of constable of the peace.<sup>163</sup>

There again, it might be the fact that Simon was one the leet jurors at the session wherein Adam Clerk's attack was recorded, which meant that his own amercement was lower. Certainly, Walter de Reymerstone was one of the Elm leet jurors who presented that Reginald Smyth had attacked him, and Reginald was amerced the unusually high sum of two shillings; just under 90% of amercements were below this figure. In addition to Simon Taverner, three other individuals were presented and amerced for battery at the same session at which they were jurors. Nicholas Makesake and John Monnpisson were each amerced sixpence, the most common amercement, and John de Massingham was amerced threepence, the same as Simon Taverner in self defence. John de Massingham served as leet juror in 1343 and 1348 and was among other prominent individuals who were to pay £12 for *mariscus et piscarius de Levermer*, for a year from Michaelmas 1347.<sup>164</sup> Untangling the skein of words and meanings is difficult and possibly circular. Following the entry recording John's amercement is the entry with the (unknown) amercement of his 'victim', unidentified by other citation, for raising the hue unjustly upon John. It is difficult to weigh the possibility that amercements were determined to reflect the nature of the activity, in this case the severity of the attack, against the possibility that they might reflect the court and social character of the perpetrator.

The chief result of deriving court attributes from this activity is to highlight the isolation within the court of those people thus identified, perhaps suggestive of a marginalisation in the wider society of which the courts were part. This is obviously not the same as maintaining that evidence of battery is worth little, but its value comes often from adding another dimension to the *relationships* between individuals, rather than the attributes evidenced for the individuals.

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<sup>162</sup> C8/4/50 Wis Leet 5.6.1370 *ST traxit sanguinem super Adam Clerk se defend'* etc.

<sup>163</sup> C8/4/48 Wis leet 27.5.1366 brewer and regrator; C8/4/53 Wis Leet 24.5.1374 and 13.6.1375, C8/4/54 Wis Leet 20.5.1377 wine seller; C8/4/53 Wis Leet 13.6.1375 election. I have identified Simon *filius Johannis* and Simon Taverner as the same individual in these entries.

<sup>164</sup> C8/3/36 Wis Curia 5.11.1347 The manuscript is worn, stained and torn at this point.

## Leyrwite

As with villein marriages, so too records of illicit liaisons, the Wisbech records are notably silent. Yet, as Tim North argues, court rolls should not be expected to provide comprehensive data on such moral matters. The ecclesiastical court was the proper forum for these concerns (even though for Wisbech, the ecclesiastical lord was the manorial lord). The lord's interests were touched when the guilty parties elected to commute the corporal punishment meted out by the chapter to a monetary payment, since such payments must have necessitated the alienation of the lord's property on the grounds that the villein's property was that of the lord. Since 'the payment in the manorial court was for alienating the lord's goods, not for the moral offence', records of leyrwite in the court rolls are a poor indicator of levels of fornication or adultery.<sup>165</sup>

There are just fourteen surviving amercements for leyrwite. In three of these the man with whom the guilty woman associated is also named. Leyrwite is presented more often in the *curia* than in the *halimotes*, and the better survival of the *curia* records encourages confidence in the representative nature of the surviving entries.<sup>166</sup>

From what evidence that does exist it is possible to observe the same concern as in *merchet* entries with the unfree status of the woman. Whatever the women did beyond the court, in its record they were stamped with villein status. Thus *Isabella filia Nicholai Mees*, *Katherine filia Willelmi Isok* and *Agnes filia Thome Rote* are each recorded as *nativa domini* and presented and amerced since *comisit Lethwytam*. But the significance of such presentments, as with *merchet*, could also lie in the future. Whatever the personal significance to each party, when the Wisbech homage presented that *Margaria filia Johannis Wolnoth deflorata est cum Johanne Andreu libere Ideo in misericordia* [12d], the opportunity was being taken to record the woman's unfree status.<sup>167</sup> Again, although the villein status of the woman was noted, any child of this union would have benefited from such a record: 'if a villein's child could prove that his parents or ancestors were unmarried, he must be free.'<sup>168</sup> However, it is difficult to be certain that the episcopal administration accepted that bastards were free. The records suggest that the land which bastards held returned to the lord (*tanquam escaeta*)

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<sup>165</sup> T. North, 'Legerwite in the thirteenth and fourteenth centuries', *P. & P.* 111 (1986), p. 13.

<sup>166</sup> 12 appear during 1330-42, the other two in 1355 and 1369. There are three amercements of 3d, four of 6d and 12d, one of 10s, and two unknown.

<sup>167</sup> C8/3/42 Wis Curia 31.1.1355.

<sup>168</sup> Baker, *English Legal History* p. 535.

on their death. In the three cases relating to the death of a bastard it is always implied that because they are bastard they have no heirs.<sup>169</sup>

As with the majority of women who pay merchet fines, most amerced for fornication are identified by reference to their fathers. None of the amercements, mainly 6d or 12d, required pledging, not even the one startling amercement of ten shillings charged on Isabella *filia Gilberti de Borewelle*.<sup>170</sup> From an analysis of 179 fines from different collections of court rolls, Tim North observed that 'leyrwite was normally a fine of 6d, but if women were involved in adultery, in fornication with two men or with a cleric, the amount was increased. It was precisely such cases that were regarded by the church as a greater sin than mere fornication.'<sup>171</sup> However, he notes that 'on estates where few details of cases were recorded and where the use of terms might generally be rather inexact', larger amounts were recorded and 'this is because the word was being used imprecisely to mean not just legerwite but merchet and/or entry fines as well.'<sup>172</sup> Thus when Isabella is amerced 10 shillings because *comisit Lethwytam*, she may well have been taking land to a more permanent union.

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<sup>169</sup> At canon law, subsequent marriage legitimised the child but not at common law - there the bastard was presumed *filius nullius* and free, but could have no heirs. For the references to land 'eschaeting' see C8/3/37 Wis Curia 19.12.1348 (Joan *filia Roberti Prat bastarda* held one acre *terra operabilis*), and C8/3/46 Wis Curia 25.2.1362 (Robert *filius Johannis Sweyn* also held an acre *terra operabilis* but with ½ acre of free land, and - significantly? - acre of the Prat tenement). See also C8.3.40 Wis Curia 11.5.1350 John *filius Margarete Elverich* bastard. From a curia roll dated by the reign of Edward II but gathered with those of Edward III it can be seen that the land which Geoffrey Wyrn held was to be retained and because he had no heirs and the court was ignorant as to whether he was a bastard or not, the Leverington halimote jurors were to be examined on this at the next curia session, C8/2/24.

<sup>170</sup> C8/2/28 Wis Curia 6.6.1336 The entry has been amended: Isabella (crossed out *que fuit uxor*) (superscript *filia*) Gilberti de Borewelle.

<sup>171</sup> North, 'Legerwite', p.11. North found 65% of fines to be 6d, (p.10).

<sup>172</sup> North, 'Legerwite', pp.12-13.

Given the lack of material, any overlap between attributes visible in the court is bound to be of limited value in understanding either of the attributes, since the data depends so heavily upon particular individuals. The fact that John Andreu mentioned above was the recipient from a deathbed surrender from his father, and received pledging assistance for the payment of the transfer fine, adds little to an understanding of the type of person cited for leyrwite, though it provides evidence of that person's history as represented or intersected by the court roll.

## PREDOMINANT BUSINESS: LAND TRANSFERS<sup>1</sup>

Court procedure is central to the transfer of customary land.<sup>2</sup> Like litigation and acting as a juror, the transmission of land appears in the court records because it was very much part of court procedure: new tenants were admitted to land and performed fealty to the lord in court; although in practice unfree land could be transferred by one tenant to another, it could only be done through the lord. Transfers involving villein land and villein tenants necessarily had to be made within the court, if not they were deemed to be illicit (presented as 'alienations') and the land was confiscated. Amongst free tenants, free land could be sold by charter, and such transfers are likely to remain beyond the records of even the bishop of Ely's courts, although it is clear that the *post mortem* transfer of free land between free tenants is scrutinised with the new tenants having to perform fealty to the lord in court. Since villein land could be held by the free and vice versa, the court roll provides a more detailed picture of land transfers than this crude distinction first implies (indeed the lord was often concerned to regularise the transfer involving villein land sold by charter as if free.) Though detailed, even a complete series of court rolls does not

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<sup>1</sup> Land transfers have engendered a voluminous literature, focusing upon inferences about a land market, patterns of inheritance and the 'family-land bond'. See C.N.L.Brooke and M.M.Postan eds, *Carte Nativorum. A Peterborough Abbey Cartulary of the Fourteenth Century* Northants Rec. Soc. 30 (1960), P.R.Hyams, 'The origins of a peasant land market in England', *Ec.H.R.* 2nd ser. 23 (1970), E.King, *Peterborough Abbey 1086-1310: A Study in the Land Market* (1973), B.F.Harvey, *Westminster Abbey and its Estates in the Middle Ages* (1977), Z.Razi, 'Family, land and the village community in later medieval England', *P&P* 93 (1981), pp.3-36, and the invaluable essays contained in P.D.A.Harvey ed., *The Peasant Land Market in Medieval England* (1984) and in R.M.Smith ed., *Land, Kinship and Life-Cycle* (1984). Interpretation of the transmission options recorded in the rolls turns upon interpretation of the lord-peasant relationship, which provides a backdrop for the following discussion. On this point see R.M.Smith, 'Some thoughts on "hereditary" and "proprietary" rights in land under customary law in thirteenth and early fourteenth-century England', *L.H.R.* 1 (1983), pp.95-128, L.A.Slota, 'Law, land transfer and lordship on the estates of St. Albans Abbey in the thirteenth and fourteenth centuries', *L.H.R.* 6 (1988), pp.119-38, J.S.Beckerman, 'Customary law in English manorial courts in the thirteenth and fourteenth centuries', unpubl. Ph.D. thesis, University of London (1972), *Select Cases in Manorial Courts 1250-1550: Property and Family Law*, ed. L.R.Poos and L.Bonfield, Selden Society 114 (1998).

<sup>2</sup> see P.D.A.Harvey, 'The peasant land market in medieval England - and beyond', in Z.Razi and R.Smith, eds, *Medieval Society and the Manor Court* (1996), pp.395-6.

provide a complete register of transfers, but the importance of such transactions within the court demands attention.<sup>3</sup>

Citation as donor or recipient in a land transfer (*inter vivos* or *post mortem*) is the single most common attribute to be identified from the rolls of the curia and halimotes, the leet and hundred court not having jurisdiction over land (38% of all cited individuals). But before one can compare attributes, it is necessary to understand just what the processes of land transfer were: how we interpret these is central to an understanding of custom, of how individuals used the court and whether we can justifiably identify inheritance 'strategies' or 'estate plans', or motivation, from the mass of transfers recorded.<sup>4</sup> Broadly, land is transferred through *inter vivos* surrender or *post mortem* transfer via inheritance. The first is often taken to be synonymous with 'the land market', but in attempting to understand the processes available to the tenants of Wisbech, it is clear that some *inter vivos* transfers are designed as part of inheritance strategies rather than outright sales.

### Systematising *inter vivos* transfer

A notable attempt to systematise transfer procedures has been made by L.Bonfield and L.R.Poos; it focuses upon a particular form of transfer, but is of much wider importance. In their seminal article, 'The development of the deathbed transfer in medieval English manor courts', Bonfield and Poos chart the acceptance in some manors of the 'deathbed transfer'.<sup>5</sup> This 'occurred when a tenant "languishing near death" or "on his deathbed" instructed a manorial officer or other person (usually in the presence of other manorial tenants or witnesses) regarding the devolution of his tenement on his death; those present then came to the next meeting of the manorial court and the tenement was transferred to

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<sup>3</sup> P.R.Schofield demonstrates the lacunae in the court rolls with regard to leasing in 'Land, family and inheritance in a later medieval community: Birdbrook, 1292-1412', unpubl. D.Phil. thesis, University of Oxford (1992)

<sup>4</sup> see J.Goody, J.Thirsk and E.P.Thompson, eds, *Family and Inheritance: Rural Society in Western Europe, 1700-1800* (1976), L.Bonfield & L.R.Poos, 'The development of the deathbed transfer in medieval English manor courts', *C.L.J.* 47 (1988), R.M.Smith, 'Coping with uncertainty: women's tenure of customary land in England c.1370-1430', in J.Kermode ed., *Enterprise and Individuals in Fifteenth-Century England* (1991), and *Select Cases in Manorial Courts 1250-1550: Property and Family Law*, ed. L.R.Poos and L.Bonfield, Selden Society 114 (1998), p.cxliv.

<sup>5</sup> *C.L.J.* 47 (1988) pp.403-427 [B.&P. Deathbed] The article is reprinted in Z.Razi and R.Smith, eds, *Medieval Society and the Manor Court* (1996), pp.117-142. Page references refer to the journal. The authors' recent discussion of the deathbed 'transfer' supplements rather than supplants their original argument, B.&P. *Cases* pp.cxxxvi-cxlv.

the intended beneficiary by the usual process of surrender and admission.'<sup>6</sup> If the intention to transfer land, expressed outside the court by a tenant on his deathbed, was as effectual as the actual surrender by a donor in court, then their analysis reveals a flexibility in 'customary law' which has important implications for the legal historian (or which highlights the flexibility of custom separate from notions of customary procedure being law). In addition, the social historian may conclude 'that lords were prepared to concede considerable freedom to their villeins in ordering familial and proprietary relations', given their willingness to accept 'the broadening of [villein] control over devolution occasioned by the deathbed transfer'.<sup>7</sup>

One of the authors' stated aims is 'to systematise the transmission options of customary tenants' with a view to 'speculating on the nature of the system of law implemented in manorial courts.'<sup>8</sup> If one is to speculate on the position of a particular type of legal transaction within such a system, then one must seek to define the transaction category at issue in terms both capable of systematisation and consistent with other known features of the system. The crucial question in this instance is whether it is the category 'deathbed transfer' or the category 'out-of-court transfer' which most usefully defines the transactions identified by Bonfield and Poos in the context of the manorial system of law. Their more striking conclusions regarding the effectuality of villein intentions expressed on the deathbed require that the 'deathbed transfer' be identified as a distinct legal device formulated for the purpose of such special flexibility. Yet, on purely logical grounds, one might suspect the 'deathbed' category as a merely *de facto* feature of the records, since, at the time the surrender was taking place, no one could know for sure whether this was really a deathbed (as opposed to a sickbed from which the individual might eventually rise); whereas the circumstances were manifestly (and apparently allowably) 'out-of-court'.

They characterise the 'deathbed' surrender as a transfer outside the court and necessarily via a third party, usually a manorial official. In speculating about the manorial system of law their repeated reference is not, however, to out-of-court third-party transfers, but to 'deathbed' ones. The reason for this significant terminological preference is not made explicit, though some explanation might be expected given their finding that 'in some manors out-of-court surrenders were countenanced even when the grantor was not on his deathbed'.<sup>9</sup> They offer no explanatory legal or social context either for

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<sup>6</sup> B.&P. Deathbed p.412

<sup>7</sup> B.&P. Deathbed p.427.

<sup>8</sup> B.&P. Deathbed p.405.

<sup>9</sup> B.&P. Deathbed p.419.

this or for the other cases they briefly note in which dying donors surrender 'without any explicit use of an intermediary'.<sup>10</sup> Such instances therefore remain anomalously outside their putative system.

It seems likely that it was the nature of their records which determined Bonfield and Poos to concentrate on a *de facto* distinction between 'deathbed' and what they term 'normal' transfers, rather than the possibly more *de jure* delineation of 'in-court' and 'out-of-court'.<sup>11</sup> Presumably neither the non-deathbed out-of-court transfer nor the deathbed transfer without intermediary featured very prominently in their material; and one wonders whether, had they done so, the resultant systematisation might have been different. They do themselves note the 'need for a much broader survey of manorial court jurisdictions before principles enumerated in cases can help historians to define the social relations of the medieval England [sic] peasantry'; and they thus imply that a narrower range of material is required to establish legal principles than is needed to define social relations.<sup>12</sup> (In other words that the 'deathbed transfer' can be established as a legal principle at least in those manors where it is found, but its social implications will only fully emerge from a wider range of studies.) When dealing with an area of scant research, scholars are obliged to draw on such few studies as are available; and, since their article remains one of the few major statements in the field, the particularities of their evidence can tend to be broadened, as it were by default, into a working definition of the manorial legal system in general. Thus, Richard Smith naturally refers to Bonfield and Poos' article on the 'deathbed transfer' as 'a recent study concerned with the legal theory of this device' as though its legal status as a device were firmly established. Smith cautiously refers to it as a 'development that can in some places be documented' but its citation in an article concerned with wider themes cannot but give the impression that the 'deathbed' category of transfer has a wider applicability than is necessarily demonstrable.<sup>13</sup> The point is that not only social but also legal definitions 'will only emerge from a wider range of studies'.

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<sup>10</sup> B.&P. Deathbed p.418.

<sup>11</sup> B.&P. Deathbed p.419, n.48.

<sup>12</sup> B.&P. Deathbed p.427.

<sup>13</sup> Smith, 'Coping with uncertainty', pp.44-45.



**Table 1: land transfers 1327-77**

Year	Sao	Sao l/x	Db sao l/x	Db sao	Total
1327	6	2	0	0	8
1328	0	0	0	0	0
1329	1	0	0	0	1
1330	39	15	0	0	54
1331	62	14	0	0	76
1332	4	4	0	0	8
1333	9	12	0	0	21
1334	40	27	0	0	67
1335	51	22	0	0	73
1336	19	6	0	0	25
1337	1	1	0	0	2
1338	26	12	0	0	38
1339	13	3	0	0	16
1340	27	2	0	0	29
1341	10	6	0	0	16
1342	11	4	0	0	15
1343	4	0	0	0	4
1344	6	0	0	0	6
1345	3	2	0	0	5
1346	10	1	1	0	12
1347	12	1	1	0	14
1348	22	4	5	0	31
1349	56	8	80	33	177
1350	64	0	12	0	76
1351	8	1	2	0	11
1352	5	1	3	0	9
1353	27	3	3	0	33
1354	28	5	3	0	36
1355	28	1	2	0	31
1356	29	4	9	0	42
1357	0	0	0	0	0
1358	0	0	0	0	0
1359	7	0	0	0	7
1360	21	1	2	0	24
1361	10	4	2	3	19
1362	39	14	14	2	69
1363	23	3	1	0	27
1364	8	2	0	0	10
1365	21	14	6	0	41
1366	25	3	4	0	32
1367	41	5	5	1	52
1368	5	0	0	0	5
1369	32	1	14	21	68
1370	14	1	1	0	16
1371	29	6	8	0	43
1372	3	0	0	0	3
1373	10	0	1	0	11
1374	2	1	0	0	3
1375	10	3	1	1	15
1376	13	4	4	0	21
1377	4	0	0	0	4
cl350	4	0	0	0	4
Total	942	223	184	61	1410

Note: sao = direct surrender *ad opus*, sao l/x = indirect surrender *ad opus*, db sao l/x = indirect deathbed surrender *ad opus*, db sao = direct surrender *ad opus*.

The court rolls of Wisbech Hundred might be thought to add significantly to this range (see Table 1), not least because they do evidence, during the reign of Edward III, a strikingly high proportion of the transfer types (non-deathbed out-of-court and deathbed without intermediary) which in Bonfield and Poos' Essex manors were rare. The Wisbech material demands that otherwise peripheral categories be made central to our understanding of 'the system of law implemented in manorial courts'.<sup>14</sup>

Taken together, these various records have yielded a total of 1,410 *inter vivos* land transfers: 942 in-court, and 468 out-of-court. Of the latter, 245 mention the deathbed. Whilst this figure is larger than Bonfield and Poos' 113 'deathbed transfers', it does not account for all out-of-court surrenders (52%). It will be objected that explicit mention of a deathbed is not the only evidence that a donor was on one: other, separate though contemporary notices of death might also be expected, and the citation of a widow soon after a transfer would obviously argue for its having been 'deathbed'.

To take the first of these possibilities, there is explicit statement of death for only 7.7% of the individuals involved in out-of-court surrenders which make no reference to a deathbed. In nine of these instances the transfer appears immediately adjacent to the entry recording the death. Typical of these is the entry for Robert de Schortfeld, who made an out-of-court surrender of land *ad opus* his daughters Joan, Eve and Emma and their heirs. Immediately after the entry of this transfer in the *curia* roll of January 1331 is the presentment by the Tydd homage of his death, and record of the admittance of his two sons William and Thomas as his next heirs.<sup>15</sup> In a tenth case, the statement of death appears in the following court session.<sup>16</sup> The record of death is tangential to the details of the actual surrender in another case. The entry for the out-of-court surrender by Adam de Tydd contains the additional detail that after Adam's death, his wife Alice and his son Robert come to court and take back the land, to

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<sup>14</sup> Wisbech provides an interesting case study of land transfers more generally. 'It is abundantly clear that the local land market had very different courses of development in different parts of medieval England....But the fact remains that when we look at the local land market in the Middle Ages we know far more about East Anglia than about north-west England, far more about the west Midlands than about the counties of the south-west.' Harvey, 'The peasant land market', p.400. Wisbech hundred sits on the periphery of both eastern England (high levels of free tenants in an area of loosened tenurial restrictions) and the classic commonfield Midlands (with lower numbers of free tenants and heavier seignorial control). See also C.Clark, 'Peasant society and land transactions in Chesterton, Cambridgeshire, 1277-1325', unpubl. D.Phil thesis, University of Oxford (1985).

<sup>15</sup> C8/2/23 Wis *Curia* 11.1.1331.

<sup>16</sup> C8/2/23 Wis *Curia* 15.2.1330 & 19.3.1330, Nicholas Mariot.

be held of the lord according to the custom of the manor.<sup>17</sup> If one looks to more indirect indicators of death, then there are few instances where a widow is cited within a short time of the surrender. One of these cases does, however, directly associate the death of the donor with the out-of-court surrender. Adam Hoppesthort surrenders 3 acres of land *ad opus* William son of Roger de Frenge and his heirs, at which point *Avelina que fuit uxor predicti Ade* comes and surrenders her dower in this land to William.<sup>18</sup> These examples might suggest that, if the donor did in fact die before the transfer could be made at court, then his death would also be recorded, either in the form of a deathbed surrender or a separate presentation of death. However, comprehensive analysis of all the transfers in the Wisbech rolls demonstrates that a convention of referring to death in all cases is not in fact reliably maintained across all courts.

It is feasible that the death of an individual may nonetheless be hidden from our view. The notification of death would not have been necessary for those who had transferred all that they had held of the lord, and no new entry fine would necessarily have been due if the donor had held jointly.<sup>19</sup> Similarly, citation of women in these records has derived largely from their involvement in the ale trade and land pleas. Judith Bennett has found that women tend to disappear from the brewing presentments once widowed, and Richard Smith has suggested that the increased incidence of formal examination of the wife in transactions involving land held jointly effected a reduction in the number of dower pleas: both findings would limit the visibility of widows in the Wisbech material.<sup>20</sup> Record survival, while not perfect, is not such as to suggest that non-extant records contain disproportionately more deaths than those which do survive.

Whilst such studies as this require that these cautionary issues be considered, it is nonetheless ultimately necessary to isolate some evidence firm enough to bear the weight of conclusive historical interpretation. Of the individuals involved in ostensibly 'non-deathbed' out-of-court surrenders, 47.6% appear in the rolls in other contexts at other times. Of these, 57% make at least one other appearance on later rolls and so must have surrendered out of court without dying.

How does one systematise the distinctions drawn by the Wisbech scribe between forms of transfer, and what is the nature of the

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<sup>17</sup> C8/2/26 Wis Hali 8.10.1333.

<sup>18</sup> C8/3/32 Wis Curia 17.12.1340

<sup>19</sup> R.M.Smith, 'Women's property rights under customary law: some developments in the thirteenth and fourteenth centuries', *T.R.H.S.* 5th ser. 36 (1986), p.186.

<sup>20</sup> J.M. Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock Before the Plague* (1987), p.123, p.162; Smith, 'Women's property rights', p.184.

customary procedures which they reflect? Bonfield and Poos highlighted the significance of their 'deathbed transfer' with regard to such procedure when they advanced the observation that the most remarkable feature of such transfers 'is that they reveal manorial courts prepared to accept a transfer of tenure that was initiated out of court.'<sup>21</sup> Thus the legally important factor in this category of transfer is the donor's absence from court; being on the deathbed is merely a reason for absence. The strikingly large number of 'non-deathbed' surrenders made outside the Wisbech courts inclines one to posit 'in-court' and 'out-of-court' as the preliminary categories in the envisaged 'system of law'. 'Deathbed' may have legal validity as a sub-category of 'out-of-court' or it may merely be an incidental circumstance which happens to dominate the records of some manors. In any case, another potentially significant characteristic of out-of-court surrenders demands consideration: they were made *indirectly*, almost always via the bailiff. They thus offer another possible pair of contrasting categories: direct surrenders and indirect ones. To further sharpen our focus on the system of manorial 'law', it will be necessary to decide whether these, any more than 'normal' and 'deathbed', may be taken as synonymous with 'in-court' and 'out-of-court' - or whether they are more properly sub-categories of one or the other broad type.

From the evidence of transfers recorded in the Wisbech rolls derives the hypothesis that all indirect surrenders (*per manus domini per manus ballivi*) represent cases of illness, on the basis that all surrenders which could not be made at court had to be made indirectly and in most cases reason for non-attendance would be illness. Pollock and Maitland imply this in their citation of an early fourteenth-century example of the bailiff 'deputising' for a tenant too ill to make a surrender in court.<sup>22</sup> One must presume in those cases where the donor was described as *languidus* (only one example) or *in lecto suo mortali*, that the donor was unable to attend court and therefore that the bailiff representing the lord's interests went to the donor.<sup>23</sup> If the donor recovered, or did not die until after the court session, the transfer would be recorded as an out-of-court surrender. If, on the other hand, the expectation that the donor was on his deathbed was realised before the surrender could be entered in the court roll, then the entry would record an out-of-court surrender on the deathbed. This is made clear in the entry recording the surrender *in lecto suo mortali* of Reginald

<sup>21</sup> B.&P. Deathbed p.414.

<sup>22</sup> F.Pollock and F.W.Maitland, *The History of English Law* (2nd edn, 1898) 1, p.591, citing case from F.W.Maitland ed., *Select Pleas in Manorial and Other Seignorial Courts*, Selden Society (1889) i. 126 (1301).

<sup>23</sup> C8/3/37 Wis Curia Bondorum 28.11.1348 Martinus de Reymersstone *languidus reddidit in manus domini per manus ballivi*.

Curteys of land to the use of Matilda 'who was the wife of the same Reginald,' the usual way of designating widows in these rolls.<sup>24</sup> Thus the distinction between indirect surrenders on the sickbed and indirect surrenders made on the deathbed is one of hindsight. Whether the surrender is made inside or outside the court is a *de facto* distinction; but the need for different procedure makes it in addition a *de jure* distinction. 'Deathbed' surrenders are merely *de facto*, because they require no procedural change which would distinguish them from other out-of-court surrenders; and in any case they are definable only with hindsight. It could justifiably be argued that absence due to severe illness is a legal category of transfer, but absence due to impending death is not - even modern medical science cannot predict with 100% accuracy the death of an individual.

Much that Bonfield and Poos write about the acceptance by the courts of the 'deathbed transfer' applies to the general acceptance of extra-curial surrenders. They were permissible because they remained within the legal context of surrender and admission in court, the separation of the original surrender and the final admission did not prejudice the lord's interests, neither his financial interests in the fines for admittance nor those to do with the recognition of his lordship. At Wisbech, the legal and practical mechanics of out-of-court surrenders centred upon the bailiffs of each vill; the bishop of Ely appears to have allowed surrenders outside his courts if, and only if, his bailiffs acted as intermediaries. If a written record of the land and intended recipients was made by the bailiff at the time of the surrender, none has survived; presumably such out-of-court surrenders were sufficiently infrequent for him to rely upon his memory. There are only two amercements for the concealment of out-of-court surrenders, once for a bailiff and once for a recipient. When individuals are presented and amerced for alienating land (i.e. not observing the 'normal' in-court procedures of land transfer) it is nowhere entered in the court roll that either the 'donor' or 'recipient' claim that the bailiff failed to bring an extra-curial surrender before the court.

The exclusive involvement of the bailiff (which may point to the strictness of the episcopal administration) was therefore the practical means by which out-of-court surrenders were accepted by the court. On the occasions when an individual's name is given as the deputy, these serve to emphasise the official nature of this rôle: Reginald Ingelot is cited as a deputy at the time of the plague and Geoffrey de Tydd appears as the intermediary in three transfers in 1350; both were bailiffs when the actual surrenders were made, but were no longer in office when the

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<sup>24</sup> C8/3/33 Wis Curia 20.11.1349 *que fuit uxor eiusdem Reginaldi*.

transfer came to be recorded.<sup>25</sup> There is only one example of someone other than the bailiff acting as deputy, and the terms in which it is recorded make it very much the exception which proves the rule of official participation in surrenders: Alice widow of Astam Edward surrenders *in lecto suo mortali in manu domini per manus Petri Gaunt loco B[edelli]*.<sup>26</sup> The involvement of the official provided testimony to the mental state of the donor, normally witnessed by the wider community in the court.<sup>27</sup> It was also a recognition that customary behaviour was more than just a matter of form: however conventional and formulaic the surrender to the lord may appear, the out-of-court surrender required the practical effort of requesting the bailiff's presence and thereby acknowledging the tie which bound the individual as tenant to his lord.

As has been noted, the bishop of Ely's administration was nothing if not tight, and it might be thought that none but the most exceptional circumstances would cause a deviation from an established practice like the bailiff's involvement in out-of-court surrenders. Bonfield and Poos note 'the extent to which demographic variables affected the outcome of devolution patterns in pre-modern society': to affect the procedures of devolution, especially in such an administration as the bishop of Ely's, would presumably require not so much demographic variation as demographic catastrophe.<sup>28</sup> The year 1349, of course, provided one.<sup>29</sup> In this year, for the first time, are recorded out-of-court surrenders which did not involve an intermediary. There are 33 deathbed surrenders without the bailiff. The events of this year therefore encourage one to hypothesise a further refinement to the 'system of law': the proper form of absentee surrender was via the bailiff and until 1348 illness and deaths were sufficiently infrequent for this to be practical in fact. The sudden increase in deaths from plague in 1349 made the involvement of the bailiffs in every case impossible; hence the emergence of direct surrenders on the deathbed. Previous to 1349, the demand for the bailiff

<sup>25</sup> Reginald Ingelot: C8/3/41 Wis Curia 21.12.1352. Geoffrey de Tydd: C8/3/40 Wis Curia 11.5.1350 & 19.7.1350.

<sup>26</sup> C8/3/38 Wis Curia 11.12.1349.

<sup>27</sup> When John Large made an out-of-court surrender in favour of his sister and her husband (his custodian), it was stated in court that he was *non compos mentis*. He was therefore brought to court and, *examinatus per constabularium in presencia totius curie inventus fuit ...[ms. torn] et consenciens et aduocans redditionem predictam*. C8/2/24 Wis Curia 8.8.1341.

<sup>28</sup> B.&P. Deathbed p.409.

<sup>29</sup> Plague reached Cambridgeshire in the March of that year, see John Aberth, 'The Black Death in the diocese of Ely: The evidence of the bishop's register', *Journal of Medieval History* 21 (1995), p.279. There are no halimote rolls extant for spring 1349 but the autumn records are littered with references to deaths: in the Elm roll, other than the listing of jurors, rent collectors and the few bakers, brewers and regrators, the majority of entries relate to the deaths of individuals. The text is also written by a new scribe. C7/1/7 8.10.1349.

to deputise for a donor had been greatest in 1334 when 27 indirect surrenders are recorded, 22 the following year. In 1349, this figure rises to 113, so it would hardly be surprising if the bailiffs were unable to attend surrenders by 33 of these individuals.

Thus the arrival of the plague precipitated a situation in which the broad legal category 'out-of-court surrender' was demonstrably divided into the distinct sub-categories, direct and indirect. Did this *de facto* adjustment to demographic circumstance give rise to a longer-term *de jure* adjustment of legal norms such that the direct surrender on the deathbed became more generally acceptable? The incidence of direct surrenders on the deathbed suggests that this is not the case. All of the 61 direct deathbed surrenders appear only in years of epidemic, highlighting the peculiar conditions which had permitted this form to be accepted.<sup>30</sup>

The events of 1349 had a practical effect on the implementation of customary law within Wisbech and reflect an albeit temporary loosening of the bishop's administration. The episode provides an illustration of how the historian can use an apparent disruption of established procedures to define more precisely the nature of those norms. It is instructive in this context to witness the slippage that occurs in the supervision of out-of-court surrenders. Just how tight this supervision normally was is demonstrated by the fact that, across all courts and throughout Edward III's reign, there emerge only 2 amercements for concealment of land transfers in the course of some 1,410 such cases. Just how disruptive the Black Death was is demonstrated by the fact that both of these relate to the plague years - as do two further (equally unique) cases of concealment which did not result in amercement. The amercements concern the indirect surrenders made by both John Faireye and Thomas Nel in 1350: in the first the intermediary Geoffrey de Tydd (the bailiff) is amerced 3d. for contemptuously concealing the land transfer and not presenting it, while in the second it is the recipient, Robert Fuller, who is amerced, also 3d.<sup>31</sup>

It is recorded that, in 1349, John Faireye died and that his heir was his son John, who was admitted to his father's holding of 18 acres, according to the customs of the manor.<sup>32</sup> In 1350, however, the court learnt that John Faireye had in fact made an indirect surrender of 2 acres on his deathbed in favour of his daughter Agnes. Agnes has now died, and therefore her heirs, her brothers William and John, come and are admitted to the land. Her title to the land surrendered by her father is therefore accepted by the court despite the fact that his

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<sup>30</sup> There are 3 in 1361, 2 in 1362, 21 in 1369 and 1 from 1375.

<sup>31</sup> C8/3/40 Wis Curia 11.5.1350 & 19.7.1350.

<sup>32</sup> C7/1/7 Elm Hali 8.10.1349.

surrender to her was never presented and she was never admitted in court.

One wonders why this transfer, since it was apparently completed successfully outside court, ever appeared in the rolls at all. The need to establish rights in land was just as much in the interests of the new tenant as the lord, and one can suppose that most individuals would want delivery of seisin to be recorded just as much as the lord demanded the transfer be made in his court. In order for the tenure of William and John to be accepted, the descent of right from father John to Agnes and from Agnes to them had to be rehearsed; they appear to have paid two fines - one for the *inter vivos* transfer, the other as heriot.

A similar explanation attends the appearance in 1352 of a transfer which had actually been made *tempore pestilencie*. In December 1352, Agnes widow of Robert Markannt is recorded as having surrendered in *lecto suo mortali tempore pestilencie*, 1½ acres of land with one cottage and appurtenances in Leverington, into the hands of the lord by those of Reginald Ingelot *ballivus*, to the use of Robert de Stonham and his heirs. He came to court and was admitted.<sup>33</sup> Why the delay between the event of the transfer and its record? The very next entry offers a clue: Geoffrey Sprot and his wife Clemencia are amerced 12d for forceful trespass against Robert de Stonham, Geoffrey being further found by the Leverington homage to be a common disturber of the peace. Three entries later, Geoffrey and Clemencia again appear, claiming 1½ acres of land, a cottage and appurtenances in Leverington against Robert de Stonham. They maintain that Clemencia derived her claim to the land from her ancestor Agnes, daughter of Robert Markannt, who had died seised in the land, a claim which Robert de Stonham denies. The inquest jury agreed with Robert, and the plaintiffs were amerced a further sixpence for their false plaint. Presumably Robert de Stonham had entered the land surrendered by Agnes, widow of Robert Markannt in 1349. Geoffrey and Clemencia had evidently based their claim to the land on the assumption that if any surrender had in fact occurred, it was ineffectual since there had been no formal admittance by the lord. It was this land plea, arising from the Sprot's forcible challenge to Robert, which resulted in the surrender being entered into the court roll and a 3s. fine levied for entry. It is perhaps notable that neither the bailiff nor the recipient in this case is amerced for concealment. One wonders whether we are observing an instance of social exclusion against the disreputable Geoffrey Sprot and his wife. The hasty presentment of the

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<sup>33</sup> C8/3/41 Wis Curia 21.12.1352.



transfer ahead of the Sprots' land plea, left the inquest jury with little option other than to reject the Sprots' claim.<sup>34</sup>

The Wisbech material has highlighted a legal and procedural distinction between in-court and out-of-court surrenders. Within this basic systematisation it has been possible to observe the emergence of a distinct sub-category of direct out-of-court surrender in 1349, distinct because the surrender was made outside the court and yet with no intermediary. In signalling the importance of the out-of-court 'deathbed transfer' in the broader context of 'customary law', Bonfield and Poos comment that it 'was tantamount to a bequest of land by will.' But, as they continue, 'it is hardly likely that such was the intention of the customary court. In a technical sense, the court was merely accepting a new conveyancing technique, rather than unilaterally transforming itself into an arena of probate jurisdiction'.<sup>35</sup> Yet the burden of their article is that, in some presumably non-technical sense, the system of law was moving in this direction. They aim to trace the development of the 'deathbed transfer' as the central theme of a wider progress towards autonomous villein devolution by means increasingly like the modern will. For them the ability to alienate land, together with legal freedom to defer land transfers until the very moment of death, permit the formulation of full-blown 'inheritance strategies'. If this were indeed the motivation for changes to the 'system of law implemented in manorial courts', and the 'deathbed transfer' was adopted as a means to this end, then it could justifiably be seen as the defining category of the evolving system. As with much apparent progress, however, it is not clear that these priorities would have been recognised by participants at the time: in Wisbech about half of all out-of-court surrenders seem likely to have been made by donors who did not die, and of these more than one quarter demonstrably so. I have suggested the sickbed as a more all-encompassing factor in such surrenders, but so numerous are non-deathbed out-of-court surrenders that one wonders whether they were not permissible in other circumstances.

Bonfield and Poos broadly characterise the 'deathbed transfer' as occurring when the dying tenant 'instructed a manorial officer...

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<sup>34</sup> In 1349, Robert had actually inherited a homestead containing an acre and a rood of land in Leverington from Agnes Markannt (probably the widow rather than the daughter - he had surrendered a rood in Leverington to the widow in 1347). Why she made a deathbed surrender as well is not clear - perhaps she hadn't and the Sprots were right after all, for the same tenant rarely receives land through a deathbed surrender and inheritance from the same donor. Two years after his successful land claim, Robert is noted as a pauper, so any landed resources he had must have been valuable to him. C8/3/37 Wis Curia 16.7.1347, C8/3/38 Wis Curia 18.9.1349, C8/3/42 Wis Curia 26.4.1354.

<sup>35</sup> B.&P. Deathbed p.417.

regarding the devolution of his tenement on his death<sup>36</sup>; but neither the Wisbech rolls nor, on the face of it, their Essex ones, offer scope for so revolutionary a notion. In the Wisbech villis the language of the surrender takes, with remarkable consistency, one of three possible forms: *x reddidit in manus domini unam acram terre ad opus y*; *x reddidit in manus domini per manus ballivi unam acram terre ad opus y*; *x reddidit in lecto suo mortali in manus domini per manus ballivi unam acram terre ad opus y*. (The one major exception to this pattern occurs, as has been noted, in 1349, when the direct deathbed surrenders take the form, *x reddidit in lecto suo mortali in manus domini unam acram terre ad opus y*.) Bonfield and Poos offer 'an example of the legal form of the "deathbed transfer" at its simplest' as it appeared in their Essex manors: *Johannes Clerke languens in extremis extra curiam ante istam curiam secundum consuetudines manerij sursumreddit [sic] in manum domini per manum Thome Parant tenentis in presencia aliorum tenentium domini unum tenementum custumarium cum pertinentiis vocatum Smertes ad opus Katerine uxoris eius*.<sup>37</sup> The only substantive difference between the form of the Essex and the Wisbech examples is the striking formulaic brevity of the latter, suggestive of a firmly established range of legal devices appropriate to clearly understood circumstances.

The donor is in fact said to have surrendered, on his deathbed, by the hand of the bailiff. The surrender surely took place before death, by the agency of the official. The subsequent court at which it appears simply records the surrender as having taken place: it does not belatedly enact the surrender by the will of the deceased. What is being expressed is the intention that the transfer the donor has initiated by his surrender be completed in court through the admission of the recipient. The completion of the transfer is not conditional upon his death: indeed there were other, more appropriate, mechanisms established whereby such a conditional surrender might effectively be achieved if desired. As Bonfield and Poos themselves note, the donor could, for example, surrender 'the property to the lord and [receive] it back as tenant for life with remainder to a specified individual'.<sup>38</sup>

The courts are indeed accepting 'a transfer of tenure that was initiated out of court'<sup>39</sup>, but the transfer has been initiated not by will but by the first stage of 'the usual process of surrender and admission' already having taken place.<sup>40</sup> The court therefore records the surrender and enacts the admission, thereby completing the transfer.

<sup>36</sup> B.&P. Deathbed p.412 my emphasis.

<sup>37</sup> B.&P. Deathbed p.412.

<sup>38</sup> B.&P. Deathbed p.410.

<sup>39</sup> B.&P. Deathbed p.414.

<sup>40</sup> B.&P. Deathbed p.412.

Bonfield and Poos note that 'the terms of the transaction' suggest a contemporary consensus that the official 'was merely the conduit or intermediary through which the presumptive interest passed from dying donor to recipient.'<sup>41</sup> The terms of the transaction, both in Cambridgeshire and (though in slightly different words) in Essex, were *reddidit in manus domini per manus ballivi*. Thus the official was surely the conduit not between donor and recipient but between the donor and his lord. That 'the declaration had some legal effect' is therefore no mystery: it had the effect of surrendering the land to the lord. This is why, in the case they cite from Bocking (Essex), John and Margery Gray had to pay a fine to regain their status in a tenement which Margery had surrendered when languishing near death.<sup>42</sup>

Whether a surrender were in or out of court it had to be made absolutely, there and then. In neither situation could an individual propose a settlement which was to take effect at some later time (not even if he expected to die the very next day). Without this freedom to make *future* provision any approximation to a will must be a construct of historical hindsight. If one seeks to imagine the actuality of surrender it was surely the presence of the manorial official which most strongly emphasised the correspondence between in-court and out-of-court surrenders: if the surrender could not be made here and now in court then it should be made here and now to the bailiff.

This reflection casts an interesting light on the out-of-court surrenders uncovered at Wisbech which did not involve the bailiff: without his presence the surrender could not take immediate effect. All a donor could presumably do was express before witnesses his will that a certain devolution be enacted in a subsequent court. The 61 direct 'deathbed' surrenders thus represent the closest approximation to testamentary provision of land which we seem likely to encounter in this period. And its unacceptability is amply demonstrated by the speed with which the practice was ended as soon as circumstances allowed.

### The 'back-to-back' transfer

The Wisbech data permit the broad categorisation of *inter vivos* transfers into in-court and out-court surrenders, and distinguishing between direct and indirect surrenders. There is a further type of transfer which demands examination. A transfer consists of the surrender of and the admission to land. In this type, one transfer comprises two surrenders and two admissions.

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<sup>41</sup> B.&P. Deathbed p.416.

<sup>42</sup> B.&P. Deathbed p.416.

There are 58 'back-to-back' transfers, whereby the record of one transfer is immediately followed by another in which the recipient of the first now makes a surrender either of the same land or a related amount. Generally, such transactions form pairs of transfers, but there is one original surrender which is followed by two surrenders and another by four surrenders, the land being divided into two or four separate parcels. To some extent the pairs of transfers may coincide merely because the court has only now become cognisant of out-of-court surrenders, or alienations, which had been separate in time. In such cases it would be necessary to record the transfers together in order to trace the pattern of landholding. In February 1354, William de Wardale surrendered an acre and appurtenances in Wisbech *ad opus* his son Robert, who came to court to be admitted, and paid the fine for transfer of 15d. The next entry states that the same Robert surrendered the same land for Richard de Sutton, again the latter was admitted and another fine of 15d was charged.<sup>43</sup> A month earlier however, the acre which William had alienated to his son Robert and the same Robert then to Richard was still to be retained in the lord's hands.<sup>44</sup> None of the other 57 original surrenders appear from the records to have been alienations rather than regular surrenders, and they have therefore been taken to reflect a double transfer with immediately consecutive surrenders.

All these related transfers can be set within five categories:

x to y to x + z

x + z to y to x (+ a)

x to y to x

x to y to z

x to y to relative of x

The first two categories can be explained by the need to create a change in the way that the original donor (x) holds land, and there are eleven original surrenders (five falling in category 1, six in the second category). The rearrangement tends to take the form of two transfers paired in the court roll because the tenant is unable to surrender the land to himself. Thus John Eyr surrenders land to the use of Robert Eyr who then surrenders the same land to John Eyr and his wife Margaret.<sup>45</sup> Similarly, ten perches of land with a cottage are transferred to Thomas Jekel from Nicholas de Wyrnefeld and his wife Joan, who is on her

<sup>43</sup> C8/3/42 Wis Curia 24.2.1354.

<sup>44</sup> C8/3/41 Wis Curia 8.1.1354 Above both Robert's and Richard's name was the note '15d' and then *quia bis*, as if to explain that this was two separate transfers.

<sup>45</sup> C8/4/51 Wis Curia 31.7.1371.

deathbed. The next entry records that the same Thomas surrenders the same land for the same Nicholas.<sup>46</sup> Seven, probably eight, of these transactions involve married couples, and this highlights the way such pairs of transfers reflect the change in the tenure of the original donor. A husband could not directly transfer land to his wife after marriage, since any land she held would be jointly held by the two of them. Yet, such joint tenure was potentially of benefit to the wife; the wife who held jointly with her husband would continue to hold the entire landholding on his death rather than a portion as dower. When the right in land originated with the woman, this was held jointly by husband and wife once married, and on her death, unless the husband held by courtesy, right in the land would pass to her heirs. Therefore, such transfers as initiated by Nicholas and Joan Wyrnefeld, were designed to give Nicholas full rights.

The use of back-to-back transfers in order to create joint tenure thus benefited either husband or wife: widows would have more than the customary dower, while widowers could remain as tenants without rights in the land passing to the customary heir(s) of the wife immediately after her death.<sup>47</sup> As some of the claims set out in dower pleas bear witness, some husbands acted as if they had full rights themselves anyway. However, the four recorded instances in which seisin is transferred from husband and wife to husband alone, point to such double transfers occurring only when the wife was dying. Emma, wife of Simon Blac, Margery, wife of Richard Baron and Joan the wife of Nicholas de Wyrnefeld are all explicitly stated as being *in lecto suo mortali*; the fourth, Adam Cade's wife Margaret, makes her surrender *per manus ballivi*; this surrender dates from 1335, before such reference to the deathbed had become established recording practice among the Wisbech scribes.<sup>48</sup> Adam and Margaret had surrendered land to the use of John Chamberleyn, who then surrendered the same holding to Adam, Adam's son John and John's heirs. The terms of this transaction, along with the fact that Margaret had agreed to the surrender, suggest that right was being extended to provide for the husband after the wife's death, and then for their successors. Such transfers inserted the widower's right to tenure in the chain of successive rights in which the wife was a link. And when Richard Baron and his wife Margery initiated the change in tenure to benefit the widowed husband, this was not to be a change

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<sup>46</sup> C8/3/38 Wis Curia 20.7.1349.

<sup>47</sup> Provision for widows is always termed 'dower' in the Wisbech rolls, not free bench, and it would appear to be a portion of the husband's holding rather than the whole tenement. For a similar finding see B.&P. Cases p.cxxi n.1.

<sup>48</sup> C8/3/37 Wis Curia 22 Edward III; C8/4/49 Wis Curia 29.11.1367; C8/3/38 Wis Curia 20.7.1349; C8/2/27 Wis Curia 1.2.1335.

which was to affect the descent of right permanently: Richard was to hold for his lifetime only, presumably after which time right passed to Margery's customary heirs. Similarly, Simon Blac and his wife Emma surrendered land *ad opus* Robert de Borewelle, who initiated the transfer of part of this holding to Agnes their daughter, and the rest back to Simon to hold with sons William, Thomas and Robert. The fact that these transfers were only made when the wife was clearly on her deathbed points to a respect for the property rights of wives, also evidenced by the numerous instances on which land was surrendered by couples with the wife's consent to the surrender of her rights being ascertained by examination by the seneschal, or bailiff if she was out of court.<sup>49</sup>

Such back-to-back transfers are representative of the categories which reflect a change in the tenure of the original donor, or of one of the original donors. The change required a pair of transfers - and each intermediary is clearly stated as having come to court and been admitted to hold the land - because donors could not surrender land to their own use. The same is true for the transfers which can be classed according to the third type, *x* to *y* to *x*. Three roods were transferred from Alice Roger to John Banchonn in July 1350, with a lifetime interest then transferred back to Alice, and remainder to John and his heirs. The fine for the second transfer is half that for the first.<sup>50</sup> This may have been a way of ordering the succession to a holding which would bypass the customary heir: Alice continued to hold the land until her death, when John Banchonn would enter. Yet, it was not always necessary for such arrangements to involve two transfers. Adam *filius Juliane* surrendered half an acre with 20 perches to the lord. Formally at least this was for the lord to do as he wished, but seisin was handed back to the same Adam for his lifetime; after his death the land was to remain to his daughter Joan and her heirs.<sup>51</sup> Both may have been bypassing the customary heir, probably Joan's brother in the latter case, but it is unclear why Alice Roger did not surrender the land to the lord in a similar fashion. Possibly this pair of transfers represents a type of maintenance agreement: title of the land passed permanently to John, but Alice was to derive benefit from the land for the remainder of her lifetime.<sup>52</sup>

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<sup>49</sup> *JT redd' in manus domini et A uxor eius examinata et concensa per manus ballivi; WD per manus ballivi et K uxor eius in propria persona sua examinata et concensa redd' in manus domini; RS in propria persona sua et A uxor eius in lecto suo mortali examinata redd' in manus domini* C8/3/42 Wis Curia 26.11.1354, C8/3/45 Wis Curia 3.6.1361, C8/4/50 Wis Curia 16.2.1369.

<sup>50</sup> C8/3/40 Wis Curia 19.7.1350.

<sup>51</sup> C8/2/23 Wis Curia 4.7.1330.

<sup>52</sup> On his deathbed John Robert surrendered land *ad opus* Thomas Smult, who agreed that *vestura terre predictae predicto Johanni remaneat*. Presumably

This third category may actually represent *exchanges* of land, rather than *changes* in tenure of the same land. William Snell surrendered three roods with a cottage and appurtenances in Tydd for Geoffrey Manning, a shilling fine being paid. One rood with a cottage and appurtenances in Tydd were then transferred from Geoffrey to William, with a sixpenny fine levied.<sup>53</sup> The consecutively recorded transfers suggest exchanges of land, and the record of the transfers made between John Palmer and his brother Roger actually use the word exchange (*in excambium*).<sup>54</sup> Possibly they were the result of changes in lifecycle, with older tenants seeking more manageable holdings. The notion of an exchange might also apply to the pair of surrenders made by Adam *filius Ricardi* Gilling and his brother Andrew, but the evidence is less clear; it is the same amount of land which is recorded in both instances but it is not noted whether the land itself is the same.<sup>55</sup> In one other case damage to the manuscript hinders an understanding of the full details. Nonetheless it is apparent that after Alan Taillour and his wife had surrendered a cottage in the old market at Wisbech to Reginald de Lenne *clericus*, the same Reginald surrendered the same cottage back to the couple, their heirs and assigns.<sup>56</sup>

The remaining two categories of back-to-back transfers are quite different, creating neither a change in the original donor's way of holding nor an exchange of land. They are, perhaps, the more interesting or perplexing; there are 27 of the type x to y to z, and 15 of the type x to y to relative of x. The number of these types of back-to-back transfer constitutes a tiny fraction of all transfers recorded in the rolls, but some significance must nonetheless be given them.

Possibly, they bear witness to chains of indebtedness. Cecily *filia Petri* Gyrdyn quitclaimed any right she had in 30 perches of land with a cottage and appurtenances in Tydd to John Cachop and Nicholas Clerk, who then surrendered it to the use of Nicholas Warner.<sup>57</sup> Cecily had just paid a sixpenny amercement in order to settle out of court her land plea against John. One can therefore speculate that the conclusion to this plea and the quitclaim might have been connected, perhaps Cecily's claim was preventing the actual surrender of rights to Nicholas Warner. Although it is difficult to surmise from the surviving evidence

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this was to provide for any surviving widow and family since John himself had died when the transfer was recorded. C8/3/38 Wis Curia 10.6.1349.

<sup>53</sup> C8/3/40 Wis Curia 15.6.1351.

<sup>54</sup> C8/2/23 Wis Curia 4.7.1330.

<sup>55</sup> C7/1/4 Lev Hali 4.5.1340.

<sup>56</sup> C8/2/30 Wis Hali 27.4.1338.

<sup>57</sup> C8/4/44 Wis Curia 24.1.1360.

the nature of any such determining relationship between the parties cited in the back-to-back transfers, it is apparent that similar explanations can nonetheless be posited to link some of the double transfers.

There are 27 surrenders which are followed by the transfer of the same land to a person or persons apparently unrelated to the original donor. A search of the records has found little with which to link any of the parties involved; what little there is, however atypical, does throw an interesting light on a possible characteristic of these transfers. Fifteen of this group of original surrenders are made by donors known to have been on the point of death. Robert *filius Gilberti* de Borewelle, on his deathbed, initiates the transfer of an acre to Thomas the son of a different Gilbert de Borewelle, Thomas' brother John and their heirs. The two come to court and are admitted to hold the land, but in order to sell it.<sup>58</sup> Immediately the land is transferred to Nicholas Gryme and his heirs. As a result of another deathbed surrender, by Richard attemersh, Peter attemersh transfers two acres to John Cachop who agrees that he or his heirs will sell the land to pay the debts of Peter.<sup>59</sup> The flexibility of court procedure at the time of severe mortality is here highlighted by the fact that, for the purposes of tracing the succession of tenants to a holding, Peter was admitted as the new tenant even though he too was on his deathbed and unable to attend court. The same court roll contains earlier evidence of another transfer between Peter and John Cachop, again one made on the deathbed although any similar conditions to the transfer are not made explicit.

In January 1334, William de Marche and John Broun surrendered three acres and three roods of land in Bargecroft in Wisbech to Richard *filius Roberti* Broun.<sup>60</sup> They had only just been admitted to hold this land following the surrender by John Curteys, known to have been on the point of death; at the following court session both William and John acted together, as the executors of Alice Derby.<sup>61</sup> John Curteys had actually died in the previous November and it is therefore feasible that his surrender *ad opus* William and John came to be recorded in the roll for January once they had ascertained how best to settle any of his debts or to whom the land should be sold, if indeed they were his executors. Reference to executors is rarely made in this collection of records, and often it is the widow who acts in this rôle. Indeed, John Curteys had also made a surrender of four acres of land to his widow

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<sup>58</sup> C8/3/38 Wis Curia 20.7.1349 *qui veniunt et admissi sunt etc. ad vend[endum] dictam terram etc.*

<sup>59</sup> C8/3/38 Wis Curia 20.7.1349.

<sup>60</sup> C8/2/26 Wis Curia 18.1.1334.

<sup>61</sup> C8/2/27 Wis Curia 15.2.1334.



Rose and John de Borewelle. These two then proceeded to divide this into four separate holdings, surrendering the land *ad opus* four different men.<sup>62</sup>

In 1367, Richard Pykelyng on his deathbed, surrendered an acre of villein land with a cottage and appurtenances in Wisbech to John *filius Hugonis* Symple, who immediately transferred the land to Agnes de Hecham.<sup>63</sup> Two years before, Agnes had transferred, via the usual surrender and admission procedure in court, what may have been the same amount of land to Richard and his heirs.<sup>64</sup> The court rolls are not forthcoming on the complexity of ties which might have connected all three parties, but it is possible that John may have been acting as some kind of intermediary between Richard and Agnes. It is conceivable, in terms of different transfer procedures, that out-of-court surrenders which did not involve the bailiff might have been accepted if the non-official conduit was admitted as an intermediary tenant. Because the bailiff acted as the lord's deputy there could be no issue of seisin; tenants of the lord, however, could only surrender land in which they had right, which they had absolutely or not at all. Thus, they had to be admitted to the land the original donor had surrendered, or expressed an intention to have transferred, before the transfer to the final recipient could take place; and an extra fine for transfer could be gathered as a way of licensing this facility. However, it is unlikely that these back-to-back transfers actually represent a distinct category of transfers in this way. Of the 42 original surrenders in categories four and five (x to y to z, x to y to relative of x), twenty are indirect surrenders anyway - *in manus domini per manus ballivi*. Further, out-of-court surrenders which did not involve the bailiff were permissible in certain circumstances - the direct deathbed surrender during times of plague; and there are ten other pairs of transfers which take this form.

If the back-to-back transfer does not represent a distinct category of transmission options in the sense of permitting out-of-court surrenders without official representation, there is nonetheless a sense in which some of these transfers are different from other types of transfer. The example of Thomas and John, sons of Gilbert de Borewelle, receiving land from the dying Robert *filius Gilberti* de Borewelle in order to sell it, points to the intermediaries having perhaps some sense of the wishes of the original donor. The fifteen surrenders which are followed by transfers to relatives of the original donor suggest this

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<sup>62</sup> C8/2/26 Wis Curia 24.11.1333 and Wis Curia 18.1.1334.

<sup>63</sup> C8/4/49 Wis Curia 2.9.1367.

<sup>64</sup> C8/4/48 Wis Curia 26.3.1365.

more strongly. Such relatives might have been the more ready purchasers of land, particularly if this would add to land already held in the same field. However, if the original donors had wished to aid these relatives in this manner, they could more conventionally have surrendered the land to their use in the first place. Walter de Reymerstone made an indirect surrender on his deathbed of three acres with appurtenances in Elm to the use of John Cuttecope; the latter was admitted, paid the three shilling transfer fine, and then proceeded to have the same land transferred to John *filius Walteri de Reymerstone*.<sup>65</sup> The two entries which follow these back-to-back transfers record that the same Walter made two other deathbed surrenders: 12 perches of villein land with a cottage and appurtenances in Elm, in *Tounfeld* next to the messuage formerly belonging to Simon Rat, for his daughter Matilda and her heirs; and another 12 perches with a building and appurtenances in the same field, this time next to the common drove-road called *Cotelsdroue*, to his son John.

We are left with the paradox of deciding what link can be traced between the original donor and the ultimate recipient. If Walter de Reymerstone intended the three acre holding to pass to his son John, then there must have been some reason for transferring it first to John Cuttecope. The lord was concerned when free tenants took over unfree holdings and care was taken to record the fact that such tenants held *per virgam* or *in villenagio secundum consuetudines manerij*. All three surrenders by Walter involved *terre native* and a legal/procedural barrier against the transfer of land between father and son obviously did not exist in the case of the smaller holding. It seems highly improbable that a tenant would be unable to transfer a particular holding to his own offspring. Why did Walter not transfer the first holding directly to his son? The original surrender for John Cuttecope may have been as repayment of a debt, and John Cuttecope then decided to liquidate this new asset by selling it to Walter's son John, possibly keen to consolidate his holding.

In eleven, if not twelve, of the pairs of transfer which follow from the surrender by the original donor, the final recipient is the donor's widow. Further evidence referring to one of these cases, and to another back-to-back transfer where the original donor is apparently unrelated to the final recipient, gives rise to the suspicion that what was being recorded in the court roll differed from what was happening on the ground. In January 1362 when on his deathbed, John Delly had surrendered indirectly via the bailiff half an acre and a rood of land with a cottage and appurtenances in Tydd to the use of Peter Gaunt and

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<sup>65</sup> C8/4/50 Wis Curia 28.8.1369.

his heirs. Having been admitted as the new tenant, Peter then surrendered the same land, tenement and appurtenances to the use of Amicia, the widow of the same John Delly and her heirs, and she came to court and was likewise admitted.<sup>66</sup> John's executors were his widow and Peter Bawer/Baurwe. Thirteen years later, the same Amicia came to court to claim admittance to three roods which had been retained in the lord's hands following the unlicensed sale by William Delly and Peter Delly (alias Gaunt).<sup>67</sup> She claimed that in the court of 17 January 1362, her husband had made the deathbed surrender and that the same Peter had, at the same court, surrendered it to the use of herself and the heirs of her late husband. Possibly, she possessed a copy of the court roll: rather than appeal to the jurors of the homage for verification, Amicia asked that the court roll itself be used to prove her claim. Certainly, the record of the court was examined at this session in November 1375 and found to corroborate her tale. As a result, curiously, *dominus de gracia sua speciali dictam terram predictae Amicie liberavit*. In the margin a fine of a shilling is noted, apparently as a fine for entry although it may have been levied in order for confirmation to have been sought in the court's records. If the former, then it is surprising, as is the fact that the special grace of the lord is given, when it appears obvious that right in the land belonged to Amicia.

The story is complicated further. The following entry in the roll for the 1375 session records that William Delly grants to Peter Delly/Gaunt and his heirs and assigns, the reversion of the three roods and 20 perches of land in Tydd which Amicia holds for her lifetime. The possibility emerges from combining this data that the original back-to-back transfer as recorded in the court roll does not accurately portray the actuality of possession, apparently so important to the lord. In practice, how many of the widows really took responsibility for the land they are recorded as receiving from the surrenders which followed their husband's original transfer? Were these subsequent surrenders to the use of the widows provisional for the widow's lifetime? One is loathe to take such a sceptical view of the language of the court roll; it served both the interests of the lord and the tenants concerned for record to be made of any such conditional transfers. Indeed, the land in which William Fuller and Benedict Sees had been admitted following the surrender by Thomas Couper, was then transferred to Thomas' widow but only for her lifetime.<sup>68</sup> The same condition was set on the transfer of

<sup>66</sup> C8/3/45 Wis Curia 17.1.1362.

<sup>67</sup> C8/4/54 Wis Curia 20.11.1375 The full identity of the purchaser is prevented by the damage to this manuscript and the record of the previous session is no longer extant. The surname, however, of this buyer was Barwe - see the name of John Delly's executors above.

<sup>68</sup> C8/3/46 Wis Curia 25.7.1362.

land by Geoffrey Proude to Alice, the widow of John de Norfolk, the original donor.<sup>69</sup> Significantly, the fine for the second transfer was lower than for the first, perhaps in recognition of the limited rights of Alice.

John Delly's widow Alice may have vouched the court roll because this had become the more common practice by 1375, compared with appealing to the knowledge of the jurors. Equally, this may have been the quickest and easiest way of ascertaining with whom seisin lay: if she held the land in name but sublet it to others more capable of working it, then exploiting local knowledge might have been comparatively difficult. A similar situation may have arisen after the transfers between John de Walpole and John Streyth, and then the latter and Alice Makesake. On his deathbed in 1362, John de Walpole surrendered indirectly six perches of land and part of a cottage with appurtenances in Elm for John Streyth.<sup>70</sup> This new tenant then surrendered the same holding to the use of Alice Makesake and her heirs, and she was similarly admitted. Seven years later, John Streyth died; following the presentation of his death by the homage of Elm, Alice attended the court of July 1369 and asked that the court roll be examined to prove that she was the tenant of the land in which John had allegedly died seised.<sup>71</sup> She claimed that she held the land by virtue of the surrender that John had lately made to her, at the same January session in 1362 whose record contains the details of John Delly's original surrender.<sup>72</sup> The record of the court was found to contradict the jurors' presentment and the land was therefore handed back to Alice, this time without fine - she had paid a fine for the original transfer in 1362.

Possibly, like Amicia, John Delly's widow, and potentially any other widowed tenant, Alice sought practical help in managing her land, but this did not leave her without right of seisin. The court roll provides evidence of title not performance of day-to-day cultivation of the land. The chain of reasoning is somewhat complicated, but is possible that Alice's position as tenant had been recognised earlier in the year. In January 1369, Simon Rat was recorded as having made two indirect deathbed surrenders of land in Elm, the first holding lying in Spitelfeld next to the land of William Dauntro, and the second lying in Walesfeld next to that of Alice Makesake.<sup>73</sup> John de Walpole too had made two deathbed surrenders in 1362: that to the use of John Streyth, and

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<sup>69</sup> C8/4/49 Wis Curia 29.11.1367.

<sup>70</sup> C8/3/45 Wis Curia 17.1.1362.

<sup>71</sup> C8/4/50 Wis Curia 19.7.1369.

<sup>72</sup> Notably, both surrenders were made and recorded during a vacancy.

<sup>73</sup> C8/4/49 Wis Curia 18.1.1369.

then other land to the use of William Dauntro.<sup>74</sup> Possibly, therefore the land by which Simon Rat's was referenced was the same land held previously by John de Walpole.

When John Wynnok and Adam Caze transferred land surrendered for their use by Robert *filius Ade* on his deathbed, to his widow and three of their children, any reversion subsequent to the failure of legitimate heirs, was to the heirs of Robert, not to either of the intermediary recipients.<sup>75</sup> Assessing the weight of interpretation which one entry can bear is extremely difficult. It is certainly tempting to regard as significant the way in which this pair of transfers has been recorded. The first relevant entry in the *curia* roll appears quite conventional in stating that Robert, on his deathbed surrendered directly a messuage and an acre of land with appurtenances in Leverington to John Wynnok and Adam Caze and their heirs, who came to court and were admitted. However, the scribe had originally described the transfer, which was presented by the Leverington homage, as being *ad opus Agnetis uxoris eius et*, before crossing out these words and continuing with the names of John and Adam. In the second entry, the two recipients are now recorded as surrendering the same land for Robert's widow Agnes and Amicia, Margery and John, Robert's children. Again the record has been altered: originally the entry concluded that the land was to be for the use of the widow, children and their heirs, and that they came through the actions of John Wynnok and were admitted. The amended version reads that it was the legitimate heirs of the three children, and that if they died without such issue then the land was to remain to the heirs of Robert in perpetuity. The amendments and the presence of a single fine of two shillings in the margin to apply to both transfers, suggest that Robert's surrender was intended to benefit his wife and children, but that it was necessary to involve the two intermediaries. The linking of two transfers by one fine can be found elsewhere. When three roods of land with a building and appurtenances are transferred from John de Walpole to William Dauntro and then on to Geoffrey Bretonn, there is one fine of a shilling and the note of this in the margin links both transfer entries.<sup>76</sup>

Deciphering motivation behind actions and relationships between all the parties is impossible from the information in the rolls. Katherine *filia Ricardi* Gilling surrendered half an acre lying in Ferthingfeld to the use of John Reynald, chaplain, Robert Mayheu and their heirs. They then surrendered the same land to be held by Henry

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<sup>74</sup> C8/3/45 Wis *Curia* 17.1.1362, C7/1/8 Elm Hali 21.4.1362.

<sup>75</sup> C8/3/45 Wis *Curia* 22.9.1361.

<sup>76</sup> C7/1/8 Elm Hali 21.4.1362.

Lenne.<sup>77</sup> Perhaps, Katherine intended this Henry to be the final recipient of the land, since the half acre holding lay next to his land; in which case she may have given rather than sold it to John Reynald and Robert Mayheu in order that they might then sell it to Henry (he might be eager to consolidate his holding) with the sale providing cash for a charitable bequest. Whatever her intentions or link to the subsequent transfer, it is apparent that once Henry Lenne had been admitted to the land, he too surrendered it immediately, to Nicholas Wortheyn. In fact, because he did not come to court following the surrender by John and Robert, the land was seized into the lord's hands and the two donors had to pay six pence in order to take it back from the lord before they could surrender it, and this was on top of the shilling transfer fine paid originally.<sup>78</sup>

The multiplicity of evidence from such a small sample of all transfers makes the task of understanding back-to-back transfers problematic. With regard to the transfer type x to y to relative of x, it has already been seen that a more direct means of transfer was possible, indeed much more common. Husbands were not prevented from surrendering land, whether indirectly and directly, from the deathbed to their wives for outright or conditional tenure; and the possibility that intermediary tenants were acting as non-official conduits for land surrendered directly but outside of the court has also been discounted. Similarly, the question of feoffments to uses does not seem relevant (although this would provide a link with what was happening with free tenancies): the husband did not need to entrust his feoffees with transferring the land to his beneficiary, for the same reason that the *inter vivos* surrender had all the same advantages of avoiding dues associated with death and *post mortem* transfer. In any case, what evidence there is of enfeoffments in these rolls suggests that it was a practice unapproved by the lord.<sup>79</sup>

That so many widows are the final recipients in this type of transfer needs explaining. If it was the intention of the dying husband for his widow to be seised in more than her customary dower, then an explanation needs to be found for why the transfer was not more direct. Rather than have her acquire part of a holding as her dower, the whole holding comprising 11 perches and half a cottage was surrendered by Gilbert Oky on his deathbed to his wife and only after her death was it

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<sup>77</sup> C8/4/51 Wis Curia 4.7.1371.

<sup>78</sup> C8/4/51 Wis Curia 31.7.1371 it was also noted that the same Katherine had indirectly surrendered another holding which lay in *Langemedowes* next to the land of John Gilling to the use of the same John Gilling.

<sup>79</sup> J.H.Baker, *An Introduction to English Legal History* (3rd edn, 1990) pp.284-5

to revert to his heirs. This is effected by one transfer not a pair of back-to-back surrenders.<sup>80</sup> Similarly, if double surrenders were part of one transfer but separated to reflect a holding in trust as it were by the intermediary for the final recipient, this has to be set against the actual words of the court roll - both those that explicitly state the subsequent transfer is conditional upon the widow's lifetime, and more importantly, that each new tenant is admitted to hold the land. The system of landholding would collapse if secure tenure was impossible, both from the point of view of the tenants themselves and of the lord; the episcopal administration required the knowledge of who to tax for labour services for example, even once land had been leased note was made of whether it was the lessor or lessee who was to perform such work.

The back-to-back transfers which fall into the first two categories can clearly be seen as creating changes in tenure, either creating joint tenure or altering joint tenure to the benefit of one or other of the original tenants; and usually this worked to benefit married couples. The pairs of surrenders taking the form x to y to x tend to involve the exchange of lands and do not constitute a significant collection of distinct transfers, either numerically or procedurally. The significance in the last two categories of back-to-back transfer may, unfortunately, reside in the fact that they highlight just how much is hidden from the historian. The immediacy of the second surrender following from deathbed surrenders might reflect a knowledge of the original donor's testamentary wishes, yet this need not have been specific to such pairs of transfer. Simon *filius Petri* Kinny, for example, surrendered an acre and a rood of land indirectly from his deathbed to the use of his wife Avelina for her lifetime; not until her death was the land to be sold to the benefit of their souls.<sup>81</sup> This category of transfer could then be explained by the fact that both the original and resulting transfer were made concurrently; some probably did involve the first recipients acting as intermediaries by virtue of being executors. Others, however, may have been pursuing their own interests: the rapidity with which the same land passed from Katharine *filia Ricardi* Gillyng to Robert Mayheu and John Reynald *capellanus* to Henry Lenne and then to Nicholas Wortheyn evidences extremely baldly the degree to which the procedures of surrender and admission, and the standardised practice of recording the majority of these, could hide a multitude of motivations and needs.

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<sup>80</sup> C8/3/38 Wis Curia 10.6.1349.

<sup>81</sup> C8/3/38 Wis Curia 20.7.1349.

The most perplexing of the back-to-back transfers, however, are those that fall in the last category, where the final recipient is the relative of the original donor. If, taken together, the pairs of transfer represent the intentions of the original donor then the rôle of the intermediary tenants needs explanation. If they do not, then the subsequent endowment particularly of widows requires elucidation. Possibly this reflects a concern at the inadequacy of the woman's dower. Only in the case of Agnes the newly widowed wife of Robert *filius Ade*, is a wife to hold with her children, suggesting perhaps that the other widows were childless, and possible young enough to remarry and have a subsequent family.

### Post mortem transfer

The facility of out-of-court surrenders greatly widened transmission options for tenants within Wisbech hundred. This procedure has important implications for study of the other form of land transfer - the *post mortem* transfer through inheritance. How consciously did tenants use the available options of land transfer and is it possible to perceive the calculated use of both or either type of transfer according to individual circumstance?

Death is an extra-curial event (if anyone did die within the court then the rolls are, sadly, silent upon this) and it is an event which will be common to all those cited in the rolls. However, there are formal records of death for only 375 tenants (5.4% of all cited individuals). The actual number of *post mortem* transfers, rather than tenant deaths, is 307. The death of an individual is only of relevance to the court if the person was, at the point of death, the lord's tenant. For other individuals the succession to a holding and the payment of heriot or relief are irrelevant. In terms of the structure of landholding what is of issue to the lord is change in tenancy, whether by *inter vivos* or *post mortem* transfer.<sup>82</sup> With regard to the latter, the change can only come about through the court: the extra-curial event of a tenant dying is a reason for a change, but the change must technically occur by the new tenant's admission through due procedures within the court.

Thus the individuals for whom entries of death are presented do form a limited attribute group worthy of analysis. In part this is due to the need to see these entries less as potentially providing

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<sup>82</sup> see C8/3/33 Wis Curia 20.11.1349 where the halimote is amerced for failing to present how much land Peter Plomer held at his death, not the fact that he had died.



demographic data, than as being part of the broad regulation of land transfers. As a source for demography it is limited to tenants only and it also offers unstable material from which to calculate the size of families and replacement rates. Once set within the far more accurate context of land transfers, interesting questions arise - about procedure and the identity of individuals involved, even the issue of motivation and family strategies.

Not only are the data on death a severe underenumeration of all deaths, they underenumerate tenant deaths too. Record survival is not so poor as to play a significant factor in the incidence of recorded deaths. The years 1353-56 contain very few records of *post mortem* transfer and yet record survival from the *curia* is almost complete. The rarity of death entries makes sense by considering the event of death as the reason for land transfer. To some extent *post mortem* transfer can be seen as the default option of succession to land - succession by inheritance *secundum consuetudines manerij*. The ability to make indirect surrenders to the lord via the bailiff or indirectly to the intended recipient via an intermediary recipient, meant that tenants were possessed of the ability to initiate transfers right up to the point of death and thereby pre-empt the pattern of customary succession which would occur after their death.

From the fact that it was the deaths of *tenants* which were recorded it follows rather simply that if an individual died without land then their death would not be formally recorded. (It is true however, that the records do make 'incidental' reference to non-tenant deaths. For example, annotations to the lists of brewers sometimes include the word *mortuus* or *mortua* and in the case of female or junior members of the household engaged in such activity, these may not have been tenants.) There are two ways in which an individual could have no land: the first is obviously if they had never held any; the second would arise if all land had already been surrendered. Strikingly, only 14.4% of donors explicitly stated to be on their deathbeds have other land which then features in formal entries of death and *post mortem* transfer; the vast majority of deathbed donors thus surrender all their land immediately before death.

The subject here is not an attribute 'deathbed donor' but 'dying tenant', and it is important to concentrate on those individuals who do retain land at point of death. Even allowing for the flexibility allowed to *inter vivos* transmission, it is probable that Death was not always so patient as to allow a tenant opportunity to dictate the succession to the land. The fact remains, though, that 7.7% of tenants made surrenders of land on their deathbeds and retained other land to which their customary heir then succeeded, and this is higher than the figure of all

cited individuals who were deathbed donors (2.9%). There is no one type of court attribute which characterises dying tenants, but it may well be of note that this group contained a higher than average proportion of individuals involved in and knowledgeable of court procedure (jurors, officers, those cited in essoining or pledging relationships). Those tenants who chose that their holding be fragmented through *inter vivos* surrender on their deathbed and *post mortem* transfer after their death, must presumably have held a sufficiently large holding and the amounts of land transferred through inheritance are indeed larger than those through *inter vivos* surrender.

Entries recording tenant deaths are contained in the rolls for the *curia* and the halimotes, neither the leet nor hundred courts having jurisdiction over such land issues. There is no difference in the form of entries in either type of court nor in the identity of the individuals there presented; the presence of an entry in one or other court owes to the timing of death and the date of the next session whether *curia* or halimote. By virtue of the fact that the *curia* was held more frequently than the halimotes, more of the entries recording tenant deaths are to be found there. Entries concerning the death of Thomas Trampyl are to be found in both the halimote and the *curia*: notice of his death was first made at the halimote but since succession to his holding was complicated further entries appear in following *curia* sessions.

The Elm halimote roll from autumn 1349 records the succession of Bartholomew Trampyl to the acre of land in which his father Thomas had died seised; Bartholomew as heir, *venit et fecit fidelitatem*, presumably paying the fourpence required as relief. This acre, however, was not the only land held by Thomas; since the halimotes were only held twice a year, presentment of another homestead owing heriot of 20s had to be made at a subsequent *curia*.<sup>83</sup> It was at the *curia* in March 1350 that Bartholomew came to be admitted to the homestead, but it had been presented in an earlier, non extant, session that this holding had been held by his father. It appears that although Bartholomew *cepit dictam Hamstallam ad graciam domini* he failed to pay the fine such that consultation *cum consilio domini* was necessary. The words *Et postea venit et refut[it] etc* were then added. His continued refusal to pay the fine lead to the seizure of the land and this was ultimately granted to one Margery Trampyl, precise relationship to either Thomas or Bartholomew being unknown. The language of this last entry underlines the fact that Margery held in succession to Thomas Trampyl and, not having paid the heriot, that Bartholomew was never fully admitted as

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<sup>83</sup> C8/1/7 Elm Hali 8.10.1349; C8/3/39 Wis *Curia* 2.3.1350.

tenant: the holding is described as the homestead *in quo Thomas Trampyl obijt.*<sup>84</sup>

One of the difficulties involved in understanding the actions of Bartholomew Trampyl is that he was one of the presenting jurors at the halimote which initially recorded Thomas' death: as the son and heir he would have been uniquely qualified to present the full land holding of his father and yet did not. Whether he was hoping to avoid paying heriot on this holding, or whether he could legitimately claim that his succession to the land was not a matter for the court, is not known. Twenty shillings was a high heriot to pay, but one wonders whether Bartholomew's objection was not to the amount but to the heriot itself: perhaps he argued the land was free and not subject to heriot.

One of the court attributes evidenced for Thomas Trampyl was that of juror, and a significant proportion of dying tenants acted as juror at some stage in their lives (13.3% of dying tenants, compared with the 7.5% of all individuals who were jurors). A similar pattern can be observed for these tenants who had the attributes officer (8.5%, compared to 4.0% of all individuals), or essoin (9.9% of tenants but 5.9% of individuals). To some extent, the group of dead tenants is fairly typical of the numbers cited as litigants or as pledgee, but there is little which shows that individuals cited as bakers, brewers or regraters of ale or those presented for anti-social behaviour were the 'type' of individuals who held land at point of death. Several of the dying tenant had thus been involved in the court's business and would have been aware of procedures for land transfer. However, such tenants are not notably involved in the *inter vivos* transfer of land, although fractionally more of the dying tenants had themselves inherited land from previous tenants, and had been party to the lease of land - both of which types of transfer tended to involve larger amounts of land than *inter vivos* surrenders.

Strikingly, only 14.4% of donors explicitly stated to be on their deathbeds have other land which then features in formal entries of death and *post mortem* transfer; the vast majority of deathbed donors thus surrender all their land immediately before death. *Inter vivos* transfer was thus being used to avoid inheritance according to the custom of the manor.<sup>85</sup> There is nothing to suggest that this was because the tenant had

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<sup>84</sup> 8/3/40 Wis Curia 19.7.1350.

<sup>85</sup> Data from Coltishall and Redgrave accords with that from Wisbech, in that *pre-mortem* transfers apparently supersede *post mortem* transfer, but the size of inherited holdings was greater than that transferred by surrender. R.M.Smith, 'Some issues concerning families and their property in rural England 1250-1800', in Smith, *Land, Kinship and Life-Cycle* pp.19-20 and references therein. From examination of transfers in seven East Anglian manors in the later fourteenth and fifteenth centuries, Smith found a higher proportion (40.4%) of deathbed donors

little faith in the prospect of the lord recognising the heir. Instead the suggestion is that many tenants preferred to circumvent customary procedure and transfer their land in a fashion more reflective of their particular family circumstances. This is emphasised by examining the actions of those tenants who can be regarded as having chosen to have some land descend by customary inheritance procedure and some at their own direction.

There are 48 tenants who consciously construct such strategies. For 28, it is possible to perceive how they determined these policies. All but two provided land through *inter vivos* surrender for family members who would not inherit in the normal course of events. Of the two exceptions, the example of John Curteys has already been cited: it would appear that at least some of the surrenders were to quasi-executors. His *inter vivos* surrenders concern just over ten acres. The remaining holding - of  $\frac{1}{2}$  acre with appurtenances of Bartholomew Sywat's homestead and 16 acres of *terra operabilis* descended on his death to his two sons Geoffrey and William.<sup>86</sup> Similarly, Geoffrey de Tydd split his holding between John de Norfolk and his son John, the former being admitted to the  $1\frac{1}{2}$  acres surrendered from the deathbed, his son inheriting 16 acres in different holdings.<sup>87</sup>

The remaining 26 tenants used *inter vivos* procedures to provide for non-inheriting relatives. In some cases the heir also benefits from the surrender. Either a joint heir or heiress is admitted to surrendered land on his or her own or, less often, the single heir is admitted to surrendered land with other, non-inheriting relatives. Thus John Asplon surrenders land to his son Adam who also inherits with his nephew (John *filius Willelmi* Asplon, brother of Adam).<sup>88</sup> Conversely, Simon Rat makes a deathbed surrender in favour of his son Thomas and Thomas' daughter Isabella, and Thomas also inherits from his father.<sup>89</sup> The majority of cases involve the provision of land for daughters excluded from inheriting by their brothers. John, son of Nicholas *filius Johannis* Broun inherits from his father and grandfather John at the same time; his sister Agnes is admitted to other lands surrendered separately by

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also transferring land via customary *post mortem* procedure; that 59% of these 'allowed the greater part of the property...to pass according to manorial custom'; and that 'by the 1420s between one quarter and one third of customary land transferred at or close to the death of males was achieved through deathbed transfers.' (This would suggest that *post mortem* was still favoured over *inter vivos* transfer even for larger holdings.) Smith, 'Coping with uncertainty', pp.50-1.

<sup>86</sup> C8/2/26 Wis Hali 8.10.1333, Wis Curia 24.11.1333 and 18.1.1334.

<sup>87</sup> C8/4/43 Wis Curia 29.3.1356.

<sup>88</sup> C8/2/27 Wis Curia 13.12.1335 At the same time John Asplon also surrenders land to his daughter Agnes. Adam unsuccessfully tries to claim this as his inheritance.

<sup>89</sup> C8/4/49 Wis Curia 18.1.1369 Simon also surrenders land to his son-in-law Hugh Drye.

both her father and grandfather.<sup>90</sup> When he died in 1330, Thomas Gocche may have divided his holdings in order to advantage his unmarried daughters: he made separate surrenders of land to Emma and Christine, who then shared an inheritance with their other sisters Agnes and Alice. He had paid merchet for Alice's marriage three years earlier.<sup>91</sup>

Other tenants can clearly be seen preferencing *inter vivos* over *post mortem* transfer, as reflected in the numbers of deathbed donors for whom there is no formal entry of death. The Tydd homage presented to the curia in march 1356 that Eve *que fuit uxor Ricardi* Godard died seised in ½ acre which owed relief of 3<sup>4</sup>d. Since her heir, her son John, did not attend to be admitted the land was to be seized into the lord's hands. An annotation states that the presentation was found to have been erroneous. At the following session Eve's deathbed surrender of ½ acre with appurtenances in Tydd for Agnes *filia dicti Ricardi* is recorded. Agnes had to pay a transfer fine of 12d. Although the claim that land should have passed to the disseised tenant by inheritance was often countered by the *de facto* tenant tracing right to an *inter vivos* surrender, it is possible that many such land pleas sprang from such last minute out-of-court surrenders. This is what lay behind the plea between Robert de Stonham and Geoffrey and Clemencia Sprot.<sup>92</sup> This probably also explains why John Asplon's son Adam challenged his sister Agnes' right to land. Before his death John Asplon surrenders indirectly two holdings, one to Adam the other to Agnes. Agnes was only admitted after the court had rejected Adam's claim that the land should be his by inheritance, thus accepting the validity of the surrender.<sup>93</sup>

The difference between levels of heriot or relief and the transfer fine for the same land provides one reason why tenants may have chosen one transfer option over another. It seems that it was financially advantageous to inherit land rather than be admitted following a surrender: if customary levels of heriot were locked at low levels compared to varying levels of *inter vivos* transfer fines, then it would advantage the new tenant to receive land after the donor's death rather than before.

This section has demonstrated that tenants used what at first sight seem strict and limited procedures for the transfer of land in highly individual ways. Normally land was transferred from in-court surrender; where this was not practical, out-of-court surrenders were permissible if the bailiff was employed as the conduit between donor and lord. In both cases, seisin could only be delivered to the new tenant by

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<sup>90</sup> C8/3/45 Wis Curia 17.1.1362.

<sup>91</sup> C8/2/23 Wis Curia 7.12.1330, C8/2/21 Wis Curia 8.4.1327.

<sup>92</sup> see p.176.

<sup>93</sup> C8/2/27 Wis Curia 13.12.1335.

admission in court. At times of severe mortality, out-of-court surrenders without the bailiff were accepted; these may have been limited to extreme circumstances but this acceptance reflects a degree of flexibility.

A reading of the same material on land transfers provides yet further indications of flexibility. In 1369, the Wisbech *curia* was prepared to countenance a deathbed surrender in favour of an unborn child. In January the land William *filius Augustini* de Borewelle had surrendered *ad opus cuiusdam pueri in ventra uxoris sine existentis*, was still being retained in the lord's hands. Two months later it is presented that *Matilla [que fuit uxor dicti Willelmi] peperet filium nomine Willelmi qui modo venit pro dicta Matilla et admissus est ad tenendum sibi et heridibus suis etc.*<sup>94</sup> The eventual inheritance of children born after their father's death was also accepted, but what is interesting here is the willingness of the court to hold open the possibility of the unborn child gaining admittance through *inter vivos* surrender.<sup>95</sup>

A similar respect for the intentions of the donor may be interpreted from the entry for Ralph de Penteneye's death. Having recorded the landholding details the identity of the next heir is left blank; in the margin is noted *error quia alienavit dictum tenementum in vita sua*.<sup>96</sup> Thus the court accepted the validity of a transfer which had not been validated by the due process of surrender and admission. When land was transferred out of court, *sine licencia*, the court deemed the transfer to have been an alienation and the land was taken into the lord's hands; if the donor then fined *pro terra extra manum domini rehabenda* they could then transfer it again with the recipient being admitted in court. Presumably, Ralph Penteneye had died before the alienation could be regularised.

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<sup>94</sup> C8/4/49 Wis Curia 18.1.1369, C8/4/50 Wis Curia 16.2.1369 and 23.3.1369 In 1313 Agnes *filia Johannis* Thurgomid was amerced *quia fecit lethwytam cum Johanne filio Petri nativo domini et peperit*. C8/2/25 Wis Curia 13.2.1313.

<sup>95</sup> After John Curteys' death his son Geoffrey was admitted as heir to his holding, although it was also presented that *uxor eius pregnans et nescitur vt sit masculus vel femina Ideo. Et modo presentatum est quod habet vnum filium nominatum Willelmum* C8/2/26 Wis Curia 24.11.1333. The Elm jurors had to wait before identifying John Goldhoppe's heir because his wife was pregnant. C7/1/5 Elm Hali 27.6.1343.

<sup>96</sup> C8/3/31 Elm Hali 9.4.1339.

## **INTERPRETATIONS**

## NETWORKS

The recording practices of the court have provided categories of attribute for analysis, but the means by which an individual could have multiple attributes - through interaction - can also be analysed; this provides some sense of the networks of interconnection between different individuals.<sup>1</sup> The context for discussion is thus the activity from which the attribute was derived, and in a sense this restores the data nearer to the form in which it was recorded. Litigation, land transfer, essoining and pledging activity necessarily place the individual in relationships with others, and it is these relationships which are analysed. Such subjects are directly related to the procedural concerns of the court. In addition, attention has been given to individuals grouped according to the common attribute of juror, an attribute defined by and essentially linked to the purpose of the court and one which might be taken to imply shared interaction.

In asking who or what an individual was it is necessary to look at how and why they came to be what they were. It is in this way that the court roll can be interpreted for socio-historical insights: relationships are likely to evince a more personal dimension than that of attribute.<sup>2</sup> Writing about land transfers, a type of activity evidencing tenants in relationship with one another, P.D.A. Harvey writes, 'in investigating the land market we are looking at something that lay close to the heart of medieval man.'<sup>3</sup> Regarding court rolls as a registry of landholdings permits the study and reconstruction of 'the histories of the peasant families that held them - their successive generations, their inter-relationships, the part they played in the village community, their rise or decline in wealth'.<sup>4</sup> It is the 'inter-relationships' through land transfer which perhaps proffer the best opportunity of matching a type of activity inseparable from the court with the personal concerns of individuals, but the evidence of all relationships witnessed by the court rolls can also be mined as part of such social reconstruction.

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<sup>1</sup> J.Scott *Social Network Analysis: A Handbook* (1991) is a valuable guide to the theoretical and practical aspects of this approach. For a distinction between attribute and relational data see pp.2-3

<sup>2</sup> This follows Hyams in holding to the possibility of deriving social and cultural norms from the court rolls. P.R.Hyams, 'What did Edwardian Villagers Understand by Law?' in Z.Razi and R.Smith eds, *Medieval Society and the Manor Court* (1996), p.102.

<sup>3</sup> P.D.A.Harvey, 'The Peasant Land Market in Medieval England - and beyond', in R.&S. p.392.

<sup>4</sup> Harvey, 'Peasant Land Market', p.395.



Network analysis is based upon the examination of the ties and connections between individuals rather than their attributes. Many of the mathematical techniques of social network analysis are incompatible with data derived from court rolls, since there is not the amount of consistent and comparable data required for meaningful calculation and interpretation. I had hoped that I could use the evidence of every connection witnessed in the Wisbech court rolls to identify particular groups of well-connected individuals in an attempt to identify patterns of social linkage. For reasons outlined below this was not possible on such a large scale due to the nature of the evidence. However, the idea of examining connections is a fruitful line of enquiry, and one which has much to offer an understanding of the attributes themselves, as has already been demonstrated with regard to essoining and pledging.

For the purposes of network analysis it is an obvious precondition that each individual must appear in at least one relationship with another individual; not all those appearing with a certain attribute are therefore included. In total, there are 3,929 individuals in the group thus defined and they are connected by 11,504 relationships, each individual thereby interacting with an average of 2.9 other individuals. ('Relationship' is used quite distinctly from 'interaction'; a relationship might be evidenced by one type of interaction or several. Thus if A is seen with 3 relationships, then there are 3 individuals with whom A has interacted.)

Judith Bennett has stated that network analysis 'must necessarily be applied only to small groups because personal networks can quickly grow to unwieldy proportions.'<sup>5</sup> Her study therefore looks to the families of the Kroyls and the Penifaders. Kinship is indeed a clearly understood structural connection deriving from a shared attribute of family membership. However, it is not an attribute consistently identified in the Wisbech court rolls. The halimote jurors from each vill have therefore been taken to provide an equivalent, 'ready-made' bounded group. This is based upon the hypothesis that service as juror created bonds between individuals - a premise which itself relies on evidence of cooperation and association arising from common service.<sup>6</sup> Juror status

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<sup>5</sup> J.M.Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock Before the Plague* (1987), p.218.

<sup>6</sup> In her article 'Family linkages and the structure of the local elite in the medieval and early modern village', *Medieval Prosopography* 13 (1992), Olson argues that 'official activity fostered true interdependence between individuals' (pp.61-2) and that 'officeholding extended one's integration into village society by demanding service, accountability, and responsibility.' (p.62) Her study of interactions is based upon office holding: having analysed the contacts of the Buk family she found 'holding local offices with other villagers and pledging activity accounted for the vast majority of all known Buk contact in the village, that is, about 85%.' (p.61).

can also be seen as a shared attribute comparable with Bennett's choice of people sharing membership of the same family. In a sense, the truism that one cannot choose one's family finds an echo among the jurors, since one often could not choose one's fellow jury-members: Helen Cam, albeit writing about the hundred court jurors, stated that 'the hundred bailiff seems generally to have had a free hand... in the making up of juries' and, as such appears to have been 'free to include or to exempt any freeman, and he made large sums that way.'<sup>7</sup> Nonetheless, many of the jurors regularly appeared together across time and the collective amercements for concealment, for example, imply common responsibility. Similarly, the charge that the jury of Tydd halimote present the names of those owing suit of court to the curia must have required a degree of cooperation in order that the list be as comprehensive (or perhaps not) as possible.<sup>8</sup>

Of the 522 individuals cited as jurors, 368 are to be found in a recorded interaction. These jurors have a combined first-order contact group containing 1,621 individuals, with 2,898 different relationships linking juror and contact.<sup>9</sup> Jurors as a whole are therefore more connected, there being on average 7.9 individuals in each juror's contact group. Three-quarters (278) of the jurors in relationships interact with other jurors. This is illustrative of a high level of interconnection - roughly three of the eight individuals with whom each juror interacts are also jurors, and yet only 378 of the 3,929 individuals who interact with others are jurors.

The group of connected jurors has been chosen for another, equally pragmatic, reason: it allows the element of place to be taken into a consideration of connectedness. Identifying the vill of residence for every individual cited in the records is impossible, as has been stated before. Even in the entries recording the transmission of land, the location of the land is not always stated. The historian is heavily dependent then on the records of the individual courts for each vill. Citation as juror at one or other of the halimotes or leets thereby links the individual with the vill in an ambiguous fashion; no juror acted simultaneously at the sessions for different vills. Other individuals cited in the halimote rolls could have resided elsewhere - those admitted to take up land in that vill need not have lived there.

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<sup>7</sup> H.M.Cam, *The Hundred and the Hundred Rolls* (1930; repr. 1963), p.158.

<sup>8</sup> C8/3/36 Wis Curia 15.12.1346 *Et adhuc datus est Jur' Hallimote de Tydd ad presentandum nomina* [superscript *sect'*] *ad Curiam debent'* etc.

<sup>9</sup> Moving out from the 'ego', the 'first-order' encompasses all the individuals with whom the individual interacts directly, the 'second-order' will be those individuals with whom all these contacts interact - or 'friends-of-friends' - thus one could 'snowball' out from one individual eventually to encompass all individuals within the network of connections.

The same might be true of litigants. It is less clear whether, at the level of the halimote, litigation could only be brought by plaintiffs of the same vill as the defendant, whereas litigation in the *curia* and hundred court clearly transcended these boundaries. Obviously, the list of bakers, brewers and ale-sellers at the halimote and leet can be employed to identify people with places, but these attribute groups do not have the same sense of interaction that comes from acting with fellow juror; the activity of brewing cannot be interpreted to evidence joint interaction among all brewers.

Even so, the association of all jurors with vills has not always been possible. Inquest jurors, for example, at the hundred or *curia* are not always identified by vill. Of the 278 jurors found in relationships with other jurors, the appropriate vill can be assigned to 215. (This figure does not include the jurors who acted in different vills at different times - Geoffrey de Tydd for example was a Leverington halimote juror before 1340, and acted at Wisbech in 1349-50.) The following analysis is therefore drawn on data relating to less than half of all those individuals cited as jurors. Although there are more records surviving for the Elm and Wisbech halimotes, it is unlikely that this greatly affects the representativeness of the data. The larger numbers of Elm and Wisbech jurors do not appear to distort the number of relationships between the jurors of different vills. The nature of the survival is such as to provide a reasonable sequence of sessions in which the same individual jurors can be seen again and again, rather than different jurors appearing on juries at widely separated times. Although the figures for Newton jurors follow the trend apparent for jurors from other vills, an element of caution is needed in their interpretation since data are only available for nine men.

**Table 2: Juror-juror contacts by vill (%) N=215**

	Tydd	Newton	Leverington	Wisbech	Elm
Tydd	93.1	3.4	6.9.	27.6	3.4
Newton	11.1	66.7	22.2	22.2	11.1
Leverington	5.9	5.9	88.2	50.0	11.8
Wisbech	9.9	2.5	21.0	84.0	9.9
Elm	1.7	1.7	6.7	13.3	95.0

i.e. of the Wisbech jurors who interact with other jurors from known vills, 9.9% interact with Elm jurors (13.3% of connected Elm jurors). Note the figures do not sum to 100% since any one juror could have contacts with different individuals from different vills.

Generally, jurors interact with the jurors from their own vill, in particular those from Elm tend not to interact with the other vill's jurors (see diagonal). Elm was the only vill to the south of Wisbech - as the crow flies Elm and Tydd were 10km apart. The link between the jurors of Leverington and Wisbech appears to cross geographical boundaries, since 21% of Wisbech jurors interact with 50% of this other vill's jurors. Leverington jurors tend generally to be more connected than other jurors, with each of these 34 jurors having 9.9 contacts. The observation that Elm jurors tend not to interact with jurors from other vill's taken with the fact that these jurors have the smallest number of contacts, with jurors or not, suggests that the contacts amongst themselves attain a greater importance.

The type of court in which individuals acted as juror has also been considered, and a broad distinction has been made between those who were halimote/curia jurors and those who served at the leet courts. Interactions between jurors generally follow the boundaries of court-type, with 91.8% of halimote/curia jurors interacting with other halimote/curia jurors, and 81.4% leet jurors seen in relationships with other leet jurors. However, these boundaries were not impermeable, with 37% of halimote/curia jurors interacting with leet jurors and 57.6% of the latter interacting with the former, although it is also apparent that leet jurors generally tend not to interact with other jurors at all (41.8% of leet jurors compared with 62.4% of halimote/curia jurors interact with individuals with the general attribute 'juror'.)

Consideration must also be given to the type of interaction which links jurors. In line with the earlier observations made about the transmission of land and the number of individuals involved in this, it is clear that land transfer provides the context for many of the relationships between jurors (139 relationships between pairs of jurors). Further, 46% of those jurors who are donors and those who are recipients are involved in land transfers between jurors (97 of the 212 jurors transferring land do so to other jurors, 92 of the 199 jurors admitted to land receive it from other jurors). However, juror-juror contacts account for just 5% of all land interactions (139 of 2,797 relationships).

Fractionally more of the juror-juror interactions are witnessed by litigation for which there is evidence of a conclusion (142 relationships). Whether or not individual jurors sat on the same jury as others, it is clear that their interactions are witnessed through such litigation: 56.5% of juror-plaintiffs implead other jurors, and 50.3% of juror-defendants are charged by jurors. Litigation among jurors gives rise to 10.2% of all litigious relationships.

Neither of these two forms of interaction, however, accounts for an intense interweaving of connections between jurors. Connections tend to be discreet. If one was to create a visual representation of the relationships evidenced through the litigation data, for example, it would not be possible to see A connecting with B who interacted with C and with D each of whom interacted with E. Instead it would be A interacting with B, and C and D interacting with E. Drawing lines between the individuals to represent the relationships would give some sense of the extent to which individuals were connected with others engaged in the same type of interaction: the messier the web became as line crossed line would indicate that this type of interaction did bind several individuals together. The nature of citations in the Wisbech rolls is such that a dense network would be impossible to expect: few individuals in any attribute group are cited in the same activity with any frequency; they could not therefore have had relationships with several individuals.

It is possible, however, to make comparisons between the densities of the different networks constructed through common types of interaction. The density of a network can be expressed as the actual number of relationships between pairs of individuals compared with the possible number.<sup>10</sup> Thus, although it has been seen that 139 of the relationships between jurors came through land transfers and that this involved 155 of the 278 jurors in juror-juror interactions, it was pledging (with 56 relationships between 69 jurors) that was more likely to bind different jurors together.

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<sup>10</sup> In the group defined by citation in a land transfer, assuming that there is nothing which prevents one individual both giving and receiving land, for example, then each individual can, theoretically, interact with any of the other individuals. The number of possible relationships is thus  $n(n-1)/2$ , since the relationship between A and B is to be counted as the same as that between B and A. The density of a network is thus expressed as  $2l/n(n-1)$ , where  $l$  is the number of actual relationships and  $n$  is the number of individuals in the 'network'. The theoretical nature of this calculation needs stressing because in practice there are various limiting conditions - not least the availability of land in this example. The maximum value for density is suggested to be 0.5. Scott, *Social Network Analysis*, p.74, p.78. Social network analysts work with density calculations between 0 and 1; in applying these techniques to a study of thirteenth-century data, Smith bases his figures on the same calculation but then multiplies by a factor of 100, producing percentages more commonly used by historians when expressing statistical findings. R.M. Smith, 'Kin and neighbors in a thirteenth-century Suffolk community', *J.F.H.* 4 (1979) p.250.

**Table 3 : Density of juror-juror networks.**

Interaction	Jurors	Relationships	Density
Land transfer	155	139	0.012
Litigation	146	142	0.013
Essoining	111	105	0.017
Pledging	69	56	0.024
Attorneying	69	44	0.019

Pledging relationships between jurors are of further interest because they reflect on the difference between the pledge and the pledgee. Of the jurors whose pledging support is recorded in the rolls, only just over a third pledge for other jurors: the majority of pledge-giving jurors thus act for individuals who are never jurors. By contrast, over four-fifths of jurors who require pledges are pledged by other jurors. Roughly half of all pledges are jurors, but these figures illustrate a tendency for jurors to be pledged by jurors beyond what is to be expected by the number of pledges who are jurors.

A similar, but less distinct, pattern can be seen in relation to the employment of attorneys. Approximately 85% of jurors who use attorneys employ other jurors to act for them even though there are only two-fifths of attorneys who act as jurors. Again, jurors look to other jurors for their attorneys. Two-thirds of the jurors who are attorneys act for other jurors even though only 10% of principals are jurors. Clearly, juror-attorneys acted for principals who were not jurors, but such relationships were more focused between jurors than the pledging relationships.

The majority of juror-juror relationships are evidenced by discreet interactions. Less than one-tenth of any of the relationships witnessed by different land transfers, litigation, pledging or essoining interactions are multiple.<sup>11</sup> The incidence of repeated land transfers between the same pairs of jurors is quite negligible. Of the 139 relationships, only eight pairs of jurors are cited in more than one transfer. For five of these pairs the repeated interaction is actually the result of the pattern of landholding, with concurrent transfers being made of separate holdings. More usually, repeated transfers between pairs of jurors involve the *post mortem* transfer of land in separate holdings between fathers and sons, although it is true in such cases that the sons were already recorded as jurors around this point. Nonetheless the more obvious point is that in the case of *post mortem* transfer this is fundamentally a familial relationship. (*Post mortem* transfer can be taken to evidence a relationship if not a true

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<sup>11</sup> 'Multiple' denotes repeated interaction of the same type of activity, 'multiplex' interactions of different types.

interaction in an active sense, because the transfer options available to the dying tenant did mean that an element of choice of beneficiary existed.) For two pairs of jurors, there is evidence of genuinely distinct repeated transfers of land: John Broun surrenders land to the use of his son in 1359, and then Nicholas inherits from his father in 1362 (but again this is a familial relationship); Robert Fuller transfers land to this same Nicholas Broun in 1353, and in 1356 Nicholas is one of four to whom Robert leases land in Wisbech for six years.<sup>12</sup> All three had acted together on the Wisbech halimote jury in autumn 1349 and again in spring 1350, John Broun and Robert Fuller also having appeared on the jury in spring 1343. For the period of the land interactions, however, there are no surviving halimote rolls.

An analysis of the relationships evidenced by repeated interaction shows that relationships sustained over time are not recorded in the court rolls. By far the majority of repeated relationships through land, litigation, pledging or essoining are witnessed by separate interactions within the same year.

It is equally true that a relationship may be witnessed by reciprocal interactions where, for example, A is both pledge for and pledged by B. Yet again, such interaction is minimal. None of the pledging relationships between jurors, nor those between pairs of jurors as attorney and principal is reciprocal. However, reciprocal relationships between jurors can be seen through essoining, litigation and land transfer. In both cases of reciprocal essoining relationship, it is difficult to assess whether it is the relationship between juror and juror that is significant or that between essoin and essoinee, although the latter seems more likely. Although all four of the individuals involved are only ever cited as jurors on one occasion, this may be a result of the non-survival of data. In one case it is probable that it is neither the link between juror and juror nor between essoin and essoinee that is important. John Nenour and William Nenour essoin each other, a precise familial relationship between the two is not known, but this was probably more important than the fact that they were both jurors - they acted only once as jurors, at different Leverington halimote sessions, and neither is cited in any other essoining relationship.

The other reciprocal essoining relationship is between John Chamberleyn and Simon Cok. Both have only one citation as juror yet several as essoin and indeed essoinee. John's 31 citations as essoin derive from 25 different court sessions (16 at the hundred, 9 at the curia) where he acts for 25 different essoinees. Such citations suggest

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<sup>12</sup> C8/4/55 Wis Curia 18.12.1359 & C8/3/45 Wis Curia 17.1.1362; C/3/41 Wis Curia 28.11.1353, C8/4/42 Wis Curia 15.1.1356.

that John Chamberleyn was regarded as having an identity as essoin within the court, and it is not therefore surprising that nine of his essoinees are themselves cited as jurors. However, when it comes to John using essoins himself, he is essoined on 14 occasions by 9 different individuals, only 3 of whom are jurors. Simon Cok, however, is cited four times as essoinee at three different sessions and all three of his essoins are jurors. He is essoined by two different essoins at the *curia* session in October 1330 because a litigant appears to have been obliged to provide different essoins for different complaints. Thus John Chamberleyn offers his essoin in the covenant plea against William Andreu and John *filius Johannis* essoins Simon in William Andreu's plea of debt. At the same session it is ordered that Simon be attached to respond to a debt plea brought by William Halleman; Simon had obviously made no arrangements to be essoined in this plea.

It is the covenant plea between Simon Cok and William Andreu that provides the context for John Chamberleyn's citation as juror. As a result of Simon's payment for licence to agree, the two litigants put themselves on the arbitration of six others, one of whom is John Chamberleyn. They judge amongst themselves that Simon should give William 8 marks and that William should give Simon 13s 4d for the trespass made against him by William. The arbitration is ratified by the court seneschal, with the result that William is to recover his 7 marks from Simon. The entry provides a unique reference to the rôle of arbitrators, and as such suggests that the six arbitrators should perhaps not be regarded as jurors comparable with those listed in the halimote. The scribe has explicitly described the process of settlement as being one of arbitration and requiring the involvement of the seneschal, an otherwise shadowy figure at the court; although a previous reference to the plea does suggest that both parties had appealed to a jury of inquest. Although the full complement of halimote sessions survives for autumn 1330, there are only five men who can now be identified as jurors for Tydd, and none of the arbitrators is among them, nor are they cited as jurors on any other occasion. Since John Chamberleyn was a suitor to the hundred court it is probable that the reason that he is not a halimote juror is because of his free status. Unfortunately, only the Wisbech leet records survive for 1329 and 1331 and these arbitrators most likely resided in Tydd, so it is not now possible to ascertain whether they acted as leet jurors instead. John Chamberleyn might also have been absent from the lists of jurors because he held office. At the autumn halimote session for Tydd in 1334, unusually the jurors are not named. However, they elect John Chamberleyn or Nicholas Cok to the office of beadle. Nicholas Cok does appear as a halimote juror on four occasions, including the following spring



halimote for Tydd, which would suggest that it was John rather than Nicholas who was selected to perform the duties of the beadle. As beadle, John would not act as juror.

For such reasons, it is difficult to relate the reciprocal essoining relationships to citation as juror. It is apparent that there are few repeated or reciprocal relationships between jurors, but it is equally clear that their relationships may be evidenced by different types of interaction - multiplex relationships. Yet even when a search is made for such interactions, there are few found. There are no instances where the juror who is an essoin is pledged by his essoinee, or impleaded by his pledge or gives or receives land from his essoin or essoinee. There is only one relationship between jurors which is founded upon pledging and essoining interaction, and in this case the essoin is given to the pledgee. In July and December 1338, Walter *filius Walteri* essoins Martin *filius Johannis* de Neuton twice in the plea of caption and detinue brought by John *filius Thome* Roger. In November, the latter impleads the same Martin in a plea of trespass; Martin denies the charges and names Walter *filius Walteri* and the bailiff or beadle as *plegii de lege*. Although the context of this relationship can be split between different pleas, this would be an artificial distinction since they relate to the same litigious relationship between Martin and John. The multiplexity of the relationship between Walter and Martin therefore says more about the relationship between essoin and essoinee than that between jurors, with the responsibility of the pledge being an extension of his rôle as essoin.

There are three relationships which cross the boundaries between essoining and litigation and one between pledging and litigation. Seven relationships are witnessed by pledging and land interactions, but four of the five relationships where the pledge is given land by the donor relate to one transaction. Four jurors pledge that Robert Fuller will continue to be responsible for the services due for the land which he leases to Richard Palfreyman for six years.<sup>13</sup> The responsibility for guaranteeing the performance of services is quite literally theirs. The remaining part of Robert Fuller's message not leased to Richard Palfreyman is leased to the four pledges for six years on the condition that they perform the services for the whole holding. This provides rare insight into the reason behind the choice of pledges, explaining why they were best able to fulfil their pledging requirements. This one entry highlights the real connection behind the pledge and pledgee. Robert Fuller and each of his four pledges were Wisbech halimote jurors, acting at the same sessions.

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<sup>13</sup> C8/3/42 Wis Curia 15.1.1356.

Three-quarters of jurors interact with at least one other juror, but the nature of the ensuing relationship tends to be linked to one type of interaction and only one interaction itself. The density of the putative network between jurors is not high. That the court rolls do not evidence juror interacting with fellow juror through multiple interactions cannot be taken to imply that jurors lacked a sense of identity with one another. The fact that calculations based upon network analysis indicate an apparent lack of cohesiveness should not be taken as equivalent to a denial of any sense of solidarity among jurors. From the evidence of his activity as an essoin, it is possible that John Chamberleyn's contemporaries may have looked upon him as having had the 'identity' of essoin. In the same way the fact that approximately half of the pledges also acted as jurors may have been a characteristic which set the jurors apart from the non-juror. In particular, four-fifths of the individuals who have five or more citations as pledge, are also to be found as jurors.

It is also important to consider the fact that the figures for density are dependent upon the survival of all the jurors throughout the entire period for which there are halimote records. Yet there are not sufficient data to allow a closer look at juror networks. Rather than looking at jurors *en masse* it is important to test the hypothesis of connectedness by comparing the relationships of the individual juror with the networks of his fellow jurors. Any group of jurors which suggests itself for analysis on the grounds that each juror was alive for the duration of the citations of his fellows, does not, however, contain sufficient individuals or interactions. It is also true that it is frequently difficult to determine that an individual's interactions relate to his status as a juror. Some jurors are frequently cited in this rôle yet not in connection with others, and other individuals have a large court network from a variety of interaction and yet have only one citation as juror. John Potekyn is cited sixteen times as an Elm halimote juror yet interacts visibly with only two individuals, one of whom is his daughter to whom he transfers land. There are single juror citations for both John Chamberleyn and Thomas Baconn, but their court networks comprise 62 and 45 individuals respectively.

Two alternative approaches have been attempted here. The first examines pledging relationships deriving from particular periods, selected to minimise the loss of potential interactions through death. The second focuses on all the interactions between a group of individuals - not just jurors - who are known to have survived throughout a twenty-year period.

The restricted nature of the attributes pledge and pledgee outlined in the earlier section on court rôles, means that an analysis of the relationships between pledge and pledgee is bound to show a network containing a low density of connections. In comparative terms, however, the application of social network analysis does have some value for commenting on the separate attributes. Working from the total group of pledging relationships (421), four periods were isolated which contained the highest number of pledging interactions. These samples of actual relationships were then separately but comparatively examined.

**Table 4: pledging relationships**

Years	Pledgings	Pledging relationships	Individuals	Density
1338-43	58	54	79	0.018
1353-6	70	66	81	0.020
1365-70	60	57	69	0.024
1371-6	52	30	35	0.050

It can be seen from table 4 that the second period, 1353-1356, is only of four years rather than six like the other three. The actual number of years is not as important as the number of relationships since it the density of *connections* between individuals known to have been cited as pledge or pledgee which is of interest. In selecting the periods to provide a bounded group it was essential to avoid those years which were known to contain heavy mortality: calculation of the density of relationships - the degree to which all pledges and pledgees were connected - depends on the possibility of one person interacting with any other person in their group, at any time during the years that define the boundaries of their group. This will obviously be prevented if half way through the period an outbreak of plague occurs. Therefore, the four groups have been selected to avoid these years, or to begin from years just following known high mortality.

A change can be observed in the pattern of pledging in the last period 1371-76. In absolute terms there are slightly fewer instances of pledging in 1371-76 as compared with 1338-43 (52 compared to 58), but the numbers of individuals cited are radically different. As the number of actual relationships indicates, more of the individuals cited in the later period were more highly engaged through pledging with others than had been the case in 1338-43. Comparison of the density figures illustrates this, with the density of connections between the 35 individuals cited 1371-76 being almost three times that of the earlier period with 79 people. The increased density may indicate that the apparent delineation between the attributes of pledge and pledgee is no longer so strict, since a higher proportion of individuals are found in

both rôles in 1372-6 as against 1338-43. However, it remains true that the numbers cited as both pledge and pledgee are still small (8.6% compared with 3.8%, and in absolute terms this relates to only three individuals in both cases). In addition, the same relationship between pairs of individuals is either being evidenced in different interactions or more individuals are interacting with a wider number of others in the last period.

Analysis has also been made of the individuals who can be grouped according to the fact they are cited in both periods 1330-5 and 1345-50. These years were selected to provide a period containing reasonable court histories of individuals which was as immune from the disruption of mortality as possible. The plague years of 1349 and 1350 are included on the basis that there was often a temporal delay between event and record - a tenant may have died in 1349 but the *post mortem* transfer of land may not enter the rolls until the following year; to stop at early 1349 would have resulted in the deprivation of important *inter vivos* and *post mortem* relationships.

There are 368 individuals who fall into this group. Of these, 228 interact with others in the same group, and there are some 320 different relationships between them. There is thus a high proportion who cannot be drawn into any putative network (140 individuals) and it is therefore no surprise that the density calculation is the tiny 0.005. Such data are highly illustrative of the partial coverage of people and relationships contained in this set of court rolls. There are 1,650 individuals party to 1,475 land transfer relationships between 1330 and 1350; of these only 84 relationships are evidenced between (116) individuals cited at both extremes of the period. Even with the other three types of activity not so dependent on the tenure of a finite amount of land, similar patterns emerge.

**Table 5: relationships through types of interaction 1330-50**

	Interactions	Individuals	Relationships	Density
Land transfer	63	104	70	0.01
Litigation	81	97	79	0.01
Essoining	148	106	113	0.02
Pledging	13	26	17	0.05

As before, the value of this type of analysis lies in the comparisons which can be drawn between types of activity. However, the data depicting pledging are too small for comparison. None of the pledging relationships is reciprocal and none witnessed by repeated instances of pledging; nor are there any joint actors, neither joint

pledges nor joint pledgees, and this is reflected in table 5 where for every interaction there are two parties - one pledge and one pledgee. Joint activity is rarely evidenced for any type of interaction: there are three joint defendants in complaints for which an outcome is known; otherwise it is the tenure of land which is responsible for such links - two individuals are admitted to land in joint tenure, while there are six transfers that are made by joint tenants - in one case three donors; none of the transfers are back-to-back.

Reciprocal relationships are evidenced through land, litigation and essoining interactions, yet not nearly as many as would convey a sense of the extent or depth of a relationship between two individuals. Phillipp Schofield has recently drawn attention both to the possibility of tit-for-tat litigation between individuals and the way in which reciprocal land transfers might reflect the co-operative response among tenants to the problems of dearth.<sup>14</sup> Examination of the Wisbech material does not substantiate any such arguments, merely pointing to the lacunae in the substance of the data.

There are only two litigious relationships in which each litigant is impleaded by the other and in both cases there are only two pleas. In February 1350, Thomas le Veer is found by inquest jury to have unjustly detained 7s 6d from John attemersh, the following April John seeks to settle a separate plea of debt beyond the court. It is unlikely that Thomas brought a plea of debt in retaliation at the first result, since it is apparent that the two pleas were concurrent. This does not stop them from being tit-for-tat, however, but it is not a relationship in which the litigants drag each other through the courts over a longer period of time. Neither of these two reciprocal litigious relationships is witnessed by repeated instances of impleading by the same plaintiff - in fact there are only two such relationships, each similarly evidenced by only two different complaints concluded simultaneously or within a few months of each other. William Halleman fines for non suit in his debt pleas against Simon Cok at the curia in December 1330 and again in February 1331, and there are therefore no details of the claims made against Simon to facilitate the understanding of the relation between the two pleas.<sup>15</sup>

The same can be said for relationships evidenced through land transfers. None of the transfers recorded between 1330 and 1350 amounts to repeated interactions between the same pair of individuals cited throughout the same period. The transfers are thus one-offs. Schofield's

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<sup>14</sup> P.R.Schofield, 'Peasants and the manor court: gossip and litigation in a Suffolk village at the close of the thirteenth century', *P.&P.* 159 (1998), pp.3-42.

<sup>15</sup> C8/2/23 Wis Curia 7.12.1330 6d amercement; C8/2/24 Wis Curia 14.2.1331 3d amercement.

suggestion that economically-challenged tenants were using the land market to mortgage their land until the time when better harvests and higher grain prices allowed them to repurchase it back cannot be proved with the Wisbech data. This would certainly fit in with arguments expressed earlier about the sophisticated way in which tenants used customary procedure within the lord's court to their own ends. Tenants would therefore be using the procedures of surrender and admission to affect the change in tenure, but leaving unrecorded the extra-curial understanding that the tenurial position would be reversed when the original donor could repay the new tenant. There are two problems with this. The first is that changes in tenure were absolute: if the intended recipient was not in court to be admitted then the land remained with the lord, not with the donor. Relying upon an unrecorded arrangement, even among family or friends, was therefore risky. Unfortunately, because the surviving rolls do not constitute a complete register of land transfers or of litigious claims it is not possible to relate accusations of debt to *de facto* conditional land transfers. A related point is that conditional transfers are recorded. Although the data is incomplete it is not such that an analysis of all land relationships (2797) is likely to be unrepresentative of the non-extant ones. Therefore, the second problem is that one would expect more than the 39 reciprocal relationships which are evidenced for the whole period, and the two for the period 1330/5-1345/50 where the survival of both parties is known throughout. These two points are discussed below.

Only 70 of the 1,650 relationships evidenced by land transfers between 1330 and 1350 are between parties that survive through the same period. Of these, only two pairs of individuals can be seen transferring land between themselves, and both of these interactions are simultaneous, back-to-back transfers. Both alter the pattern of tenure, for example, Alan Taillour surrenders land *ad opus* Henry Galle who immediately surrenders the same land back to Alan and his wife Agnes.<sup>16</sup>

Even if one considers the whole fifty-year period and all the land transfers, there is still little recorded evidence which can be read as tenants surrendering land for quasi-mortgages: only 39 relationships are reciprocal. As has been discussed before, the bulk of these constitute back-to-back transfers and the exact interpretation of them is still unknown. Although the two transfers are more properly one interaction rather than two because they are simultaneous and follow one from another, the actual choice of intermediary tenant and their relationship to the others is still of interest even if it has yet to be uncovered. Since the surrender of land was irrevocable, unless particular conditions applied, the first donor's reliance upon the intermediary

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<sup>16</sup> C8/3/36 Wis Curia 15.12.1346.

tenant surely indicates a degree of trust that they would complete the transfer.

The records are conspicuously silent on the terms of the sales of land and just three entries have been retrieved which do relate land transfers to credit arrangements. These few cases offer tantalising glimpses behind the brevity of the vast majority of records. Yet it is not just the nature of the arrangements that lay behind some transfers which is valuable; the arrangements illumine the nature of the particular relationship but they also hint at other connections. Since the different facets to a single relationship are rarely displayed, it is tempting to give greater prominence to certain features just because they are made available. Wringing as much as possible from all the data is the historian's task, and these records do allow one to go far, but the path is not endless.

In 1332 John Chamberleyne is admitted to land surrendered by William Cok, *carpentarius*, on the condition that it will be returned to William and his heirs if William pays John 20s 6d before the Birth of St John the Baptist, if not John and his heirs were to freely hold the land.<sup>17</sup> The vastly larger sum of £21 6s 8d had been the subject of a similar arrangement the previous year. John *filius Petri* de Tydd surrendered a four acre holding in Tydd to William de Fakynhamdam [Fakenham] *capellanus* in February 1332. If John, his heirs or executors paid the money to William before the following Michaelmas, then he or his heirs would have the land back. If - 'God forbid' - the money was not paid then the land would remain to William and his heirs in perpetuity.<sup>18</sup> Both these arrangements reflect on the ability of tenants to raise quite considerable sums of money in short periods of time but also on the value of land. If land was offered as security then the amount of the mortgage must bear some relation to the value of the land to the particular creditor or reflect its market value.

The third example highlights this point. The *curia* roll for January 1377 records William Curteys' surrender of 2½ acres of land ad opus Nicholas Alisaundre. Eight entries further in the same roll, William acknowledges himself bound to Nicholas, his heirs and assigns in 26s 8d cash or gold.<sup>19</sup> If William was to die without having repaid his debt and be survived by his wife Amicia, then she was to relax her rights of dower in the land William had just surrendered to Nicholas. The land that William Curteys surrenders *iacet in Harecroft iuxta terr'*

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<sup>17</sup> C8/2/25 Wis Curia 15.5.1332 There is no evidence to indicate whether William recovered his land.

<sup>18</sup> C8/2/24 Wis Curia 14.2.1331.

<sup>19</sup> C8/4/43 Wis Curia 9.1.1377 *Willelmus Curteys presens in Curia cognovit se teneri Nicholao Alisaundre heredibus et assignatis suis in xxvi solidos viij denarios argenti vel auri.*

*Nicholai Alisaundre ex vna parte*. Unfortunately there are no other recorded interactions between the two tenants, although the terms of the arrangement were to be met in the period beyond that studied here. Perhaps William was able to raise more money by approaching the individual most likely to benefit from the land - the tenant whose land was adjacent. Nicholas Alisaundre, like William de Fakenham mentioned above, is rarely cited in the rolls: he is cited as tenant of land in Wisbech next to that which is surrendered on two occasions and himself surrenders a rood and 20 perches in Stowcroft next to John Sweyn *ad opus* the same John Sweyn. William de Fakenham's only other appearance follows from his admittance to hold a messuage containing  $\frac{1}{2}$  acre in Tydd surrendered by Edmund de Wyken. There is nothing against which to set a loan of over £21; if he was a regular creditor this has not been filtered through the rolls; relying entirely upon nominal evidence it is possible that he may have held land elsewhere.

It is possibly the large sums that are advanced which dictated the requirement to enrol the details - certainly it is clear that land was sold but the purchase price regularly remained between the vendor and seller. It is probably for similar reasons that the details of a surrender conditional upon the terms of an apprenticeship are entered into the court roll in 1331. John *filius Elie* de Tydd raises the 5 marks for his ten year apprenticeship with the merchant William Rust by surrendering  $\frac{1}{2}$  acre with appurtenances in Tydd to William *filius Alani* de Barwe. If William Rust does not maintain John as agreed in the indenture made between them, then John was to recover the 5 marks from William *filius Alani* de Barwe.<sup>20</sup>

Such a paucity of evidence suggests not that land and credit were unconnected, but that the explanatory context for the mass of day-to-day arrangements remains beyond the record. Nonetheless, the examples above do illustrate that conditional surrenders are not absent from the records because of recording practice. It is possible, however to approach motivation by interpreting actions rather than recorded statements, hence the search for reciprocal and multiple relations. In terms of the detail that this task turns up, it is a rather barren exercise, but it is highly reflective of the nature of the data. It is has already been seen that the attributes *essoins* and *pledge* or *essoinee* and *pledgee* could be connected, with one rôle being an extension of the other, rather than necessarily being quite distinct functions. Similarly, some of the repeated interactions through *essoining* may indicate a general rather than specific arrangement to act as *essoins*. John Broun and Reginald Ingelot both acted twice for their *essoinees* in

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<sup>20</sup> C8/2/24 Wis Curia 26.6.1331.



the same plea, while Reginald Ingelot and John *filius Thome* acted more than once as essoin for common suit for two others.

Discussion has already been made of the multiple and reciprocal relationship through essoining between Nicholas Arnald, John Bee and John Chamberleyn at the hundred court. All three are recorded at either end of the period 1330/5-1345/50, and the relationship between Nicholas Arnald and John Chamberleyn provides the one example of a common essoining and pledging relationship. There are no other interactions between any of the trio, nor are any of the pledging relationships mirrored by interaction through litigation or land transfer. Four pairs of individuals do interact through essoining and litigation. In three cases the relationships are actually witnessed over several years. Robert de Staynton and Henry attebrigge separately implead Geoffrey de Tydd at the *curia* and are subsequently essoined by him at the hundred court, both fine for non suit and therefore settle any 'dispute' amongst themselves. Of the eight multiple relationships which are visible during this period, half involve Geoffrey de Tydd; and it is because he is the most prominent and connected individual in the whole collection of court rolls that he has been selected for inclusion in the later section examining the records of particular lives.

### Interpreting relationships

The study of relationships evidenced in the court rolls of Wisbech hundred thus comes down to a handful of particular individuals and particular relationships rather than allowing the construction of structural links between attributes and the identification of norms of court behaviour. There are not enough individuals witnessed in enough relationships to make a comparative study of how well one or other individual is connected. The number of possible contacts is so large that it is difficult to infer anything about the selection or imposition of associate beyond what has already been stated through attribute analysis - that pledges tended to be jurors for instance. If, for example, we see that x acted as essoin for y and that a essoined b, we cannot assess the lack of interaction between x and b if neither appear in the rôle of essoin or essoinee again.

The other result of this global study is that the very assumption that court interaction can be put into sociologically meaningful patterns is also extremely difficult to maintain at this level. The fragment of a relationship which is evidenced for one pair of individuals in an essoining interaction might be radically different for another pair. It is now widely accepted that when the clerk wrote x

*braciavit et fregit assisam* that x need not have actually infringed the terms of the assize. But how do social historians read behind the formulaic and terse statements evidencing interactions? At the leet for Wisbech in 1331 John Ferier is amerced for hamsoken, his victim is stated as *Petrus frater suus*.<sup>21</sup> Similarly, John *filius Willelmi* Faireye pays for licence to settle his trespass plea with Henry 'his brother' beyond the court.<sup>22</sup> How much weight of implied significance can be put on the family relationship to which the language of the court draws attention or is the more significant facet to the interaction the relationship between householder and housebreaker or between litigants? If we decide that the linguistic form of the entry indicates only the way individuals were identified for recording purposes, then the emphasis on the familial tie provided by this is our emphasis. That those in charge of court procedure had a sense of some identities is clear from the way that certain land transfers were recorded. The way the identity of the beadle impinged upon procedure is illustrated by the need for the land transfer between Thomas de Pokedich and his wife and daughter to take the form of two separate transfers - a back-to-back transfer - when in reality it had been one indirect surrender. It might be important for the historian to know that when Thomas Martyn was named by Robert Beauveys as one of his pledges to prosecute his litigation, Robert was naming his son-in-law, but it is clear this was not the sort of information that the clerk noted.

In analysing relationships we are trying to get at motivation which is not the subject of the records. On a basic level we can identify an essentially material self-interest as residing behind many actions, but what of a sense of family or of community or of loyalty? What if a debt was called in not because the creditor needed the money but because he wanted to 'punish' the debtor for slandering his wife in the market place?<sup>23</sup>

When historians are engaged in socio-historical interpretation of socio-legal documents, Christine Carpenter's strictures need to be at the forefront: 'It is necessary to be extremely self-conscious about the whole exercise and to ask ourselves what we are looking for, how we propose to look for it, and, when we have found it, what we intend to call it.'<sup>24</sup> In the course of examining the interactions witnessed in the Wisbech court rolls, it is apparent that more questions were raised than

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<sup>21</sup> C8/2/24 22.5.1331.

<sup>22</sup> C8/3/43 Wis Curia 23.9.1356.

<sup>23</sup> P.Hyams questioned the historian's interpretation of feud against the background of notions of honour in his paper 'Rancor and reconciliation: violence and its motivation in medieval England', delivered at University of Leicester, July 1996, which has influenced these ideas.

<sup>24</sup> C.Carpenter, 'Gentry and community in medieval England', *J.B.S.* 33 (1994) p.344.

answered, but it is hoped that in uncovering these questions further study of particular interactions can lead to the comparison of relationships between different individuals.

In assessing the nature of particular relationships it will be necessary to have some sense of the significances of different types of interaction. The broad categories of interaction, and therefore categories of attribute, subsume many variations in circumstance. A broad consideration of all those who act as pledges, for example, cannot be attuned to the subtle variations in commitment: the pledge for the alewife's threepenny amercement is set alongside the pledge for the payment of 33s 4d over two years as rent for a fishery. In terms of brewing, such amercement is common but such pledging is rarely required; there is a fraction of such evidence for rentals but the majority require pledges. Similarly, there were subtle and not so subtle distinctions between the tenant admitted to 15 acres of land and the tenant admitted to 1½ acres to be held jointly with his brother or brother-in-law or neighbour. Further, land could be less freely given than pledging support; thus the fact that two individuals interacted twice through the transfer of land perhaps points to a more enduring relationship than that evidenced by two pledging interactions.

The comparability of connections and relationships through different types of interaction inferred from the court roll can be considered in a simpler way if one considers entries depicting marriage and battery. The relationship of marriage provides an indisputable connection between two individuals. By contrast, the fact that x drew the blood of y describes, in essence, an event - can one translate this into a relationship? It might be, for example, that the frequency of certain interactions between two individuals could be taken to denote an affective rather than a 'happening' relationship; but this can only be adduced after studying all of the 'connections' - for a single interaction through a debt plea will not in itself demonstrate the quality of the relationship, which can only be derived from the wider comparative context of all relevant interactions.

Sometimes it will be necessary to balance the repeated interactions separated by years against those that are witnessed by the same court roll. The latter might be suggestive of the possible 'depth' of a relationship. Repeated land transfers often reflect the composite nature of many land holdings with each holding necessitating a separate record of surrender. The same may be true of simultaneous litigation where pleas of trespass and debt may relate in reality to a single event. However, it is also true that plaintiffs pursued the same defendant with different pleas of the same sort at the same time. In 1356 John Gerard impleaded Geoffrey Gerard in three trespass suits and

one of detinue. Ultimately, Geoffrey was twice found to have taken John's corn, but John fined for non suit regarding the theft of turves and his claim alleging unjust detinue of chattels, including corn, was found to have been false. Even here, the number of pleas entered may have owed more to procedure than to any critical breakdown in relations between John and Geoffrey. If the corn had been carried away from separate holdings then it is possible that different pleas may have been required; possibly too John was hoping to cover all eventualities by charging Geoffrey with trespass as well as detinue.<sup>25</sup>

An individual's identity within the court could be evidenced as much by how they were regarded in relation to the court as how they were regarded beyond the court. Thus John Chamberleyn acts regularly as an essoin, but at what point could one say that his relationships with his essoinees are predominantly determined by his being regarded as an essoin or any other characteristic? Different attributes, where they may be reflective of 'identities' or rôles within the court may be both a result of and a reason for court appearances. A description of the citations of Simon Clericus, freeholder of Redgrave, Suffolk, presented by Razi and Smith illustrates this. 'He was on three occasions mentioned as "attornatus" when working on behalf of his clients.... He was essoined on 13 occasions and a pledge on 14 occasions between 1287 and 1300.... [He conveys] an impression of intensive curial activity since he is noted 60 times in the surviving rolls from 1287 to 1300'.<sup>26</sup> He would thus appear to have been a man much involved in the court proceedings, perhaps a valued authority in the court; can one disentangle such overlapping and interlinked identities? The answer from the Wisbech material is not a resounding 'no', more an interim 'not yet'. Having treated the data in their entirety and worked through their limitations for a large, structural, analysis, the most promising direction lies in the investigation of particular lives and circumstances. At this level, events can be related one to another - how a particular juror exercised his duty as an officer can be related to when and how he acted as a litigant or how he disposed of his landholding at his death, how often and for whom he pledged and so on.

The current analysis does suggest, though, that court roll data provide considerable room for speculation as to the type of social interaction that might have lain behind the apparently standardised entry. Familial relations can be drawn between individuals with different names. Common patterns of behaviour where some explanation is given for the interaction can be used to illumine similar patterns

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<sup>25</sup> C8/3/43 Wis Curia 24.5.1356, 29.7.1356 and 23.9.1356

<sup>26</sup> Z.Razi and R.Smith, 'The Origins of the English Manorial Court Rolls as a Written Record: A Puzzle', in R.&S. pp.66-7.

observed elsewhere. Thus, by reading closely and widely, the historian can delve into the silences of the records.

## REAL LIVES

This section seeks to build upon its predecessors, to integrate the separate strands of analysis by following the interweaving patterns of rôle and relationship through particular lives, rather than imagining composite peasants. The 'career' of Geoffrey de Tydd is adopted to focus on an individual 'prominent' and 'well-connected' in the court. The reconstruction of the Broun family permits the focus upon individuals within the context of their family.

### Geoffrey de Tydd

Narrating a life, or one aspect of a life, on the basis of court-roll entries is itself a mode of interpretation. Statistical findings based upon the totality of the data provide averages and tendencies which can be construed as in one sense 'typical', without actually describing the reality of any individual life. Statistics are always to be enlivened with anecdote; but, more than this, the statistical methodology can be balanced by a correspondingly systematic use of actual events in particular lives. By definition, each life must illuminate a different facet of social reality - which is not, after all, experienced statistically. Having approached the population in terms of the attributes deriving from the structure and procedure of the court itself, and having considered the relationships between different attribute-groups, it is now appropriate to examine the court profile of particular individuals, setting their own court attributes and relationships within the context of general trends.

The name of Geoffrey de Tydd stands out in this collection of court rolls; cited on 149 occasions, he is the most frequently cited individual encountered. This is not, however, the primary reason for selecting him as the subject of a 'case study': discussion has already been made of the problems inherent in drawing inferences from citation frequency alone. Rather, the passage of his life through the courts demands investigation because, unlike so many others, he possessed a variety of attributes and he has the largest network of contacts of all individuals. Unlike so many who flitted in and out of the courts, the data on Geoffrey are consistent and stable, and his citations usually depict him in relationships.

Geoffrey appears in the earliest of the court rolls considered here and several entries evidence his death, thereby providing a bounded lifespan for analysis. Obviously, even this snapshot taken through the courts is incomplete since this study interrupts, as it were, his court activity. However, his name is recorded consistently over some thirty years, which includes the period for which the rolls from all court types are extant. Acting as rent collector and bailiff he is drawn into litigation. As bailiff he is similarly part of the procedures for the surrender of and admission to land, acting as the conduit for land between tenant and lord in out-of-court surrenders; he is also responsible for land in those instances where the new tenant is not immediately admitted or when it is confiscated for default in obligation. There are some 36 citations as essoin, just one as essoinee, seven as pledge and one as pledgee; he is a litigant in 28 pleas and recorded once as an attorney; in addition he makes seven surrenders of land and has six citations as recipient; when he dies he holds 17½ acres.

Geoffrey has a large network of court-contacts: he interacts with some 93 individuals. This figure includes those with whom he acts jointly, as pledge or litigant for example, but not fellow jurors at the halimote: acting as juror is a court attribute which is actively shared by all jurors for each session, but it is not easy to interpret 'being' a juror in a way comparable to 'being' a pledge in relation to pledgees. Acting as a halimote juror leads Geoffrey to interact with 52 other jurors, eleven of whom are among the individuals already part of his court network. More generally though, his court network includes a total of 25 jurors. Geoffrey is in any case cited as juror only on five occasions. Given that his name appears on 144 other occasions and in conjunction with over ninety individuals, it is important to examine the rôles and relationships in which Geoffrey is visible.

Figure 2 provides a visual representation of Geoffrey's key citations, but his court 'career' is not easy to 'read' or define. His citations provide more insight into the court than into the individuality of Geoffrey himself. It is frustratingly difficult to relate his activity as essoin to that of juror and hazard suggestions as to which should take precedence. Attempting to present a narrative 'biography' of Geoffrey can result in a mere catalogue of citation which lacks shape; both his activities and relationships appear discreet. There is no sense of a developing court 'career': for example, there is no evidence of Geoffrey inheriting land, nor is it possible to earmark a point at which he is somehow deemed a sufficient player to provide assistance in court rather than require it.

Fig.2: The Court Career of Geoffrey de Tydd

Year: 13...		27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56
Capacity																															
Rent coll																															
Beadle																															
Juror																															
Pledge																															
Pledgee																															
Essoin																															
Essoinee																															
Attorney																															
Plaintiff																															
Defendant																															
Donor																															
Recipient																															
Rents mill																															
Dies																															

Geoffrey appears in this capacity (once unless otherwise indicated)  
 Year from which one or fewer relevant courts is extant.



The lack of family background for Geoffrey is the most obvious gap in his court-life. A surname such as de Tydd, referring as it does to a local vill, does not make the task of family reconstruction any easier, although it was apparently a stable and consistent name in the case of Geoffrey himself. Indeed, it would appear that his son and heir, John, is consistently referred to as *Johannes filius Galfridi de Tydd*, even after Geoffrey's death, as if indicating that nominal reference to Geoffrey provided a stable means of identification. Geoffrey's wife is cited once during his lifetime, as a brewer at Leverington halimote.<sup>1</sup> Unfortunately the jury list for the session is damaged, so it is impossible to know whether Geoffrey was part of the jury that presented such 'infractions'. Isolated references to each of two daughters slip in amidst his court-oriented citations as essoin or litigant, reminding the reader that individuals within the court also lived within other, more personal, networks. In 1341, Geoffrey and his daughter Joan are presented for making waste to the Bekeswell homestead.<sup>2</sup> In this instance, Geoffrey was presumably obliged to take responsibility for his unmarried daughter, paralleling the case before the leet at Leverington in 1340 when Thomas de Bery shoulders part of the responsibility for the illegal recovery made by his wife and daughter against the reeve for the marsh bank.<sup>3</sup> Six years later, Geoffrey's daughter Alice is fined 2s *pro licencia se maritandi*; no pledge is required for this payment.<sup>4</sup> Unfortunately, the name of a husband is not given, and therefore any ties between families connected through marriage remain obscured.

The most frequently evidenced attribute is that of essoin: Geoffrey essoins the appearance of 34 individuals before the courts, and is thereby cited across 30 different sessions between 1327 and 1348, but chiefly the hundred court between 1337 and 1343, where any connection between providing an essoin because he was there as juror does not apply. The pattern of essoining matches the general observation in that he essoins more defendants than plaintiffs: 32 essoins for defendants, 4 for plaintiffs. Only his own litigious interactions produce such a large number of relationships (litigious relationships also account for 34 individuals). His wider court network comprises 57 individuals who require essoins (49.6% of the individuals in his network), and thus 23 individuals in his network were essoined by individuals other than Geoffrey. Geoffrey's essoining relationships are not generally witnessed either by repeated essoining or in other types of court business. Considering citation in any rôle, Geoffrey is shown to have repeated or multiple relations with only nine of his contacts; but three

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<sup>1</sup> C8/2/23 c.18.10.1330.

<sup>2</sup> C8/2/24 Wis Curia 8.8.1341.

<sup>3</sup> C7/1/4 Lev Leet 7.6.1340 see above p.69.

<sup>4</sup> C8/3/37 Wis Curia 16.7.1347.

of these relationships involve his activity as essoin. Perhaps more significant is the fact that two of these relationships are carried across the years: one is the relationship with John Beverich (1335 and 1338); the other that with John Lewyn (1339 and 1342).<sup>5</sup> It is also notable that of the eleven multiplex relationships (those which involve different types of interactions), six feature Geoffrey as essoin.<sup>6</sup>

What is also notable is that individuals whom he essoins have other visible court attributes, aside from being litigants requiring essoins. Of the six who act as jurors, three do so at the same halimote sessions as Geoffrey and there is a multiple dimension to the relationships between these three and Geoffrey. The proportion of essoinees within Geoffrey's network who are jurors is almost identical, however, to the overall proportion of essoinees appearing in jury lists during his lifetime (17.6% and 17.7% respectively). More significant are the comparative proportions who also appear, in his lifetime, as pledge (20.6% and 12.6%), as essoin (23.5% and 11.6%), recipient in land transfers (38.2% and 22.4%) and, to a lesser extent, donors of land (29.4% against 24.1%). When compared with other categories of attribute, this suggests Geoffrey's network comprises a larger than average group of individuals generally involved in the business of the court, either as agents in their own business or acting for others.

None of Geoffrey's essoining relationships are reciprocal. As a litigant in 34 pleas during his lifetime, Geoffrey seeks essoins for his absence only on one occasion.<sup>7</sup> Geoffrey's essoin, John *filius Johannis*, also acted for 13 other essoinees, and rarely appears in the rolls with any other attribute: he is cited twice as an attorney and once as a pledge between 1327 and 1343; no vill indicating landholding or residence can be ascertained for him. In the absence of any other information, it would seem that Geoffrey's relationship with his essoin was quasi-professional.

Geoffrey appears slightly more often as plaintiff than as defendant (cited as plaintiff in 15 pleas and defendant in 13). On the three other occasions when he is a joint litigant, he is a defendant. The plea in which he is essoined is one of the 20 debt pleas in which Geoffrey appears as litigant. There is evidence of an outcome for 16 of these debt pleas. More of these are settled out of court than by verdicts returned in the court, although the difference between these

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<sup>5</sup> C8/2/27 Wis Curia 9.10.1335, C13/2/18 Wis 100 12.3.1338; C13/2/19 Wis 100 22.4.1339, C13/2/20 Wis 100 2.5.1342.

<sup>6</sup> e.g. Geoffrey brought a (successful) debt plea against John Lewyn, C8/3/31 Wis Curia 1339; they were also fellow jurors and custodians.

<sup>7</sup> C13/2/18 Wis 100 2.7.1338. Certain procedures might affect whether essoins are recorded for litigants: in the same plea, for instance, a day was awarded at the following session without essoins (*sine essoniis*). C13/2/18 Wis 100 20.8.1338.

outcomes is not decisive. Seven debt pleas are concluded in court while nine involve payments for non suit or licence to agree; one other is probably halted by Geoffrey's death. Again the absolute figures provide no conclusive trends, in terms of whether or not Geoffrey matches that pattern observed for jurors involved in litigation. In the debt pleas, he appears more willing to withdraw the plea from court when he is defendant than when the plea has been brought by himself (he is amerced four times *pro licencia concordandi* and is never recorded as fining for non suit). Of the seven debt pleas that are settled in court, the verdict is favourable in three cases; he is found to have unjustly detained money once and to have brought a plaint unjustly on another three occasions.

There are two instances overall from all types of plea, when Geoffrey's opposing litigants are found to have falsely impleaded him; both date from the same session and refer to a point when Geoffrey acted as rent collector. Perhaps the dice were stacked against these two plaintiffs who took on an officer of the lord. Richard Ouere 'and others' were amerced for an unjust plaint of trespass against Geoffrey de Tydd collect' domini; in the succeeding entry Adam Skerhare is similarly amerced threepence.<sup>8</sup> Both men are from Leverington where Geoffrey holds lands and acts as halimote juror between 1335 and 1340.

As a pledge Geoffrey is cited 8 times, the second highest frequency of pledging citation found during his lifetime, and he is one of only 36 individuals who both give and receive pledging assistance in this period before his death. Geoffrey pledges for 9 individuals, in no case more than once; and none of these nine is pledged by anyone else during his lifetime. Nor is there anything exceptional in the circumstances for which the pledge is required. For example, four pledgings concerns the payment of fines for land transfer, both *inter vivos* and *post mortem*, and pledges are commonly provided for this; two other pledging relationships are to ensure payment of debts. Other court attributes are recorded, in other contexts, for four of the pledgees. Geoffrey Pekston, for example, seeks an attorney to pursue his land plea at the spring halimote for Wisbech in 1350.<sup>9</sup> (Overall, only 8 of the 293 pledgees identified during Geoffrey's lifetime ever employ attorneys.)

Of the three other pledgees who demonstrably possess other attributes within the court rolls, one receives an *essoin* and one transfers land, and such attributes are unconnected with Geoffrey de Tydd.<sup>10</sup> The identity of the third, Thomas *filius Laurencii*, is more

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<sup>8</sup> C8/2/23 Wis Curia 22.8.1330.

<sup>9</sup> C8/3/39 8.4.1350.

<sup>10</sup> Overall, 81 (27.6%) of the 293 pledgees are also recipients of *essoining* assistance, and 66 (22.5%) make surrenders of land.

varied; he is also the only individual with whom there is evidence for a repeated pledging relationship with Geoffrey de Tydd. Thomas acts with Geoffrey as a halimote juror, both provides an essoin and receives such assistance, pledges and transfers land in the years before Geoffrey's death in 1356. (Thomas himself is absent from the records after 1342.)

Although there is no evidence for Geoffrey inheriting land, nine individuals transfer land to the use of Geoffrey; in three cases this is to be held jointly with another new tenant. The surrenders are made in 1330, 1331 and 1338, four others being dated 1349. The amounts of land vary from 20 perches to 13 acres. Excluding the relationship with Geoffrey's joint recipient, three of the donors transfer land to other individuals. Three are themselves admitted to land transferred *inter vivos* or *post mortem*, one of whom has the other attributes juror and essoin. None is involved in pledging relationships, nor do they use essoins. There is thus very little scope for further recorded interactions between any of these donors and Geoffrey.

There are seven recorded surrenders made by Geoffrey, one of which is made upon his deathbed, and there are two additional records of *post mortem* transfer between Geoffrey and his son John. Except for the latter two, the surrenders are each of two acres or less. In 1331, Geoffrey surrenders an acre with 20 perches and appurtenances in Leverington *ad opus* Thomas Markannt and heirs; and this is one relationships which is evidenced by other interaction - in 1338, Geoffrey settles out of the hundred court the debt plea brought by Thomas.<sup>11</sup> Nine individuals are the recipients of land transferred in court from Geoffrey; there are another 41 individuals in his network of contacts who appear as recipients of land surrendered other than by Geoffrey. The overall proportion of all his contacts who are recipients (43.5%) is twice as large as the figure for all individuals as recipients during his lifetime (21.5%), itself the largest number of individuals sharing an attribute, so that the characteristic, 'recipient' is significant in describing Geoffrey's contacts, but not necessarily one that derives from interaction with Geoffrey. As to the other attributes evident for his recipients, three are also admitted to land surrendered by others - in each case this involves one such surrender; one other individual makes a surrender of land himself, and two others receive pledging support, from Geoffrey himself, in connection with the transfer to them.

The degree to which attributes might overlap is central to an understanding of individual citations; at times the overlap is irretrievably hidden, at others it may be inferred or is even given. An individual possessed different attributes simultaneously, or could be

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<sup>11</sup> C8/2/23 Wis Curia 21.3.1331; C13/2/18 Wis 100 12.3.1338.

associated in the minds of others with particular attributes even if the court rolls do not record this at a particular time. We know that Geoffrey was rent collector for 1329/30, but it is after he leaves office that he appears in litigation concerning activity arising from official duties.<sup>12</sup> Just as he is a litigant because he was an officer, so too he may have been appointed custodian of the John de Staynton's goods and chattels as a result of having held the same office. Fellow custodians are John de Ristoft, Martin attecross, Walter *filius Walteri*, and Walter le Mey, all of whom hold land in Leverington, and all but Martin are fellow jurors with Geoffrey at the halimote there.<sup>13</sup> Walter *filius Walter* and John Lewyn interact with Geoffrey on other occasions in the court.

The fact that Geoffrey's threepenny amercement for non suit in his caption and detinue plea against John Homond is condoned *quia ballivus* might suggest that the plea itself was related to Geoffrey's duties as bailiff.<sup>14</sup> However, officers would have used the mechanism of the court - orders and financial penalties - to enforce their authority, and it is usually after a period in office that the litigation arises, as noted earlier. In this case, it is presumably a perk of the office which means that the amercement is condoned, but it highlights a contemporary awareness of different attributes.

This overlap - or at least conjunction - of personal and official attributes is neatly evidenced by another entry citing Geoffrey in May 1343.<sup>15</sup> William Baxtere acknowledged in court that he was bound to Henry Clericus in 20s for oats sold to him; he was to pay the money in October, and Geoffrey pledged this payment.<sup>16</sup> It is difficult to conclude from the further details whether this was a personal or official pledging interaction. William agreed that if he failed to pay the money, the bailiff was to raise the sum from his goods and chattels to the use of Henry Clericus. Thus, Geoffrey pledges the payment on behalf of William, but if the payment is not made the creditor could have no comeback with Geoffrey. Instead, he is to seek recompense through the bailiff. At the time of the agreement, Geoffrey is himself the bailiff, and therefore the implication may be that in pledging, Geoffrey is

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<sup>12</sup> C8/2/23 Wis Curia 22.8.1330 rent collector; 7.12.1330 amerced for unjust distraint.

<sup>13</sup> C8/2/23 Wis Curia 4.7.1330 *onerati sunt ad custodiendum omnia bona et catalla qui fuerunt Johannis de Stainton nuper defuncti*.

<sup>14</sup> C13/2/21 Wis 100 8.5.1343.

<sup>15</sup> C13/2/21 Wis 100 8.5.1343.

<sup>16</sup> William was to pay the cash *ad festum Sancte Etheldrede proximam sequent' post festum Sancti Michaelis*, interpreted as the translation of St Etheldreda (17 October) rather than the feast day of the Ely saint itself (23 June).

acting in his official capacity as bailiff and underlining the commitment of this office to guarantee Henry's satisfaction.<sup>17</sup>

The accumulation of official experience through different attributes is further highlighted by his citations in 1338. Geoffrey again appears as the rent collector for 1337/38, acting with others as custodians of confiscated crops and from that autumn acts as a halimote juror.<sup>18</sup> In addition, a *curia* roll records that seisin in 11 acres of Leverington land (which included 7½ acres which were villein), sold by charter by Joan Waryn to *magister Ricardus de Leverington*, was freely delivered from John Waryn, *dominus*, as son and attorney of Joan, to Richard through Geoffrey *in loco bedelli*.<sup>19</sup>

It can be inferred from this statement, in the context of other material, that Geoffrey did not occupy the office of beadle at this point, but was clearly identified with the rôle of beadle. And it has already been observed that such an identification could be in the minds of those within the court without this fact being recorded in the roll. A discussion of Geoffrey's citations in 1349-50 are pertinent here; as has already been noted it is at this point that the conjunction of the individual and customary procedure is so important.

1349 begins with Geoffrey de Tydd *Bedellus de Wysebeche* amerced for not coming to perform his office; unfortunately, the amount of amercement and the precise details of his failings are irretrievable now through damage to the manuscript.<sup>20</sup> The entry does at least illustrate the integration of official and court, and provides evidence of office-holding not only valuable to a prosopographical study (not least because he is not explicitly cited as beadle again), but also in the context of the events surrounding the outbreak of plague.

Among the land transfers to which Geoffrey is party in 1349-50 is a deathbed surrender by John Shepherde *de Tydd Sancte Marie*. The interpretation given to this transfer and connected citations is crucial; first in identifying Geoffrey's involvement as official rather than personal and secondly, in using this instance as a key by which to unlock other patterns of citation and procedure.

The *curia* roll for June 1349 records John Shepherde's indirect surrender to the lord via the bailiff of land in Wisbech to the use of Geoffrey, Nicholas Clerk de Tydd and their heirs; the new tenants are admitted to the land although it is to be doubted whether the transfer

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<sup>17</sup> see above, plea against John Homond in same session.

<sup>18</sup> C8/2/30 Wis *Curia* 27.5.1338, Lev Hali 13.10.1338. Of his fellow custodians Adam *filius Thome* and Elias Dompesday cannot be associated with a particular vill; Martin Lewyn is a fellow Leverington halimote juror. Martin is also affeerer at the hundred and halimote, and Castle reeve in 1345 and 1350.

<sup>19</sup> C8/2/30 Wis *Curia* 3.7.1338.

<sup>20</sup> C13/2/23 Wis 100 8.1.1349.

fine of 2s 4d was actually paid in this session, since a cross is marked in the margin alongside the fine.<sup>21</sup> It can be demonstrated that this surrender threw the new tenants into a complex web of obligation, one in which they were involved in an official capacity and which resulted in their appearance as litigants.

The different facts which pertain to this explanation are as follows:

1. In 1345, Thomas Pekston surrenders land from his own homestead to Roger Pekston.<sup>22</sup>

2. In late 1348, Thomas Pekston's widow Mariot recovers seisin of land as her dower from John Shepherd.<sup>23</sup>

3. In June 1349 John Shepherd surrenders indirectly ½ acre with appurtenances in Wisbech to his sister Geva; she is admitted as new tenant.<sup>24</sup>

4. John Shepherd similarly surrenders three roods of land with a building and appurtenances in Wisbech to the use of Geoffrey, Nicholas Clerk de Tydd and their heirs; they are admitted.

5. Geoffrey and Nicholas are both beaules at this time, Geoffrey for Wisbech and Nicholas for Tydd.<sup>25</sup>

6. In October 1349 Geoffrey is responsible for repairing a house on the tenement which had been Thomas Pekston's.<sup>26</sup>

7. In 1350 Geoffrey Pekston *per attornatum suum*, and Emma filia Rogeri Pekston jointly implead Geoffrey and Nicholas with the unjust deforcement of three roods and a messuage as of right and inheritance.<sup>27</sup>

8. In September 1350 Geoffrey and Nicholas jointly transfer 3 roods with a cottage to Geoffrey Pekston and one other individual with

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<sup>21</sup> C8/3/38 10.6.1349.

<sup>22</sup> C8/3/35 Wis Hali 5.10.1345 10 perches with appurtenances in Wisbech with the fourth part of a cottage.

<sup>23</sup> C8/3/37 Wis Curia Bondorum 28.11.1348.

<sup>24</sup> C8/3/38 Wis Curia 10.6.1349 the entry before that recording the surrender to Geoffrey and Nicholas.

<sup>25</sup> Nicholas is described as *Bedellus de Tydd* at this same session and amerced a penny for concealing a plea.

<sup>26</sup> C8/3/38 Wis Hali 5.10.1349 *preceptum est Galfrido de Tydd quod reparare vnam domum de nouo super ten[ementum] quod fuerat Thome Pekstone contra proximam Curiam sub pena xxs*. Often, such orders were to be fulfilled within a year. Possibly the urgency of the repair was determined by Geoffrey's responsibility deriving from his being beadle. Geoffrey failed to comply, and despite the threatened penalty of 20 shillings, he is amerced just tuppence and ordered again with the same penalty. In 1350 he is again given a day to make the repair; now, the repair is to be made before Easter rather than the next curia session. Given greater time Geoffrey presumably complies, for there are no further references to this.

<sup>27</sup> C8/3/39 Wis Hali 8.4.1350.

the surname Pekston.<sup>28</sup> Geoffrey also acts as pledge in connection with the new tenants' admission.

9. Later in the same roll, the threepenny amercement of Geoffrey and Nicholas is recorded *pro licencia concordandi* with Geoffrey Pekston and Emma filia Rogeri Pekston. It seems too much of a coincidence not to relate the withdrawal of this land plea (relating to 3 roods and a messuage) to the surrender recorded earlier in the roll, in which case Emma is to be identified with Geoffrey Pekston as the new tenant.

The exact details of the claims Geoffrey Pekston and Emma filia Rogeri Pekston make against Geoffrey and Nicholas are not contained in the extant rolls (and the plea was settled beyond the court). However, it is possible that Thomas Pekston, possibly on his deathbed, had surrendered land to John Shepherde on the understanding that John would then make two further transfers to Thomas' widow and to his heirs Geoffrey Pekston and Emma filia Rogeri Pekston (potentially back-to-back transfers). Mariot successfully claimed her part through litigation. Because John Shepherde had failed to transfer the three roods to Geoffrey Pekston and Emma by the time of his own death (suggested by the fact of his provision for his own sister in June 1349), John Shepherde entrusted the two beadles, Geoffrey de Tydd and Nicholas Clerk, with this task, either as official deputies or quasi-executors. In claiming their 'inheritance', Geoffrey Pekston and Emma directed their plaint at the latter as the current 'intermediary' tenants.

The fact that the land is claimed by inheritance sheds an interesting light on contemporary perceptions of inheritance procedures. If Thomas Pekston intended John Shepherde to transfer his land to Geoffrey and Emma and, because he had not done so before his death, John then entrusted the two beadles with this task, then Geoffrey and Emma could claim the land through inheritance if such *inter vivos* transfer was regarded as equating with *post mortem* transfer. And it has already been observed that many families regarded the two procedures as being different means to the same end.

The fact that both Geoffrey and Nicholas were beadles at the time of John Shepherde's surrender has also been taken to be significant. The joint tenure of Geoffrey and Nicholas may not seem any more inexplicable than any other joint tenure between unrelated individuals. Neither tenant provided assistance for the other, nor did they transfer land

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<sup>28</sup> C8/3/33 Wis Curia 24.9.1350 The skin for this session is enrolled with manuscripts dated according to the 15-16 Edward III. The dating of this roll by regnal years is affected by damage, but it is apparent from comparison of business with other sessions that the date should be 24 Edward III.



between themselves, but then nor did many other joint tenants.<sup>29</sup> Both acted as halimote jurors in spring 1340, but while Geoffrey sat for Leverington halimote, Nicholas acted at the Tydd session, and neither is recorded as holding land in the same vill as the other. They may have been separated by age too: Geoffrey is first recorded in 1327 and when he dies in 1356 he leaves at least one adult child, with another having been of marriageable age in 1347; Nicholas' first citation dates from 1340 and he dies in 1373. They only interact visibly in connection with these land transfers and plea.

The notion that John Shepherde made his deathbed surrender into the hands of Geoffrey and Nicholas because of their having the attribute 'beadle' explains what was initially a troubling back-to-back transfer centring upon Reginald Ingelot, again at the time of the Black Death. The details are presented in the *curia* in December 1352, but refer to events *tempore pestilencie*.<sup>30</sup>

Thomas de Pokedich, on his deathbed, surrenders land in Leverington to the use of Reginald Ingelot and his heirs by the hands of the bailiff. In the very next entry the same Reginald surrenders the same land to Margaret, Thomas's widow and Matilda his daughter, the land to be held by Margaret for her lifetime and then by Matilda and her heirs. There are two points about these consecutive entries which create a sense of unease as to the accuracy of the portrayal of Thomas' deathbed surrender. The first is that the entry recording Thomas' surrender has been amended, the surrender originally being *ad opus* Matilda. Secondly, Reginald Ingelot was himself the bailiff for Leverington in 1349. What these entries can be taken to reveal is that Thomas had surrendered *in manus domini per manus Reginaldi Ingelot ballivi* land to the benefit of his wife and daughter. The reason Reginald is admitted as the intermediary tenant is that by the time the surrender comes to be brought before the court, Reginald is no longer the official conduit - the bailiff/beadle - for title to the land, and thus the transfer between Thomas and Margaret and Matilda is by way of two surrenders and two admissions. The case, like that involving Geoffrey de Tydd and Nicholas Clerk, illustrates not so much the choice of beadles as executors but the fact that the individuals who take the surrender of title in the guise of officers often did not pass on the land until after the end of their year in office.

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<sup>29</sup> Excluding contacts who were fellow jurors, two of Nicholas' 32 contacts are to be found in Geoffrey's network: Geoffrey essoins John attebrigge in 1327 while the latter is impleaded by Nicholas in 1361 (although one individual with this name is not so easily distinguished from another). C8/3/45 Wis Curia 2.6.1361 Both also make land transfers of land to John Houshold, Geoffrey in 1353 and Nicholas, from his deathbed, in 1373, C8/4/52 Wis Curia 27.5.1373.

<sup>30</sup> C8/3/41 21.12.1352.

Such an understanding of the way in which the attribute of beadle may or may not be referenced in the record of a land transfer is of further significance, again centring upon Geoffrey de Tydd and the transfer of land at the time of the Black Death. But it differs from the example of Reginald Ingelot because it is derived from the record of only one transfer.

In May 1350, a deathbed surrender made by John Faireye is recorded in the *curia* roll.<sup>31</sup> It is intriguing to speculate how this particular transaction came to the notice of the court: perhaps it was through the presentation of the Wisbech homage, which would have included Geoffrey, but it had actually been concealed by Geoffrey, hence his amercement of threepence. The transaction is of note for two reasons: it highlights the difficulty of disentangling official from personal actions and provides an insight into the flexibility of permissible transfer procedures. The case has already been commented upon, but the details are worth rehearsing here as they centre upon Geoffrey. *Johannes Faireye in lecto suo mortali reddidit in manus domini per manus Galfridi de Tydd duas acras terre ad opus Agnetis filie sue et heredum suorum*. However, Agnes had died and it is her heirs, her brothers William and John who now come to be admitted, apparently paying both heriot and the fine for their father's original surrender.<sup>32</sup> The court recognised the validity of Emma's tenure even though she was never admitted formally in court. Theoretically, right in the land remained with the lord on John Faireye's surrender, but the court followed the father's wishes in allowing the descent of this holding to bypass his customary heir, his son John, by permitting Emma's heirs to be admitted; payment of the fine associated with the surrender as well as the heriot arising from Emma's death, marked out the descent of right.<sup>33</sup>

The transfer also focuses on Geoffrey. Evidence from earlier court rolls indicates that John Faireye had died by late July 1349, when another indirect deathbed surrender to his daughter Emma was recorded. John Faireye could not have made his surrender to Agnes after this date, so Geoffrey must have 'concealed' it for ten months. During this time, his term as beadle had ceased; official service followed the accounting year of Michaelmas to Michaelmas, and John Streyth is known to have been the Wisbech beadle in November 1349.<sup>34</sup> This surely explains why Geoffrey is identified in person when the second surrender is recorded. He is no

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<sup>31</sup> C8/3/40 Wis *Curia* 11.5.1350.

<sup>32</sup> Two sums are entered in the margin, but the details of the text are torn.

<sup>33</sup> C7/1/7 Elm Hali 8.10.1349 John Faireye's son John is named as the single heir to the three holdings containing 18 acres of land.

<sup>34</sup> C8/3/33 Wis *Curia* 20.11.1349 John Streyth *Bedellus* is amerced for not distraining tenants for fealty and relief.

longer the official but the reference to him as the deputy and his amercement arise from the time when he had acted in this rôle.

In the following *curia*, Geoffrey is again recorded in the rôle of the official intermediary in two additional out-of-court surrenders of land.<sup>35</sup> Both Thomas Ratoner and Thomas Nel make deathbed surrenders *in manus domini per manus Galfridi de Tydd*. On the basis of the interpretation given to the entry recording John Faireye's surrender, these two surrenders must originate in the previous year when Geoffrey was beadle; since he no longer occupies this office when record is made of the admission of the new tenants, he is identified by name to avoid confusion with the current officer.

Such recording practices highlight the possible ways of understanding an association with attributes and the way these are recorded. Such examination has thus shed light upon court procedure and the rôle of Geoffrey de Tydd in this is important, just as an understanding of the official nature of his involvement in certain pledging citations is illuminating. Although it offers little by which to approach the 'humanity' of Geoffrey, it is perhaps this official business which best captures his 'individuality' as recorded in the court rolls. He is frequently cited as an *essoin* and as a litigant, less so as a pledge but still more rarely as an *essoinee* or *pledgee*, and yet there is little on which to hang a more personal life-history.

Despite his citation in 28 different pleas it is difficult either to derive a shape for his actions, in terms of whether he was plaintiff or defendant, willing to settle in or out of court, judged a successful or unsuccessful litigant, or for his relationships. His interactions with Peter Baxtere, of Leverington offer a small glimpse into the depth of his relationships but one cannot penetrate far. Peter Baxtere pays to withdraw a debt plea brought by Geoffrey in September 1338 and subsequently fines for non suit in his own debt plea brought against Geoffrey the following year.<sup>36</sup> In neither instance are the details of the claims visible. However, Geoffrey's renting of the lord's mill in Leverington is recorded in a memorandum in the roll for the autumn *halimote* in 1338; the terms of the rental are 35 shillings for eight years as from this Michaelmas, and Geoffrey's pledge is *Walter filius Walteri*.<sup>37</sup> Given the occupational name of Peter Baxtere with whom both Geoffrey and Walter had been in recent litigation at the hundred court, it is possible that this focus on the mill may explain a commercial connection between the three men.

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<sup>35</sup> C8/3/40 Wis Curia 19.7.1350.

<sup>36</sup> C13/2/19 Wis 100 17.9.1338; 20.5.1339 non suit indicated in the annotation to the record of Peter Baxtere's *essoin*.

<sup>37</sup> C8/2/30 13.10.1338.

This rental represents the one occasion when Geoffrey requires a pledge. Walter acts as fellow juror at all three of the halimotes for Leverington with Geoffrey, including this session, Walter further affeering the amercements and fines imposed here; together they are custodians of the late John de Staynton's cattle. The records also show Walter adopting the rôles of Barton and Castle reeve. Like Geoffrey, Walter acts as essoin and pledge. Again like Geoffrey, Walter pursues his own litigation, chasing alleged debtors; one of these pleas derives from a lease of land made by him, but further details are not apparent since the parties settle outside the court. Walter's citations do not evidence pledging requirements, and therefore there are no formal opportunities for Geoffrey to reciprocate the provision of pledging support. More specific to the original pledging for Geoffrey, it is notable that a pledge for the lease of the mill is not the same as a pledge required for the payment of the more ubiquitous court fines or amercements, for example. Leasing the lord's mill could not have been an arrangement entered into lightly from the point of view either of the lessee or of the lord's administrators: the new farmer must have been considered 'sufficient' and capable of paying the lease; his pledge (and it is perhaps significant that there is only one individual named as pledge) must likewise have been deemed able to support this obligation too.

It is notable, however, that without this memorandum there is nothing that might have contextualised Geoffrey's activity within the court, and even then the lack of details prevent the firm link between any debt pleas and Geoffrey's rent of the mill for eight years. He remains a court animal.

It therefore seems characteristic of his citations that, when record is made of his death in 1356, the lands which his son inherits bear no relation to the transfers during Geoffrey's court 'career'; and that, having all but been hidden from the records during his lifetime, Geoffrey's wife appears: Alice *que fuit uxor Galfridi de Tydd* is cited as a tenant of land in Wisbech.<sup>38</sup> Again, however, the evidence of his deathbed surrender and *post mortem* transfer of land do illuminate the rôle of the individual within customary procedures, suggesting reasons for certain activities.

Geoffrey's death is formally presented by the homages of Wisbech and Leverington at the *curia* in March 1356, the two presentations reflecting separate landholdings in different villis. The composite nature of his holding is reflected further in the different lands he

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<sup>38</sup> C8/3/43 Wis *Curia* 29.3.1356; C8/4/49 Wis *Curia* 21.7.1367 Geoffrey's son John surrenders the reversion of half an acre of villein land with appurtenances which Alice holds for her lifetime as dower.

held within each vill. In Wisbech he had held 7½ acres *terra operabilis* and appurtenances, and 3 roods with appurtenances: the former owed heriot rated at 4d per acre, while the latter was liable for 7½d. In Leverington, his son John was also heir to four separate holdings: an acre and a rood with appurtenances of the Coperose tenement, owing relief at 8d; 2 acres of his own tenement which owed relief at 20d; 1½ acres of the Large tenement with relief of 2s 3d; and *tres acras terre operabilis cum pertinencijs* owing 1s relief.<sup>39</sup> The fact that relief rather than heriot was due on the Leverington land is not an indication of personal status, as has been noted earlier; as the Wisbech homage presented, Geoffrey was *nativus domini*. Compared to much land that descended by way of inheritance, these 16 acres amount to a reasonably large holding. It is unfortunate that none of the holdings can be linked to any of Geoffrey's *inter vivos* transactions.

Geoffrey had not died 'intestate' as it were, before he could arrange the succession to his land and thus avoid the default option applicable to everyone - that of customary inheritance procedure. The fact that a deathbed surrender is also recorded, points to a conscious decision for his son to inherit according to the customs of the manor, rather than acquire the land through *inter vivos* transfer. Having presented these *post mortem* transfers between father and son, the Wisbech homage then presents that Geoffrey *reddidit in manus domini in lecto suo mortali vnam acram et dimidiam terre operabilis ad opus Johannis de Norfolk*. As a note entered above this, and a subsequent entry in the *curia* session in May, records, this surrender had not in fact been a direct deathbed surrender, but Geoffrey *reddidit sursum per manus Ballivi*. Record of the transfer was repeated because John de Norfolk did not attend court to be admitted until May.

When John de Norfolk is admitted, a shilling is set as the fine for transfer.<sup>40</sup> If the land transferred to John de Norfolk was of comparable location and condition to that inherited by Geoffrey's son, one might hypothesise that Geoffrey selected these different forms of transfer because of the financial advantage to his son. Being tied into customary procedures of succession with fixed levels of heriot was of benefit if a higher level of fine was likely to be demanded for the *inter vivos* transfer of similar land.<sup>41</sup> In the case of the holding of 7½

<sup>39</sup> Although the rolls contain two entries recording the succession of his son John to his holdings this only loosely counts as a multiple relationship: the number of transfers is more a feature of the landholding rather than the relationship between father and son.

<sup>40</sup> C8/3/43 Wis *Curia* 24.5.1356.

<sup>41</sup> In December 1349 Geoffrey paid 13s following the *inter vivos* transfer of land which had been liable to a *post mortem* transfer fine of 4s 4d just five months previously (although particular conditions may have determined the low fine). C8/3/38 Wis *Curia* 20.7.1349, 11.12.1349.

acres, heriot was demanded at the rate of 4d per acre; John de Norfolk was to pay twice this for the 1½ acres surrendered by Geoffrey on his deathbed. The big unanswered question remains just how comparable the land holdings were and what determined the size of transfer fine. Both holdings were subject to labour services; perhaps different levels of fine accounted for varying demands of service. Four months after John *filius Galfridi de Tydd* had been admitted to his father's holdings, he himself surrendered *vnam acram et dimidiam terre operabilis cum pertinencijs in Wysebeche*; the new tenant Geoffrey Curteys was admitted and a fine of 18d set - three times the level of heriot and one-and-a-half that paid by John de Norfolk.<sup>42</sup>

The picture provided by the citations of Geoffrey de Tydd is one of an individual often closely involved in the courts, but any emphasis is towards official or quasi-official interaction rather than seeing the more personal networks of an individual. Yet, the appearances that he makes as an official are perhaps the more illuminating, not necessarily of his own personality, but of the importance of the individual as officer and in the courts - it is the inability of Geoffrey to provide a conduit between the out-of-court donor and the court in 1349 that results in the limited procedural change in the matter of land transfers. As an officer and juror he was continually appearing at the different courts - hence also his record as an *essoyn* - but the often terse record of the court does little to convey the atmosphere in which he would have been immersed. His prominence in the records may have lent him an undefined attribute of a court-elder or wise man; he may have played a key rôle in advising on procedure or manipulating procedure to the benefit of tenants rather than the lord. Particularly during times of heightened, sudden mortality, out-of-court tenants had to place a high degree of trust in Geoffrey as beadle. Unfortunately, there is so little of the more personal trust between friends, neighbours, joint tenants or even familial relations to be observed in the interactions involving Geoffrey. To some extent this is no less than for his contemporaries. Geoffrey de Tydd stands out from his fellows because of his ubiquity but also because he provides a human dimension to court procedure, linking this to the world beyond the court. Paradoxically, it may be the fact that he also stands out because he has different attributes which affects any attempt to generalise from his citations. There is a danger that if an individual had fewer citations, or fewer types of interaction, or a narrower network of contacts, then patterns of interaction - generalisations about types of attribute or ties of relationship - would be easier to see. Geoffrey may be an exception to

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<sup>42</sup> C8/3/43 Wis Curia 29.7.1356 in the *curial* timetable, this session follows that wherein John de Norfolk was admitted.

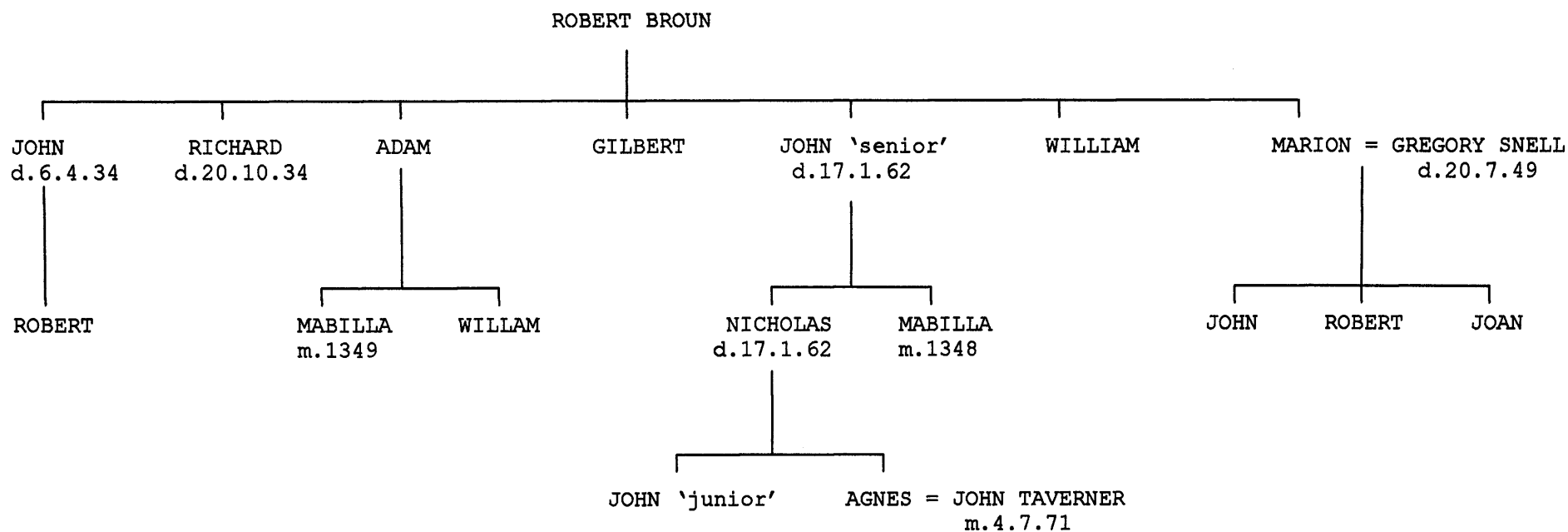
the norm, but since we cannot replicate that norm exactly, it is necessary to ground an understanding of the world of the court in the most illustrative lives visible in records.

### The Broun Family

Acknowledging the standard caveats regarding nominal identification, prosopography and family reconstruction from court rolls, one must regard a family like the Brouns of Wisbech as remarkable; or rather the more salient point may be that there are no families like the Brouns. There are 30 different individuals bearing this surname and all but five have been combined into two family trees, spanning the period 1329-1377 (figure 3). This inclusiveness is important since 'Broun' may have denoted the description of a particular individual rather than a more discriminate family name. The (six) citations of the five isolated individuals do not significantly affect the analysis of intra-familial relationships among the Broun family/surname group. They comprise two married couples who are also isolated temporally, each involved in a joint transfer of land towards the end of the period, while the fifth is Peter Broun who appears once in the records in 1348 as a common foretaller. The singularity of his citation does not mean he is totally absent from the court rolls, merely that the historian cannot identify him; there is nothing about this single citation which allows linkage to another individual.

By contrast, six people with unrelated surnames have been drawn, through marriage, into this reconstruction of Broun family relationships. The almost full reconstruction of these relationships sets the family apart from their fellow individuals cited in the rolls. Individuals bearing this surname appear more-or-less throughout the whole period, in different courts and in a range of business (there are 256 citations of individuals with the Broun surname and a further 52 for those who can be linked to the family). In addition, the family meets the condition for inclusion in this part of the analysis - that at least one of its members is frequently cited in the rolls. John Broun junior's name is recorded on 77 occasions between 1327 and 1362, the year of his death, his brother William is cited 33 times (1333-1350), and there are 58 citations of John's son Nicholas between 1348 and his death in 1362. Other comparable surname groups which have been taken to evidence presumed family membership for all individuals bearing the same surname have also been reconstructed into families, but none is so complete and so broad as the Broun family.

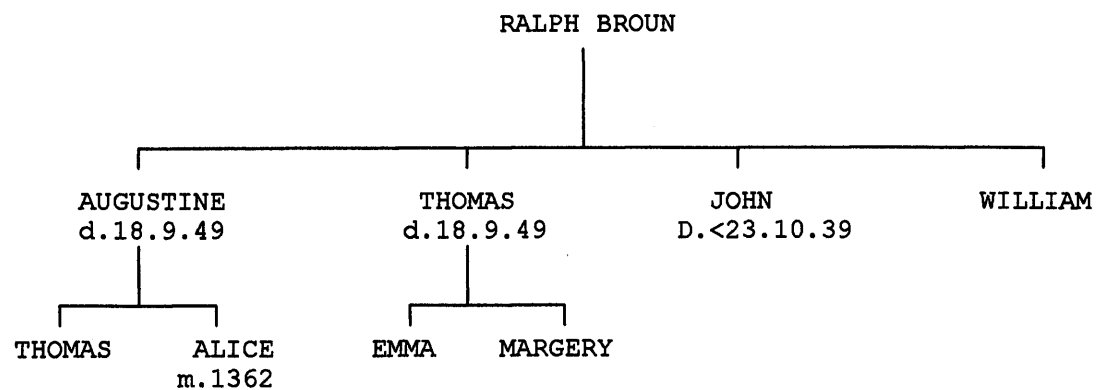
Fig.3 Family tree: the Broun family



GEOFFREY BROUN = JOAN  
(joint donors, 1371)

ADAM BROUN = ALICE  
(joint donors, 1375)

WILLIAM FILIUS RADOLPHUS BROUN  
(tenant, 1331)





Chronologically, the first citation of a member of the Broun family appears in 1329, when John senior is cited on the list of jurors for the Wisbech halimote of spring 1329, the first of fourteen such citations, the last in 1350.<sup>43</sup> John senior is the younger of the two sons of Robert Broun called John (see figure 3). His elder brother John *filius Roberti* Broun senior, however, has only one citation, recording his death, and this is at the beginning of the period. In addition, John Broun the juror has a grandson named John, and in the rest of this account the contemporary distinction of these two individuals as John senior and John junior will be adopted.

The Broun family can be extended both laterally and vertically, across and between generations. Of the three key figures with multiple citations over a number of years, there are two brothers and a father and son. The brothers William and John senior, sons of Robert Broun, display little in common. William's citations are predominantly as *essoins*: he is admitted to hold land on four occasions, twice through inheritance, transfers land once, pursues two debt pleas and acts as attorney once; on the 27 other occasions he displays the attribute '*essoins*'. By contrast, John senior is cited in a broader range of entries. Most notably he holds office, as juror for Wisbech halimote, where he also acts as *affeerer* with John *filius Walteri* Faireye, and is elected *prepositus* and rent collector.<sup>44</sup> He is also involved in eight *inter vivos* transfers and cited in five cases of *post mortem* transfer (three relating to his own death), provides pledging assistance on four occasions, receives a pledge and is engaged in nine cases of his own litigation. He has the attribute '*essoins*' from five citations.

The limited range of activity evidenced for William thus reduces the probability of witnessing interactions between the brothers. A suggestion of separate spheres of involvement comes from the finding that of the 31 individuals with whom William interacts and the 47 people connected to John senior, there are five people in common and only one is from outside the family. In 1338, William *essoins* John Lomb in a plea of trespass, and in the following year John Lomb is presented for making illegal rescue against John Broun senior, rent collector, who thereupon justly raises the hue.<sup>45</sup> However, it is perhaps telling that on the one occasion John senior calls upon another to *essoins* his presence, it is his brother William that provides the *essoins*. The frequency with which William appears as an *essoins* obfuscates the structural issue of whether John approached William for such assistance because William was his brother or because William commonly acted as an *essoins*. The other

<sup>43</sup> C8/2/22 Wis Hali 5.5.1329; C8/3/39 Wis Hali 8.3.1350.

<sup>44</sup> C8/2/27 6.4.1334 *affeerer*, 20.10.1334 *reeve*, C8/2/30 21.10.1338 *rent collector*.

<sup>45</sup> C13/2/18 Wis 100 5.11.1338; C8/3/31 Wis Hali 23.4.1339.

instances of common contacts are genuinely determined by family relationship since they all derive from joint inheritance from their other brothers, Richard who dies in 1334 and Gilbert who dies in 1349.

Other than in instances of joint tenure by common inheritance and the one case in which he provides an essoin for his brother John senior, William Broun does not interact independently with other members of his family. Fractionally more of John senior's interactions are made with other Broun family members (11 of 54), although like William this is largely to do with inheriting with his brothers Adam, Gilbert, William and nephew Robert the holding of his brother Richard, and then inheriting Gilbert's two acres and one rood jointly with brother William and nephews William and Robert. In the same year, 1334, that John senior had inherited from his brother Richard, he had previously transferred land with William de Marche to Richard. In fact this is part of a back-to-back transfer: the previous entry witnesses the transfer to John Broun senior and William de Marche from John Curteys of *tres acras et tres rodas terre operabilis* in Bargecroft, Wisbech which John and William then transfer to Richard.<sup>46</sup>

Land is also transferred in the opposite direction, in addition to the *post mortem* transfer through inheritance. John senior inherits land from his brother Richard at the same time that land passes between them through *inter vivos* surrender. The entry immediately after that recording Richard's death records Richard's indirect surrender of an acre and its appurtenances in Wisbech in favour of John senior.<sup>47</sup> As a further indication of bonds between siblings, it should be noted here that Richard Broun simultaneously makes another transfer for his brother Gilbert. The latter is admitted to hold three acres and three roods in Bargecroft, Wisbech, but this is to be held jointly with William de Borewelle, for whom Richard also surrendered another acre of customary land in Fennelond.<sup>48</sup>

John senior can additionally be seen to interact with Augustine Broun and Augustine's brother John, who are part of the second Broun family tree. John senior pursues this John, son of Ralph Broun, for debt in the Wisbech halimote of spring 1344.<sup>49</sup> Augustine Broun he interacts with on more than one occasion, indeed such interactions by John senior are evidenced more commonly than with any other member of the Broun surname group although the actual family relationship between John senior and Augustine is not explicit. The relationship first appears in the court rolls in 1341 when Augustine is amerced sixpence for trespass

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<sup>46</sup> C8/2/26 Wis *Curia* 18.1.1334.

<sup>47</sup> C8/2/27 Wis *Hali* 20.10.1334.

<sup>48</sup> The Bargecroft holding was presumably that which Richard had received from John Broun senior and William de Marche nine months previous.

<sup>49</sup> C8/3/34 21.4.1344.

against John senior. In July 1342, John senior is amerced sixpence for an unjust plaint of covenant; in November Augustine is again impleaded in a plea of covenant. The two were possibly connected through a credit arrangement concerning land. The following April Augustine is found to have unjustly detained 5s 5d from John senior and to have detained a further 30s for land which John had sold to Augustine. There is, unfortunately, no record of the land transfer. Five years later, the two are to be found among the list of pledges guaranteeing Thomas de Samton's rental for the mill.<sup>50</sup>

This is in fact the last recorded appearance of Augustine alive, for the next citation records John Neuman junior's amercement for unjust detention from Augustine's two executors, Nicholas Nicol and Nicholas Broun, the son of John senior. His final citation appears in the entry recording his death; Augustine's son Thomas is the next heir, and a pledge for payment of the 8<sup>1</sup>/<sub>2</sub>d relief is provided by Robert Nicol.<sup>51</sup> Thomas incidentally survives through to the end of the period but if he interacts with any of those individuals within his father's court network or any other Broun, such relationships are not apparent. Robert Nicol, pledge for Thomas, is in fact the brother of Nicholas who acts as executor for Thomas' father Augustine. Any sense of the personal connection between them and the Broun family is indecipherable, there being no other interactions visible in the rolls. As in so many other instances, though, Robert is connected with the family through land: in 1365 he makes an indirect surrender of villein land of the Broun tenement in Wisbech.<sup>52</sup>

That Augustine shares no contacts with John Broun senior, the member of the Broun family with the largest network of court contacts, need not be taken as typical of the pattern of interactions of members of the two different Broun groups. Augustine has a comparatively small court network, seven individuals of whom two are Brouns. All but one of these contacts also interact with Nicholas Broun, and only one such interaction is intra-familial, involving John Broun senior. Perhaps significantly, five of these individuals are also Wisbech halimote jurors, like Augustine and Nicholas. But one must avoid stretching the data out of shape as it were. The coincidence between the associates of Augustine and of Nicholas is determined by two court roll entries in which they themselves are cited together, so it is hardly surprising that subsequent analysis finds shared contacts. They are joint pledges for Thomas de Samton, while in the second entry, Nicholas pursues John Neuman junior for debt in the capacity of executor of Augustine, which

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<sup>50</sup> C8/3/37 Wis Curia Bondorum 28.11.1348.

<sup>51</sup> C8/3/38 Wis Curia 18.9.1349.

<sup>52</sup> C8/4/48 Wis Curia 28.8.1365.

implies that Augustine interacted with John Neuman.<sup>53</sup> As to the tendency for the individuals in these two overlapping court networks to be jurors, it should be observed that the evidence for Nicholas serving as a juror post-dates Augustine's death in 1349.

There is, though, an overlap between the individuals with whom John senior visibly interacts and those among the court network of his son Nicholas, a coincidence which extends beyond the family or surname group since only two of these sixteen individuals are Brouns. Both John senior and Nicholas interact independently with Augustine Broun. Their relationships with the other member of the Broun family are more explicitly bound up in close family ties: both transfer land to Nicholas' daughter Agnes. This particular overlap is actually quite limited since both surrenders are made at the same time - just before they both die. Father and son are recorded as dying in the same court roll, more specifically, in the same entries. Before these, but in the same court session are two consecutive entries relating the deathbed surrender of an acre and its appurtenances in Wisbech by John senior in favour of his granddaughter Agnes, and a similar surrender by Nicholas to the same Agnes his daughter of the same amount of land.<sup>54</sup>

Nicholas dying just after his father, the entries recording John senior's death follow the descent of land to Nicholas as heir, then noting that he too has died with the result that Nicholas' own son and heir, John, has to pay relief on both deaths. Presumably they succumbed to the renewed outbreak of plague, but before they did so both made provision for the child who would not acquire land through inheritance. Having been admitted as a tenant, Agnes does not appear to have been much involved in the business before the court. It is not apparent what arrangements she makes for the use of her two acres, possibly she took this land to her marriage in 1371 with the freeman John Taverner.<sup>55</sup>

Beyond this immediate family, Nicholas shares none of the family contacts of his father. It is the overlap between the non-familial contacts that possesses the greater numerical significance: 14 of these 16 individuals do not appear to be related. Family relationships may be significant, but it is not a significance which is testified by the court roll. John senior and Nicholas are cited more often than any other members of the Broun surname group (76 and 58 citations each, respectively). Participation in the courts takes both John senior and Nicholas beyond the confines of family-dominated relationships - 11 of

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<sup>53</sup> This may not be strictly true: elsewhere executors are pursued for payment for a coffin.

<sup>54</sup> C8/3/45 Wis Curia 17.1.1362.

<sup>55</sup> C8/4/51 Wis Curia 4.7.1371 12d fine for marriage, no pledge needed. John Taverner's other citation, characteristically, is as wine-seller, C8/4/50 Wis Leet 5.6.1370.

John's 52 contacts are Brouns, 6 of the 46 Nicholas' associates are family, and only two of their joint contacts are family members. More specifically, there are 34 cases of interaction evidenced for Nicholas, of which only eight involve another member of his family. The most common type of interaction between Nicholas and another Broun involves the transfer of land, in four of those eight instances he either surrenders or is admitted to family land. However, he is also involved in a further seven cases of land transfer which do not cite family members.

Both John senior and Nicholas are jurors for the Wisbech halimote, and it has already been shown that the attribute 'juror' tended also to imply a higher than average involvement in the proceedings of the court and a larger number of court-contacts. Nicholas interacts with 23 other jurors, half of his contacts. The sense of interweaving relationships among the jurors, involved in the business of the court, is more finely illustrated by the fact that in 22 of the 34 instances of interaction involving Nicholas Broun, jurors were also cited. Indeed, in the oft-cited case of Thomas de Samton's mill rental, all four of the individuals named as pledges are jurors, (although three of them are also Brouns). Similarly, Nicholas Broun acted with Nicholas Nicol, another Wisbech juror (although for the leet rather than the halimote), as Augustine Broun's executor. In 1356, Robert Fuller leases land to Robert Cake who finds Nicholas Broun and Nicholas Alot as pledges, all four are jurors.<sup>56</sup> Generally, Nicholas's relationships with other jurors tend to come through pledging - he is a pledge for or with jurors in cases of litigation in 17 instances. The one time he is a pledgee (the evidence comes after his death) he receives pledging support from other jurors, fellow villagers.<sup>57</sup>

John senior and Nicholas interacted with sixteen of each others contacts, with minimal overlap between other members of their family. Similarly, Nicholas can be associated with 23 jurors and his father with 21, but there are only six who are common to both court networks. The lack of common juror contacts is not a result of temporal inconsistency: they are cited on the same lists for the halimotes in autumn 1349 and spring 1350. Before arguing that they tended to form different patterns of association, it is essential to question whether their interactions derive from common or independent activity. Nicholas visibly interacts with these six jurors in fifteen instances, but his father is involved in only two of them. They act together, with others, to pledge Thomas de

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<sup>56</sup> C8/3/42 Wis Curia 15.1.1356.

<sup>57</sup> C8/3/46 Wis Curia 8.3.1362 In his lifetime Nicholas failed to repair a house on the lord's tenement, for which his pledges, Robert Blac (who was elected with Robert Cake as bank reeve) and William Fuller, are now responsible.

Samton's payment of rent for the mill le Galewinelne in 1348, and again with others, they are amerced for default in 1353.<sup>58</sup> John senior's relationships with the common juror contacts are less frequent, since there are only seven recorded instances of association in the court roll, two of which are the occasions on which he acts with his son. Nicholas therefore appears to have entered into relationships with fellow jurors independently, rather than jointly with John senior.

It is difficult to assess the father-son bond. It would appear from the other two court roll entries citing both John senior and Nicholas that this relationship was actively exercised in court: Nicholas provides a pledge that his father will make good the waste made *super bondagium domini*, and in the following court session John senior transfers two homesteads and part of another containing at least two acres and appurtenances in Wisbech to his son.<sup>59</sup> Yet it is only really the first entry which reflects an active relationship within the court, the court merely provides the forum for the land transfer. And one interaction hardly constitutes an active relationship within the court. John senior may have been transferring that which Nicholas might inherit in the normal course of events, perhaps reducing his holdings to accommodate his increasing years, although John held at least seven other acres of land when he died three years later.

The historian can only comment on relationships as they are recorded and hope that the data are typical of the broader actuality. There is always the problem of circularity inherent in this type of analysis: to what extent is this father-son relationship obscured by the lack of material, itself a probable feature of the type of individuals involved? Neither John senior nor Nicholas frequently seek the type of assistance which might be provided by the other and witnessed by the courts; any credit arrangements between the two are similarly beyond the courts, both the recording of obligation and any settlement of dispute. That Nicholas did not seek the assistance of his father may largely be due to the fact that he did not need the support of anyone - in the thirteen cases in which he is a party to litigation, he requires neither pledge nor essoin, nor avails himself of an attorney.

This is a picture which seems typical across the two Broun families - generally there is little evidence of intra-family relationships. Obviously there is little between John *filius Roberti* Broun senior and his son Robert, since the latter was a minor when his father died. Robert was placed in the custody of Gregory Snell, husband

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<sup>58</sup> C8/3/41 Wis Curia 20.9.1353 each is amerced sixpence for not coming once summoned by the beadle to perform their boonday service (*benedayes*).

<sup>59</sup> C8/4/55 Wis Curia 26.11.1359 and 18.12.1359.

of his aunt and sister of his father John.<sup>60</sup> Unfortunately, there are no citations for Robert's father, the older of the two sons called John, before his death in 1334, which hinders any attempt to understand possible motivations behind the selection of a custodian for minors. Usually, custody is recorded as being granted to the mother of the child, so one might assume that the wife of John the senior son of Robert Broun had predeceased her husband.<sup>61</sup> The entry recording John's death explains that *custodia predicti Roberti quia infra etatem etc. traditur in custodia Gregorii Snell qui desponsavit amicam dicti Roberti*. That it was deemed relevant to describe the familial relationship between Gregory and the young Robert, perhaps because they had different surnames, suggests that it was normal for the custodian to be a member of the child's family, but the particular choice of Gregory as opposed to any of Robert's uncles by birth is unexplained. Gregory Snell has a recorded court network containing 17 individuals, but four enter into relationships with members of the Broun family, three with John senior and one with William, both brothers-in-law of Gregory. Neither Robert Broun nor Gregory are cited together, beyond this first entry regarding the award of custody, and there is no overlap between their respective court networks.

There are notably few multiplex relationships either among members of the Broun family or between members of the family and other individuals. Further, many connections are limited to particular circumstances, or infrequently carried across different types of interaction. Thomas *filius Augustini* Broun is amerced for non suit in his land plea against John Miller and his wife Margery.<sup>62</sup> At the same session, John Miller and his wife surrender three roods of villein land to Richard de Flete and his brother Roger, chaplain, whereupon Thomas relaxes all right he has in the land to the new tenants.<sup>63</sup> This second citation in connection with theirs may be part of his extra-curial settlement. Many of the family members, however, have few witnessed interactions, either because they are rarely cited or rarely cited in connection with others.

Thus although the reconstruction of the Broun family allows the focus to shift to the family grouping, once within this framework, the analysis is continuously thrown back upon individuals. Members of the

<sup>60</sup> C8/2/27 Wis Hali 6.4.1334.

<sup>61</sup> C8/2/27 Wis Curia 19.7.1334 Henry Godefrey's eldest son and heir William was placed in the custody of his mother and his brother Richard, but this was because he was said to be an idiot.

<sup>62</sup> C8/3/46 Wis Curia 22.12.1362.

<sup>63</sup> 1s is levied for the surrender and admission, and another sixpence for the relaxation of rights by Thomas - it is quite separately and distinctly marked in the margin. I am not aware of any other fine associated with such a relaxation.

same families, even members of the same household, tend to be marginalised by the court records. Although, unusually, the majority of individuals cited in the Broun surname-group have been reconstructed into family trees, there is little mention of the females in this family. Those that do appear in the records tend to be single daughters, often cited when they join different families through marriage: the only citations for *Mabilla filia Johannis*, *Mabilla filia Ade* and *Alice filia Augustini* derive from fines for unlicensed marriages.<sup>64</sup> Thomas Broun's daughters Margery and Emma appear when parties to intra-familial land transfers but nowhere else.<sup>65</sup> The wife of Gilbert Broun is cited once, as a gannoker.<sup>66</sup> Nicholas Broun was married twice: his second wife is presented for brewing in 1349 and 1350, but the existence of his first wife is only noted after her death, when he is involved in litigation as the administrator of her goods.<sup>67</sup> These two women are the only Brouns presented in connection with the assizes of bread and ale.

The inability to generalise about families rather than the particular individuals which they comprised, casts an uncertain light upon previous attempts which classify individuals according to family and then discuss individuals in terms of, say, officer or juror families. Assessing the centrality of the family in the interactions witnessed by the court roll is, both on a general and even the particular level, very difficult if not impossible. Familial relationships are rarely the subject of the entries recorded in the rolls; entries of tenant deaths may provide evidence of inheritance but the purpose of the record is to trace the change in tenure. In seeking to understand the links between individuals from records such as these it is necessary not to privilege attributes which are documented as somehow determining interactions. But we should not assume that because we think we know what a family relationship looks like and we can go some way to reconstructing families and take familial relationship to be an attribute, we necessarily understand the full import of the relationships. The reconstruction of many families arises from the piecing together of disparate data concerned with the individual rather than the family. Against this one can juxtapose a family tree, as complete as that for the Brouns, but derived from just three entries and

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<sup>64</sup> C8/3/37 Wis Curia 3.3.1348 24d, C8/3/33 Wis Curia 20.11.1349 40d, and C8/3/46 Wis Curia 22.12.1362 18d.

<sup>65</sup> C8/3/38 Wis Curia 20.7.1349 Nicholas Broun surrenders 20 perches with a cottage to Margery and Emma, daughters of Thomas Broun; Wis Curia 18.9.1349 Thomas makes a deathbed surrender to Emma of 3 roods, and Emma transfers 1 rood to Nicholas.

<sup>66</sup> C8/3/35 Wis Hali 5.10.1345.

<sup>67</sup> C8/3/38 Wis Hali 5.10.1349, C8/3/39 Wis Hali 8.4.1350, Wis Leet 19.5.1350; C13/2/24 Wis 100 11.2.1350 Nicholas Broun *admin[i]str[ator] bonorum Emme quondam uxoris eius*.



naming individuals of whose court-lives virtually nothing is known. (See figure 4.) They provide a negative image of one another, depending on whether the family relationships are made explicit by the court roll itself or painstakingly reconstructed by the historian.

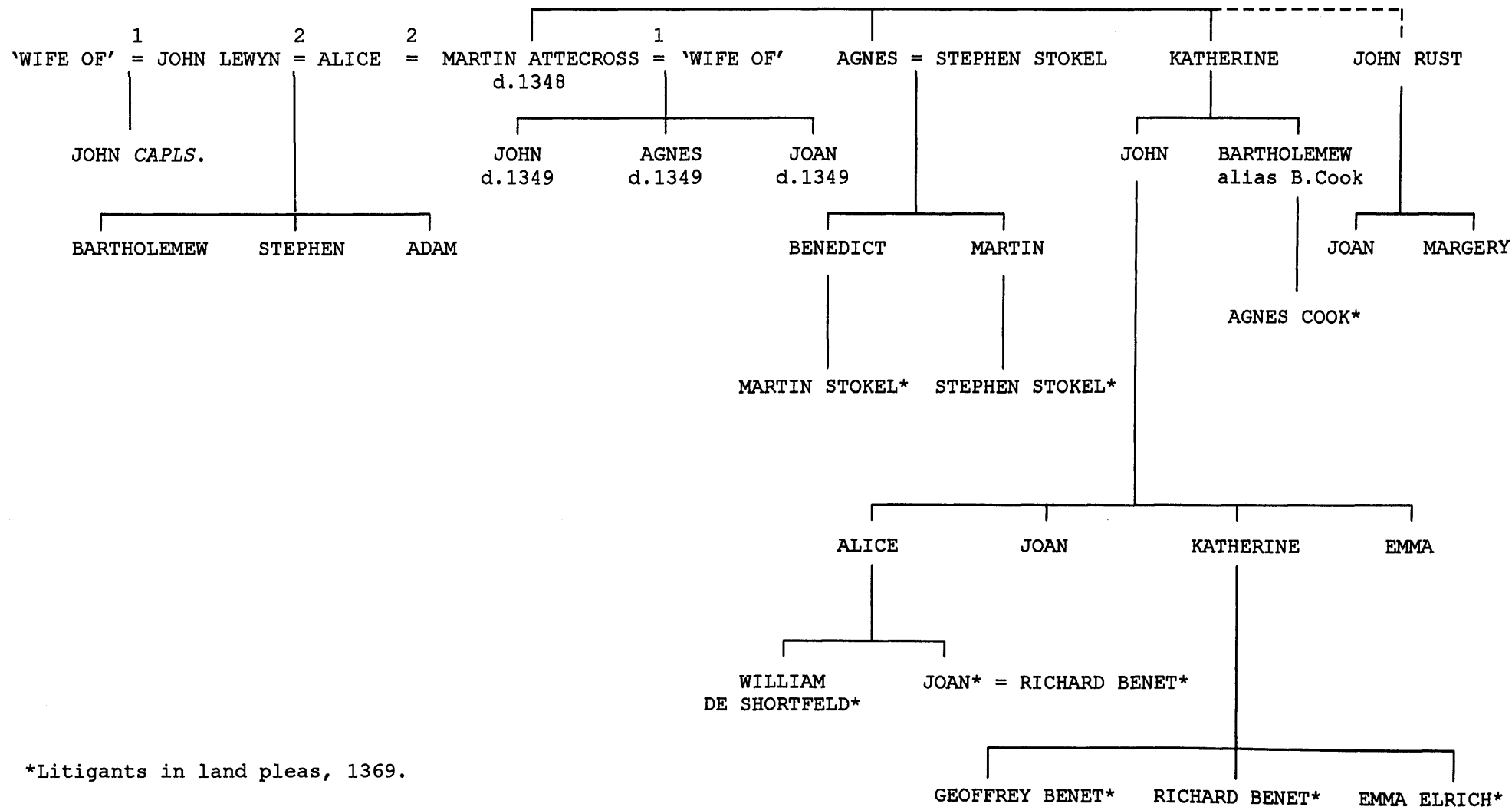
Martin Stokel, Stephen Stokel, William de Shortefeld, Richard Benet and his wife Joan, Geoffrey Benet and his brother Richard, Emma Elrich and Agnes Cook are all cited as joint plaintiffs in five land pleas concluded in 1369. Various combinations of them are also involved in land transfers, both between themselves and to other individuals, between 1369 and 1375. There is no indication in the records of the land transfers that any are related, but a single family tree encompassing all the litigants and which features four generations can be drawn from the 1369 litigation.<sup>68</sup> The issue in 1369 was whether Martin attecros' daughter Agnes had died seised in land or not. It is also possible to extend this tree further from Martin such that the families of John Lewyn and John Rust are also included; this data has also derived from the record of juries' verdicts in litigation.<sup>69</sup> As such it is highly prized information and extremely unusual in this collection, being the only instance where such an exercise has proved possible. Its very uniqueness indicates the extent to which the familial data valued by historians and so often put at the centre of research was merely ancillary to the purposes of the court.

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<sup>68</sup> C8/4/50 Wis Curia 16.2.1369.

<sup>69</sup> C8/2/24 Wis Curia 14.2.1331.

Fig. 4 Family tree: relations of Martin attecross



## IMPLICATIONS

The methodological background to this study began with a consideration of the concept of community and it is appropriate that the concept should similarly inform this assessment of its implications. Crow and Allan argued that 'community is never experienced in identical ways by everybody involved' and that various factors might influence an individual's involvement in community relationships 'in ways not easily specified or predicted'.<sup>1</sup> They thereby underlined the subtlety required of any definition of the concept of community. Miri Rubin takes the point a step further, denying that the term 'community' can reflect such subtleties at all, and suggesting the alternative idea of *identity* as a far more sensitive concept, capable of dealing more intimately with those small and particular influences which are all too easily subsumed into the wider quest for 'community'. 'Identity', Rubin maintains, reflects the complexity of society and the fragmentary self-contradiction of human individuals: 'the relationship between one's identity as son, father, husband, journeyman or master craftsman, head of household, friend, is fundamentally at variance, and often dialectically opposing'.<sup>2</sup> She thus considerably expands the point made by Smith with regard to village officials: 'the conflicts that [their] various obligations might bring about were on occasion considerable.'<sup>3</sup> The key question, if one is to make such a connection between Rubin and Smith and thereby recruit her insights to the cause of court roll studies, is whether the court rôles I have called 'attributes' can meaningfully be considered as 'identities' in Rubin's sense.

Rubin introduces the term as a means of refining the concept of community, which 'has lost its cutting edge as a tool expressive of the diversity of experience'. It has been used, often naively, she claims, to refer to a natural sense of cohesion among social relations bounded by administrative or geographic definitions. But 'community is neither obvious nor natural, its boundaries are loose, and people... will use the term to describe and to construct worlds, to persuade, to include and to exclude.'<sup>4</sup> Therefore, 'using the term community at all these

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<sup>1</sup> G.Crow and G.Allan, *Community Life: An Introduction to Local Social Relations* (1994), p.183.

<sup>2</sup> M.Rubin, 'Small groups: identity and solidarity in the late Middle Ages', in J.Kermode (ed.) *Enterprise and Individuals in Fifteenth-Century England* (1991) pp.132-150, p.141.

<sup>3</sup> Smith, '"Modernization" and the corporate medieval village community in England: some sceptical reflections', in A.R.H.Baker and D.Gregory; eds., *Explorations in Historical Geography* (1984), p.159.

<sup>4</sup> Rubin, 'Small Groups', p.134.

levels obscures rather than reveals', for such definitions can ignore, 'shades of tension, distance, difference'.<sup>5</sup> 'Identity is more complex and changeable, and its constituent parts are managed in a sophisticated manner: so sophisticated that some historians have thrown up their hands at seemingly inconsistent, contradictory and irrational behaviour.'<sup>6</sup> One is obviously reminded of the 'complex and varied' behaviour of Raftis' non-conformists.

Rubin seeks to apply her concept of identity to an examination of association through religious fraternities and ritual, which she justifies on two main grounds. The first is her contention that 'religion was the framework of explanation and orientation in the world, it was the idiom applied in all venues of interaction, be they social, scientific, mercantile, political, charitable'.<sup>7</sup> Secondly, she suggests that 'the historical examination of trails of trust, and equally of distrust, can lead us to an understanding of the identities which produced them and this is especially true in voluntarily joined bodies and activities.'<sup>8</sup> This is pertinent because, she asserts, 'whereas one is not free to choose one's family or one's village, one can choose with greater freedom one's friends, to some extent business colleagues, and partners in religious practice.'<sup>9</sup>

This was a consideration when the formal court rôles, rather than family connections, were chosen as the focus of the present study: not only are families hard to identify comprehensively and reliably, the prominence given them in the most characteristic methodologies of the 'Toronto school' has tended, as already noted, to predispose the evidence towards the revelation of a particular kind of society. The tendency persists. In her 1996 study of Upwood and Ellington, in Huntingdonshire, Sherri Olson does relate what I would term the attribute of juror to that of pledgee, but only by breaking down the respective plegees of jurors and non-jurors into the sub-categories, unrelated man, unrelated woman, related man and related woman.<sup>10</sup> Whilst one may be sufficiently certain that two individuals are related, it is always much harder to prove a negative: the evidence for definite unrelatedness is surely not reliable enough to make unrelated individuals a category for analysis. Court rôles are more substantive attributes than is family membership: one cannot say comprehensively who was related to whom, still less who was unrelated; but one can say exactly which *individuals* appeared as pledge, essoin or whatever, and

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<sup>5</sup> Rubin, 'Small groups', p.134.

<sup>6</sup> Rubin, 'Small groups', p.134.

<sup>7</sup> Rubin, 'Small groups', p.136.

<sup>8</sup> Rubin, 'Small groups', p.136.

<sup>9</sup> Rubin, 'Small groups', p.136.

<sup>10</sup> S.Olson, *A Chronicle of All That Happens: Voices from the Village Court in Medieval England* (1996), p.148, table 3-8.

how frequently they appeared as such. Similarly, too many assumptions are made about the cohesiveness and homogeneity of a family by those who would define it as socially prominent because one or more of its members served as a juror or officer.<sup>11</sup> (This is quite apart from the problem of defining a family at all.) But clearly one can say with certainty that a given individual was a juror (whether or not one is prepared therefore to ascribe social prominence to him) and one can at least trace his own interactions with other jurors, and with members of other court attribute groups, such as pledge.

Rubin recommends her notion of 'identity' as a sharper instrument for social historians than the idea of 'family': court rôles have similar advantages vis-à-vis the family, but that does not make them necessarily 'identities' in her sense. Rubin's rhetoric is attractive in that its willingness to recognise an individual's element of choice within social association has potential for balancing familial, and spatial, determinism; but if 'identity' is to replace 'community', then it must be consistent with concepts of society at other levels: identities and social affiliations should demonstrably intersect with and extend into the multiplicity of structures which link the local to the national.

It is difficult to see how this conceptual integration is to be achieved without giving prominence to families: indeed, some historians have emphasised the importance of the family, kinship and neighbourhoods, in terms of this very function of weaving the individual into a wider society through interlocking and overlapping levels of association. The present study has tended to stress the inadequacy of court rolls for study of family relations (while hopefully at the same time suggesting how social inferences can nonetheless be drawn from matters with which they are more centrally concerned) and it may be that, because they cannot tell us enough about families, they cannot help us to understand 'community' as conventionally understood. This may be thought regrettable; but the tendency to want records to illuminate a particular issue, rather than simply finding out what they do illuminate, is as dangerous as it is common. If court rolls are unconcerned with families and therefore unhelpful with regard to communities, so be it. They have other lessons (including social lessons) to teach.

'Community' (if the term is to be employed at all) must be capable of linkage 'to yet higher orders of spatially definable social relations

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<sup>11</sup> Sherri Olson's broad-brush approach is not unusual: "prominent" families are defined as those whose first member appeared before 1300, which produced six or more people before 1350, and which provided at least one juror before 1350.' Olson, *Chronicle*, p.49.

until such ascending orders of relations may be taken eventually to comprehend the whole society.'<sup>12</sup> Necessarily underwriting this line of thought, is a notion of community as fundamentally spatial, and thus H.P.R.Finberg's definition of the term forms a natural starting-point. 'Community', Finberg writes, is 'a set of people occupying an area with defined territorial limits and so far united in thought and action as to feel a sense of belonging together, in contradistinction from the many outsiders who do not belong'.<sup>13</sup> For a local historian concerned to connect the local with the national it is natural that community is taken to be 'a spatial expression of social relations':<sup>14</sup> 'because the focus is local, structures... have nonetheless to be examined in distinct spatial contexts'.<sup>15</sup> In this vein, it can conveniently be accepted that community 'relates - in the accepted commonsense meaning of the term - to a specific area'.

It is justifiably argued that the family forms a basic unit of this spatially specific community. However, it is also found that, given rapid population turnover, periods of residence by particular families within the boundaries of this small community are only very short; and for this reason it is argued that communities tend 'to reflect somewhat shallow time-depths'.<sup>16</sup> By implication, when a family leaves the community with which it is associated, whether through geographical mobility or death, that community ceases to exist and is itself succeeded by another characterised by a different configuration of families. By contrast, the lineage and the local society are found to cohere over much longer periods than are the family and the community. Lineages are significant because over time they 'testify to deeply rooted associations with territories, by comparison with which associations with communities appear quite transitory.'<sup>17</sup> The corollary of this is that the community cannot be perpetuated by the non-family structures, assumptions and conventions towards which Finberg gestured when he referred to the 'sense of belonging', which reflected a community defined by a unity of thought and action more abstruse but also more enduring than the individual family life-cycle.

The familial definition of community may well be a useful one - and it has the great virtue of being susceptible to a kind of empirical enquiry - but it is far from being the only definition on offer. Craig

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<sup>12</sup> C.V.Phythian-Adams, *Re-thinking English Local History* (1987), p.20.

<sup>13</sup> H.P.R. Finberg, 'Local history', in Finberg and V.H.T. Skipp, *Local History: Objective and Pursuit* (1967), cited in Phythian-Adams, *Re-thinking*, p.17

<sup>14</sup> Phythian-Adams, *Re-thinking* p.20.

<sup>15</sup> Phythian-Adams, ed., *Societies, Cultures and Kinship, 1580-1850: Cultural Provinces and English Local History* (1993), p.1.

<sup>16</sup> Phythian-Adams, *Societies, Cultures and Kinship*, p.19.

<sup>17</sup> Phythian-Adams, *Societies, Cultures and Kinship*, p.19.

Calhoun has maintained that 'community, as a pattern of social organization and as a culturally defined way of life, depends on a fairly high degree of stability. The bonds of community... tie social actors to each other and to their own pasts.'<sup>18</sup> The bonds of community are clearly not here ties of blood, but they can nonetheless be conceived as maintaining social stability and identification over time.

Inherent within Rubin's argument is the idea that Finberg's 'hierarchy of belonging' cannot be envisaged as a series of concentric circles, corresponding to expanding socio-spatial dimensions. Instead, the various identities possessed by an individual will overlap and often conflict with one another and tensions between them may be resolved differently according to each situation. The premise that Rubin works with is that, 'identities are never lost, that they are negotiated and manipulated, that they evolve.'<sup>19</sup> (This contrasts markedly with a notion of community which dissolves each time its familial composition changes significantly.) Further,

if identity is at all conceivable, it is constructed and articulated by identification and interaction in a variety of groups and through an array of affinities. Identity can never be constituted through a single or overarching affinity - whether gender, class, or age - but rather at the intersection and the changing dynamic negotiation of these and other positions in the world. Identities are neither serviced within an all-embracing family, nor in the bosom of a cohesive and cosy community.<sup>20</sup>

This sidestepping of issues of family and community is possible because, if one focuses on individuals and considers them as possessing multiple identities, then the synthesis of these into an overarching social interpretation can be postponed until much later in the explanatory process than has hitherto been assumed. (The structure of the present thesis is intended to reflect this: prosopography, family reconstruction, and network analysis are treated as interpretative approaches to be undertaken only once jurisdictional and customary contexts have been fully stated - and indeed demonstrated - and attributes/'identities' defined in detail.) If an individual possessed the attribute 'pledge' then that attribute (considered as an identity) should be exhaustively investigated in terms of the functioning of the manorial court, local custom and circumstances, as a means of understanding this aspect of the individual. If he also possessed the

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<sup>18</sup> Craig Calhoun, 'Community: toward a variable conceptualization for comparative research', repr. in R.S. Neale, ed., *History and Class: Essential Readings in Theory and Interpretation* (1983), p.97.

<sup>19</sup> Rubin, 'Small groups', p.135.

<sup>20</sup> Rubin, 'Small groups', p.137.

attribute 'substantial landholder' then other, more economically orientated documentary sources (account rolls, extents) might separately illuminate that 'identity', as it functioned in his particular time and place. The cumulative effect of understanding the identities would be an increasingly comprehensive understanding of the people (these people in these circumstances) and, by extension, their society. It is a distortion to short-circuit this investigative process and say, for example, 'pledging represents a form of mutual aid and must therefore illuminate community especially if family members pledged for one another'. If this thesis achieves nothing else it perhaps at least suggests how many questions are begged by such a statement.

The historian must naturally find appealing the apparently subjective expression of identity and association with which Rubin deals, and which parallels the data which modern sociologists can derive from direct enquiry (questionnaires, interviews and so forth). Yet for all its appeal, one wonders at the methodology by means of which Rubin can appear to have made such data available to historians. If one is to seek a wider, and practical, application for Rubin's thesis it is important to attempt to understand her conceptual background more fully. Her stance comes from the field of thematic cultural studies, within which she is able to deal textually with contemporary documents, and with other cultural sign-systems which she feels able to regard as text-analogues:

A concept of language has informed my approach to the religious culture of the Middle Ages. Inasmuch as we communicate through language, we apprehend the world through linguistic categories; thus all culture, all meaning can be usefully studied as a language and through its salient symbols.<sup>21</sup>

The 'community' with which Crow and Allan are concerned is defined by impressionistic, direct, even oral evidence which is usually at a far remove from historical evidence. Their thesis stresses the individual, subjective determinants of community: the variety of influences behind an individual's 'incorporation into community-relevant relationships' are 'not easily specified or predicted';<sup>22</sup> terms such as 'local social system' and 'locality' fail 'to capture the subjective dimension of community attachments and identities'.<sup>23</sup> Such points echo Rubin's emphasis on the individual; and there is a further correspondence between their work and Rubin's in the stress they lay on language and symbolism. They maintain that 'community is a key part of the language

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<sup>21</sup> M. Rubin, *Corpus Christi: The Eucharist in Late Medieval Culture* (1991), pp.5-6

<sup>22</sup> Crow and Allan, *Community Life*, p.183.

<sup>23</sup> Crow and Allan, *Community Life*, p.xv.



which we use to describe and account for our lives and experience'<sup>24</sup> while they approvingly quote Cohen's argument that

'...communities are best understood as communities of *meaning* in which "community" plays a crucial *symbolic* rôle in generating and sustaining people's sense of belonging'. For Cohen, 'the reality of community lies in its members' perception of the vitality of its culture. People construct community *symbolically*, making it a resource and a repository of *meaning*, and a referent of their identity'.<sup>25</sup>

Turning to more direct historical concerns, Susan Wright similarly argues that the 'new direction' which community studies should take is along the path which analyses contemporary imagery. She refers to 'the symbolism through which the men and women involved express their different perceptions of [interpersonal] relations. This symbolism includes not only family and the use of space within the house, but also their *images* of locality, rurality and community.'<sup>26</sup> Wright states that 'no study yet combines [the] analysis of social relations with the imagery the people use'; but she does point to Strathern's study of Elmdon which 'examines how kinship provides an idiom for expressing the meanings that different people have for the village' (for example, the 'core' of 'real' villagers being the long-term families).<sup>27</sup> It is highly significant that the study she takes as partially exemplifying the way forward should be not a historical but a sociological one. For all that Strathern's work may be instructive, it deals with a modern 'community' whose members share the language of the researcher and whose subjective impressions are readily accessible.

I read Wright's essay at the outset of this research project and considered its general argument a potentially helpful contribution to thinking about court rolls. Increasingly, however, it has become apparent that the kind of approach she advocates is feasible only when one has access to contemporary sociological testimony derived directly from the actors themselves. It was therefore striking to come across a scholar in the field who had taken a quite opposite view of the same piece. Sherri Olson's recent study has already been cited: I have found it very helpful in focusing a number of interpretative issues, and it is

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<sup>24</sup> Crow and Allan, *Community Life*, p.xv (my emphasis).

<sup>25</sup> A. Cohen, *The Symbolic Construction of Community* (1985), p.118, cited in Crow and Allan, *Community Life*, pp.6-7 (my emphases). It is important to note here that sociological approaches readily dismiss the spatial element of community as being beside the point.

<sup>26</sup> S.Wright, 'Image and Analysis: New Directions in Community Studies', in *The English Rural Community: Image and Analysis*, ed. B.Short (1992), pp.195-217: p.211 (my emphasis).

<sup>27</sup> Wright, 'Image and Analysis', p.211.

a pity that the insights derived from it have so often tended to be negative. I share her belief that court rolls have much to teach the social historian, but her approach is almost diametrically opposed to that favoured here, such that a critique of her methodology offers a particularly succinct means of defining my own. Our very reading of the signs of the times could hardly be more different: the historiographical background offered will have shown that I consider this the time for something of a last-ditch attempt at a social reading of court rolls, before the prevailing 'legal' mood takes over. Olson, by contrast, considers that 'the present juncture in the historiography of the medieval English peasantry is a favorable one for embarking on the study of single villages in terms of the historical development of their methods of local self-regulation.' She goes on,

Beneath the institutions of village government and other readily recoverable phenomena of rural life lies another history to be told, that of the culture of shared interests in that local society and the villager's understanding of those interests. What is undertaken here is a reading of the evidence for a kind of village "history of ideas" attached to a more traditional category of analysis, the small community.

... "Community as idea," as a complex of shared symbols that are subject to idiosyncratic interpretation by individual villagers ... is an approach that is particularly relevant to the theme of this book. It is also an approach that does little violence to the character of the local sources employed in the village study.<sup>28</sup>

Given that Olson's 'local sources' are almost exclusively court rolls, and given also the evidential caveats that have been the very stuff of recent court-roll scholarship, the above might seem either a breath of fresh air or merely breathtaking. To support it, Olson quotes Wright on 'forms which are held in common (ways of behaving, even uses of words) but whose content, the meanings members give to those forms, ... vary greatly', whilst conceding that Wright makes reference to 'primarily more modern' rural communities.<sup>29</sup> In fact, the communities to which Wright refers are entirely twentieth-century ones. This presents more than a general difficulty of applying to one period interpretative modes derived from work on another; specifically, it means that Wright's suggested way forward is derived solely from community studies which drew heavily on direct testimony. This is crucially unavailable to the medieval historian of rural society and, to reiterate the point made by

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<sup>28</sup> Olson, *Chronicle*, p.4.

<sup>29</sup> Olson, *Chronicle*, p.4, quoting Wright, 'Image and Analysis', p.214.

Christopher Lloyd, 'Insight into local mentality... is difficult to ground without excellent literary sources, in the absence of personal testimony and the possibility of interrogation of subjects.'<sup>30</sup> Two years before the publication of Olson's book, Christine Carpenter warned against attempts by medievalists to borrow from social scientists just such notions of '"Community as idea," as a complex of shared symbols':

Social scientists are now talking about communities of the mind rather than of the neighborhood and communities that transcend the neighborhood. A moment's thought confirms that, if the term is to have any use at all, either localized or not, it must entail before all else a sense of belonging.... Given that the word was being used ... in a fairly nebulous, at times mystical, manner anyway, the search for communities of the mind may ascend to levels of vagueness as yet undreamed of. This may be especially true of the Middle Ages, a period which does not produce quantities of documents which lend themselves easily to the exploration of identities.<sup>31</sup>

It is interesting to note here how easily Carpenter slips from 'communities of the mind' to 'identities'. Her criticism thus embraces Rubin's work as much as Olson's; and there are indeed striking similarities between the two. Olson does not cite Rubin, but she shares her cultural/linguistic frame of reference. Just as Rubin maintains that 'all culture, all meaning can be usefully studied as a language and through its salient symbols', so Olson is concerned with 'The complex of shared symbols that make up community in the medieval village' and considers the court roll a 'precious witness of the village culture' which 'could absorb and preserve cultural meaning of great density.'<sup>32</sup> The 'small community' was one in which 'local meaning drove change'; pledging is 'a village institution of considerable density of meaning'; and 'even those groups, individuals and social structures not closely bound up with village government...frequently occur [in the rolls] with the kind of density of meaning that makes detailed analysis possible.'<sup>33</sup> But 'density of meaning' is nowhere clearly defined, and 'the culture of shared interests' and 'culture of mutual dependence' are presumed rather than discovered, in much the same way that earlier studies presumed community and therefore found harmony.<sup>34</sup>

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<sup>30</sup> C.Lloyd, *The Structures of History* (1993), p.101

<sup>31</sup> C.Carpenter, 'Gentry and Community in Medieval England', *J.B.S.* 33 (1994), p.344, my italics.

<sup>32</sup> Olson, *Chronicle*, pp.5-6, p.9.

<sup>33</sup> Olson, *Chronicle*, p.27, p.46, p.162.

<sup>34</sup> Olson, *Chronicle*, p.4, p.106.

Olson asserts that 'the court rolls...speak with a voice that is one of a "whole community," the "tota communitas" of the records, i.e. a collectivity of people who recognized their shared interests, even shared perspective, to a considerable extent.'<sup>35</sup> But Richard Smith has entered an important caveat concerning terms such as *tota villata* and *tota curia* in court rolls: 'by the early fourteenth century, with juries effectively determining so much of what came before manorial courts and the decisions in personally initiated complaints, these "collective" terms were no more than "fictional relics" far detached from whatever meaning they may have possessed at an earlier date.'<sup>36</sup> The contrast between Smith's reading of such phrases and Olson's sheds interesting light on her oft-repeated notion of 'close reading'. Most scholars would surely agree that 'in any historical enquiry in this period, much depends also on reading between the lines, and adopting a critical attitude toward the "official" version',<sup>37</sup> but Olson does not practice reading of this kind: 'tota communitas' may be taken at face value, but 'reading further below the surface, mining the documents more closely, reveals a village voice at other levels.'<sup>38</sup> This is not the common-sense notion of 'reading between the lines' (which I would myself first mundanely apply to the illuminating writing between the lines, offered literally by scribal *addenda*); it is much closer to Rubin's reading of culture as a text analogue.

It should be stressed that Rubin's notion of identity, whilst it possibly could not have emerged other than from a cultural-historical approach, is not dependent on this interpretative context. It may also be applied, as I advocate applying it, directly to personal attributes derived from administrative documents: such an application does not rely on treating these documents as pseudo-cultural artefacts. Olson's contention, by contrast, is that they decidedly should be so treated, especially with a view to answering the question, 'To what extent was the power of lordship and seigneurial administration influenced by the pre-existing fact of the village meeting?'<sup>39</sup> This question surely centres on the much-debated nature of 'custom', but for Olson it expresses a 'still largely unexplored phenomenon, examined here in a local study, [which] can be seen as an expression of a larger structural principle

<sup>35</sup> Olson, *Chronicle*, p.23.

<sup>36</sup> Smith, "Modernization", p.174.

<sup>37</sup> C.Dyer, *Everyday Life in Medieval England* (1994), p.xv.

<sup>38</sup> Olson, *Chronicle*, p.13. There is reason to suspect Olson's readings of other texts: she maintains, for example, that P.D.A.Harvey's study of Cuxham, *A Medieval Oxfordshire Village* (1965), 'is a product of the "estate management" tradition and did not use court roll data'; whereas Razi and Smith maintain that his 'use of court rolls was exemplary' (Olson, *Chronicle*, p.21, n.38; R.&S. p.21).

<sup>39</sup> Olson, *Chronicle*, p.24.

informing all of medieval European culture.'<sup>40</sup> This statement is supported by reference to the work of Aron Gurevich, in the following terms.

Gurevich writes that throughout the Middle Ages, the "dialogue of the two traditions [official and popular, learned and oral] remained the basis of the cultural and religious development of the West." Speaking of the history of religion specifically, he notes: "As long as clerical culture was capable of incorporating elements of popular traditions and beliefs and displaying a certain flexibility in its relation with the culture of the "simplicies," Christianity was vigorous. When this symbiosis was broken down and confrontation took over...the dialogue was over." Elsewhere he characterizes this as a "ceaseless dialogue" between the two traditions that "imparted vitality to medieval culture as a whole." The present study can be read as a commentary, by way of agrarian micro-history, on this fertile juncture.<sup>41</sup>

By interpolating 'official and popular, learned and oral' as a gloss on Gurevich's 'two traditions', Olson gives his comments a more secular and more general applicability than they originally possessed. In fact all of the statements which Olson here quotes from Gurevich's reflective Afterword have a religious focus, and the 'two traditions' are 'the learned consciousness of churchmen and the folkloric, magical consciousness of the people'.<sup>42</sup> His usage is perhaps a little closer to Olson's in his Foreword:

My selection of sources allows me to choose one specific aspect worthy of attention, the phenomenon which may be called the paradox of medieval culture. It lies in the fact, documented in the intersection of popular culture and the culture of educated people, that Latin writings of scholars and teachers contain substantial elements of the non-literate folklore tradition almost against their authors' will.<sup>43</sup>

It is clear from this passage that Olson's most misleading interpolation is the word 'official', which, unlike the phrase, 'writings of scholars and teachers', can include such documents as court rolls. By contrast with Olson's belief that diverse documents can contribute to a single cultural understanding, Gurevich is clear that his treatment of 'one

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<sup>40</sup> Olson, *Chronicle*, p.24.

<sup>41</sup> Olson, *Chronicle*, pp.24-5, quoting A.Gurevich, *Medieval Popular Culture: Problems of Belief and Perception*, tr. J.M.Bak and P.A.Hollingsworth (1988), pp.222-3.

<sup>42</sup> Gurevich, *Medieval Popular Culture*, p.222.

<sup>43</sup> Gurevich, *Medieval Popular Culture*, p.xvii.

specific aspect' is allowed him by his 'selection of sources'. This should warn against trying to bring radically different sources to bear upon the same theme: Gurevich's work scarcely seems amenable to 'commentary, by way of agrarian micro-history'.

Ironically, the very passage to which Olson refers does offer a more conventional hook on which to hang a connection between his work and hers: 'in attempting to convince parishioners of the need to live in accordance with ecclesiastical norms and to make them obedient to these...churchmen inevitably appealed to the stock of the people's customary notions passed on from generation to generation.'<sup>44</sup> But 'custom' receives no specific attention in Olson's study and the link, which may perhaps have been illuminating, remains unmade. 'Culture' rather than 'custom' is the key word for her, as it is for Rubin; but Rubin's work is manifestly much closer to Gurevich's for the simple but nonetheless important reason that both are writing about religion. To Rubin's mind, 'religion was the framework of explanation and orientation in the world, it was the idiom applied in all venues of interaction': as such its language and symbols might indeed fruitfully be studied as a reflection of cultural movements more generally; the humdrum business of local manorial administration, whilst illuminating in its own way, simply does not offer a similar kind of significance.<sup>45</sup> Olson's attempt to see the manor court as 'an expression of a larger structural principle informing all of medieval European culture' falls down in exactly the same way as Poos and Bonfield's argument that the courts somehow expressed ideas to be found in Bracton. There is simply too great a divide between the conceptual levels that are being brought to bear on one another: something that general cannot inform something that particular.

The appeal of Rubin's equation of ritual and symbol with text surely derives not so much from its comprehensive applicability - which can easily be overstated, as from the way in which it facilitates hermeneutics:

The linguistic paradigm cannot capture the totality of mental and creative processes which constitute the human experience, but...it is apt and turns our minds helpfully to interpretation, to hermeneutic rather than limited causal understanding.<sup>46</sup>

Gurevich's main theme is 'documented in the intersection of popular culture and the culture of educated people' and, in using such formulations as 'The Culture of Village Officialdom', Olson seems to

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<sup>44</sup> Gurevich, *Medieval Popular Culture*, p.222.

<sup>45</sup> Rubin, 'Small groups', p.136

<sup>46</sup> Rubin, *Corpus Christi*, pp.5-6

imply that her own theme is correspondingly documented at the intersection of village culture and seigneurial culture.<sup>47</sup> Put in this way, it is immediately apparent that much would hang on the nature of their respective forms of documentation: some texts are more fruitful hermeneutically than others and, for all that Olson's rolls are sometimes 'vivid, at times even wordy', it should be remembered that Gurevich's sources include the *Divina Commedia*.<sup>48</sup> But more important even than the question of documentation is that of the use of the term 'culture' at all. How meaningful is it to think of a village or seigneurial culture (rather than customs, interests, allegiances, identities)? Gurevich's own terminology rather undermines his use of the word when he refers to 'people's customary notions' as a 'stock of collective notions and mental habits [which] frequently contradicted the tenets of clerical, spiritual culture'.<sup>49</sup> These personal mental habits would seem here to be not so much a kind of culture as a kind of antithesis to it. The writer is himself aware of this problem:

I now have more serious doubts about another concept in the title and throughout the pages of this work: popular culture. I am less worried about the adjective than the noun; I regret not having found a more adequate intelligible apparatus for comprehending the phenomenon. Despite all its indefiniteness (or because of it?), the term 'mentality' (*mentalité*) is apparently more appropriate for describing it than is the term 'culture'....<sup>50</sup>

Olson rests her reading of court rolls on a notion of 'readable' village culture comparable with the 'popular culture' of Gurevich: his reflection that 'mentality' would be a better word is singularly unsupportive of her interpretative innovations, since it abruptly returns one's attention to the gulf that exists between the records of the courts and the mentality of individuals. To make the point for a final time: 'Insight into local mentality... is difficult to ground without excellent literary sources, in the absence of personal testimony and the possibility of interrogation of subjects.'<sup>51</sup> Gurevich can use excellent literary sources. Students of court rolls cannot.

Olson stresses that hers 'is...a study that never wanders far from its chief source, the village court roll.'<sup>52</sup> The present study is similarly focused, but has been guided by Rubin's notion of 'identity', rather than Olson's of cultural meaning. It has been often said that

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<sup>47</sup> Olson, *Chronicle*, pp.104-161.

<sup>48</sup> Olson, *Chronicle*, p.19.

<sup>49</sup> Gurevich, *Medieval Popular Culture*, p.222.

<sup>50</sup> Gurevich, *Medieval Popular Culture*, p.225.

<sup>51</sup> Lloyd, *Structures*, p.101

<sup>52</sup> Olson, *Chronicle*, p.28.

court rolls must be used in conjunction with other documents for full village reconstruction to be possible. Yet court rolls are a very distinctive source, which, as the historiographical and methodological backgrounds offered at the outset have indicated, must be read within a distinctive frame of reference, centred on the problematic and multifaceted term, 'custom'. If a set of court rolls is marshalled along with a clutch of quite different documents pertaining to a given locality, and simply deployed pragmatically in a village study, there is a very great danger that the customary framework peculiar to that society, within which the rolls were written and should be read, will never reliably be established.

I take custom to be quite as locally-specific as is implied by my reading of Bracton. It is not possible to define it nationally in a way that would be a sure guide for reading any given set of rolls. The work which Poos and Bonfield undertake when they 'seek to explore the various options or limitations that customary law afforded manorial tenants in the transactions they could undertake regarding their customary property' needs to be undertaken afresh, locally and comprehensively for every new set of court rolls studied: 'it will always be necessary to learn what the custom of the place is and how those who allege it use it.'<sup>53</sup> The parameters of, say, pledging or jury-service will vary from place to place in important, if subtle, ways, in accordance with seigneurial jurisdictions and local custom. Thus to call someone a pledge or a juror will differ also: identities will vary from place to place as local societies vary. This is the premise for my detailed analysis of the court rôles as performed at Wisbech, and of the custom of land transfers that pertained there: I wished to demonstrate the peculiarity of procedures to the place; the subtlety of the issues involved - a subtlety fully appreciated by the actors themselves; and how much insight could be gained from courts and custom alone, before other records were adduced or broader generalisations made.

I have stressed that the tense of my sub-title was carefully chosen; this has been intended as a demonstration of a suggested procedure for 'reconstructing' a local society. Possibly it does not go that far: perhaps it only demonstrates how manor court rolls might be used to lay the foundations for such a reconstruction. Certainly I have come to the conclusion that societal reconstruction is a conceptually and methodologically fraught undertaking, to be built up gradually and cautiously, taking each set of records emphatically on its own terms. The custom of the place as revealed in the manor courts seems an apt starting point, indeed a *sine qua non* for such a reconstruction, but court rolls offer only a window into the court - which is why my

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<sup>53</sup> B.&P. Cases pp.xxvi; Bracton, II.19.



'attributes' (which I am prepared to call 'identities' in Rubin's sense) have been based entirely on what people were doing there: what one can, as it were, see through these records, rather than infer from them.

I have already hinted that an individual might be said to have a court attribute of 'juror', revealed in the rolls, and an economic attribute of 'substantial landholder', revealed from other sources. These are too readily combined in studies looking for élites, core families and so forth. It has been well said that, 'if we are to overcome the problem of the bias of the records, and to glimpse the village from the point of view of the inhabitants, we need to work hard at our sources, and to treat them critically,' and I would suggest that one way of ensuring such rigour is to exhaust the separate possibilities of each class of records, before combining it with others.<sup>54</sup>

Thus, the purpose of this research project has been to understand a particular collection of court rolls on its own terms. The question is, what, in the process of reconstruction, to do next: the insights into the nature and operation of the Wisbech courts, which have emerged from the data analysed here, might provide as it were a geological survey for what Olson is inclined to call the 'mining' of the records for social information. She uses a similar metaphor herself when she maintains that 'the terrain roughed out by discussion of the village's culture of mutual dependence has provided a kind of map for reading the court roll evidence of official service'.<sup>55</sup> But this is still a process of reading one thing in terms of another: one had much better take each aspect of village life in terms of the material that relates to it, avoiding overarching conceptions like 'community', and tracing the multiple identities of individuals in the fullness of their multiplicity. What emerges, not unexpectedly, are different yet parallel worlds in which individuals live different yet parallel lives. The court can perhaps best be seen as a stage, on which the players have their entrances and their exits, and from which, though we may hear noises off, we receive only hints of what might be going on in the wings, and in those episodes of the characters' lives that do not form part of the play. The analogy is apt, too, insofar as the rôles enacted in the court are as it were 'scripted' by the formal requirements of the institution, custom, and expectations and conventions more broadly.

The uncertain relationship of court roll evidence to social reality leads many researchers to fall back on such metaphors. Olson's work is particularly rich in them: 'textual studies...are fashioning windows into medieval popular culture, [while] the reading of the court rolls...represents another avenue' into the same world; she engages in

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<sup>54</sup> Dyer, *Everday Life* p.2.

<sup>55</sup> Olson, *Chronicle*, p.106.

'microscopic analysis of a single small settlement'; 'the "surface mining" ... of details ... serves as a foundation for a more systematic reading of the evidence, in an effort to get at the *embedded* principles'; and she advocates 'reading further below the surface, mining the documents more *closely*'.<sup>56</sup> That the optical and geological metaphors do occasionally become thus mixed is the measure of the difficulty of thinking directly about such an oblique kind of evidence. Olson also, like Raftis, hears voices: the 'rolls ... speak with a voice that is one of a "whole community," such that, although 'the voice emanating from court roll data assumes primarily a legal and institutional tone, ... groups, individuals and social structures not closely bound up with village government can still be heard in the evidence'.<sup>57</sup> Whatever sound a social structure can be heard to make, these cumulative metaphors are not just stylistic ticks: they are the very stuff of Olson's social interpretation of her data and they exemplify, albeit in unusually fulsome language, a mode of thought which seems inevitable when court rolls are used for social studies.

As was noted at the outset, 'Imaginative conjectures, metaphors, analogies, and intuitive leaps seem to be necessary in all empirical enquiry, especially for the framing of new hypotheses and models.'<sup>58</sup> It is because metaphor and analogy are thus essential that they should be employed consciously and to a purpose. Some are better than others. Take, for example, reflections on the scope of the evidence: Olson chooses mining as her predominant metaphor because '*beneath* the institutions of village government...[there] lies another history to be told'; and this metaphor underlies her methodologically untroubled reflection that 'the careful observer ... cannot fail to be impressed with the world of action, thought and change that lies beneath the surface view presented by these documents'.<sup>59</sup> By contrast, P.J.P.Goldberg's less sanguine attitude is expressed through a carefully applied optical analogy: 'the manor court is ... a distorting lens, throwing some individuals...and certain activities...into sharp focus, but completely obscuring other individuals and perhaps the greater part of village life.'<sup>60</sup> Similarly, recent debate on the demographic utility of court rolls has been conducted in terms of perceived opacity: 'Legal

<sup>56</sup> Olson, *Chronicle*, p.228, p.106. p.13.

<sup>57</sup> Olson, *Chronicle*, p.23, p.162: see also, e.g., J.A.Raftis, *Tenure and Mobility: Studies in the Social History of the Mediaeval English Village* (1964), p.13 on 'oral' sources.

<sup>58</sup> Lloyd, *Structures*, p.133.

<sup>59</sup> Olson, *Chronicle*, p.4, p.10.

<sup>60</sup> P.J.P.Goldberg, ed., *Woman is a Worthy Wight: Women in English Society c.1200-1500* (1992), p.xiii.

Windows'; 'Shades Still on the Window'; 'Demographic Transparency'.<sup>61</sup> What these optical analogies have in common is a representation of the court roll data as revealing or distorting or obscuring matters with which they are not explicitly concerned. My preferred analogy of a stage (and my related translation of court 'attributes' into interpretable 'identities' via the notion of 'rôles') combines both the visual and the oral and is intended to suggest concentration on the matters with which the records are centrally concerned; rather as an audience sees only as much of the action as the playwright and director offer, only in the terms which they choose and according to the conventions which they apply. The play is no West End hit, but traditional repertory theatre: the same actors assume different rôles in other productions elsewhere and at other times.<sup>62</sup> Each class of records will open the curtain on another stage, such that court rolls and, say, account rolls, relate to one another rather as Stoppard's *Rozencrantz and Guildenstern are Dead* relates to *Hamlet*, with characters from one play exiting into another.

Some absences from the stage are demonstrably in the script: beadles and reeves do not serve as jurors during their time in office, for example. Similarly, there are indications of constraints on the freedom to use court procedure at all. John *filius Simonis* Houshold surrendered 1½ roods of marsh *ad opus* John *filius Willelmi* Halleman and the latter was admitted as the new tenant. However, the entry is crossed out with the note *vacat quia est Nativus domini et non habet aliam terram super quam non pro distr' pro operibus suis*.<sup>63</sup> How many other tenants of tiny holdings (in an area of fragmented holdings) were not permitted to surrender their land through the normal procedures?<sup>64</sup> Clearly, transfers of land touching the lord's interests were scrutinised by the episcopal administration; the alienation of land is frequently recorded, with tenants being able to legitimise the transfer by fining to have their confiscated land back and then following the procedures of surrender and admission according to the standard rules. Other transfers were subject to the scrutiny of the lord's counsel: Thomas *filius Radolphi* de Walpole was not admitted to the acre and three roods in Leverington which Alan Costyn surrendered for his benefit in 1348 until it was found that the transfer *non est in preiudicium domini*;

<sup>61</sup> R.&S., p.298, p.334, p.335: for details of original publication, see Bibliography entries for L.R.Poos and Z.Razi.

<sup>62</sup> By extension, the analogy might encompass company/community, author/custom, director/lord ... producer?... critics? - but that way madness lies.

<sup>63</sup> C8/2/27 Tydd Hali 1.5.1335.

<sup>64</sup> Only one other example of this has been found: at Leverington's halimote later that autumn, Robert Martyn's surrender of ½ acre with a cottage and appurtenances was voided on the same grounds, C8/2/27.

no justification is given but one can presume it was a similar concern with the provision of services that gave cause for the delay.<sup>65</sup>

Interpreting the entries for individuals such as Geoffrey de Tydd as court 'careers' shows, on the one hand, how much detail of a certain kind can be derived from the records but, on the other hand, how 'thin' a story they tell of a person's life.<sup>66</sup> The glimpses that we are permitted of another individual, Thomas Baconn, provide a fascinating link to another of the parallel worlds, neighbouring theatres, which stand alongside the court. John Aberth's research into the world of Thomas de Lisle, bishop of Ely (1345-61), as evidenced in the records of common law courts, offers, quite incidentally, an alternative story of one peasant's life.<sup>67</sup>

Thomas Baconn is prominent within the Wisbech courts, his first appearance is as leet juror for Wisbech in 1337 (his sole citation as juror) and he dies before 1371. A few identities predominate in his 55 citations. He has 17 citations as an essoin for 15 essoinees and 17 citations as pledge or mainpernor for 11 individuals; there are no records of his being either essoinee or pledgee so he provides rather than requires assistance. In his pledge citations (1348-1369), he usually acts as joint pledge concerned not with the payment of threepenny amercements but more demanding commitments such as payment of £16 annual rent or to ensure repair of ruined tenements. He is cited once as an attorney, in 1365, but is himself cited just once as a litigant (the plaintiff fines for non suit).

The land transfers to which he is party suggest a similarly authoritative and planned use of the court. There appears to be a stronger degree of particularity in the individuals with whom he is associated than is usually perceivable. On three out of four occasions he is admitted as a joint tenant of land and each of the seven surrenders he makes is with other tenants. In 1362 and 1365 Thomas surrenders land in Wisbech held jointly with William de Titeshal, with whom he had been admitted to a tiny holding in Leverington in 1360; and in 1360 and 1362 he makes three surrenders of other Wisbech land with Robert Cake, with whom he had been jointly admitted, also in 1360. One of the surrenders with Robert Cake was to the benefit of John Symond and all three had acted as joint pledges earlier, in 1353. Thomas and William Newehous became joint tenants in 1369 and, four years later, William surrendered land for, among others, Robert Cake.

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<sup>65</sup> C8/3/37 Wis Curia 19.12.1348.

<sup>66</sup> The word comes forcefully to mind in the light of my original, optimistic intention of applying to court rolls the notion of 'thick description' offered by C. Geertz. (*The Interpretation of Cultures: Selected Essays* (1973, repr. 1993), pp.3-30).

<sup>67</sup> J. Aberth, *Criminal Churchmen in the Age of Edward III: The Case of Bishop Thomas de Lisle* (1996).

The links between Thomas, Robert Cake and William Newehous are of interest for two crucial reasons. First, there is a commercial connection. Robert Cake is a commercial brewer (his amercements of 5s in 1348 and 1360 are among the highest demanded); in 1353 and again in 1362 (with Thomas Cammyle/Canville for a term of six years) Thomas Baconn leases from the bishop the market and right to market tolls in Wisbech; the messuage surrendered by William Newehous lies in the new market. Secondly, there is a connection with the bishop's officials. William Newehous was the seneschal from 1367 when John Barnet became bishop, and thus responsible for holding the courts within the hundred; Thomas Baconn was certainly no bit-part player in the theatre of the court, but the rolls cannot explain the basis of his apparent local influence.

Some interpretations would label him - indeed by implication his family - 'prominent' since he is frequently cited, and he appears as a juror; they might reflect on the substantial 'social capital' that allows a man to provide assistance as *essoin* or pledge 34 times but receive none himself; a sense of individual respectability and community stability might well emerge from the outlines of such a career. And perhaps Thomas Baconn did indeed have such an identity; but he had another.

In 1351, accompanying John Brownsley, bailiff in the Isle, Thomas Canville, porter of Wisbech castle, and John Clerk as part of a raiding party to Norfolk, Thomas Baconn broke into the house of John *filius Walteri filii Stephani* at Walpole and the house of John Daniel in Walsoken. The former was imprisoned in Wisbech castle until he paid some £20 to the bishop.<sup>68</sup> In 1352, as castle reeve, Thomas was involved in another case of abduction and extortion with Thomas Canville and the constable of the castle, Thomas de Baa, against Nicholas de St. Botho at Walsoken.<sup>69</sup> Four years later, he was charged (with Richard Michel, the bishop's nephew) with having stolen grain from John de Chippesby, parson of Elm, from his store there between 17 August and 29 September 1355, and on a separate charge, of having attacked Adam Honyter at Wisbech.<sup>70</sup>

As part of 'a core group of unsavoury followers'<sup>71</sup> Thomas Baconn was thus involved in centrally organized criminal activity which, because it concerned a long-running dispute with the king's cousin, Lady Wake, eventually led to Thomas de Lisle's banishment in 1356. To the strong identities 'pledge' and 'essoin' which may be applied to Thomas Baconn must be added the possibly stronger identity, 'thug'. None of

<sup>68</sup> Aberth, *Criminal Churchmen* pp.150-3. In 1373 John Clerk had a house in the new market at Wisbech and was joint tenant, with Robert Cake and two others, of the messuage there surrendered by William Newehous, C8/4/52 Wis Curia 27.1.1373.

<sup>69</sup> Aberth, *Criminal Churchmen*, p.154.

<sup>70</sup> Aberth, *Criminal Churchmen*, pp.154-5.

<sup>71</sup> Aberth, *Criminal Churchmen*, p.203.

this is to be guessed at from the record of the court rolls, despite the fact that the *curia* records for 1353-6 substantially survive. In 1353, Thomas appears with Robert Cake and John Symond pledging the repair of separate tenements, and in leasing the market with John de Flete; his one citation from 1356 depicts his *essoin* for John Beauveys in a dower plea.<sup>72</sup>

It is at the problematic level of motive and *mentalité* that the reconciliation of contrasting identities is hardest. In 1365, for instance, Thomas and William de Titeshal surrendered 2 acres of villein land in Wisbech for Adam Honyter, the same individual who charged Thomas in the court of common pleas with assault nine years earlier. Did Thomas attack Adam Honyter in carrying out his 'duty' to the bishop or was the relationship more personal? How was Thomas regarded by his fellows? Did Thomas employ his talents of abduction and extortion only for the benefit of Thomas de Lisle or might this explain why few dared to implead him in the manorial court? Did his contemporaries see his activities as part of his service to one particular bishop? The arrival of a new bishop, Simon de Langham, in 1362, after the death of Thomas de Lisle in exile and a period of vacancy, heralds a period in which Thomas Baconn is more visible in the court, acting as *essoin* and pledge. Did he and Thomas Canville 'encourage' the lease of the market to them from 1362? That year sees the first point at which many of the farms are made for a period of years rather than the single term of one year, implying a more 'hands off' approach on the part of the episcopal administration. Had individuals such as Thomas Baconn simply weathered the engulfing storm of Thomas de Lisle's episcopacy, merely acting under orders, or are they subsequently to be found using the power they derived from it for their own coercive ends more generally?

What is plain is that the different identities of Thomas Baconn could only have emerged from two separate and substantial research efforts, using contrasting sets of records. Theoretically a single researcher studying Wisbech society might have made pragmatic and piecemeal use of all classes of records; but the full implications of Thomas Baconn's criminal identity actually only emerge from a study focused on the bishop, maintenance, 'bastard feudalism', crime, law and justice; just as his (admittedly less sensational) court identities must be understood in the context of the jurisdictions, customs and business of the Wisbech courts. Without very substantial research into the contexts which give the data significance, the specific name of Thomas Baconn would probably not have emerged at all. As it happens, the curtain has been raised on a third arena of action in fourteenth-century Wisbech by David Stone, who is completing an economically focused thesis

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<sup>72</sup> C8/3/41 24.7.1353, C8/3/43 28.11.1353, C8/3/44 29.7.1356.

at Cambridge, using the Wisbech account rolls. Furthermore, Virginia Bainbridge has approached the medieval community from the perspective of guild records, including those for Wisbech hundred.<sup>73</sup> This coincidence of four separate projects perhaps points a way forward, whereby the daunting task of putting together a convincing societal reconstruction, might be accomplished by the co-operation - and in future even co-ordination - of scholars dealing fully with the different aspects of the subject.

In the meantime, Rubin's notion of identity provides a theoretical basis for keeping those aspects separate until they can be comprehensively and meaningfully combined: one line of enquiry into a given place can deal with rôles in the court and the range of identities evidenced there; another with economic and commercial identities, another with family ones, and so forth. Each will use, and be true to, a different range of records, and the discrete methodologies and discrete social patterns revealed will, when combined (not synthesised) in a single study encompassing the local society as a whole, remain equally true to the variety of identities of which the actors would themselves have been aware. As Rubin succinctly puts it,

rather than deploying a single hierarchy of interests and motives in the analysis of social behaviour, let us use an arsenal of analytically and politically significant categories, juggling them as each of us does our multiple selves in our own lives.<sup>74</sup>

The different perspectives offered by different classes of records will thus intersect with one another and with an overall vision of the local society; and in that sense Olson is right that the rolls record 'in short, a host of matters that intersect the interests of the community at many levels'.<sup>75</sup> But to 'intersect with' is not to encapsulate and she surely goes too far in saying that 'in short, the court roll was a working document that could absorb and preserve cultural meaning'.<sup>76</sup>

Olson entitles her study *A Chronicle of All that Happens*. This could hardly be further removed from the understanding of court rolls advanced in the foregoing argument. It is a truncated quotation from Maitland, who, despite all my protestations at the outset, must now re-emerge at the end. Olson quotes the same passage more fully in her text:

According to Maitland, the court roll was "primarily an economic document... intended to serve as a check on the manorial

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<sup>73</sup> V.R.Bainbridge, *Gilds in the Medieval Countryside: Social and Religious Change in Cambridgeshire c.1350-1558* (1996).

<sup>74</sup> Rubin, 'Small groups', p.136.

<sup>75</sup> Olson, *Chronicle*, p.9.

<sup>76</sup> Olson, *Chronicle*, p.9.

officers." Yet this was merely the "original germ" of a record that "expands and develops into a chronicle of all that happens in the court."<sup>77</sup>

Olson offers no explicit justification for her equation of 'all that happens in the court' with 'all that happens', any more than she supports her assertion that 'the text of the court roll is indeed a running transcription of what was said in open court', but clearly her notion of cultural meaning is relevant.<sup>78</sup> In fact, Maitland's argument is that the rolls recount what happens in the court and *nothing more*: he goes on,

A reader may be asked to have this in mind if he is dissatisfied by the meagre brevity of many of the entries here printed. He would like to know particulars of the offence for which some one is amerced, how it was proved, who delivered judgment, and many details of practice and procedure; but the lord cared for none of these things; enough for him that John Miller owed him sixpence and that Robert Smith and William Reeve were pledges for the payment.<sup>79</sup>

Were Maitland indeed to 'bounce back posthumously', as Holt puts it, then perhaps he would be pleased that some of these particulars, practices and procedures are now being recovered, albeit falteringly, and that court-roll studies, rather than coming full circle back to his own work, are able to advance.

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<sup>77</sup> Olson, *Chronicle*, p.8, quoting *Select Pleas in Manorial and Other Seignorial Courts* ed. and tr. F.W.Maitland, Selden Soc. 2 (1889), pp.xiii-xiv.

<sup>78</sup> Olson, *Chronicle*, p.12.

<sup>79</sup> Maitland, *Select Pleas*, p.xiv.



## **APPENDIX**

## STATISTICAL TABLES

### 1. % OF BUSINESS IN EACH TYPE OF COURT

	Hundred court	Curia	Leet	Halimote
Pledging	17.3	63.2	10.7	8.8
Essoining	69.8	30.2	-	-
Attorneying	63.2	35.2	-	1.6
Litigation	48.4	48.4	-	3.2
Land transfer <i>inter vivos</i>	-	84.8	-	15.2
Land transfer <i>post mortem</i>	-	80.7	-	19.3
Deaths	-	83.6	-	16.4
Baking	-	4.3	28.3	67.4
Brewing	-	1.0	27.1	72.8
Regrating	-	-	28.3	71.7
Merchet	-	83.3	-	16.7
Leyrwrite	-	78.6	-	21.4
Tithing	-	-	100.0	-
Battery	-	-	98.1	1.9
Hue	-	-	100.0	-
Hamsoken	-	-	100.0	-

### 2. RELATIONSHIPS WITNESSED BY DIFFERENT TYPES OF INTERACTION

	Pledging	Ess'ing	Att'ing	Litigation	Land transfer	Battery	Hue	Hamsoken
Pledging	-	4	1	4	17	0	0	0
Essoining	4	-	5	12	6	0	0	0
Attorneying	1	5	-	0	2	0	0	0
Litigation	4	12	0	-	26	2	1	0
Land transfer	17	6	2	26	-	1	1	0
Battery	0	0	0	2	1	-	21	5
Hue	0	0	0	1	1	21	-	9
Hamsoken	0	0	0	0	0	5	9	-

### 3. CORRELATION OF ATTRIBUTES

Each pairing of attributes gives rise to a distinct table, and the strength of the correlation between the two variables may be assessed by calculating the contingency coefficient. For data of this type, this would be 0 if there were no correlation and 0.707 if there were total correlation.

#### JUROR/OFFICER

ATTRIBUTES	PRIMARY: JUROR							
	SECONDARY: OFFICER							
	ACTUAL					EXPECTED		
	OFFICER		NOT OFFICER		TOTAL	OFFICER		TOTAL
	No.	%	No.	%		No.	No.	
JUROR	141	27.01	381	72.99	522	21	501	522
NOT JUROR	132	2.07	6248	97.93	6380	252	6128	6380
TOTAL	273	3.96	6629	96.04	6902	273	6629	6902

ATTRIBUTES	PRIMARY: OFFICER							
	SECONDARY: JUROR							
	ACTUAL					EXPECTED		
	JUROR		NOT JUROR		TOTAL	JUROR		TOTAL
	No.	%	No.	%		No.	No.	
OFFICER	141	51.65	132	48.35	273	21	252	273
NOT OFFICER	381	5.75	6248	94.25	6629	501	6128	6629
TOTAL	522	7.56	6380	92.44	6902	522	6380	6902

CONTINGENCY COEFFICIENT	0.319
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### JUROR/ATTORNEY

ATTRIBUTES	PRIMARY:	JUROR
	SECONDARY:	ATTORNEY

	ACTUAL			EXPECTED		
	ATTORNEY		NOT ATTORNEY	ATTORNEY		NOT ATTORNEY
	No.	%	No.	%	TOTAL	TOTAL
JUROR	26	4.98	496	95.02	522	522
NOT JUROR	43	0.68	6337	99.32	6380	6380
TOTAL	69	1.00	6833	99.00	6902	6902

ATTRIBUTES	PRIMARY:	ATTORNEY
	SECONDARY:	JUROR

	ACTUAL			EXPECTED		
	JUROR		NOT JUROR	JUROR		NOT JUROR
	No.	%	No.	%	TOTAL	TOTAL
ATTORNEY	26	37.68	43	62.32	69	69
NOT ATTORNEY	496	7.26	6337	92.74	6833	6833
TOTAL	522	7.56	6380	92.44	6902	6902

CONTINGENCY COEFFICIENT	0.110
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### JUROR/PRINCIPAL

ATTRIBUTES	PRIMARY:	JUROR
	SECONDARY:	PRINCIPAL

	ACTUAL			EXPECTED		
	PRINCIPAL		NOT PRINCIPAL	PRINCIPAL		NOT PRINC'AL
	No.	%	No.	%	TOTAL	TOTAL
JUROR	13	2.49	509	97.51	522	522
NOT JUROR	124	1.94	6256	98.06	6380	6380
TOTAL	137	1.98	6765	98.02	6902	6902

ATTRIBUTES	PRIMARY:	PRINCIPAL
	SECONDARY:	JUROR

	ACTUAL			EXPECTED		
	JUROR		NOT JUROR	JUROR		NOT JUROR
	No.	%	No.	%	TOTAL	TOTAL
PRINCIPAL	13	9.49	124	90.51	137	137
NOT PRINC'AL	509	7.52	6256	92.48	6765	6765
TOTAL	522	7.56	6380	92.44	6902	6902

CONTINGENCY COEFFICIENT	0.008
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**JUROR/ESSOIN**  
(MALE POPULATION ONLY)

ATTRIBUTES	PRIMARY: JUROR							
	SECONDARY: ESSOIN							
	ACTUAL					EXPECTED		
	ESSOIN		NOT ESSOIN		TOTAL	ESSOIN		TOTAL
	No.	%	No.	%		No.	No.	
JUROR	119	22.80	403	77.20	522	49	473	522
NOT JUROR	291	7.56	3559	92.44	3850	361	3489	3850
TOTAL	410	9.38	3962	90.62	4372	410	3962	4372

ATTRIBUTES	PRIMARY: ESSOIN							
	SECONDARY: JUROR							
	ACTUAL					EXPECTED		
	JUROR		NOT JUROR		TOTAL	JUROR		TOTAL
	No.	%	No.	%		No.	No.	
ESSOIN	119	29.02	291	70.98	410	49	361	410
NOT ESSOIN	403	10.17	3559	89.83	3962	473	3489	3962
TOTAL	522	7.56	3850	92.44	4372	522	3850	4372

CONTINGENCY COEFFICIENT	0.166
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**JUROR/ESSOINEE**

ATTRIBUTES	PRIMARY: JUROR							
	SECONDARY: ESSOINEE							
	ACTUAL					EXPECTED		
	ESSOINEE		NOT ESSOINEE		TOTAL	ESSOINEE		TOTAL
	No.	%	No.	%		No.	No.	
JUROR	139	26.63	383	73.37	522	54	468	522
NOT JUROR	569	8.92	5811	91.08	6380	654	5726	6380
TOTAL	708	10.26	6194	89.74	6902	709	6194	6902

ATTRIBUTES	PRIMARY: ESSOINEE							
	SECONDARY: JUROR							
	ACTUAL					EXPECTED		
	JUROR		NOT JUROR		TOTAL	JUROR		TOTAL
	No.	%	No.	%		No.	No.	
ESSOINEE	139	19.63	569	80.37	708	54	654	708
NOT ESSOINEE	383	6.18	5811	93.82	6194	468	5726	6194
TOTAL	522	7.56	6380	92.44	6902	522	6380	6902

CONTINGENCY COEFFICIENT	0.152
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**JUROR/PLEDGE**

ATTRIBUTES	PRIMARY: JUROR	
	SECONDARY: PLEDGE	

	ACTUAL					EXPECTED		
	PLEDGE		NOT PLEDGE		TOTAL	PLEDGE		TOTAL
	No.	%	No.	%		No.	No.	
JUROR	111	21.26	411	78.74	522	26	496	522
NOT JUROR	110	2.86	3740	97.14	3850	195	3655	3850
TOTAL	221	5.05	4151	94.95	4372	221	4151	4372

ATTRIBUTES	PRIMARY: PLEDGE	
	SECONDARY: JUROR	

	ACTUAL					EXPECTED		
	JUROR		NOT JUROR		TOTAL	JUROR		TOTAL
	No.	%	No.	%		No.	No.	
PLEDGE	111	50.23	110	49.77	221	26	195	221
NOT PLEDGE	411	9.90	3740	90.10	4151	496	3655	4151
TOTAL	522	7.56	6380	92.44	6902	522	6380	6902

CONTINGENCY COEFFICIENT	0.261
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**JUROR/PLEDGE**

ATTRIBUTES	PRIMARY: JUROR	
	SECONDARY: PLEDGEE	

	ACTUAL					EXPECTED		
	PLEDGE		NOT PLEDGEE		TOTAL	PLEDGE		TOTAL
	No.	%	No.	%		No.	No.	
JUROR	81	15.52	441	84.48	522	36	486	522
NOT JUROR	391	6.13	5989	93.87	6380	436	5944	6380
TOTAL	472	6.84	6430	93.16	6902	472	6430	6902

ATTRIBUTES	PRIMARY: PLEDGEE	
	SECONDARY: JUROR	

	ACTUAL					EXPECTED		
	JUROR		NOT JUROR		TOTAL	JUROR		TOTAL
	No.	%	No.	%		No.	No.	
PLEDGE	81	17.16	391	82.84	472	36	436	472
NOT PLEDGEE	441	6.86	5989	93.14	6430	486	5944	6430
TOTAL	522	7.56	6380	92.44	6902	522	6380	6902

CONTINGENCY COEFFICIENT	0.097
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### JUROR/DONOR OF LAND

ATTRIBUTES	PRIMARY: JUROR							
	SECONDARY: DONOR OF LAND							
	ACTUAL					EXPECTED		
	DONOR		NOT DONOR		TOTAL	DONOR		TOTAL
	No.	%	No.	%		No.	No.	
JUROR	212	40.61	310	59.39	522	119	403	522
NOT JUROR	1368	21.44	5012	78.56	6380	1461	4919	6380
TOTAL	1580	22.89	5322	77.11	6902	1580	5322	6902

ATTRIBUTES	PRIMARY: DONOR OF LAND							
	SECONDARY: JUROR							
	ACTUAL					EXPECTED		
	JUROR		NOT JUROR		TOTAL	JUROR		TOTAL
	No.	%	No.	%		No.	No.	
DONOR	212	13.42	1368	86.58	1580	119	1461	1580
NOT DONOR	310	5.82	5012	94.18	5322	403	4919	5322
TOTAL	522	7.56	6380	92.44	6902	522	6380	6902

CONTINGENCY COEFFICIENT	0.119
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### JUROR/RECIPIENT OF LAND

ATTRIBUTES	PRIMARY: JUROR							
	SECONDARY: RECIPIENT OF LAND							
	ACTUAL					EXPECTED		
	RECIPIENT		NOT RECIPIENT		TOTAL	RECIPIENT		TOTAL
	No.	%	No.	%		No.	No.	
JUROR	199	38.12	323	61.88	522	129	393	522
NOT JUROR	1513	23.71	4867	76.29	6380	1583	4797	6380
TOTAL	1712	24.80	5190	75.20	6902	1712	5190	6902

ATTRIBUTES	PRIMARY: RECIPIENT OF LAND							
	SECONDARY: JUROR							
	ACTUAL					EXPECTED		
	JUROR		NOT JUROR		TOTAL	JUROR		TOTAL
	No.	%	No.	%		No.	No.	
RECIPIENT	199	11.62	1513	88.38	1712	129	1583	1712
NOT RECIP'NT	323	6.22	4867	93.78	5190	393	4797	5190
TOTAL	522	7.56	6380	92.44	6902	522	6380	6902

CONTINGENCY COEFFICIENT	0.087
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**JUROR/PLAINTIFF**

ATTRIBUTES	PRIMARY: JUROR							
	SECONDARY: PLAINTIFF							
	ACTUAL					EXPECTED		
	PLAINTIFF		NOT PLAINTIFF			PLAINTIFF	NOT PLAINT'F	
	No.	%	No.	%	TOTAL	No.	No.	TOTAL
JUROR	161	30.84	361	69.16	522	65	457	522
NOT JUROR	694	10.88	5686	89.12	6380	790	5590	6380
TOTAL	855	12.39	6047	87.61	6902	855	6047	6902

ATTRIBUTES	PRIMARY:		PLAINTIFF								
	SECONDARY:		JUROR								
	ACTUAL					EXPECTED					
	JUROR		NOT JUROR			JUROR		NOT JUROR			
	No.	%	No.	%	TOTAL	No.	No.		TOTAL		
PLAINTIFF	161	18.83	694	81.17	855	65	790		855		
NOT PLAINT'F	361	5.97	5686	94.03	6047	457	5590		6047		
TOTAL	522	7.56	6380	92.44	6902	522	6380		6902		

CONTINGENCY COEFFICIENT	0.158
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**JUROR/DEFENDANT**

ATTRIBUTES	PRIMARY:		JUROR							
	SECONDARY:		DEFENDANT							
	ACTUAL					EXPECTED				
	DEFENDANT		NOT DEFENDANT		TOTAL	DEFENDANT		NOT DEFENDANT		
No.	%	No.	%	No.		No.	TOTAL			
JUROR	195	37.36	327	62.64	522	66	456	522		
NOT JUROR	672	10.53	5708	89.47	6380	801	5579	6380		
TOTAL	867	12.56	6035	87.44	6902	867	6035	6902		

ATTRIBUTES	PRIMARY:		DEFENDANT						
	SECONDARY:		JUROR						
	ACTUAL					EXPECTED			
	JUROR		NOT JUROR		TOTAL	JUROR		NOT JUROR	
No.	%	No.	%	No.		No.	TOTAL		
DEFENDANT	195	22.49	672	77.51	867	66	801	867	
NOT DEFEND'T	327	5.42	5708	94.58	6035	456	5579	6035	
TOTAL	522	7.56	6380	92.44	6902	522	6380	6902	

CONTINGENCY COEFFICIENT	0.208
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**OFFICER/ATTORNEY**

ATTRIBUTES	PRIMARY:	OFFICER
	SECONDARY:	ATTORNEY

	ACTUAL			EXPECTED		
	ATTORNEY		NOT ATTORNEY		ATTORNEY	NOT ATTORNEY
	No.	%	No.	%	No.	No.
OFFICER	23	8.42	250	91.58	3	270
NOT OFFICER	46	0.69	6583	99.31	66	6563
TOTAL	69	1.00	6833	99.00	69	6833

ATTRIBUTES	PRIMARY:	ATTORNEY
	SECONDARY:	OFFICER

	ACTUAL			EXPECTED		
	OFFICER		NOT OFFICER		OFFICER	NOT OFFICER
	No.	%	No.	%	No.	No.
ATTORNEY	23	33.33	46	66.67	3	66
NOT ATTORNEY	250	3.66	6583	96.34	270	6563
TOTAL	273	3.96	6629	96.04	273	6629

CONTINGENCY COEFFICIENT	0.146
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**OFFICER/PRINCIPAL**

ATTRIBUTES	PRIMARY:	OFFICER
	SECONDARY:	PRINCIPAL

	ACTUAL			EXPECTED		
	PRINCIPAL		NOT PRINC'L		PRINCIPAL	NOT PRINC'L
	No.	%	No.	%	No.	No.
OFFICER	7	2.56	266	97.44	5	268
NOT OFFICER	130	1.96	6499	98.04	132	6497
TOTAL	137	1.99	6765	98.01	137	6765

ATTRIBUTES	PRIMARY:	PRINCIPAL
	SECONDARY:	OFFICER

	ACTUAL			EXPECTED		
	OFFICER		NOT OFFICER		OFFICER	NOT OFFICER
	No.	%	No.	%	No.	No.
PRINCIPAL	7	5.11	130	94.89	5	132
NOT PRINC'L	266	3.93	6499	96.07	268	6497
TOTAL	273	3.96	6629	96.04	273	6629

CONTINGENCY COEFFICIENT	0.006
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**OFFICER/ESSOIN**  
(MALE POPULATION ONLY)

ATTRIBUTES	PRIMARY: OFFICER					SECONDARY: ESSOIN		
	ACTUAL					EXPECTED		
	ESSOIN		NOT ESSOIN		TOTAL	ESSOIN		TOTAL
	No.	%	No.	%		No.	No.	
OFFICER	74	27.11	199	72.89	273	26	247	273
NOT OFFICER	336	8.20	3763	91.8	4099	384	3715	4099
TOTAL	410	9.38	3962	90.62	4372	410	3962	4372

ATTRIBUTES	PRIMARY: ESSOIN					SECONDARY: OFFICER		
	ACTUAL					EXPECTED		
	OFFICER		NOT OFFICER		TOTAL	OFFICER		TOTAL
	No.	%	No.	%		No.	No.	
ESSOIN	74	18.05	336	81.95	410	26	384	410
NOT ESSOIN	199	5.02	3763	94.98	3962	247	3715	3962
TOTAL	273	6.24	4099	93.76	4372	273	4099	4372

CONTINGENCY COEFFICIENT	0.153
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**OFFICER/ESSOINEE**

ATTRIBUTES	PRIMARY: OFFICER					SECONDARY: ESSOINEE		
	ACTUAL					EXPECTED		
	ESSOINEE		NOT ESS'NEE		TOTAL	ESSOINEE		TOTAL
	No.	%	No.	%		No.	No.	
OFFICER	63	23.08	210	76.92	273	28	245	273
NOT OFFICER	645	9.73	5984	90.27	6629	680	5949	6629
TOTAL	708	10.26	6194	89.74	6902	708	6194	6902

ATTRIBUTES	PRIMARY: ESSOINEE					SECONDARY: OFFICER		
	ACTUAL					EXPECTED		
	OFFICER		NOT OFFICER		TOTAL	OFFICER		TOTAL
	No.	%	No.	%		No.	No.	
ESSOINEE	63	8.90	645	91.10	708	28	680	708
NOT ESS'NEE	210	3.39	5984	96.61	6194	245	5949	6194
TOTAL	273	3.96	6629	96.04	6902	273	6629	6902

CONTINGENCY COEFFICIENT	0.084
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**OFFICER/PLEDGE**  
(MALE POPULATION ONLY)

ATTRIBUTES	PRIMARY:	OFFICER
	SECONDARY:	PLEDGE

	ACTUAL					EXPECTED			
	PLEDGE		NOT PLEDGE		TOTAL	PLEDGE		NOT PLEDGE	
	No.	%	No.	%		No.	No.	TOTAL	
OFFICER	65	23.81	208	76.19	273	14	259	273	
NOT OFFICER	156	3.81	3943	96.19	4099	207	3892	4099	
TOTAL	221	5.05	4151	94.95	4372	221	4151	4372	

ATTRIBUTES	PRIMARY:	PLEDGE
	SECONDARY:	OFFICER

	ACTUAL					EXPECTED			
	OFFICER		NOT OFFICER		TOTAL	OFFICER		NOT OFFICER	
	No.	%	No.	%		No.	%	No.	%
PLEDGE	65	29.41	156	70.59	221	14	207	221	
NOT PLEDGE	208	5.01	3943	94.99	4151	259	3892	4151	
TOTAL	273	6.24	4099	93.76	4372	273	4099	4372	

CONTINGENCY COEFFICIENT	0.214
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**OFFICER/PLEDGE**

ATTRIBUTES	PRIMARY:	OFFICER
	SECONDARY:	PLEDGE

	ACTUAL					EXPECTED			
	PLEDGE		NOT PLEDGEE		TOTAL	PLEDGE		NOT PLEDGEE	
	No.	%	No.	%		No.	No.	TOTAL	
OFFICER	46	16.85	227	83.15	273	19	254	273	
NOT OFFICER	426	6.43	6203	93.57	6629	453	6176	6629	
TOTAL	472	6.84	6430	93.16	6902	472	6430	6902	

ATTRIBUTES	PRIMARY:	PLEDGE
	SECONDARY:	OFFICER

	ACTUAL					EXPECTED			
	OFFICER		NOT OFFICER			OFFICER		NOT OFFICER	
	No.	%	No.	%	TOTAL	No.	No.	TOTAL	
PLEDGE	46	9.75	426	90.25	472	19	453	472	
NOT PLEDGE	227	3.53	6203	96.47	6430	254	6176	6430	
TOTAL	273	3.96	6629	96.04	6902	273	6629	6902	

CONTINGENCY COEFFICIENT	0.115
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### OFFICER/DONOR OF LAND

ATTRIBUTES	PRIMARY:		OFFICER						
	SECONDARY:		DONOR						
	ACTUAL						EXPECTED		
	DONOR		NOT DONOR		TOTAL	DONOR		NOT DONOR	
	No.	%	No.	%		No.	No.	TOTAL	
OFFICER	108	39.56	165	60.44	273	62	211	273	
NOT OFFICER	1472	22.21	5157	77.79	6629	1518	5111	6629	
TOTAL	1580	22.89	5322	77.11	6902	1580	5322	6902	

ATTRIBUTES	PRIMARY:		DONOR						
	SECONDARY:		OFFICER						
	ACTUAL						EXPECTED		
	OFFICER		NOT OFFICER		TOTAL	OFFICER		NOT OFFICER	
	No.	%	No.	%		No.	No.	TOTAL	
DONOR	108	6.84	1472	93.16	1580	62	1518	1580	
NOT DONOR	165	3.10	5157	96.90	5322	211	5111	5322	
TOTAL	273	3.96	6629	96.04	6902	273	6629	6902	

CONTINGENCY COEFFICIENT	0.079
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### OFFICER/RECIPIENT OF LAND

ATTRIBUTES	PRIMARY:		OFFICER							
	SECONDARY:		RECIPIENT							
	ACTUAL					EXPECTED				
	RECIPIENT		NOT RECIPI'NT		TOTAL	RECIPIENT		NOT RECIPI'NT		
No.	%	No.	%	No.		No.	TOTAL			
OFFICER	111	40.66	162	59.34	273	68	205	273		
NOT OFFICER	1601	24.15	5028	75.85	6629	1644	4985	6629		
TOTAL	1712	24.80	5190	75.20	6902	1712	5190	6902		

ATTRIBUTES	PRIMARY:		RECIPIENT					
	SECONDARY:		OFFICER					
	ACTUAL					EXPECTED		
	OFFICER		NOT OFFICER		TOTAL	OFFICER		NOT OFFICER
No.	%	No.	%	No.		No.	TOTAL	
RECIPIENT	111	6.48	1601	93.52	1712	68	1644	1712
NOT RECIPI'T	162	3.12	5028	96.88	5190	205	4985	5190
TOTAL	273	3.96	6629	96.04	6902	273	6629	6902

CONTINGENCY COEFFICIENT	0.073
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### OFFICER/PLAINTIFF

ATTRIBUTES	PRIMARY:	OFFICER
	SECONDARY:	PLAINTIFF

	ACTUAL					EXPECTED				
	PLAINTIFF		NOT PLAIN' FF			PLAINTIFF		NOT PLAIN' FF		TOTAL
	No.	%	No.	%		No.	No.			
OFFICER	88	32.23	185	67.77	273	34	239	273		
NOT OFFICER	767	11.57	5862	88.43	6629	821	5808	6629		
TOTAL	855	12.39	6047	87.61	6902	855	6047	6902		

ATTRIBUTES	PRIMARY:	PLAINTIFF
	SECONDARY:	OFFICER

	ACTUAL					EXPECTED			
	OFFICER		NOT OFFICER			OFFICER		NOT OFFICER	
	No.	%	No.	%	TOTAL	No.	No.	TOTAL	
PLAINTIFF	88	10.29	767	89.71	855	34	821	855	
NOT PLAIN' F	185	3.06	5862	96.94	6047	239	5808		
TOTAL	273	3.96	6629	96.04	6902	273	6629	6902	

CONTINGENCY COEFFICIENT	0.120
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### OFFICER/DEFENDANT

ATTRIBUTES	PRIMARY:	OFFICER
	SECONDARY:	DEFENDANT

	ACTUAL					EXPECTED			
	DEFENDANT		NOT DEFEND'T		TOTAL	DEFENDANT		NOT DEFEND'T	
	No.	%	No.	%		No.	No.	TOTAL	
OFFICER	91	33.33	182	66.67	273	34	239	273	
NOT OFFICER	776	11.71	5853	88.29	6629	833	5796	6629	
TOTAL	867	12.56	6035	87.44	6902	867	6035	6902	

ATTRIBUTES	PRIMARY:	DEFENDANT
	SECONDARY:	OFFICER

	ACTUAL					EXPECTED			
	OFFICER		NOT OFFICER		TOTAL	OFFICER		NOT OFFICER	
	No.	%	No.	%		No.	No.	TOTAL	
DEFENDANT	91	10.50	776	89.50	867	34	833	867	
NOT DEFEN'T	182	3.02	5853	96.98	6035	239	5796	6035	
TOTAL	273	3.96	6629	96.04	6902	273	6629	6902	

CONTINGENCY COEFFICIENT	0.125
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**ATTORNEY/PRINCIPAL**

ATTRIBUTES	PRIMARY:	ATTORNEY
	SECONDARY:	PRINCIPAL

	ACTUAL			EXPECTED		
	PRINCIPAL		NOT PRINCIPAL		PRINCIPAL	NOT PRIN' PAL
	No.	%	No.	%	No.	No.
ATTORNEY	3	4.35	66	95.65	1	68
NOT ATTORNEY	134	1.96	6699	98.04	136	6697
TOTAL	137	1.98	6765	98.02	137	6765

ATTRIBUTES	PRIMARY:	
	SECONDARY:	

	ACTUAL			EXPECTED		
	ATTORNEY		NOT ATTORNEY		ATTORNEY	NOT ATTORNEY
	No.	%	No.	%	No.	No.
PRINCIPAL	3	2.19	134	97.81	1	136
NOT PRIN' PAL	66	0.98	6699	99.02	68	6697
TOTAL	69	1.00	6833	99.00	69	6833

CONTINGENCY COEFFICIENT	0.012
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**ATTORNEY/ESSOIN**  
(MALE POPULATION ONLY)

ATTRIBUTES	PRIMARY:	ATTORNEY
	SECONDARY:	ESSOIN

	ACTUAL			EXPECTED		
	ESSOIN		NOT ESSOIN		ESSOIN	NOT ESSOIN
	No.	%	No.	%	No.	No.
ATTORNEY	47	68.12	22	31.88	69	63
NOT ATTORNEY	363	8.44	3940	91.56	4303	3899
TOTAL	410	9.38	3962	90.62	4372	4372

ATTRIBUTES	PRIMARY:	ESSOIN
	SECONDARY:	ATTORNEY

	ACTUAL			EXPECTED		
	ATTORNEY		NOT ATTORNEY		ATTORNEY	NOT ATTORNEY
	No.	%	No.	%	No.	No.
ESSOIN	47	11.46	363	88.54	410	404
NOT ESSOIN	22	0.56	3962	99.44	3962	3899
TOTAL	69	1.58	4303	98.42	4372	4372

CONTINGENCY COEFFICIENT	0.244
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**ATTORNEY/ESSOINEE**

ATTRIBUTES	PRIMARY:	ATTORNEY
	SECONDARY:	ESSOINEE

	ACTUAL			EXPECTED		
	ESSOINEE		NOT ESSOINEE		ESSOINEE	NOT ESSOINEE
	No.	%	No.	%	No.	No.
ATTORNEY	27	39.13	42	60.87	69	62
NOT ATTORNEY	681	9.97	6152	90.03	6833	6132
TOTAL	708	10.26	6194	89.74	6902	6902

ATTRIBUTES	PRIMARY:	ESSOINEE
	SECONDARY:	ATTORNEY

	ACTUAL			EXPECTED		
	ATTORNEY		NOT ATTORNEY		ATTORNEY	NOT ATTORNEY
	No.	%	No.	%	No.	No.
ESSOINEE	27	3.81	681	96.19	708	701
NOT ESSOINEE	42	0.68	6152	99.32	6194	6132
TOTAL	69	1.00	6833	99.00	6902	6902

CONTINGENCY COEFFICIENT	0.093
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**ATTORNEY / PLEDGE**  
(MALE POPULATION ONLY)

ATTRIBUTES	PRIMARY:	ATTORNEY
	SECONDARY:	PLEDGE

	ACTUAL			EXPECTED		
	PLEDGE		NOT PLEDGE	PLEDGE	NOT PLEDGE	TOTAL
	No.	%	No.	%	No.	
ATTORNEY	20	28.99	49	71.01	69	69
NOT ATTORNEY	201	4.67	4102	95.33	4303	4303
TOTAL	221	5.05	4151	94.95	4372	4372

ATTRIBUTES	PRIMARY:	PLEDGE
	SECONDARY:	ATTORNEY

	ACTUAL			EXPECTED		
	ATTORNEY		NOT ATTORNEY	ATTORNEY	NOT ATTORNEY	TOTAL
	No.	%	No.	%	No.	
PLEDGE	20	9.05	201	90.95	221	221
NOT PLEDGE	49	1.18	4102	98.82	4151	4151
TOTAL	69	1.58	4303	98.42	4372	4372

CONTINGENCY COEFFICIENT	0.133
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**ATTORNEY / PLEDGEE**

ATTRIBUTES	PRIMARY:	ATTORNEY
	SECONDARY:	PLEDGE

	ACTUAL			EXPECTED		
	PLEDGE		NOT PLEDGE	PLEDGE	NOT PLEDGE	TOTAL
	No.	%	No.	%	No.	
ATTORNEY	9	13.04	60	86.96	69	69
NOT ATTORNEY	463	6.78	6370	93.22	6833	6833
TOTAL	472	6.84	6430	93.16	6902	6902

ATTRIBUTES	PRIMARY:	PLEDGE
	SECONDARY:	ATTORNEY

	ACTUAL			EXPECTED		
	ATTORNEY		NOT ATTORNEY	ATTORNEY	NOT ATTORNEY	TOTAL
	No.	%	No.	%	No.	
PLEDGE	9	1.91	463	98.09	472	472
NOT PLEDGE	60	0.93	6370	99.07	6430	6430
TOTAL	69	1.00	6833	99.00	6902	6902

CONTINGENCY COEFFICIENT	0.022
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### ATTORNEY/DONOR OF LAND

ATTRIBUTES	PRIMARY: ATTORNEY							
	SECONDARY: DONOR							
	ACTUAL					EXPECTED		
	DONOR		NOT DONOR		TOTAL	DONOR		TOTAL
	No.	%	No.	%		No.	No.	
ATTORNEY	33	47.83	36	52.17	69	16	53	69
NOT ATTORNEY	1547	22.64	5286	77.36	6833	1564	5269	6833
TOTAL	1580	22.89	5322	77.11	6902	1580	5322	6902

ATTRIBUTES	PRIMARY: DONOR							
	SECONDARY: ATTORNEY							
	ACTUAL					EXPECTED		
	ATTORNEY		NOT ATTORNEY		TOTAL	ATTORNEY		TOTAL
	No.	%	No.	%		No.	No.	
DONOR	33	2.09	1547	97.91	1580	16	1564	1580
NOT DONOR	36	0.68	5286	99.32	5322	53	5269	5322
TOTAL	69	1.00	6833	99.00	6902	69	6833	6902

CONTINGENCY COEFFICIENT	0.058
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### ATTORNEY/RECIPIENT OF LAND

ATTRIBUTES	PRIMARY: ATTORNEY							
	SECONDARY: RECIPIENT							
	ACTUAL					EXPECTED		
	RECIPIENT		NOT RECIPIENT		TOTAL	RECIPIENT		TOTAL
	No.	%	No.	%		No.	No.	
ATTORNEY	33	47.83	36	52.17	69	17	52	69
NOT ATTORNEY	1679	24.57	5154	75.43	6833	1695	5138	6833
TOTAL	1712	24.80	5190	75.20	6902	1712	5190	6902

ATTRIBUTES	PRIMARY: RECIPIENT							
	SECONDARY: ATTORNEY							
	ACTUAL					EXPECTED		
	ATTORNEY		NOT ATTORNEY		TOTAL	ATTORNEY		TOTAL
	No.	%	No.	%		No.	No.	
RECIPIENT	33	1.93	1679	98.07	1712	17	1695	1712
NOT RECIPIENT	36	0.69	5154	99.31	5190	52	5138	5190
TOTAL	69	1.00	6833	99.00	6902	69	6833	6902

CONTINGENCY COEFFICIENT	0.052
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**ATTORNEY/PLAINTIFF**

ATTRIBUTES	PRIMARY:	ATTORNEY
	SECONDARY:	PLAINTIFF

	ACTUAL					EXPECTED		
	PLAINTIFF		NOT PLAINTIFF		TOTAL	PLAINTIFF	NOT PLAINT'F	TOTAL
	No.	%	No.	%		No.	No.	
ATTORNEY	29	42.03	40	57.97	69	9	60	69
NOT ATTORNEY	826	12.09	6007	87.91	6833	846	5987	6833
TOTAL	855	12.39	6047	87.61	6902	855	6047	6902

ATTRIBUTES	PRIMARY:	PLAINTIFF
	SECONDARY:	ATTORNEY

	ACTUAL					EXPECTED			
	ATTORNEY		NOT ATTORNEY			ATTORNEY		NOT ATTORNEY	
	No.	%	No.	%	TOTAL	No.	No.	TOTAL	
PLAINTIFF	29	3.39	826	96.61	855	9	846	855	
NOT PLAINT'F	40	0.66	6007	99.34	6047	60	5987	6047	
TOTAL	69	1.00	6833	99.00	6902	69	6833	6902	

CONTINGENCY COEFFICIENT	0.088
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**ATTORNEY/DEFENDANT**

ATTRIBUTES	PRIMARY:	ATTORNEY
	SECONDARY:	DEFENDANT

	ACTUAL					EXPECTED			
	DEFENDANT		NOT DEFENDANT		TOTAL	DEFENDANT	NOT DEFEND'T	TOTAL	
	No.	%	No.	%		No.	No.		
ATTORNEY	24	34.78	45	65.22	69	9	60	69	
NOT ATTORNEY	843	12.34	5990	87.66	6833	858	5975	6833	
TOTAL	867	12.56	6035	87.44	6902	867	6035	6902	

ATTRIBUTES	PRIMARY:	DEFENDANT
	SECONDARY:	ATTORNEY

	ACTUAL					EXPECTED		
	ATTORNEY		NOT ATTORNEY		TOTAL	ATTORNEY	NOT ATTORNEY	TOTAL
	No.	%	No.	%		No.	No.	
DEFENDANT	24	2.77	843	97.23	867	9	858	867
NOT DEFEND'T	45	0.75	5990	99.25	6035	60	5975	6035
TOTAL	69	1.00	6833	99.00	6902	69	6833	6902

CONTINGENCY COEFFICIENT	0.065
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**PRINCIPAL/ESSOIN**

(MALE POPULATION ONLY)

(MALE POPULATION ONLY)

ATTRIBUTES	PRIMARY:		PRINCIPAL						
	SECONDARY:		ESSOIN						
	ACTUAL					EXPECTED			
	ESSOIN		NOT ESSOIN		TOTAL	ESSOIN		NOT ESSOIN	
	No.	%	No.	%		No.	No.	TOTAL	
PRINCIPAL	12	8.76	125	91.24	137	13	124	137	
NOT PRINC'AL	398	9.40	3837	90.60	4235	397	3838	4235	
TOTAL	410	9.38	3962	90.62	4372	410	3962	4372	

ATTRIBUTES	PRIMARY:		ESSOIN						
	SECONDARY:		PRINCIPAL						
	ACTUAL					EXPECTED			
	PRINCIPAL		NOT PRINCIPAL		TOTAL	PRINCIPAL		NOT PRINC'AL	TOTAL
	No.	%	No.	%		No.	No.		
ESSOIN	12	2.93	398	97.07	410	13	397	410	
NOT ESSOIN	125	3.15	3837	96.85	3962	124	3838	3962	
TOTAL	137	3.13	4235	96.87	4372	137	4235	4372	

CONTINGENCY COEFFICIENT	0.006 ( 'NEGATIVE' )
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**PRINCIPAL/ESSOINEE**

ATTRIBUTES	PRIMARY:		PRINCIPAL						
	SECONDARY:		ESSOINEE						
	ACTUAL						EXPECTED		
	ESSOINEE		NOT ESSOINEE		TOTAL	ESSOINEE		NOT ESSOINEE	
	No.	%	No.	%		No.	No.	TOTAL	
PRINCIPAL	46	33.58	91	66.42	137	14	123	137	
NOT PRINC'AL	662	9.79	6103	90.21	6765	694	6071	6765	
TOTAL	708	10.26	6194	89.74	6902	708	6194	6902	

ATTRIBUTES	PRIMARY:		ESSOINEE					
	SECONDARY:		PRINCIPAL					
	ACTUAL					EXPECTED		
	PRINCIPAL		NOT PRINCIPAL		TOTAL	PRINCIPAL		NOT PRINC'AL
No.	%	No.	%	No.		No.	No.	TOTAL
ESSOINEE	46	6.50	662	93.50	708	14	694	708
NOT ESSOINEE	91	1.47	6103	98.53	6194	123	6071	6194
TOTAL	137	1.98	6765	98.02	6902	137	5765	6902

CONTINGENCY COEFFICIENT	0.107
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**PRINCIPAL/PLEDGE**  
(MALE POPULATION ONLY)

ATTRIBUTES	PRIMARY: PRINCIPAL		SECONDARY: PLEDGE					
	ACTUAL					EXPECTED		
	PLEDGE		NOT PLEDGE		TOTAL	PLEDGE		TOTAL
	No.	%	No.	%		No.	No.	
PRINCIPAL	4	2.92	133	97.08	137	7	130	137
NOT PRINC'AL	217	5.12	4018	94.88	4235	214	4021	4235
TOTAL	221	5.05	4151	94.95	4372	221	4151	4372

ATTRIBUTES	PRIMARY: PLEDGE		SECONDARY: PRINCIPAL					
	ACTUAL					EXPECTED		
	PRINCIPAL		NOT PRINCIPAL		TOTAL	PRINCIPAL		TOTAL
	No.	%	No.	%		No.	No.	
PLEDGE	4	1.81	217	98.19	221	7	214	221
NOT PLEDGE	133	3.20	4018	96.80	4151	130	4021	4151
TOTAL	137	3.13	4235	96.87	4372	137	4235	4372

CONTINGENCY COEFFICIENT	0.021 ( 'NEGATIVE' )
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**PRINCIPAL/PLEDGE**

ATTRIBUTES	PRIMARY: PRINCIPAL		SECONDARY: PLEDGEE					
	ACTUAL					EXPECTED		
	PLEDGE		NOT PLEDGE		TOTAL	PLEDGE		TOTAL
	No.	%	No.	%		No.	No.	
PRINCIPAL	16	11.68	121	88.32	137	9	128	137
NOT PRINC'AL	456	6.74	6309	93.26	6765	463	6302	6765
TOTAL	472	6.84	6430	93.16	6902	472	6430	6902

ATTRIBUTES	PRIMARY: PLEDGEE		SECONDARY: PRINCIPAL					
	ACTUAL					EXPECTED		
	PRINCIPAL		NOT PRINCIPAL		TOTAL	PRINCIPAL		TOTAL
	No.	%	No.	%		No.	No.	
PLEDGE	16	3.39	456	96.61	472	9	463	472
NOT PLEDGEE	121	1.88	6309	98.12	6430	128	6302	6430
TOTAL	137	1.98	6765	98.02	6902	137	6765	6902

CONTINGENCY COEFFICIENT	0.025
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**PRINCIPAL/DONOR OF LAND**

ATTRIBUTES	PRIMARY:	PRINCIPAL
	SECONDARY:	DONOR OF LAND

	ACTUAL			EXPECTED		
	DONOR		NOT DONOR		DONOR	NOT DONOR
	No.	%	No.	%	No.	No.
PRINCIPAL	31	22.63	106	77.37	137	137
NOT PRINC'AL	1549	22.90	5216	77.10	6765	6765
TOTAL	1580	22.89	5322	77.11	6902	6902

ATTRIBUTES	PRIMARY:	DONOR OF LAND
	SECONDARY:	PRINCIPAL

	ACTUAL			EXPECTED		
	PRINCIPAL		NOT PRINC'AL		PRINCIPAL	NOT PRINC'AL
	No.	%	No.	%	No.	No.
DONOR	31	1.96	1549	98.04	1580	1580
NOT DONOR	106	1.99	5216	98.01	5322	5322
TOTAL	137	1.98	6765	98.02	6902	6902

CONTINGENCY COEFFICIENT	0.002
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**PRINCIPAL/RECIPIENT OF LAND**

ATTRIBUTES	PRIMARY:	PRINCIPAL
	SECONDARY:	RECIPIENT OF LAND

	ACTUAL			EXPECTED		
	RECIPIENT		NOT RECIPIENT		RECIPIENT	NOT RECIPI'NT
	No.	%	No.	%	No.	No.
PRINCIPAL	25	18.25	112	81.75	137	137
NOT PRINC'AL	1687	24.94	5078	75.06	6765	6765
TOTAL	1712	24.80	5190	75.20	6902	6902

ATTRIBUTES	PRIMARY:	RECIPIENT OF LAND
	SECONDARY:	PRINCIPAL

	ACTUAL			EXPECTED		
	No.	%	No.	%	No.	No.
RECIPIENT	25	1.46	1687	98.54	1712	1712
NOT RECIPI'NT	112	2.16	5078	97.84	5190	5190
TOTAL	137	1.98	6765	98.02	6902	6902

CONTINGENCY COEFFICIENT	0.023 ( 'NEGATIVE' )
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**PRINCIPAL/PLAINTIFF**

ATTRIBUTES	PRIMARY:	PRINCIPAL
	SECONDARY:	PLAINTIFF

	ACTUAL					EXPECTED		
	PLAINTIFF		NOT PLAINTIFF		TOTAL	PLAINTIFF	NOT PLAINT'F	TOTAL
	No.	%	No.	%		No.	No.	
PRINCIPAL	67	48.91	70	51.09	137	17	120	137
NOT PRINC'AL	788	11.65	5977	88.35	6765	838	5927	6765
TOTAL	855	12.39	6047	87.61	6902	855	6047	6902

ATTRIBUTES	PRIMARY:	PLAINTIFF
	SECONDARY:	PRINCIPAL

	ACTUAL					EXPECTED		
	PRINCIPAL		NOT PRINCIPAL		TOTAL	PRINCIPAL	NOT PRINC'AL	TOTAL
	No.	%	No.	%		No.	No.	
PLAINTIFF	67	7.84	788	92.16	855	17	838	855
NOT PLAINT'F	70	1.16	5977	98.84	6047	120	5927	6047
TOTAL	137	1.98	6765	98.02	6902	137	5765	6902

CONTINGENCY COEFFICIENT	0.154
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**PRINCIPAL/DEFENDANT**

ATTRIBUTES	PRIMARY:	PRINCIPAL
	SECONDARY:	DEFENDANT

	ACTUAL					EXPECTED		
	DEFENDANT		NOT DEFENDANT		TOTAL	DEFENDANT	NOT DEFEND'T	TOTAL
	No.	%	No.	%		No.	No.	
PRINCIPAL	34	24.82	103	75.18	137	17	120	137
NOT PRINC'AL	833	12.31	5932	87.69	6765	850	5915	6765
TOTAL	867	12.56	6035	87.44	6902	867	6035	6902

ATTRIBUTES	PRIMARY:	DEFENDANT
	SECONDARY:	PRINCIPAL

	ACTUAL					EXPECTED		
	PRINCIPAL		NOT PRINCIPAL		TOTAL	PRINCIPAL	NOT PRINC'AL	TOTAL
	No.	%	No.	%		No.	No.	
DEFENDANT	34	3.92	833	96.08	867	17	850	867
NOT DEFEND'T	103	1.71	5932	98.29	6035	120	5915	6035
TOTAL	137	1.98	6765	98.02	6902	137	5765	6902

CONTINGENCY COEFFICIENT	0.051
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# ANALYSIS OF MULTIPLE ATTRIBUTES

ATTRIBUTE	ALL	%	JUROR	%	OFFICER	%	ATTORNEY	%	PRINCIPAL	%	ESSOIN	%	ESSOINEE	%
JUROR	522	7.562	522	100	141	27.01	26	4.981	13	2.49	119	22.8	139	26.6
OFFICER	273	3.955	141	51.6	273	100	23	8.425	7	2.564	74	27.11	63	23.1
ATTORNEY	69	1	26	37.7	23	33.33	69	100	3	4.348	47	68.12	27	39.1
PRINCIPAL	137	1.985	13	9.49	7	5.109	3	2.19	137	100	12	8.759	46	33.6
ESSOIN	410	5.939	119	29	74	18.05	47	11.46	12	2.927	410	100	125	30.5
ESSOINEE	708	10.26	139	19.6	63	8.898	27	3.814	46	6.497	125	17.66	708	100
PLEDGE	221	3.202	111	50.2	65	29.41	20	9.05	4	1.81	77	34.84	79	35.7
PLEDGE	256	3.709	45	17.6	32	12.5	6	2.344	8	3.125	30	11.72	63	24.6
DONOR	1580	22.89	212	13.4	108	6.835	33	2.089	31	1.962	136	8.608	227	14.4
RECIPIENT	1712	24.8	199	11.6	111	6.484	33	1.928	25	1.46	124	7.243	199	11.6
IV DONOR	1163	16.85	175	15	88	7.567	29	2.494	22	1.892	109	9.372	181	15.6
IV RECIPIENT	1258	18.22	163	13	91	7.234	28	2.226	18	1.431	101	8.029	164	13
PM DONOR	365	5.288	50	13.7	32	8.767	6	1.644	5	1.37	36	9.863	45	12.3
PM RECIPIENT	381	5.519	38	9.97	23	6.037	5	1.312	6	1.575	21	5.512	34	8.92
LESSOR	40	0.579	4	10	2	5	0	0	1	2.5	7	17.5	8	20
LESSEE	43	0.623	14	32.6	8	18.6	3	6.977	0	0	6	13.95	12	27.9
DEATH	375	5.432	50	13.3	32	8.533	6	1.6	6	1.6	37	9.867	47	12.5
PLAINTIFF	855	12.39	161	18.8	88	10.29	29	3.392	67	7.836	133	15.56	254	29.7
DEFENDANT	867	12.56	195	22.5	91	10.5	24	2.768	34	3.922	146	16.84	397	45.8
BAKER	120	1.738	12	10	7	5.833	0	0	2	1.667	9	7.5	13	10.8
BREWER	521	7.547	20	3.84	10	1.919	2	0.384	4	0.768	7	1.344	29	5.57
REGRATER	976	14.14	8	0.82	5	0.512	3	0.307	8	0.82	6	0.615	21	2.15
FORESTALLER	27	0.391	1	3.7	0	0	0	0	1	3.704	2	7.407	3	11.1
'NUISANCE'	223	3.23	26	11.7	25	11.21	3	1.345	1	0.448	15	6.726	27	12.1
HUE RAISER	101	1.463	12	11.9	15	14.85	0	0	0	0	6	5.941	12	11.9
HUE 'VICTIM'	102	1.478	12	11.8	11	10.78	1	0.98	3	2.941	5	4.902	17	16.7
HAMSOKEN	20	0.29	0	0	0	0	0	0	1	5	0	0	2	10
HAMS. VICTIM	17	0.246	2	11.8	3	17.65	0	0	0	0	0	0	1	5.88
DREW BLOOD	137	1.985	13	9.49	10	7.299	1	0.73	4	2.92	8	5.839	19	13.9
BLOOD DRAWN	125	1.811	11	8.8	14	11.2	1	0.8	1	0.8	8	6.4	12	9.6
MERCHET	84	1.217	0	0	0	0	1	1.19	0	0	2	2.381	1	1.19
LEYRWITE	17	0.246	0	0	0	0	0	0	0	0	0	0	0	0
TITHING	19	0.275	1	5.26	1	5.263	0	0	0	0	0	0	1	5.26

# ANALYSIS OF MULTIPLE ATTRIBUTES

ATTRIBUTE	ALL	%	PLEDGE	%	PLEDGE	%	DONOR	%	RECIPIENT	%	IV DONOR	%	IV RECIP.	%
JUROR	522	7.562	111	21.26	45	8.621	212	40.61	199	38.12	175	33.52	163	31.23
OFFICER	273	3.955	65	23.81	32	11.72	108	39.56	111	40.66	88	32.23	91	33.33
ATTORNEY	69	1	20	28.99	6	8.696	33	47.83	33	47.83	29	42.03	28	40.58
PRINCIPAL	137	1.985	4	2.92	8	5.839	31	22.63	25	18.25	22	16.06	18	13.14
ESSOIN	410	5.939	77	18.78	30	7.317	136	33.17	124	30.24	109	26.59	101	24.63
ESSOINEE	708	10.26	79	11.16	63	8.898	227	32.06	199	28.11	181	25.56	164	23.16
PLEDGE	221	3.202	221	100	36	16.29	112	50.68	119	53.85	99	44.8	105	47.51
PLEDGE	256	3.709	36	14.06	256	100	89	34.77	113	44.14	74	28.91	79	30.86
DONOR	1580	22.89	112	7.089	89	5.633	1580	100	549	34.75	1163	73.61	449	28.42
RECIPIENT	1712	24.8	119	6.951	113	6.6	549	32.07	1712	100	460	26.87	1258	73.48
IV DONOR	1163	16.85	99	8.512	74	6.363	1163	100	460	39.55	1163	100	403	34.65
IV RECIPIENT	1258	18.22	105	8.347	79	6.28	449	35.69	1258	100	403	32.03	1258	100
PM DONOR	365	5.288	22	6.027	15	4.11	365	100	88	24.11	81	22.19	61	16.71
PM RECIPIENT	381	5.519	24	6.299	33	8.661	101	26.51	381	100	73	19.16	71	18.64
LESSOR	40	0.579	4	10	4	10	40	100	17	42.5	15	37.5	14	35
LESSEE	43	0.623	13	30.23	3	6.977	26	60.47	43	100	21	48.84	22	51.16
DEATH	375	5.432	23	6.133	15	4	367	97.87	89	23.73	84	22.4	62	16.53
PLAINTIFF	855	12.39	100	11.7	54	6.316	266	31.11	259	30.29	223	26.08	215	25.15
DEFENDANT	867	12.56	114	13.15	86	9.919	328	37.83	297	34.26	275	31.72	237	27.34
BAKER	120	1.738	7	5.833	8	6.667	18	15	20	16.67	15	12.5	17	14.17
BREWER	521	7.547	8	1.536	8	1.536	43	8.253	42	8.061	37	7.102	35	6.718
REGRATER	976	14.14	4	0.41	8	0.82	60	6.148	39	3.996	49	5.02	36	3.689
FORESTALLER	27	0.391	1	3.704	2	7.407	3	11.11	4	14.81	3	11.11	4	14.81
'NUISANCE'	223	3.23	16	7.175	12	5.381	44	19.73	40	17.94	36	16.14	29	13
HUE RAISER	101	1.463	8	7.921	11	10.89	18	17.82	14	13.86	14	13.86	13	12.87
HUE 'VICTIM'	102	1.478	10	9.804	10	9.804	20	19.61	22	21.57	18	17.65	16	15.69
HAMSOKEN	20	0.29	0	0	1	5	1	5	2	10	1	5	0	0
HAMS. VICTIM	17	0.246	1	5.882	0	0	1	5.882	3	17.65	0	0	1	5.882
DREW BLOOD	137	1.985	9	6.569	21	15.33	23	16.79	24	17.52	19	13.87	17	12.41
BLOOD DRAWN	125	1.811	13	10.4	11	8.8	22	17.6	27	21.6	18	14.4	21	16.8
MERCHET	84	1.217	2	2.381	10	11.9	4	4.762	15	17.86	4	4.762	11	13.1
LEYRWITE	17	0.246	0	0	1	5.882	2	11.76	1	5.882	2	11.76	1	5.882
TITHING	19	0.275	0	0	1	5.263	3	15.79	2	10.53	2	10.53	2	10.53



# ANALYSIS OF MULTIPLE ATTRIBUTES

ATTRIBUTE	ALL	%	PM DONOR	%	PM RECIP.	%	LESSOR	%	LESSEE	%	DEATH	%	PLAINTIFF	%	DEFEND.	%
JUROR	522	7.562	50	9.579	38	7.28	4	0.766	14	2.682	50	9.579	161	30.84	195	37.36
OFFICER	273	3.955	32	11.72	23	8.425	2	0.733	8	2.93	32	11.72	88	32.23	91	33.33
ATTORNEY	69	1	6	8.696	5	7.246	0	0	3	4.348	6	8.696	29	42.03	24	34.78
PRINCIPAL	137	1.985	5	3.65	6	4.38	1	0.73	0	0	6	4.38	67	48.91	34	24.82
ESSOIN	410	5.939	36	8.78	21	5.122	7	1.707	6	1.463	37	9.024	133	32.44	146	35.61
ESSOINEE	708	10.26	45	6.356	34	4.802	8	1.13	12	1.695	47	6.638	254	35.88	397	56.07
PLEDGE	221	3.202	22	9.955	24	10.86	4	1.81	13	5.882	23	10.41	100	45.25	114	51.58
PLEDGE	256	3.709	15	5.859	33	12.89	4	1.563	3	1.172	15	5.859	54	21.09	86	33.59
DONOR	1580	22.89	365	23.1	101	6.392	40	2.532	26	1.646	367	23.23	266	16.84	328	20.76
RECIPIENT	1712	24.8	88	5.14	381	22.25	17	0.993	43	2.512	89	5.199	259	15.13	297	17.35
IV DONOR	1163	16.85	81	6.965	73	6.277	15	1.29	21	1.806	84	7.223	223	19.17	275	23.65
IV RECIPIENT	1258	18.22	61	4.849	71	5.644	14	1.113	22	1.749	62	4.928	215	17.09	237	18.84
PM DONOR	365	5.288	365	100	26	7.123	4	1.096	8	2.192	0	0	46	12.6	51	13.97
PM RECIPIENT	381	5.519	26	6.824	381	100	4	1.05	8	2.1	26	6.824	48	12.6	61	16.01
LESSOR	40	0.579	4	10	4	10	40	100	0	0	4	10	5	12.5	12	30
LESSEE	43	0.623	8	18.6	8	18.6	0	0	43	100	8	18.6	19	44.19	19	44.19
DEATH	375	5.432	364	97.07	26	6.933	4	1.067	8	2.133	375	100	48	12.8	59	15.73
PLAINTIFF	855	12.39	46	5.38	48	5.614	5	0.585	19	2.222	48	5.614	855	100	292	34.15
DEFENDANT	867	12.56	57	6.574	61	7.036	12	1.384	19	2.191	59	6.805	292	33.68	867	100
BAKER	120	1.738	1	0.833	5	4.167	1	0.833	0	0	1	0.833	17	14.17	18	15
BREWER	521	7.547	9	1.727	6	1.152	0	0	5	0.96	9	1.727	29	5.566	33	6.334
REGRATER	976	14.14	8	0.82	4	0.41	2	0.205	1	0.102	8	0.82	26	2.664	19	1.947
FORESTALLER	27	0.391	0	0	0	0	0	0	0	0	0	0	3	11.11	4	14.81
'NUISANCE'	223	3.23	7	3.139	8	3.587	0	0	2	0.897	7	3.139	31	13.9	38	17.04
HUE RAISER	101	1.463	7	6.931	3	2.97	0	0	1	0.99	7	6.931	8	7.921	12	11.88
HUE 'VICTIM'	102	1.478	5	4.902	5	4.902	0	0	1	0.98	5	4.902	10	9.804	17	16.67
HAMSOKEN	20	0.29	1	5	2	10	0	0	0	0	1	5	0	0	3	15
HAMS. VICTIM	17	0.246	0	0	2	11.76	0	0	0	0	0	0	1	5.882	1	5.882
DREW BLOOD	137	1.985	4	2.92	8	5.839	1	0.73	1	0.73	4	2.92	22	16.06	24	17.52
BLOOD DRAWN	125	1.811	4	3.2	6	4.8	1	0.8	2	1.6	4	3.2	15	12	17	13.6
MERCHET	84	1.217	1	1.19	1	1.19	0	0	1	1.19	1	1.19	2	2.381	3	3.571
LEYRWITE	17	0.246	1	5.882	0	0	0	0	0	0	1	5.882	0	0	0	0
TITHING	19	0.275	1	5.263	0	0	0	0	0	0	1	5.263	2	10.53	4	21.05

# ANALYSIS OF MULTIPLE ATTRIBUTES

ATTRIBUTE	ALL	%	BAKER	%	BREWER	%	REGRATER	%	FORESTALLER	%	'NUISANCE'	%
JUROR	522	7.56	12	2.299	20	3.83	8	1.533	1	0.192	26	4.981
OFFICER	273	3.95	7	2.564	10	3.66	5	1.832	0	0	25	9.158
ATTORNEY	69	1	0	0	2	2.9	3	4.348	0	0	3	4.348
PRINCIPAL	137	1.98	2	1.46	4	2.92	8	5.839	1	0.73	1	0.73
ESSOIN	410	5.94	9	2.195	7	1.71	6	1.463	2	0.488	15	3.659
ESSOINEE	708	10.3	13	1.836	29	4.1	21	2.966	3	0.424	27	3.814
PLEDGE	221	3.2	7	3.167	8	3.62	4	1.81	1	0.452	16	7.24
PLEDGE	256	3.71	8	3.125	8	3.13	8	3.125	2	0.781	12	4.688
DONOR	1580	22.9	18	1.139	43	2.72	60	3.797	3	0.19	44	2.785
RECIPIENT	1712	24.8	20	1.168	42	2.45	39	2.278	4	0.234	40	2.336
IV DONOR	1163	16.8	15	1.29	37	3.18	49	4.213	3	0.258	36	3.095
IV RECIPIENT	1258	18.2	17	1.351	35	2.78	36	2.862	4	0.318	29	2.305
PM DONOR	365	5.29	1	0.274	9	2.47	8	2.192	0	0	7	1.918
PM RECIPIENT	381	5.52	5	1.312	6	1.57	4	1.05	0	0	8	2.1
LESSOR	40	0.58	1	2.5	0	0	2	5	0	0	0	0
LESSEE	43	0.62	1	2.326	5	11.6	1	2.326	0	0	2	4.651
DEATH	375	5.43	1	0.267	9	2.4	8	2.133	0	0	7	1.867
PLAINTIFF	855	12.4	17	1.988	29	3.39	26	3.041	3	0.351	31	3.626
DEFENDANT	867	12.6	18	2.076	33	3.81	19	2.191	4	0.461	38	4.383
BAKER	120	1.74	120	100	32	26.7	26	21.67	0	0	10	8.333
BREWER	521	7.55	32	6.142	521	100	140	26.87	0	0	15	2.879
REGRATER	976	14.1	26	2.664	140	14.3	976	100	4	0.41	10	1.025
FORESTALLER	27	0.39	0	0	0	0	4	14.81	27	100	0	0
'NUISANCE'	223	3.23	10	4.484	15	6.73	10	4.484	0	0	223	100
HUE RAISER	101	1.46	7	6.931	7	6.93	13	12.87	0	0	6	5.941
HUE 'VICTIM'	102	1.48	3	2.941	6	5.88	4	3.922	1	0.98	6	5.882
HAMSOKEN	20	0.29	0	0	1	5	1	5	0	0	1	5
HAMS. VICTIM	17	0.25	1	5.882	2	11.8	1	5.882	0	0	1	5.882
DREW BLOOD	137	1.98	2	1.46	2	1.46	6	4.38	1	0.73	5	3.65
BLOOD DRAWN	125	1.81	2	1.6	1	0.8	7	5.6	0	0	10	8
MERCHET	84	1.22	0	0	0	0	0	0	0	0	0	0
LEYRWITE	17	0.25	0	0	0	0	0	0	0	0	0	0
TITHING	19	0.28	0	0	1	5.26	0	0	0	0	0	0

# ANALYSIS OF MULTIPLE ATTRIBUTES

ATTRIBUTE	ALL	%	HUE RAISER	%	HUE 'VICTIM'	%	HAMSOKEN	%	HAMSOKEN VICTIM	%
JUROR	522	7.562	12	2.299	12	2.299	0	0	2	0.383
OFFICER	273	3.955	15	5.495	11	4.029	0	0	3	1.099
ATTORNEY	69	1	0	0	1	1.449	0	0	0	0
PRINCIPAL	137	1.985	0	0	3	2.19	1	0.73	0	0
ESSOIN	410	5.939	6	1.463	5	1.22	0	0	0	0
ESSOINEE	708	10.26	12	1.695	17	2.401	2	0.282	1	0.141
PLEDGE	221	3.202	8	3.62	10	4.525	0	0	1	0.452
PLEDGE	256	3.709	11	4.297	10	3.906	1	0.391	0	0
DONOR	1580	22.89	18	1.139	20	1.266	1	0.063	1	0.063
RECIPIENT	1712	24.8	14	0.818	22	1.285	2	0.117	3	0.175
IV DONOR	1163	16.85	14	1.204	18	1.548	1	0.086	0	0
IV RECIPIENT	1258	18.22	13	1.033	16	1.272	0	0	1	0.079
PM DONOR	365	5.288	7	1.918	5	1.37	1	0.274	0	0
PM RECIPIENT	381	5.519	3	0.787	5	1.312	2	0.525	2	0.525
LESSOR	40	0.579	0	0	0	0	0	0	0	0
LESSEE	43	0.623	1	2.326	1	2.326	0	0	0	0
DEATH	375	5.432	7	1.867	5	1.333	1	0.267	0	0
PLAINTIFF	855	12.39	8	0.936	10	1.17	0	0	1	0.117
DEFENDANT	867	12.56	12	1.384	17	1.961	3	0.346	1	0.115
BAKER	120	1.738	7	5.833	3	2.5	0	0	1	0.833
BREWER	521	7.547	7	1.344	6	1.152	1	0.192	2	0.384
REGRATER	976	14.14	13	1.332	4	0.41	1	0.102	1	0.102
FORESTALLER	27	0.391	0	0	1	3.704	0	0	0	0
'NUISANCE'	223	3.23	6	2.691	6	2.691	1	0.448	1	0.448
HUE RAISER	101	1.463	101	100	5	4.95	2	1.98	8	7.921
HUE 'VICTIM'	102	1.478	5	4.902	102	100	9	8.824	3	2.941
HAMSOKEN	20	0.29	2	10	9	45	20	100	0	0
HAMS. VICTIM	17	0.246	8	47.06	3	17.65	0	0	17	100
DREW BLOOD	137	1.985	7	5.109	35	25.55	5	3.65	4	2.92
BLOOD DRAWN	125	1.811	27	21.6	7	5.6	2	1.6	3	2.4
MERCHET	84	1.217	0	0	0	0	0	0	0	0
LEYRWITE	17	0.246	0	0	0	0	0	0	0	0
TITHING	19	0.275	1	5.263	1	5.263	1	5.263	0	0

# ANALYSIS OF MULTIPLE ATTRIBUTES

ATTRIBUTE	ALL	%	DREW BLOOD	%	BLOOD DRAWN	%	MERCHET	%	LEYRWITE	%	TITHING	%
JUROR	522	7.562	13	2.49	11	2.107	0	0	0	0	1	0.192
OFFICER	273	3.955	10	3.66	14	5.128	0	0	0	0	1	0.366
ATTORNEY	69	1	1	1.45	1	1.449	1	1.449	0	0	0	0
PRINCIPAL	137	1.985	4	2.92	1	0.73	0	0	0	0	0	0
ESSOIN	410	5.939	8	1.95	8	1.951	2	0.488	0	0	0	0
ESSOINEE	708	10.26	19	2.68	12	1.695	1	0.141	0	0	1	0.141
PLEDGE	221	3.202	9	4.07	13	5.882	2	0.905	0	0	0	0
PLEDGE	256	3.709	21	8.2	11	4.297	10	3.906	1	0.391	1	0.391
DONOR	1580	22.89	23	1.46	22	1.392	4	0.253	2	0.127	3	0.19
RECIPIENT	1712	24.8	24	1.4	27	1.577	15	0.876	1	0.058	2	0.117
IV DONOR	1163	16.85	19	1.63	18	1.548	4	0.344	2	0.172	2	0.172
IV RECIPIENT	1258	18.22	17	1.35	21	1.669	11	0.874	1	0.079	2	0.159
PM DONOR	365	5.288	4	1.1	4	1.096	1	0.274	1	0.274	1	0.274
PM RECIPIENT	381	5.519	8	2.1	6	1.575	1	0.262	0	0	0	0
LESSOR	40	0.579	1	2.5	1	2.5	0	0	0	0	0	0
LESSEE	43	0.623	1	2.33	2	4.651	1	2.326	0	0	0	0
DEATH	375	5.432	4	1.07	4	1.067	1	0.267	1	0.267	1	0.267
PLAINTIFF	855	12.39	22	2.57	15	1.754	2	0.234	0	0	2	0.234
DEFENDANT	867	12.56	24	2.77	17	1.961	3	0.346	0	0	4	0.461
BAKER	120	1.738	2	1.67	2	1.667	0	0	0	0	0	0
BREWER	521	7.547	2	0.38	1	0.192	0	0	0	0	1	0.192
REGRATER	976	14.14	6	0.61	7	0.717	0	0	0	0	0	0
FORESTALLER	27	0.391	1	3.7	0	0	0	0	0	0	0	0
'NUISANCE'	223	3.23	5	2.24	10	4.484	0	0	0	0	0	0
HUE RAISER	101	1.463	7	6.93	27	26.73	0	0	0	0	1	0.99
HUE 'VICTIM'	102	1.478	35	34.3	7	6.863	0	0	0	0	1	0.98
HAMSOKEN	20	0.29	5	25	2	10	0	0	0	0	1	5
HAMS. VICTIM	17	0.246	4	23.5	3	17.65	0	0	0	0	0	0
DREW BLOOD	137	1.985	137	100	28	20.44	0	0	0	0	0	0
BLOOD DRAWN	125	1.811	28	22.4	125	100	0	0	0	0	1	0.8
MERCHET	84	1.217	0	0	0	0	84	100	0	0	0	0
LEYRWITE	17	0.246	0	0	0	0	0	0	17	100	0	0
TITHING	19	0.275	0	0	1	5.263	0	0	0	0	19	100

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