

Memory and Gender in the Late Medieval Church Courts of York

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Abstract

This study examines popular rather than elite or learned forms of memory, seeking to document how ordinary people remembered past events. It utilises witness depositions from the extensive archive of litigation from the late medieval Court of York and the court of the Dean and Chapter, to gain comparative insights into how men and women remembered past events in social practice. While tithe and parochial rights cases yield depositions from older men, marriage, defamation, and testamentary disputes generate female testimony which allows gendered comparisons to be made. Male and female deponents reshaped their pasts differently in accordance with culturally resonant narratives which took into account factors like gender, social status and occupation. The deposition evidence shows that witnesses remembered their own actions within gendered expectations. This thesis considers the impact of gender on memory by exploring how deponents remembered life events, the world which surrounded them and the landscape which they inhabited.

This study will also consider the relationship between individual and group memory strategies, seeking to understand how gender affected these modes of remembering. Marriage cases initiated on the grounds of consanguinity contain deponents' remembered genealogies and provide fascinating insights into the construction of family memory. Both female and male deponents remembered these narrative family trees, which allows gender comparisons to be made. My research demonstrates that, although litigants often favoured male witnesses, women remained important conduits of memory. This project also seeks to chart and explain why the Court of York was interested in how deponents remembered past events. Engaging with gender and memory theory, this thesis investigates the diverse memorial roles adopted by medieval men and women in daily life.

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List of Abbreviations

B.I.	Borthwick Institute
X. I.I.I.	Decretales Gregorii IX, Liber I, tit. I, Canon I, from <i>Corpus Iuris Canonici, Pars Secunda: Decretalium Collectiones Decretales Gregorii p. IX</i> , (ed.) Emil Ludwig Richter and Emil Friedberg (Leipzig, 1881).
EETS	Early English Texts Society
Helmholz, <i>Marriage</i>	R.H. Helmholz, <i>Marriage Litigation in Medieval England</i> (Cambridge, 1974).
MED	Hans Kurath, Sherman M. Kuhn and Robert Lewis (eds.), <i>Middle English Dictionary</i> (Ann Arbor, 1952-2001).
ODNB	H.C.G. Matthew and B. Harrison (eds.), <i>Oxford Dictionary of National Biography</i> (2006) http://www.oxforddnb.com , last accessed November 2007.
<i>VCH</i>	<i>Victoria County History</i> .
YMA	York Minster Archives.

Note on the Text

Many disputes in the Court of York and the Dean and Chapter took more than a year to reach a final sentence. This thesis will follow the dates for cases used in David Smith's handlists unless otherwise stated.¹

Latin quotations from the court documents will be silently expanded from their original abbreviated form. Where part of a document is damaged or illegible then this will also be stated in the transcription. When the cause papers are quoted, the Latin quotations are placed in the footnotes.

Place names have been rendered in their modern spelling as far as they can be traced. When I have not been able to find the modern spelling, place names will be kept in their original spelling.

¹ *The Court of York, 1400-1499: a Handlist of the Cause Papers and an Index to the Archiepiscopal Court Books*, (ed.) D.M. Smith, Borthwick Texts and Calendars 29 (York, 2003); *Ecclesiastical Cause Papers at York: The Court of York 1301-99*, (ed.) D.M. Smith, Borthwick Texts and Calendars 14 (York, 1988).

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Introduction

When we remember, we represent ourselves to ourselves and to those around us. To the extent that our 'nature' – that which we truly are – can be revealed in articulation, we are what we remember ... a study of the way we remember – the way we present ourselves in our memories, the way we define our personal and collective identities through our memories, the way we order and structure our ideas in our memories, and the way we transmit these memories to others – is a study of the way we are.¹

Acknowledging the extent to which individuals engage in self-representation when they communicate their pasts, James Fentress and Chris Wickham, in their 1992 book *Social Memory*, provoke many abstract and thorny questions related to the construction of memory and identity. From their perspective, memory is situated in a context which is both communal and individual. Their study raises several critical concerns that will underpin and guide aspects of my consideration of medieval memory and identity. Fentress and Wickham also flag up questions which could be asked of different sources from diverse periods: What is memory? How are memories formed? How do individuals remember? As the authors probably intended, many questions are only implied while others which are asked remain unanswered. For example, are memories and identities static or do they alter according to context? How does gender affect memory, and do men and women have different roles in remembering?² Can the historian overcome the almost insurmountable hurdle of 'a [male] dominant ideology and a [male] dominance over narration'?³

At first glance, the combination of memory and gender as twin concerns may seem impossibly on trend. However, the examination of memory and ways of remembering can shed much light upon the social and cultural construction of identity and on the gendered self in particular. This study is motivated by concrete concerns which will ensure that both lines of analysis yield mutual gains. Implicit in my argument is the contention that gender shapes the way that individuals form,

¹ James Fentress and Chris Wickham, *Social Memory* (Oxford, 1992), p. 7.

² See the stimulating questions posed in the introduction to the *Michigan Quarterly Review* special issue on women and memory: Margaret A. Lourie, Donna C. Staunton, and Martha Vicinus, 'Introduction', *Michigan Quarterly Review*, 26 (1987), 1-8 (p. 1).

³ Fentress and Wickham, *Social Memory*, p. 138.

recall, and narrate memories of past events. Analysis of gender and memory in tandem will provide new insights into the way medieval individuals and groups presented themselves through their own memories and legitimized their behaviour, not only to themselves but to others. This study will offer an in-depth reading of empirical evidence, in the form of late medieval Church court records from the diocese of York, in order to propose a new method to deal with gender and memory, and the current partition between individual and group memory.

In the past couple of decades, medievalists and modernists alike have found good reason to study contexts, events and groups through the lens of gender studies.⁴ Spurred on, initially, by the Women's Movement, gender studies is now a field with its own genealogy, currently propelled forward by concerns that men have been disregarded and treated as ungendered subjects.⁵ Despite its relatively secure footing at present, gender studies has endured periods of methodological and political dissonance which have caused internal division.

Beginning in the social sciences, the study of memory also has a long lineage but it is one that unfolded across a number of subject areas, continuing to lack an intellectual and disciplinary home. Historical studies of memory, trauma, forgetting, and commemoration in the aftermath of the Holocaust only began to emerge in the last two decades, and still more studies continue to appear which consider how conflict and war affected the memories of survivors and displaced peoples.⁶ These works deal with events which had a colossal influence on individual, communal and national memories, and much of the content deals with male memories of public and political occurrences.⁷ By comparison, historians have only recently begun to analyse the ways in which past societies remember. While studies of political and public events render many opportunities for investigations of memory, greater elucidation of personal and communal memory can be gained by analysing

⁴ See the decisive article by Joan Scott which will be discussed later in this chapter: Scott, 'Gender: A Useful Category of Analysis', *The American Historical Review*, 91:5 (1986), 1053-1075.

⁵ Kathy E. Ferguson, 'Interpretation and Genealogy in Feminism', *Signs: Journal of Women in Culture and Society*, 16:2 (1991), 322-39.

⁶ Luisa Passerini (ed.), *Memory and Totalitarianism* (Oxford, 2005); Dominick LaCapra, *History and Memory after Auschwitz* (London, 1998); Elizabeth Jelin, *State Repression and the Struggles for Memory*, (trans.) Judy Rein and Marcial Godoy-Anatavia (London, 2003).

⁷ Pierre Nora (ed.), *Realms of Memory: Rethinking the French Past*, (trans.) Arthur Goldhammer, 3 vols. (New York, 1996). Fentress and Wickham's study focuses primarily on the memories of all-male groups such as the peasants of Gagliano, and male factory workers – both in Italy.

the ordinary individual's memories through the lens of gender. A study of gender and memory needs to be refined through consideration of additional, but equally important, influences such as social status, age, occupation, and sexual identification in order to prevent the clumsy portrayal of a universal 'women's' or 'men's' memory.

There are several aspects of memory practice which could be examined in a thesis on medieval memory.⁸ The first of these areas is learned or elite memory practices. Memory techniques which learned elites mastered to improve their memories and develop rhetorical skills can be studied alongside perceptions of how memory worked and what it meant. Artificial and learned memory has received a measure of scholarly attention from medievalists such as Mary Carruthers who argues for the importance of this type of memory to the understanding and praxis of reading and writing.⁹ Secondly, studies of historiography and history writing and the analysis of the specific social and cultural climate in which a work was produced offer another avenue for memory studies.¹⁰ The relationship between memory and gender may thus seem an unfeasibly large and abstract area of study. However, the memory practices of ordinary medieval people in their contexts have been largely neglected so far.¹¹ The majority of medieval people outside the universities and monasteries probably knew very little, if anything, about learned memory techniques, but it would be short sighted to assume that memory was

⁸ This brief summary of the different types of memory which can be studied is based on the opening comments in Patrick J. Geary, 'The Historical Material of Memory', in Giovanni Ciappelli and Patricia Rubin (eds.), *Art, Memory and Family in Renaissance Italy* (Cambridge, 2000), pp. 17-25 (p. 17).

⁹ Mary Carruthers, *The Book of Memory* (Cambridge, 1990); Janet Coleman, *Ancient and Medieval Memories* (Cambridge, 1992); Frances Yates, *The Art of Memory* (Chicago, 1966); Megan Cassidy-Welch, 'Confessing to Remembrance: Stephen of Sawley's *Speculum Novitii* and Cistercian Uses of Memory', *Cistercian Studies Quarterly*, 35:1 (2000), 13-27.

¹⁰ Geary, 'The Historical Material of Memory', p. 17.

¹¹ Exceptions are John Bedell, 'Memory and Proof of Age in England, 1272-1327', *Past and Present*, 162 (1999), 3-27; Becky R. Lee, 'Men's Recollections of a Women's Rite: Medieval English Men's Recollections Regarding the Rite of the Purification of Women after Childbirth', *Gender and History*, 14 (2002), 224-41; Becky R. Lee, 'A Company of Women and Men: Men's Recollections of Childbirth in Medieval England', *Journal of Family History*, 27: 2 (2002), 92-100; Joel T. Rosenthal, *Telling Tales: Sources and Narration in Late Medieval England* (Pennsylvania, 2003).

therefore unimportant to them.¹² A study of popular memory, grounded in empirical research and nuanced by factors such as gender and status, is much-needed and, perhaps, overdue. This thesis will limit its focus to a third type of memory, namely the ways in which ordinary men and women recalled the past. This will be examined in the context of late medieval England.

This introduction will not reiterate intellectual battles which have already been won but will provide a discussion of the most influential historiography as it relates to this study's present concerns. It will not offer an exhaustive meditation on every development in the field of gender and memory but will outline the theoretical and methodological concerns which frame my main arguments. A consideration of how medievalists have dealt with memory and gender thus far will locate my own study within current historiography. The final section of this chapter introduces the empirical evidence for this thesis - the records of the late medieval Church courts of York. It will utilise litigation from the Church courts in order to uncover the ways in which men and women remembered and presented past events. The archive of the late medieval Church courts of York holds depositions or witness statements from over six hundred disputes, dating from 1300 until 1500. These cases offer an unparalleled wealth of material relating to the quotidian experiences of late medieval men and women. The scholarship relevant to analysis of the gendered position of men and women as witnesses will also be considered. Recent debates on the English Church courts and gender will be assessed alongside work on the standing and role of witnesses in the ecclesiastical courts.

Memory or History?

Whether or not memory is even the correct term to employ may seem a curious place to begin a study on memory. However, one of the most contentious debates in memory studies has surrounded the fraught relationship between memory and history. Some scholars have drawn a sharp distinction between collective memory and history, creating an intellectual schism out of their respective functions and intentions. The efforts of historians, social scientists, and anthropologists who have

¹² Geary makes a similar point, commenting that the lack of evidence for knowledge or practice of the learned arts of memory around 1000 does not mean that memory was unimportant. Patrick J. Geary, *Phantoms of Remembrance: Memory and Oblivion at the End of the First Millennium* (Princeton, 1994), p. 27.

devoted much attention to memory have been troubled by claims that memory itself has been consigned to the literal past.

The most vocal and recent advocate of this camp, Pierre Nora, writes that 'we speak so much of memory because there is so little of it left'.¹³ All that remains is the prospect of commemoration. Though Nora wrote specifically on French national history and identity, his thesis has wider implications for scholars of memory. Part of Nora's dissatisfaction stems from contemporary memory which has become, in his own words, 'archival'.¹⁴ Nora's interpretation characterises history as a force which suppresses memory. He also deploys a rather limited interpretation of the meaning of memory in which it remains separate from history as it is 'open to the dialectic of remembering and forgetting'.¹⁵ According to Nora, memory 'has taken refuge in gestures and habits, in skills passed down by unspoken traditions, in the body's inherent self-knowledge, in unstudied reflexes and ingrained memories'. In opposition to 'true memory', he interprets history as 'voluntary and deliberate, experienced as a duty, no longer spontaneous; psychological, individual and subjective; but never social, collective or all encompassing'.¹⁶ Divorced from earlier works on the history of memory, his study does not locate itself within a historiographical tradition. Susan Crane criticizes this viewpoint as it interprets history as the focus of commemoration and that which 'the future might mourn'.¹⁷ However, her main criticism of Nora's work is that his theory of collective memory inscribed on sites and objects leaves little room for the individual who remembers.¹⁸

It was a medievalist, Hayden White, who truly set the theoretical cat amongst the pigeons. White argued that history writing should be viewed as an imaginative and literary act since historians, like poets and novelists, relied upon a

¹³ Pierre Nora, 'Between Memory and History', (trans.) Marx Roudebush, *Representations*, 26 (1989), 7-24 (p. 7). While Nora interprets 'history' and 'memory' in very strictly delineated terms, his theory on '*lieux*' and '*milieux*' of memory have helped many historians theorise on the relationship between memory, history and place.

¹⁴ Nora, 'Between Memory and History', p. 13.

¹⁵ Nora, 'Between Memory and History', p. 8.

¹⁶ Nora, 'Between Memory and History', p. 13.

¹⁷ Susan A. Crane, 'Writing the Individual Back into Collective Memory', *American Historical Review*, 102:5 (1997), 1372-85 (p. 1372).

¹⁸ Crane, 'Writing the Individual Back into Collective Memory', pp. 1381-82.

storehouse of narrative motifs.¹⁹ In this act of iconoclasm, however intended, historiography became a focus of analytical inquiry. White had opened the door to memory and narrative as previously unseen but now key influences on the writing of history. Historians do not remain untouched by the cultural *milieu* which they inhabit. It is mistaken and *naïve* to assume that their work is not silently infused with personally held social, political, and cultural viewpoints. It is also a rather optimistic attempt to depict history as a detached and objective science. Further, recent anthropological research adds weight to White's argument, emphasising the mutability of written forms of memory such as chronicles and histories which are also subject to change.

This discussion which has forced memory and history into opposite sides of the theoretical ring is not simply a red herring for my purposes. The anxiety expressed in works which polarise memory and history has broad implications, ethical and intellectual, for anyone who thinks critically about the past. This opposition presents us with the quandary of who decides what is history and what is memory; an onerous task. Nora's categorisation of memory and history also has repercussions for historians who wish to study gender and memory. Female memory has often been characterised as informal, reliant on private and personal events, while male memory becomes inscribed as history.²⁰ Though social groups constitute their own memory, significant factors such as gender, race and class or status remind us that power shapes and structures the way the past is presented and remembered. The hegemonic group in control of memory and the interpretation of the past may face challenges since memory and power exist in a symbiotic relationship.

Memory Studies: Definitions and Approaches

If asked to provide a working definition of memory, social theorists, anthropologists, psychologists, and cognitive scientists would undoubtedly give diverse responses. To the question 'What is memory?', the respondent could reply facetiously yet accurately: 'It depends which discipline you are coming from'. This

¹⁹ Hayden White, 'The Historical Text as Literary Artefact' in White (ed.), *Tropics of Discourse: Essays in Cultural Criticism* (Baltimore, 1978), pp. 81-100 (pp. 82-92).

²⁰ Fentress and Wickham, *Social Memory*, pp. 141-42.

range in opinion is produced by concerns which are specific to each discipline and by different conceptual interpretations of memory. The field of memory studies has been accurately described as a 'nonparadigmatic, transdisciplinary, centerless enterprise'.²¹ For example, we cannot easily untangle the work of sociologists, social psychologists, and anthropologists in the area of social memory. Consequently, artificial segregation of one discipline from another in the treatment that follows would only compound the existing problem. For this reason the discussion which follows will consider debates within memory studies in a thematic way. It will consider individual memory processes then move to group or social memory. Developments in the analysis of gender and memory will be discussed before memory, gender, and oral transmission since much of the progress in this area has been made in oral history. We shall begin with the individual since all acts of memory are carried out by an agent.

Opinion amongst psychologists remains divided regarding how best to describe individual memory processes.²² Cognitive psychologists focus on the way the brain functions and how it stores memories. According to Endel Tulving, a psychologist whose ideas have gained much currency, individual memory systems may involve recollections that are either semantic or episodic. Semantic memory encompasses knowledge about the 'organized knowledge a person possesses about words and other verbal symbols, their meaning and their referent'.²³ In Tulving's definition, episodic memory differs from semantic memory as it involves the past circumstances of remembered events; episodic memory also relates to the individual's self identity. The retrieval of memories is initiated by 'clues' which bring the individual back to the remembered event.²⁴ Tulving's theories have been criticised for positing multiple memory systems where only one unitary mode of memory exists. Conversely, other psychologists argue that there are more types of

²¹ Jeffrey K. Olick and Joyce Robbins, 'Social Memory Studies: From "Collective Memory" to the Historical Sociology of Mnemonic Practices', *Annual Review of Sociology*, 24 (1998), 105-40 (p. 106).

²² Ulric Neisser, 'Memory: What Are the Important Questions?', in M.M. Gruneberg, P.E. Morris and R.N. Sykes (eds.), *Practical Aspects of Memory* (London, 1978), pp. 3-19.

²³ Endel Tulving, 'Episodic and Semantic Memory', in Tulving, Gordon H. Bower and Wayne Donaldson (eds.), *Organization of Memory*, (New York, 1972), pp. 381-403 (p. 386).

²⁴ Endel Tulving, *Elements of Episodic Memory* (Oxford, 1983).

memory besides episodic and semantic. Epistemological concerns further undermine his theory since it is relevant to certain cultures but not to others.²⁵

Proponents of the experimental route pioneered by Hermann Ebbinghaus in the early twentieth century carried out tests on nonsense data so that factors which impacted on memory could be examined. However, these experiments only investigated the amount of time that individuals remembered data and the time at which it was forgotten. Behavioural psychologists who followed Ebbinghaus's lead focused on the stimulus and response of individual subjects asked to memorise random information. Sir Frederick C. Bartlett argued that Ebbinghaus's experiments which utilised nonsense syllables removed memory from its customary setting. Further, he held that subjects could never begin an experiment from an identical starting-point since each brought their own experiences to bear, using different mechanisms to trigger their memory. The work of social psychologists such as Bartlett will prove more useful than that of cognitive researchers. Bartlett's theories on the social and cultural construction of memory reflect the circumstances in which memories are formed, transformed and transmitted. While his most important research on the creative components of remembering was completed in the early twentieth century the importance and relevance of his work has not faded with time.

The social and cultural context of the stories which deponents presented to the Church courts can be usefully examined to uncover the way in which identity is constructed. The work of modern social theorists has begun to focus on the development of individual identity as an ongoing process. From this perspective, identity is merely the title of where we locate ourselves and where we are placed by others in narratives about past events.²⁶ Deponents in the York evidence locate themselves at the centre of their account. Social agents in general also view their actions within a longer narrative which is rooted in the past.

Frederick Bartlett made several important advances which had a lasting influence on the study of memory. His 1932 study, *Remembering: A Study in Experimental and Social Psychology*, offers the most relevant theoretical

²⁵ Fentress and Wickham, *Social Memory*, pp. 20-22.

²⁶ Olick and Robbins, 'Social Memory Studies', p. 122.

framework for my analysis of memory and remembered narratives. In his experiment, Bartlett gave each of the Cambridge students who took part the same prose story to read called *The War of the Ghosts*. He then asked each subject to reproduce it at intervals afterwards, some after a few days, others several months or years later.²⁷ Each student remembered a different version of the same story which had been supplemented with narrative details familiar only to them. Bartlett viewed past experience from other events as crucial to the formation and reshaping of memories. He thought it relevant that many of his male subjects had either fought in the First World War or faced it as a prospect; these same men had altered and omitted details in their accounts of the prose story in ways which were reminiscent of their own situations.²⁸ While they subconsciously imposed their own experiences on their recollection of the tale, they focused in particular on one male youth's refusal to fight in the story than did the smaller number of women who took part in the experiment. From the evidence of his research, Bartlett concluded that 'both the manner and the matter of recall are often predominantly determined by social influences'.²⁹

The implications of Bartlett's study are similar to the questions raised by Maurice Halbwachs' research into the sacred topography of the Holy Land.³⁰ The religious sites commemorated and revered by medieval pilgrims were places they recognized from the Bible, contemporary legends and apocryphal gospels. The Crusaders and non-indigenous Christians imposed a geography upon the Holy Land drawn from the Bible and the Gospels.³¹

According to Bartlett, individual and group remembering is an imaginative and creative activity. In the work of Ebbinghaus and Bartlett, forgetting implicitly influences what is remembered. Yet, as Montaigne observed, forgetting is also a

²⁷ Frederick C. Bartlett, *Remembering: A Study in Experimental and Social Psychology* (2nd edn., Cambridge, 1964), p. 63. This process is called 'the method of repeated reproduction'.

²⁸ Bartlett, *Remembering*, p. 79.

²⁹ Bartlett, *Remembering*, p. 244; also quoted in Mary Susan Weldon, 'Remembering as a Social Process', *The Psychology of Learning and Motivation*, 40 (San Diego, 2001), 67-120 (p. 73).

³⁰ Maurice Halbwachs, 'The Legendary Topography of the Gospels in the Holy Land', in Halbwachs, *On Collective Memory*. (ed. and trans.) Lewis A. Coser (Chicago, 1992), pp. 191-235.

³¹ Halbwachs, 'Legendary Topography', pp. 230-35.

creative endeavour as it gives way to the necessary process of invention.³² Bartlett's work emphasises the transformative aspects of remembering in which memory is closely tied to current social, cultural and political surroundings. In other words, what people remember is influenced, above all, by present circumstances. Many of the York deponents witnessed or heard of an event several years before they were asked to recount it as evidence. The passage of time between the initial experience and their later account impacted on their memory. The importance of memory to the presentation of identity and its interpretation can be extended beyond the individual to the group. Bartlett's findings will implicitly underpin my analysis of narration and memory.

Collective and Social Memory

Theories on collective and social identities have much to offer the historian interested in individual and group memory. Communities in all forms share a history which binds them closely together, and this shared history creates the group's identity. Further, many theorists argue that individual identities are attained through group interaction. A group's past, if suitably rendered, can justify and authorise its present position.³³ Medieval monastic communities in England had a keen appreciation of the importance of the past, particularly after the Norman Conquest threatened to endanger their future.³⁴ Inhabitants of the British Isles could also discover their origins by reference to a shared historical past in Geoffrey of Monmouth's *Historia Regum Britannie*, written around 1136.³⁵ Despite the reservations of other medieval chroniclers, the *Historia* was soon incorporated into subsequent historical accounts 'as if it were historical fact'.³⁶ These groups rely

³² Michel de Montaigne, *Les Essais* (Paris, 2007), II, ix; Fentress and Wickham, *Social Memory*, pp. 14-15.

³³ Paul Connerton, *How Societies Remember* (Cambridge, 1989), p. 3.

³⁴ R.W. Southern, 'Aspects of the European Tradition of Historical Writing: The Sense of the Past', *Transactions of the Royal Historical Society*, 4th series, 23 (1973), 243-56. For a case study of one abbey see Richard Emms, 'The Historical Traditions of St Augustine's Abbey, Canterbury', in Richard Fales and Richard Sharpe (eds.), *Canterbury and the Norman Conquest: Churches, Saints and Scholars, 1066-1109* (London, 1995), pp. 159-68.

³⁵ Chris Given-Wilson, *Chronicles: The Writing of History in Medieval England* (New York, 2004), p. 3.

³⁶ Given-Wilson, *Chronicles*, p. 5.

upon their members, and ‘in order not to forget that past, a community is involved in retelling its story, its constitutive narrative’.³⁷

In 1925, sociologist Maurice Halbwachs, a student of Emile Durkheim, published *Social Frameworks of Memory*. His work was strongly influenced by Durkheim’s belief that social structures and systems shaped the basic groupings in society, also reflecting the importance of collective and group action.³⁸ Halbwachs developed his theory of collective memory partly in reaction to a concept of ‘racial memory’ which some social theorists then sought to develop.

His *Social Frameworks*, and *The Legendary Topography of the Gospels in the Holy Land*, altered the future course of memory studies and irrevocably affected the way academics have engaged with the past and society. Halbwachs’ work is tied intimately to theories of the formation of identity and the concept of collective memory located the individual within the wider group. Individuals commonly remember within the groups of which they are a part; he gave the family as the most recognisable example of a memory group but he also considered religious and class settings important.³⁹ The group setting provided the means for memory acquisition, localisation and remembering. However, according to his theory, memories could never be recalled as an individual experience. Memories maintain relationships of their own with events, people and settings. Individual memories cannot be detached from social circumstances. When experiences from more than one setting combine, a composite memory is formed which gives the appearance of remembering a unique memory as an individual.⁴⁰

Halbwachs’ theories have been influential but they have not been treated as sacrosanct and have generated much fruitful debate. While offering a model for collective memory, his theory left itself vulnerable to criticism on several counts. Firstly, the individual becomes subsumed into an amorphous mass despite the

³⁷ R.N. Bellah et al., *Habits of the Heart: Individualism and Commitment in American Life* (Berkeley, 1985), p. 153.

³⁸ Durkheim refers specifically to the collective nature of religious life, see Emile Durkheim, *The Elementary Forms of Religious Life*, (trans.) C. Cosman (New York, 1995), pp. 178-80.

³⁹ Halbwachs, *On Collective Memory*, pp. 56-166. However, see the critique of Halbwachs in Keith Michael Baker, ‘Memory and Practice’, *Representations*, 11 (1985), 134-64 (pp. 156-58).

⁴⁰ Weldon, ‘Remembering as a Social Process’, p. 71.

reality that all physical acts of remembrance occur within the individual's cognitive system.⁴¹ Fentress and Wickham, respectively an anthropologist and a medieval historian, have become two of the most prominent intellectual heirs to the approaches pioneered by Durkheim and Halbwachs. They follow both theorists in their appreciation of the social formation of memory. However, they are concerned to ensure that the individual is not made an 'automaton, passively obeying the interiorized collective will'.⁴² Fentress and Wickham prefer the term 'social memory' to 'collective memory' as it better describes how the individual remembers past events. It ensures that individual agency is not suppressed and allows room for the acquisition and transmission of memory.

When memories are transmitted, however, they often undergo a process of selection and distortion. Truth and accuracy are not necessarily important factors in this regard, especially when the details altered tell us much about the group or individual who narrates. Eric Hobsbawm and the scholarship which he edited on British pageantry demonstrated that 'traditions' which appear ancient 'are often quite recent in origin and sometimes invented'.⁴³ Amy Remensnyder's work on the medieval abbey of Conques illustrates the methods monastic houses used to develop foundation legends.⁴⁴ Monks were not the only group to embellish and fabricate foundation narratives. The civic authorities in late medieval Colchester claimed that the town's castle was founded by King Cole, father of St. Helena, who was in turn mother of Constantine and according to legend had found the True Cross.⁴⁵ Collective and social memory reinforces the identity of the group which creates it. However, certain groups need to work harder to ensure the continuance of their memory, and perhaps even to develop it in the first instance.

⁴¹ Crane, 'Writing the Individual Back into Collective Memory', pp. 1372-85.

⁴² Fentress and Wickham, *Social Memory*, p. ix.

⁴³ Eric Hobsbawm, 'Introduction: Inventing Traditions', in Hobsbawm and Terence Ranger (eds.), *The Invention of Tradition* (Cambridge, 1992), pp. 1-14 (p. 1).

⁴⁴ Amy Remensnyder, *Remembering Kings Past: Monastic Foundation Legends in Medieval Southern France* (London, 1995).

⁴⁵ Gervase Rosser, 'Myth, image and social process in the English medieval town', *Urban History*, 23 (1996), 5-25 (p. 8). For a discussion of the use of late medieval town legends see Helen Carrel, 'Civic Government and Identity in the Provincial Towns of Late Medieval England, c. 1370 to c. 1500', (Unpublished PhD thesis, Cambridge, 2007), pp. 182-87.

Women, Gender and Memory

Fentress and Wickham in their 1992 book consign female memory to the final pages of a chapter on class and group remembering, commenting that it seems apt to end their study with the 'speculative'. Their attention to women's memory hardly needs to be justified; they admit that most of their discussion is devoted to the memories and traditions of men.⁴⁶ Female memory and gender has been neglected until recently as a viable field of study, despite the false dichotomy which caused men to be associated with history and women with memory.

Even as Fentress and Wickham wrote, feminist theorists frustrated by female exclusion from history began to create, recover, and reconstruct women's memory. Struggling continuously against the forgetting of women's history, feminist scholars began to seek out and uncover the previously hidden archaeology of women's lives.⁴⁷ While the respective endeavours of gender theory and memory studies may seem unconnected, the two fields have developed along similar trajectories and possess analogous histories. From both perspectives, there exists more than one account of history which remains fluid, uncertain and open to challenges. Feminist and gender theorists like many scholars of memory question a past which is presented as fixed and static.⁴⁸ The feminist campaign parallels the aims of many scholars of memory who seek to return agency and an autonomous remembered past to groups who were most excluded from traditional narrative history. In particular, both fields question the master narrative and interrogate what is remembered in the present, and for which reasons.

Feminist theorists are not oblivious to their own hand in creating, shaping and influencing interpretations of the past. In an issue of the *Michigan Quarterly Review* dedicated to scholarship on women and memory, the Foucauldian term 'countermemory' is used to describe feminist efforts to safeguard women's conceptions of the past from oblivion. 'Countermemory' implies an alternative account of the past, placed in opposition to hegemonic and mainstream versions. As

⁴⁶ Fentress and Wickham, *Social Memory*, p. 137.

⁴⁷ Marianne Hirsch and Valerie Smith, 'Feminism and Cultural Memory: An Introduction', *Signs: Journal of Women in Culture and Society*, Special Issue, 'Gender and Cultural Memory', 28: 1 (2002), 1-19.

⁴⁸ Hirsch and Smith, 'Feminism and Cultural Memory', p. 12.

Julia Kristeva argues, a ‘return of the repressed’ holds ‘the power to disturb, subvert and transform the existing paternal order’.⁴⁹

Feminist efforts to uncover women’s relationships with memory retain a sharp awareness of female historical involvement in memory traditions. In the introduction to the *Michigan* volume, Margaret Lourie and her fellow contributors recall the female contribution to memory traditions, noting that the classical figures for memory such as Mnemosyne, the goddess of remembrance, and her daughters are women.⁵⁰ Lourie *et al.* wonder why ‘we do not associate women and memory with the power of knowledge, nor indeed readily recognize so important a figure as Mnemosyne’.⁵¹

In the early nineties, and until relatively recently, the most influential quarters in gender theory and memory studies continued to declare that they were not ‘there’ yet. A special issue of *Signs* appeared in 2002 dedicated to gender and memory. The joint endeavour of gender and memory studies remained speculative and dispersed, peppered with ‘uneven developments’.⁵² The editors of the 2002 issue of *Signs* produced their volume to address the deficit in works which dealt specifically with feminist theory, gender and memory. They described the contents of the *Michigan Quarterly Review* as ‘themselves acts of memory’ intended to uncover abuse, oppression and powerlessness. The authors of the *Michigan Quarterly* issue created memories in order to develop a feminist counter-memory, to effect an historic moment in the development of the two fields, whereas the editors of the 2002 issue of *Signs* were concerned with the analysis of the interplay between memory and gender.

Some feminist theorists have focused on pivotal life events like sexual abuse, trauma, and migration – experiences which set their mark irrevocably on memory. Conversely, the study of life events such as abuse raises issues which are

⁴⁹ Lourie et al., ‘Introduction’, p. 3.

⁵⁰ Lourie et al., ‘Introduction’, p. 1.

⁵¹ Lourie et al., ‘Introduction’, p. 2.

⁵² Hirsch and Smith, ‘Feminism and Cultural Memory’, p. 4. Hirsch and Smith borrow the phrase ‘uneven developments’ from Mary Poovey, *Uneven Developments: The Ideological Work of Gender in Mid-Victorian England* (Chicago, 1988).

usefully discussed in terms of trauma theory.⁵³ That feminist writers first decided to focus on this type of event contributed to the development of feminist oral history and autobiography. In their 'speculative' section on female memory, Fentress and Wickham proposed a focus on individual lives, life writing and autobiography while commenting that the most productive work on female memory was occurring in the fields of oral history and life-writing. A similar interest in women's life stories can be seen in feminist scholarship. Susan Geiger, however, reminds us that women's oral history is not necessarily a feminist endeavour.⁵⁴ It is 'understanding rather than controlling' information about women's lives that provides a feminist framework for women's oral history. She urges that historians must not marginalise women as a general group in order to render each individual representative for the purpose of research.⁵⁵

As Geiger's comments imply, such close reading of remembered narratives could yield great benefits for historians working on male, as well as female, memory. Joan Scott in her classic article on gender as a category of analysis proposed that biographies or life histories might be analysed usefully alongside public and political events.⁵⁶ Treading carefully around the issue of a separate 'women's memory', Fentress and Wickham argue that female memories would probably be very similar to male memory. Despite the predominance of male memories in peasant and working-class societies, Fentress and Wickham's study of social memory does not address gender in a nuanced manner. The extent to which maleness may have shaped memories is not considered nor is the way in which memory may have constructed masculinity.

A 1996 collection of essays on gender, memory and oral history, edited by Selma Leydesdorff, Luisa Passerini, and Paul Thompson, devoted attention to male and female memory.⁵⁷ Just as men had not yet been treated as gendered individuals

⁵³ Hirsch and Smith, 'Feminism and Cultural Memory', p. 3. See Cathy Caruth (ed.), *Trauma: Explorations in Memory* (Baltimore, 1995).

⁵⁴ Susan Geiger, 'What's so feminist about women's oral history', *Journal of Women's History*, 2:1 (1990), 169-82.

⁵⁵ Geiger, 'What's so feminist about women's oral history', p. 170.

⁵⁶ See for example comments on the utility of biography in Scott, 'Gender', pp. 1068-69.

⁵⁷ Selma Leydesdorff, Luisa Passerini and Paul Thompson (eds.), *Gender and Memory: International Yearbook of Oral History and Life Stories*, vol. 4 (Oxford, 1996).

so had their personal memories not received analysis. Almost ten years later the 1996 edition of *Gender and Memory* was republished with a new introduction.⁵⁸ In stark contrast to Hirsch and Smith's comments in the *Signs* issue, Leydesdorff now comments that the study of memory has successfully internalised gender as an important category.⁵⁹ However, this belief could simply reflect the special case of oral history which has the good fortune to enjoy an overlap in productive research from the fields of gender theory and memory studies.

Subjects of memory research which do not obviously demand gender analysis remained, until recently, largely untouched by gender theory, despite the fact that war, politics, and the public forum regularly employ gendered language and metaphors.⁶⁰ The mainstream study of memory continues to privilege public and political narratives which focus on institutional, legal, and national memory work. These areas demand to be studied through the overlaid lenses of gender and memory. While studies on cultural memory have begun to include gender along with race, class and nation, works which consider gender and memory as integral to their methodology remain thin on the ground.⁶¹

In her 1998 study Susan Slyomovics untangled the closely entwined poetics of memory, place, and home in a Middle Eastern context.⁶² The locus of this study is a village with two cultural identities, Palestinian Ein Houd and Jewish Ein Hod. Inhabited for almost a thousand years by the descendants of one of Saladin's companions on campaign who trace their heritage back to the Middle Ages, in the early 1950s, after the Palestinian inhabitants fled the village it was settled once more by a Jewish Dada arts collective. Slyomovics' study devotes a chapter to the subject of women, place and memory, but Palestinian female involvement in

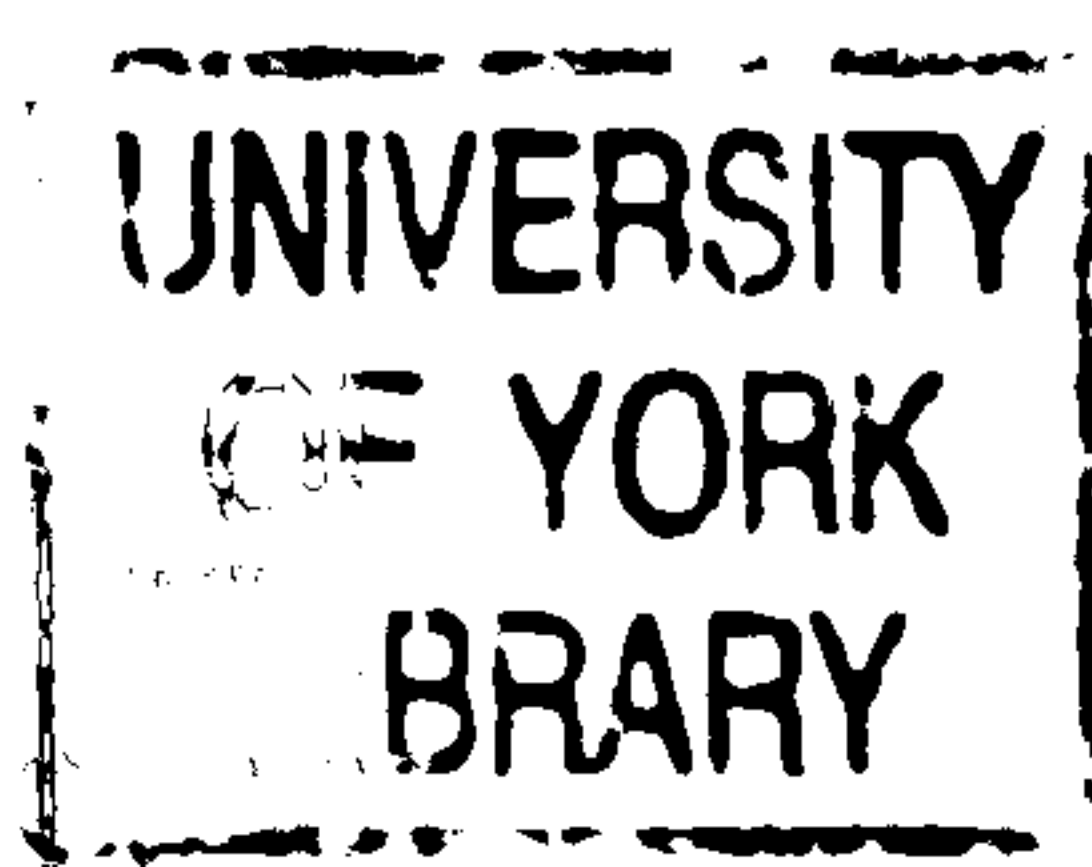
⁵⁸ Selma Leydesdorff, Luisa Passerini and Paul Thompson, with a new introduction by Selma Leydesdorff (eds.), *Gender and Memory: International Yearbook of Oral History and Life Stories*, vol. 4 (Oxford, 2005).

⁵⁹ Leydesdorff, 'Introduction to the Transaction Edition', in Leydesdorff, Passerini and Thompson (eds.), *Gender and Memory*, p. viii.

⁶⁰ An exception in early modern scholarship is Mark Stoye, 'Memories of the Maimed: The Testimony of King Charles's Former Soldiers, 1660-1730', *History*, 88 (2003), 207-226.

⁶¹ Hirsch and Smith, 'Feminism and Cultural Memory', p. 4.

⁶² Susan Slyomovics, *The Object of Memory: Arab and Jew Narrate the Palestinian Village* (Philadelphia, 1998).



memorial practice finds expression only in its alignment with home and 'The Return' to the homeland. In Slyomovics' discussion, women are equated with the private sphere and men with the public in an unsophisticated narrative that reveals very little about female memory. Women's memories of displacement from their village and the aftermath of dispersal are not treated. The concepts of history, memory, and place are overlaid in this study but the methodological problems which have obscured women's memories continue to afflict the discussion on gender. This final chapter on gender represents the typical treatment which women's involvement in memory has received so far.⁶³ Far from being incorporated as part of the study's methodological framework, female remembered experience and memory is compressed and tacked on towards the end. The Palestinian women, already marginalised and in danger of being forgotten, are further excluded from memory and history. Did the women of Palestinian Ein Houd pass on stories to younger generations? What might their memories of displacement and loss have told us about female memory?

Oral history leads us to consider the oral and written transmission of memory. Recent debate has centred upon the supposed 'civilizing' effect of literacy on oral cultures. For the purposes of this study, the orality versus literacy debate is secondary in importance. However, if we are to discuss the oral transmission of memory as a means of its transformation then the principle arguments should be outlined in brief. Walter Ong and Jack Goody, the principal exponents of this argument, argue that oral societies exist entirely in the present, reiterating a stagnant history until external factors force them to adapt.⁶⁴ Ong reduces performers of oral poetry to the formulas which were intended only as aids to memory.⁶⁵

⁶³ Slyomovics, *Object of Memory*, pp. 199-209.

⁶⁴ Jack Goody (ed.), *Literacy in Traditional Societies* (Cambridge, 1968); Goody, *The Domestication of the Savage Mind* (Cambridge, 1977); Goody, *The Logic of Writing and the Organization of Society*, (Cambridge, 1987); Walter J. Ong, *Orality and Literacy: The Technologizing of the Word* (New York, 1982).

⁶⁵ Leroy Vail and Landeg White, *Power and the Praise Poem: Southern African Voices in History* (Charlottesville, 1991), p. 24.

Opponents of this divide argue that hardly any society is either entirely oral or literate.⁶⁶ A society cannot be classified as either oral or literate once literacy becomes part of its culture. In medieval society, parishioners, though not necessarily literate, would have had contact with others who were, including the parish priest who, after the Fourth Lateran Council of 1215, had to reach a certain standard of literacy. Despite the increased volume of documents generated by an improved royal administration from the thirteenth century, Edward I tacitly acknowledged the symbiotic relationship between oral testimony and written record. Chris Given-Wilson emphasises the importance of chronicles in Edward's claim to be adjudicator in the dispute over the crown of Scotland. However, Edward also requested that every cathedral send with the house's 'ancient chronicles' two men 'literate in both law and deed' to provide information on his overlordship of Scotland. The Bury St Edmunds chronicler told how Edward had asked that several well-informed monks accompany the chronicles.⁶⁷ To blur the lines between orality and literacy further, oral informants provided much of the information which was included in medieval chronicles.⁶⁸ This incident demonstrates another salient point which is applicable to both medieval and modern discussions of orality and literacy. Written documents do not speak for themselves but require oral introduction and explanation.⁶⁹ Further, they imply an unseen context in which speech, movement and gesture accompany the words which are physically recorded.⁷⁰

The issue of how far memory may be changed or influenced during its transmission should concern any scholar who seeks to interpret written accounts of oral narratives. The depositions generated by the Court of York, recorded in abbreviated Latin from a *viva voce* examination conducted in the vernacular, were produced by a process similar to that which shapes the statements made by

⁶⁶ Elizabeth Tonkin, *Narrating Our Pasts: The Social Construction of Oral History* (Cambridge, 1991); Ruth Finnegan, *Literacy and Orality: Studies in the Technology of Communication* (Oxford, 1988), pp. 86-109; Fentress and Wickham, *Social Memory*, p. 97.

⁶⁷ Given-Wilson, *Chronicles*, p. 66.

⁶⁸ See discussion in Given-Wilson, *Chronicles*, p. 11.

⁶⁹ Matthew Innes, 'Memory, Orality and Literacy in an Early Medieval Society', *Past and Present*, 158 (1998), 3-38 (pp. 4-5).

⁷⁰ For comments on the alphabet, handwriting and memory, and the physical exertion of writing, see Connerton, *How Societies Remember*, pp. 74-78.

participants in oral history research.⁷¹ The questions asked of, and the amount of elaboration granted to, these participants are prompted by different concerns.

Anthropologists and oral historians have demonstrated the importance of conversation, gossip and social interaction in the transmission of group memory. Social psychologists have viewed conversation as an important forum through which memories can be represented and reshaped.⁷² It is argued that a 'discourse-analytical' approach should come before the use of conversation for cognitive analysis. When studying transcripts or reading summaries of conversations, it should be remembered that the speakers had 'pragmatic and rhetorical work' to do.⁷³

Conversation between deponents and their family, friends, and acquaintances influenced the evidence which was given before the medieval Church courts. In a dispute brought to court in 1418, a group of young men told the court that they had talked about the fishing trip which they all remembered and talked about many times since it had happened.⁷⁴ There are several instances in the Church court depositions examined where deponents explicitly state that, while they had not themselves been present at an event, they heard or talked about it with another individual who had been present.⁷⁵

This form of the oral transmission of knowledge differs from oral traditions which are passed down over generations.⁷⁶ Many developments have occurred in the study of African oral traditions which have focused on verse and praise poetry. Recent debate has also considered the transmission of popular tradition through what Connerton describes as 'acts of transfer'.⁷⁷ This leads to a second and related

⁷¹ I discuss a possible exception to this procedure in the deposition of Friar Michael Dawnay, pp. 131-41, 207-11 below.

⁷² David Middleton and Derek Edwards, 'Conversational Remembering: a Social Psychological Approach', in Middleton and Edwards (eds.), *Collective Remembering* (London, 1990), pp. 23-45.

⁷³ Middleton and Edwards, 'Conversational Remembering', p. 37.

⁷⁴ B.I., CP.F.79.

⁷⁵ B.I., CP.F.89. Several deponents remember the birth of Katherine Northfolk because they were told about it by others who had been present.

⁷⁶ Innes, 'Memory, Orality and Literacy', p. 5.

⁷⁷ Connerton, *How Societies Remember*, pp. 38, 40.

criticism of Halbwachs' collective memory theory: the failure to deal with the transmission of memory to younger generations and newcomers to the group. Neglect of these modes of communication means that the individual itself is further elided into a larger and catch-all term, regardless of the fact that all communication occurs between individuals. Connerton comments that Halbwachs briefly alludes to the 'intervals' across which family members transfer knowledge, arguing that Halbwachs could not describe or define the ways in which memory is transmitted.⁷⁸ Connerton also holds that to study memory in its social settings the manner of its transfer must be analysed in depth.⁷⁹ This kind of knowledge transference is important as part of the implicit framework of this study. Deponents in the Court of York on occasion relate accounts of events and habitual use of land which were told to them by their parents, elders or older people of the village.

On occasion, gender differences can be found in the narratives which men and women transmitted to younger generations. Isabel Hofmeyer examines oral narratives of a Boer siege of the Ndebele people which occurred in 1854 in Lebowa, a South African chiefdom in the North Transvaal. The Ndebele people's memory of the incident passed through three or four generations. In Hofmeyer's comparative analysis of male and female oral tradition, the men's stories of the siege underline the political and military aspects while women's memories focus on the misery and distress which the villagers endured.⁸⁰ Hofmeyer's work demonstrates clearly the cultural and historical influence of gender on men and women's experiences.

An important opportunity is provided for the comparison of different accounts when individuals remember past events in a group setting. Discourse allows and, to some extent, forces individuals to validate, moralise and place in context their actions and interpretations.⁸¹ Deponents in the York evidence appeal to shared and familiar discourses. Acceptance of a certain version of events is crucial for that memory to be workable. This approach suggests that memory is

⁷⁸ Connerton, *How Societies Remember*, p. 38.

⁷⁹ Connerton, *How Societies Remember*, p. 39.

⁸⁰ Isabel Hofmeyer, "We spend our years as a tale that is told", *Oral Historical Narrative in a South African Chiefdom* (Johannesburg and London, 1994), pp. 167-70.

⁸¹ Middleton and Edwards, 'Conversational Remembering', p. 29.

dialogic in nature and is negotiated in a self-conscious way.⁸² Narratives and remembered stories thus structure and configure identities which are ultimately textual productions.⁸³

Gender Performance and Memory

Male dominance over the production and, to some extent, the articulation of the deponents' testimony will be discussed in chapter one. However, this study shall retain as its purpose the examination of the gendered relationship between men and women, and their conceptions of their pasts and their own identities. While women have been neglected in memory studies, research on masculinity over the past decade has also sought to consider men in terms of their gender identity. This thesis will consider both men and women as gendered individuals with memories shaped by their identities. Theoretical concepts of domination and subordination aside, gender matters to this study since the organisational structures of the courts and its personnel were invariably male and clerical. The judge or Official who determined the outcome of a Church court dispute evaluated evidence which was shaped within a male discourse. This study will examine the strictures within which women and men rendered their evidence, implicitly considering how gender influenced witnesses' testimony.

Joan Scott's article 'Gender: A Useful Category of Historical Analysis' has become an indispensable introduction to the subject, entering the canon both in gender studies and in history. It was a statement on the field of gender studies as it then stood and a rallying call for historians interested in gender. Many of Scott's comments retain their relevance over twenty years later while several of the theoretical difficulties with feminist history that she outlined have not yet been addressed; therein lies the wide significance of her work. Gender historians and theorists interpret gender as culturally constructed in opposition to sex which is innate. However, others such as Judith Butler question this perception, arguing that biological sex is culturally constructed as much as gender since medical and

⁸² Middleton and Edwards, 'Conversational Remembering', p. 31.

⁸³ Catherine K. Riessman, *Narrative Analysis* (London, 1993), pp. 3, 11.

physiological terms are imposed on the body.⁸⁴ The relevance of gender for my purpose is its potential use for examining deposition evidence from disputes in the Church courts. Analysis of memory and identity moves beyond the use of gender as a means to understand gender ideologies, though this remains a crucial part of this study's endeavour. Memory and gender as concerns that work in concert can, to an extent, 'address (and change) existing historical paradigms' in order to rewrite and redefine these now traditional historical concepts.⁸⁵

Gender studies as a political endeavour owes much to feminist scholarship, much of which underpinned and motivated the dissolution of fixed gender categories. However, certain strands of feminist thought, for example, the work of Nancy Chodorow, serve to reinforce gender boundaries by focusing on the home and household as the locus of gender inculcation.⁸⁶ Chodorow's research on mothering claims to demonstrate that boys and girls are treated differently when growing up which ensures the development of oppositional gender identities. Such research which places family, home and mother at the centre of gender analysis neglects other important issues such as inequality and how gendered values are embedded in language.⁸⁷

Two problems arise from attempts to reconstruct a distinctive 'women's experience' separate from male discursive control. One argument made against the formulation of a coherent 'women's experience' or 'women's culture' is that it reinforces the binary opposition between men and women. Seeking to contradict male systems and structures, the retrieval or institution of a women's experience leads only to 'the founding of a hysterocentric to counter a phallic discourse'.⁸⁸ Scholarship which presents evidence of an essentially separate female culture has been criticised for the creation of universal female experiences which disregard

⁸⁴ Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (London, 1990), pp. 119-29.

⁸⁵ Scott, 'Gender', p. 1057.

⁸⁶ Nancy Chodorow, *The Reproduction of Mothering: Psychoanalysis and the Sociology of Gender* (Berkeley, 1978).

⁸⁷ Scott, 'Gender', p. 1063.

⁸⁸ Ferguson, 'Interpretation and Genealogy in Feminism', p. 323.

historical context and concepts such as economic status, class, and race.⁸⁹ Differences dissolve in the unifying face of a static and unchanging female culture.⁹⁰ These difficulties signal greater theoretical problems inherent in certain types of gender history. This study will try to heed these warnings and shall not reach general conclusions on what men and women did but will retain the 'complexity of social causation' which attends any nuanced study.⁹¹ The second obstacle to recovering 'women's experience' lies in the difficulty which the researcher faces when confronted with sources in which the 'voice' superficially appears to be that of the witness but it is really a textual production that is mediated, edited and distorted.⁹²

When 'gender' became a codeword for women and concepts of 'women's experience' were disparaged as gynocentric, gender studies overcompensated for its prior focus on women by turning its attention to men. A relational approach was called for as early as 1975 which urged that men and women be considered alongside one another. Natalie Zemon Davis argued that feminist historians could not appreciate the position of women, nor understand gender and social relations, unless men were studied in conjunction.⁹³ Masculinity studies sought to refocus the gender lens on the previously 'universalized male'.⁹⁴

Following the work of Robert W. Connell on contemporary groups of American men, much scholarship on masculinity dwells on competitive manhood, employing an increasingly tired vocabulary in which men can occupy either 'hegemonic' or 'subordinate' positions.⁹⁵ Historians have hurried to employ this

⁸⁹ Scott, 'Gender', p. 1065.

⁹⁰ Ferguson, 'Interpretation and Genealogy in Feminism', p. 323.

⁹¹ Scott, 'Gender', p. 1055.

⁹² Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-century France* (Stanford, 1987), pp. 101-104.

⁹³ Natalie Zemon Davis, "'Women's History in Transition': the European Case", *Feminist Studies*, 3 (1975), p. 90.

⁹⁴ Jacqueline Murray, 'Hiding Behind the Universal Man: Male Sexuality in the Middle Ages', in Vern L. Bullough and James A. Brundage (eds.), *The Handbook of Medieval Sexuality* (New York, 1996), pp. 123-52.

⁹⁵ R.W. Connell, *Gender and Power: Society, the Person and Sexual Politics* (Stanford, 1987), p. 183; R.W. Connell, *Masculinities* (Cambridge, 1995), pp. 76-81.

terminology without spelling out the implications for power relations. This recent preoccupation with competitive masculinity means that concepts such as male friendship and intimacy have been neglected. However, tensions have emerged between relational and hegemonic approaches.⁹⁶ In his study on masculinity in late medieval England Derek Neal analyses the excessive and misplaced usage of the term 'crisis of masculinity'. His discussion of these concerns could aid historians who try to 'do' gender history and masculinity but feel constrained by its increasingly worn-out vocabulary.⁹⁷

The study of masculinity is in danger of cleaving itself from gender studies. However, the current situation mirrors that which occurred in early gender history which focused only on women. Firstly, the initial aim of women's historians differed from that of gender historians who turned their attentions to masculinity. Women's historians worked to bring women into focus as historical subjects. As John Tosh points out, women were already viewed as the 'carriers' of gender.⁹⁸ While women have become feasible subjects of inquiry in many social and cultural settings, masculinity has eclipsed femininity as the current primary concern of gender historians. Studies on masculinity have stopped short of providing information about women as properly gendered individuals in relation to men. With this new focus on masculinity the meaning of 'gender', an already amorphous term, is altering further.

The external and social aspect characteristics implied by gender are evident in theories on gender display, identity and performance. In his 1976 article, the sociologist Erving Goffman proposed the concept of 'gender display' in order to explain and theorise the culturally constructed aspects of gender identity.⁹⁹ Candace West and Don H. Zimmerman critiqued Goffman's 'gender display' thesis, arguing

⁹⁶ D.M. Hadley, (ed.) *Masculinity in Medieval Europe* (New York, 1999); Jacqueline Murray (ed.), *Conflicted Identities and Multiple Masculinities: Men in the Medieval West* (New York, 1999).

⁹⁷ Derek Neal, 'Meanings of Masculinity in Late Medieval England: Self, Body and Society' (Unpublished PhD thesis, McGill University, 2004), pp. 67-78.

⁹⁸ John Tosh, 'What Should Historians do with Masculinity?' Reflections on Nineteenth-century Britain', *History Workshop Journal*, 38 (1994), 179-202 (p. 180).

⁹⁹ Erving Goffman, 'Gender Display', *Studies in the Anthropology of Visual Communication*, 3 (1976), 69-77.

that gender should not be confined to the margins of daily interaction.¹⁰⁰ Gender is a master identity which is present and matters in every social interaction. West and Zimmerman interpret gender as ‘the activity of managing situated conduct in light of normative conceptions of attitudes and activities appropriate for one’s sex category’.¹⁰¹ Inclusion in a gender grouping is guaranteed by the demonstration of behaviour considered normative for a particular sex.¹⁰²

The work of Judith Butler offers a great addition to the debate over the extent to which masculinity or femininity derives from ‘natural fact’ rather than ‘cultural performance’.¹⁰³ Yet how can gender help us understand the gendered self as it is constructed by and through memory? Following in the theoretical footsteps of Michel Foucault, Butler argues that ‘certain legitimating and exclusionary aims’ influence the construction of the gendered subject.¹⁰⁴ For deponents who recalled past events in the Court of York, reliance upon gender-specific memory strategies may have reinforced their gender identities. Butler’s analysis offers a methodological way into analysing deposition evidence. Gendered power structures ultimately and inevitably ‘produce’ what they claim to represent. If gender is a fragile rather than stable identity which is established through the ‘stylised repetition of acts’ then the female and male deponents from the York causes reveal much about their gender identities through remembering past events.¹⁰⁵ Actions are more truly constructed, mentally organised and reorganised by themselves than when first performed.

Butler argues that the performative nature of gender identity means that there is then ‘no pre-existing identity by which an act or attribute might be measured’.¹⁰⁶ However, Butler seems to overstretch the dissolving qualities of gender performance in this case. While it is understandable that ideas of a ‘true’

¹⁰⁰ Candace West and Don H. Zimmerman, ‘Doing Gender’, *Gender and Society*, 1:2 (1987), 125-51 (pp. 126-27).

¹⁰¹ West and Zimmerman, ‘Doing Gender’, p. 127.

¹⁰² West and Zimmerman, ‘Doing Gender’, p. 127.

¹⁰³ Butler, *Gender Trouble*; Judith Butler, *Bodies that Matter: On the Discursive Limits of “Sex”* (New York, 1993).

¹⁰⁴ Butler, *Gender Trouble*, p. 2.

¹⁰⁵ Butler, *Gender Trouble*, pp. 140, 178.

¹⁰⁶ Butler, *Gender Trouble*, p. 141.

masculinity or femininity are also constructed, an 'accepted' rather than an 'essential' notion of gender must exist against which her comparisons can be made. Analysis of why certain cultures possess 'accepted' gender identities to which individuals aspire fits into Butler's statement that gender is 'an identity tenuously constituted in time'.¹⁰⁷

Both individual and communal identities will be deconstructed through analysis of modes of self-representation and remembered narratives. As the rest of this introduction makes clear, the approach taken has a long and diverse lineage. It attempts to implement the kind of methodology called for by some feminist theorists who argued for the analysis of 'personal, subjective experience as well as public and political activities'.¹⁰⁸

Feminist theorists, gender historians and researchers of women's life history argue that identity cannot be unpacked using only gender. Scholars of masculinity have also recognised the restrictive nature of gender identity as a sole category of analysis. Consequently, the intellectual and methodological roots of this present study also reside in the study of memory. The study of memory is particularly valuable as it gives a more fully nuanced explanation of identity and self-representation than the use of gender as the sole analytical category would allow. Memory and narrative analysis can bring us much closer to this final aim.

Issues which have concerned social scientists and feminist theorists are often in need of qualification as the discussion above has shown. However, they mark a way forward for scholars, including historians, who wish to study memory and gender. This thesis combines the approaches taken by gender theorists and scholars of memory in order to reconstruct and explicate the memories of ordinary men and women in late medieval England. This approach would situate memory systems in their cultural and temporal circumstances, and prevent the blind application of memory theories without an understanding of the past. On the subject of modern memory studies and its relationship to the historical past, Matsuda remarks that 'memory has too often become another analytical category to impose on the past; the point should be to re-historicize memory and see how it is so

¹⁰⁷ Butler, *Gender Trouble*, p. 140.

¹⁰⁸ Scott, 'Gender', p. 1054.

inextricably part of the past'.¹⁰⁹ Medievalists have produced several notable works on memory and the most relevant contributions shall be analysed in more detail.

Medievalists, Memory and Gender

Memory practices are embedded in a historical framework with an ancient intellectual lineage. Like the study of memory in the social sciences, the history of medieval memory has given rise to divergent interpretive traditions. The intellectual traditions which produced treatises on the arts and nature of memory have been expounded most notably by Frances Yates and Mary Carruthers. Yates' study discusses developments in memory techniques from Classical society to the Renaissance memory palaces of Giordano Bruno. In her discussion of memory in the Middle Ages, Yates describes how artificial memory was no longer such a concern in rhetoric but its importance grew in the field of ethics as part of the virtue, Prudence.¹¹⁰ Yates has discussed the architectural mnemotechniques used by Renaissance elites.

Medieval society embraced all forms of mnemonic signifiers. Manuscripts and books were filled with pictures, images and diagrams which were mnemonic in function. These images were intended to complement, supplement and at times form part of the main text. Carruthers emphasises the extent to which the written word and image existed in conversation with each other. Her discussion of the medieval concepts of *painture* and *parole*, the ocular and aural pathways to memory, reveals the ways in which mnemonic systems in images and books interacted.¹¹¹ These concepts and practices form part of an elite discourse of memory, and the work of Carruthers and Yates has revealed much about these intellectual traditions.

Among the monastic orders a different approach to memory was urged which deviated greatly from the classical art of memory.¹¹² The Benedictine Rule

¹⁰⁹ Matt K. Matsuda, *The Memory of the Modern* (New York, 1996), p. 16; Olick and Robbins, 'Social Memory Studies', p. 112.

¹¹⁰ Yates, *The Art of Memory*, p. 69.

¹¹¹ Carruthers, *Book of Memory*, pp. 221-229.

¹¹² For a brief discussion of the Benedictine Rule, the Divine Office and liturgical year in terms of Halbwachs' theory of collective memory see Coleman, *Ancient and Medieval Memories*, pp. 132-36.

advised adherents to hold only God in their memory while the time scheme of the Divine Office inculcated followers into a new temporal and memorial context.¹¹³ Monastic memory thus sought to erase the individual's secular past in order to recover, in the Platonic sense, spiritual knowledge of God.¹¹⁴ Cistercians, in particular St. Bernard of Clairvaux, emphasised forgetfulness or oblivion as the pathway to spiritual fulfilment.¹¹⁵ Writing in the twelfth century and describing his memory technique, St. Bernard spoke of sinful or discoloured memories blanched in their place rather than excised entirely. God's forgiveness provided the only means of spiritual removal in which religious life 'cauterised the memory and yet stimulated it by replacing private memorials with scriptural reminiscences'.¹¹⁶

Coleman acknowledges the challenge that this different memory system may have posed to 'men with private histories, of love, sex, marriage, knightly warfare, involvement in the world'.¹¹⁷ St. Bernard taught Cistercian monks to transform their individuality, using chivalric imagery and courtly symbolism in his sermons and expositions to convert meanings to religious usage.¹¹⁸ Van Houts argues that this process of forgetting may have taught men 'to come to terms with' their secular pasts. However, this seems a rather modern psychological reading of a memory system which probably sought to render secular pasts benign in order to obliterate them. Van Houts doubts that male and female religious succeeded in consigning their individual selves to oblivion, arguing that often 'neither monks nor nuns forgot their past or their family's connections' but instead continued to take charge of their family's commemoration.¹¹⁹ Despite monastic memory focusing on

¹¹³ Coleman, *Ancient and Medieval Memories*, p. 134.

¹¹⁴ In cases of child oblation, in the twelfth-century and for the Benedictine order in particular, monks and nuns entering the religious life would have had few memories of their secular life. Elisabeth van Houts, *Memory and Gender in Medieval Europe, 900-1200* (London, 1999), pp. 8-9. The Cistercians, however, only received adults into the monastery who 'came in middle life often from successful worldly or ecclesiastical careers', Coleman, *Ancient and Medieval Memories*, p. 170.

¹¹⁵ For a study of Cistercian memory practices see Cassidy-Welch, 'Confessing to Remembrance', pp. 13-27.

¹¹⁶ Coleman, *Ancient and Medieval Memories*, p. 191.

¹¹⁷ Coleman, *Ancient and Medieval Memories*, p. 175.

¹¹⁸ Coleman, *Ancient and Medieval Memories*, p. 177.

¹¹⁹ van Houts, *Memory and Gender*, p. 9.

forgetting the secular past, religious houses placed great emphasis on memory as abbots, founders and patrons, whose relatives may have been cloistered in that monastery, were prayed for and commemorated.¹²⁰

Analysis of commemoration after death can provide a window into pragmatic memory discourses which were far removed from elite traditions. For the early and high Middle Ages in particular, memory, as a concept and practice, signified *memoria* which was the liturgical use of memory to the praise of God through prayer and introspection. In her study of medieval memory, Carruthers, however, sought to show that *memoria* meant more than the liturgical commemoration of the dead.¹²¹

The twelfth and thirteenth centuries saw a substantial growth of another type of memory, namely written memory in the form of written records from royal and episcopal administration. Michael Clanchy has detailed the shift in mentalities which had previously privileged oral memory over written memory. He argues that forms of record keeping filtered out from royal government, influencing civic and episcopal administration.¹²² Under the direction of common clerks and lawyers who appreciated the utility of writing to preserve memory, civic government began to make use of registers, annals and chronicles.¹²³ Despite the growth in written records as a means to preserve the past, oral culture remained crucial to the transmission of memory and tradition. Patrick Geary and Matthew Innes have both argued that Clanchy and Brian Stock failed to grasp the importance of writing in the early Middle Ages in their examinations of literacy and the written record, and ignore the fact that societies are seldom strictly oral or literate, such that they present society before the High Middle Ages as an 'early medieval oral stasis'.¹²⁴

¹²⁰ Cassidy-Welch, 'Confessing to Remembrance', p. 20.

¹²¹ Carruthers, *Book of Memory*, p. 260.

¹²² M. I. Clanchy, *From Memory to Written Record. England 1066-1307* (2nd edn., Oxford, 1993), p. 74.

¹²³ Debbie Cannon, 'London Pride: Citizenship and the Fourteenth-century Customals of the City of London', in Sarah Rees Jones (ed.), *Learning and Literacy in Medieval England and Abroad* (Turnhout, 2003), pp. 179-98; Sarah Rees Jones, 'York's Civic Administration, 1354-1464', in Rees Jones (ed.), *The Government of Medieval York: Essays in Commemoration of the 1396 Royal Charter* (York, 1997), pp. 108-40.

¹²⁴ Innes, 'Memory, Orality and Literacy', p. 9.

Recent debates on medieval memory have begun to focus upon the two related themes of family and gender.¹²⁵ Kinship networks provided a forum for the creation and maintenance of recollections and served to connect individual memory with that possessed by the family.¹²⁶ The individual desire to cultivate identity found expression in ‘props for memory’ in the form of genealogies, and in Renaissance Florence, private *ricordanze*, which extended outwards to the family.¹²⁷

Medievalists working on continental records generated in a monastic context have led the way in the study of early and high medieval memory practices. Patrick Geary has posited that women, particularly widows, from the ninth century, were assigned the role of memory specialist in family commemoration of the dead.¹²⁸ Geary has argued further that female contribution to the preservation of family memory abated in the twelfth century, when female family members ‘were thus forgotten, silenced, not in the practice, but in the image, of the memory of women in the eleventh century’.¹²⁹ Conversely, van Houts has held that specific family roles for remembering were allotted to both men and women, and female participation did not recede in the twelfth century in the face of monastic involvement in family memory.¹³⁰ Van Houts argues that the maternal line, whether or not lands passed through it, was often able to trace its genealogy back farther than the male line.¹³¹ Elite marriage patterns ensured that a smaller age-gap between mothers and their children existed, causing living memory to stretch back further in the female than in the male line.

¹²⁵ Leydesdorff, Passerini and Thompson (eds.) *Gender and Memory*; Ciappelli and Rubin (eds.), *Art, Memory and Family*; Fentress and Wickham, *Social Memory*, pp. 112-113.

¹²⁶ Fentress and Wickham, *Social Memory*, p. 113.

¹²⁷ Giovanni Ciappelli, ‘Family Memory: Functions, Evolution, Recurrences’, in Ciappelli and Rubin (eds.), *Art, Memory and Family*, pp. 26-38 (p. 31).

¹²⁸ Geary, *Phantoms of Remembrance*, pp. 52-73; Bernhard Jussen, ‘Challenging the Culture of *Memoria*: Dead Men, Oblivion, and the “Faithless Widow” in the Middle Ages’, in Gerd Althoff, Johannes Fried, and Patrick J. Geary (eds.), *Medieval Concepts of the Past: Ritual, Memory, Historiography* (Cambridge, 2002), pp. 215-32 (pp. 229-30).

¹²⁹ Geary, *Phantoms of Remembrance*, p. 73.

¹³⁰ van Houts, *Memory and Gender*, pp. 13-14.

¹³¹ van Houts, *Memory and Gender*, pp. 148-49.

On occasion, women responsible for family memory could receive assistance from monastic houses. In 1297, a panel of jurors sought to prove that Robert de Tony, son of Sir Ralph de Tony who had died two years before, had reached the age of twenty-one so that he could inherit his father's lands. The first juror, William de la Sale, told how Mary, Robert's mother, a year after Robert's birth had travelled with him from Scotland to West Acre priory in Norfolk. The journey was intended to secure his future as his father's heir; when Mary and her son reached the priory she immediately had his birth recorded in the priory's chronicles for posterity.¹³² Mary probably realised that the usual jurors who testified to the birth of an heir such as friends and servants would have been difficult to gather since the family lived in Scotland at the time of Robert's birth.¹³³ Mary's husband was still alive when she visited the priory but perhaps in his absence she assumed the role of guardian of the family's memory. Although the study of memory and commemoration in monastic contexts sheds light on how groups and families remembered people and events, this remains only one aspect of medieval memory practice, the evidence for which is drawn from an elite milieu.

Medieval historians have begun to reassess proof of age inquests and Church court depositions in order to provide material for the study of later medieval individual and social memory.¹³⁴ Records produced in judicial contexts can provide a means to analyse the memory discourses of ordinary people. The jurors who testified to the prospective heir's birth were occasionally servants of the family and were usually lower in status. Consequently, the memories presented were not generated within an elite context. While the proofs are considered to be relatively accurate for the earlier period, later jurors employed stock memories which may have affected the credibility of the proofs as a source. Joel Rosenthal and John

¹³² Given-Wilson, *Chronicles*, p. 79. John Bedell's examination of proofs for Edward I's reign shows that chronicles were the most frequently cited forms of written document. From thirty five references to written records, chronicles were mentioned seventeen times as opposed to ten charters. Bedell, 'Memory and Proof of Age', pp. 24-25.

¹³³ Alternatively, there may have been confusion over what type of evidence would be accepted since the procedure had only been instituted in the reign of Edward I, twenty years before Robert was born. Oral testimony of written evidence in the form of a chronicle held in a monastic house was probably seen as unassailable proof.

¹³⁴ Rosenthal, *Telling Tales*, pp. 1-62; Bedell, 'Memory and Proof of Age'; P.J.P. Goldberg, 'Gender and Matrimonial Litigation in the Church Courts in the Later Middle Ages: The Evidence of the Court of York', *Gender and History*, 19 (2007), 43-59.

Bedell have both examined proofs for the thirteenth and fourteenth centuries in order to uncover the recollections of jurors who gave evidence of the birth of the heir.¹³⁵ The proofs contain statements only from male jurors which is one shortcoming of their use as evidence for a study of medieval memory and narrative. However, Rosenthal and Bedell do not address this gender bias which means only evidence from male deponents is analysed. Where a discussion of masculinity and memory would have been possible, Bedell and Rosenthal simply catalogue the types of memories used. This weakness could be turned to the historian's advantage in a study which considered how memory constitutes both individual and communal gender identity.

Proof of age inquests have also been re-examined in an attempt to build a bridge between the 'feminine' domain of the birthing chamber and the 'masculine' preserve of the hall.¹³⁶ Becky R. Lee makes use of the inquest material in order to build up a picture of male involvement in churching ceremonies which took place after childbirth. However, using the male testimony provided by the proofs risks constructing a false community of men around the bedchamber. Proof of age inquests depict men recalling children's births, their own marriages, social occasions and other incidental details. Cases in which ecclesiastical rights were disputed find men testifying to the deaths and burials of their children since their evidence was preferred.¹³⁷ Evidently, both men and women experienced each of these events, but the interest lies in how they personally and specifically located and recalled these occasions, within their own gender framework.

P.J.P. Goldberg has recently suggested that women were able to locate past occurrences relatively accurately with reference to pregnancy and childbirth in a manner which may have been unavailable to the male in society.¹³⁸ Female participation in cases concerning events unrelated to childbirth, pregnancy, and

¹³⁵ Rosenthal, *Telling Tales*; Bedell, 'Memory and Proof of Age'.

¹³⁶ Lee, 'Men's Recollections of a Women's Rite', pp. 224-41; Lee, 'A Company of Women and Men', pp. 92-100.

¹³⁷ See the fifteenth-century parochial rights case between Wawne and Sutton-on Hull, YMA, M2 (3)c.

¹³⁸ Goldberg, 'Gender and Matrimonial Litigation', pp. 49-50; Fentress and Wickham, *Social Memory*, pp. 141-42; Dorothy M. Owen, 'White Annays and Others', in Derek Baker (ed.), *Medieval Women: Dedicated and Presented to Professor Rosalind M.T. Hill on the Occasion of her Seventieth Birthday*, Studies in Church History Subsidia, 1, (Oxford, 1978), pp. 331-46 (pp. 336-39).

'feminine' activities, was often overlooked in the Church court records. Personal recollections of emotive events such as marriage contracts, glimpsed sexual encounters, and childbirth reflect intimate events associated with the household, but memories of incidents of domestic violence allude to coexisting masculine control over household space.¹³⁹

Given-Wilson comments that women were seldom named as sources for evidence in chronicles. The chronicle of St Augustine's abbey in Canterbury, written by William Thorne, offers an exception. Abbot Wulfric witnessed a revelation through an elderly woman who warned him to abandon his attempts to demolish the chapel of the Virgin Mary to extend his monastery. Wulfric scorned the woman's miraculous knowledge only to be killed for his insolence.¹⁴⁰ Middle-aged men from the gentry or lesser aristocracy however were the norm as eye-witnesses. Elisabeth van Houts argues that women might give legal testimony in disputes which related to motherhood, rape, and virginity.¹⁴¹ Old age, which alongside claims to knowledge endowed male testimony with authority, may have afforded women's personal memories greater credibility in the absence of men of the family.¹⁴² Judith Everard's study of sworn testimony in twelfth and thirteenth-century Brittany shows that women may have testified when widowed as there were no male relatives to give evidence in their stead.¹⁴³ In these instances, the oldest living family member or village inhabitant may have been female, and as mothers and grandmothers they may have preserved memories of the family and the local area.¹⁴⁴ Female deponents did give evidence in the ecclesiastical courts but it will

¹³⁹ Felicity Riddy, 'Looking Closely: Authority and Intimacy in the Late Medieval Urban Home', in Mary C. Erler and Maryanne Kowaleski (eds.), *Gendering the Master Narrative: Women and Power in the Middle Ages* (New York, 2003), pp. 212-28.

¹⁴⁰ Given-Wilson, *Chronicles*, pp. 12-13.

¹⁴¹ Elisabeth van Houts, 'Gender and Authority of Oral Witnesses in Europe (800-1300)', *Transactions of the Royal Historical Society*, 6th series, 9 (1999), 201-20 (p. 204).

¹⁴² van Houts, 'Gender and Authority', p. 209; Judith Everard, 'Sworn Testimony and Memory of the Past in Brittany, c.1100-1250', in Elisabeth van Houts (ed.), *Medieval Memories: Men, Women and the Past, 700-1300* (London, 2001), pp. 72-91 (p. 81); van Houts, *Memory and Gender*, p. 25; Keith Thomas, 'Age and Authority in Early Modern England', *Proceedings of the British Academy*, 62 (1976), 205-48; Adam Fox, 'Remembering the Past in Early Modern England: Oral and Written Tradition', in *Transactions of the Royal Historical Society*, 6th series, 9 (1999), 233-56 (pp. 236-41).

¹⁴³ Everard, 'Sworn Testimony and Memory of the Past', p. 80.

¹⁴⁴ Everard, 'Sworn Testimony and Memory of the Past', p. 81.

be shown below that both their position and function depended on gendered expectations. It is to the Church courts that we shall now turn.

Church Courts: Development, Process and Previous Scholarship

The ecclesiastical courts emerged only gradually with roots in earlier traditions of resolving disagreements. The Church in the Anglo-Saxon period relied upon the synod as the usual location for settling disputes. Resort was often made to negotiation between the parties concerned, perhaps with the intermediary skill of the bishop or his representative.¹⁴⁵ However, for many reasons including the frequent inability to conclude cases within the time period of a synod and the development of a literature on canon law, there existed a need and an impetus for a clearly delineated ecclesiastical forum for resolving disputes. The Consistory courts, in the form which they were to assume for the rest of the medieval period, can only be identified from the mid-thirteenth century. Prior to this date, the archdeacons and rural deaneries had tended to deal with transgressions which demanded the attention of the ecclesiastical authorities.¹⁴⁶ By the mid-thirteenth century, however, bishops were seeking to assert the authority of their courts as places of appeal and of complaint in the first instance.¹⁴⁷

Each diocese possessed several ecclesiastical courts with different responsibilities and jurisdictions, the extent of whose powers varied according to their remit.¹⁴⁸ However, the majority of disputes which will be used in this thesis came before the Court of York, following the contemporary term *curia Ebor*, as distinct from the lesser courts of the deans and the peculiar jurisdiction of York Minster. The Court of York was a provincial court of appeal and a court of first instance. However, a protracted dispute over parochial rights from the Dean and

¹⁴⁵ R.H. Helmholz, *The Oxford History of the Laws of England, vol. 1: The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s* (Oxford, 2004), p.139.

¹⁴⁶ Helmholz, *Oxford History of the Laws of England*, p. 134.

¹⁴⁷ Helmholz, *Oxford History of the Laws of England*, p. 140.

¹⁴⁸ *Lower Ecclesiastical Jurisdiction in Late Medieval England: The Courts of the Dean and Chapter of Lincoln, 1336-1349 and the Deanery of Wisbech, 1458-1484*, (ed.) L.R. Poos, *Records of social and economic history, New series 32* (Oxford, 2001), p. xiii.

Chapter will also yield deposition evidence useful for the study of memory and gender.¹⁴⁹

The Church courts of York have attracted much attention from historians of canon law eager to describe its administrative workings. However, most of these scholars have been interested in marriage litigation. Richard Helmholz authored a lucid study of the practical application of canon law on marriage in the late medieval English Church courts.¹⁵⁰ Sheehan considers the application of canon law on the actual formation of marriage while Art Cosgrove has examined deposition material from matrimonial disputes in the diocese of Armagh for evidence on marriage in late medieval Ireland.¹⁵¹

The York cause papers have suffered from relative neglect. Helmholz's work remains an indispensable companion to any scholar seeking to understand the workings of the Church courts but for the social or cultural historian it acts only as a springboard. While his interests lie in canon law and its application, his introduction does indicate the use of the cause papers to social historians.¹⁵² Helmholz never intended his study to be an examination of gender, sexuality or even marriage itself, but rather a comprehensive analysis of how marriage litigation worked in conjunction with the canon law. In 1977 Dorothy Owen, one of the first historians to consider the Cause papers for their social content, signalled their appeal to scholars interested in women's history. Her article flagged up certain of the concerns which now occupy social and cultural historians such as Goldberg, including the way that women remember past events. Owen however remained almost sceptical of her findings. To her mind, aspirations for a study akin to Montaillou had faded but certain cases were 'worth repeating as an indication of the role of some women at the time'.¹⁵³ Owen's study remains an examination of

¹⁴⁹ YMA, M2 (3)c.

¹⁵⁰ R.H. Helmholz, *Marriage Litigation*, (Cambridge, 1974).

¹⁵¹ Michael M. Sheehan, 'The Formation and Stability of Marriage in Fourteenth-Century England: Evidence of an Ely Register', *Mediaeval Studies*, 33 (1971), 228-63; Art Cosgrove, 'Marriage and Marriage Litigation in Medieval Ireland', in Philip L. Reynolds and John Witte (eds.), *To Have and to Hold: Marrying and its Documentation in Western Christendom* (Cambridge, 2007), pp. 332-360; Cosgrove, 'Marriage in Medieval Ireland', in Cosgrove (ed.), *Marriage in Ireland* (Dublin, 1985), pp. 25-50.

¹⁵² Helmholz, *Marriage*, p. 7.

¹⁵³ Owen, 'White Annays and Others', pp. 334, 341.

several cases in which women figure, not in the vein of later gender studies but avowedly a contribution to its precursor, women's history.

Since Helmholz and Owen, another generation of historians have turned to marriage litigation. Frederik Pedersen examines fourteenth-century cause papers from the diocese of York to shed light on the social practice of marriage.¹⁵⁴ Focusing on demography and social practice rather than canon law, P.J.P. Goldberg and Frederik Pedersen, in a dialogue published in the journal *Continuity and Change*, debate how far the cause papers for York offer a representative view of late medieval litigants and deponents.¹⁵⁵ Pedersen argues that the York cause papers are unrepresentative of wider society, arguing that high status people frequented the courts more than any other group. He formulated a set of categories in which plaintiffs could be placed to permit statistical analysis. However, Goldberg criticises Pedersen's categorisation on the grounds that they are inaccurate, lacking in precision, and anachronistic.¹⁵⁶ Goldberg instead argues that it is because litigants and deponents in the cause papers are unrepresentative of wider society that insights can be made.¹⁵⁷

Goldberg's scholarship in particular has demonstrated the wider importance of Church court litigation for the social and cultural historian. His work marks a departure from the use of Church court records solely for legal history and the study of marriage. His study of women and work in medieval England makes innovative use of deposition evidence to analyse mobility and life cycle from prosopographical and biographical details which witnesses often provided.¹⁵⁸ In a similar vein, Shannon McSheffrey has examined litigation for late fifteenth-century London,

¹⁵⁴ Frederik Pedersen, 'Demography in the Archives: Social and Geographical Factors in Fourteenth-Century York Cause Paper Litigation', *Continuity and Change*, 10 (1995), 405-36; Frederik Pedersen, *Marriage Disputes in Medieval England* (London, 2000).

¹⁵⁵ P.J.P. Goldberg, 'Fiction in the Archives: the York cause papers as a source for later medieval social history', *Continuity and Change*, 12:3 (1997), 425-445, (p. 429).

¹⁵⁶ Goldberg, 'Fiction in the Archives', pp. 427-28.

¹⁵⁷ Goldberg, 'Fiction in the Archives', p. 425.

¹⁵⁸ P.J.P. Goldberg, *Women, Work and Life Cycle in a Medieval Economy: Women in York and Yorkshire c.1300-1520* (Oxford, 1992).

analysing variously lay attitudes to love and marriage, and concepts of masculinity and civic identity.¹⁵⁹

Marriage and defamation disputes from the English Church courts yield much evidence for the study of sexuality and gender identity. James Sharpe has considered sexual slander in the early modern period, arguing that female plaintiffs brought causes for defamation most often over insults of a sexual nature.¹⁶⁰ Male plaintiffs more often brought actions on the grounds of defamation which alleged dishonesty and cheating.¹⁶¹ Men were still vulnerable to attack from defamers using language of a sexual nature; an interesting aside which Sharpe does not fully explore.¹⁶² In his sample from the 1690s, the majority of female plaintiffs defamed as sexually immoral were married, however, Sharpe does not provide a similar breakdown of figures for men which could have potentially intriguing results.¹⁶³ Moving from patterns in the court to concepts of identity, Derek Neal has begun to examine defamation causes from the English church courts for evidence of masculinity in a range of male groups.¹⁶⁴ Truth and honesty were essential to masculine identity, whether the party whose honour was impugned was a layman or a member of the clergy.

As Goldberg's and Neal's work demonstrates, medievalists have begun to consider the influence of culturally acceptable models of behaviour in legal narratives. Following in the theoretical footsteps of Natalie Zemon Davis, Cordelia Beattie and Noel James Menuge examine the fictive elements of court records. Cordelia Beattie considers records from Chancery for their narrative content, criticising Barbara Hanawalt for her acceptance of petitions as 'truthful' accounts

¹⁵⁹ Shannon McSheffrey, *Love and Marriage in Late Medieval London* (Kalamazoo, 1995); Shannon McSheffrey, *Marriage, Sex and Civic Culture in Late Medieval London* (Philadelphia, 2006).

¹⁶⁰ J.A. Sharpe, *Defamation and Sexual Slander in Early Modern England: The Church Courts at York*, Borthwick Paper, 58 (York, 1980), p. 15.

¹⁶¹ Sharpe, *Defamation and Sexual Slander*, p. 10.

¹⁶² Sharpe, *Defamation and Sexual Slander*, pp. 16-17.

¹⁶³ Sharpe, *Defamation and Sexual Slander*, p. 27.

¹⁶⁴ Derek Neal, 'Suits make the man: Masculinity in two English law courts, c. 1500', *Canadian Journal of History*, 37:1 (2003), 1-22. See also Neal's doctoral thesis, 'Meanings of Masculinity'.

of events.¹⁶⁵ Beattie argues that the court context and audience may have framed petitions which were written with expected models of gender and status in mind. Menuge examines late medieval concepts of female wardship, offering a fascinating comparison between Middle English romances and marriage disputes from the Court of York.¹⁶⁶ Goldberg's recent study moves in the direction of cultural studies as he analyses gendered models of behaviour.¹⁶⁷

Aside from the evidence the cause papers provide on social practice, religious historians may not overlook them as a source for much longer. Cases concerning tithes and ecclesiastical liberties contain much detail on the interactions of monastic houses with the laity and on individual male and female religious. Janet Burton, an occasional scholar of the York cause papers, has recently praised them for the rich prosopographical evidence included in depositions.¹⁶⁸ While Burton has produced several articles which make novel use of the cause papers, on occasion she appears to misunderstand them as a source. In her discussion of a suit which was brought after an assault on Ivetta, prioress of Handale, she regards the testimony from Ivetta's deponents as a reflection of events rather than a mediated narrative from a single viewpoint.¹⁶⁹ Her recent article, however, appeals to monastic historians to utilise the cause papers. Elizabeth Freeman has begun to examine tithe and ecclesiastical liberties disputes from the Court of York to establish when female religious houses developed their own Cistercian identities.¹⁷⁰

¹⁶⁵ Cordelia Beattie, 'Meanings of Singleness: the Singlewoman in Late Medieval England', (Unpublished PhD thesis, University of York, 2001), p. 156.

¹⁶⁶ Noel James Menuge, *Medieval English Wardship in Romance and Law* (Woodbridge, 2001).

¹⁶⁷ Goldberg, 'Gender and Matrimonial Litigation', pp. 51-52.

¹⁶⁸ Janet Burton, 'The Convent and the Community: Cause Papers as a Source for Monastic History', in Philippa Hoskin, Christopher Brooke and Barrie Dobson (eds.), *The Foundations of Medieval English Ecclesiastical History: Studies presented to David Smith* (Woodbridge, 2005), pp. 63-76 (p. 65).

¹⁶⁹ Burton, 'Convent and the Community', p. 72; B.I., CP.E.3.

¹⁷⁰ Elizabeth Freeman, 'Cistercian Nuns, Cause Papers and the York Consistory Court in the Fourteenth and Fifteenth Centuries', *Australia and New Zealand Law and History E-Journal* (2006), 1-14. Freeman acknowledges Burton's study on p. 5 n. 11.

The Court of York has a fortunate survival rate with a range of disputes extant for almost every year of the fourteenth and fifteenth centuries.¹⁷¹ Canon Purvis aptly named these records ‘cause papers’, a label which, though not a medieval term, reflects the way in which cases were initiated. Cause papers and Act books are extant from only thirteen late medieval dioceses.¹⁷² Cases survive also from the Dean and Chapter of York in the form of deposition books. Cause papers and deposition books survive from the diocese of Canterbury for the thirteenth and fifteenth centuries and from the late fifteenth century for London.¹⁷³ Though Act books record in brief the daily business of the court, the cause papers contain formal documents used in court, including the depositions on which this thesis relies.¹⁷⁴

Cases within the ecclesiastical courts resulted from two types of action, *ex officio* and *instance* litigation. In the former case, the regulation of religious orthodoxy and the monitoring of sexual morality fell within the jurisdictional remit of the Church. It could thus bring charges against those suspected of indulging in acts such as fornication.¹⁷⁵ These records, however, tend to be brief, listing names, charges and penance. The depositions or witness statements that form the basis of this thesis can be found within the *instance* litigation which were disputes between private parties. While scholars have paid most attention to marriage actions, disputes relating to defamation, testaments, and breach of promise were also heard in the ecclesiastical courts; cases related to tithes, ecclesiastical liberties and parochial rights came under the jurisdiction of the Church courts. Superficially initiated to settle rights between parishes and churches, disputes concerning tithes and parochial rights offer a wealth of detail on local custom and land use. This thesis will draw on a range of cases from these categories to provide a balanced analysis of memory and gender in late medieval England.

¹⁷¹ D.M. Smith has compiled comprehensive handlists for the fourteenth and fifteenth centuries. See Smith, *The Court of York 1301-99* and Smith, *The Court of York, 1400-1499*.

¹⁷² *Select Cases on Defamation to 1600*, (ed.) R.H. Helmholz, Selden Society, 101 (London, 1985), p. xii.

¹⁷⁴ Helmholz, *Marriage*, p. 7.

¹⁷⁵ L.R. Poos, ‘Sex, Lies and the Church Courts of Pre-Reformation England’, *Journal of Interdisciplinary History*, 25:4 (1995), 585-607.

The Church courts attempted to follow procedure found in the formularies used for teaching and reference, but Helmholz argues that the desire to settle disputes often encouraged proctors and the parties to diverge from established practice.¹⁷⁶ The primary concern of the consistory court was the settlement of dispute rather than dogged adherence to the letter of the law. Helmholz has commented that ‘procedure was a tool to be used in the task [of settlement], not a model into which the disagreements were squeezed’.¹⁷⁷ Disputes concerning marriage were often settled swiftly but the situation differed in cases related to parochial rights and tithes.

The plaintiff had the burden of proof which meant that witnesses were summoned to testify. While the plaintiff could meet this burden in several ways, for example, with confession from the defendant or through an inquest, production of witnesses was the most widespread method.¹⁷⁸ Examiners questioned each deponent in private on the plaintiff’s articles or the defendant’s interrogatories. In order to reach a decision, depositions were presented to the Official of the court. Veracity was of the utmost imperative and, to rule out perjury, the evidence of at least two deponents had to match. The belief that comparing remembered details could corroborate accounts probably grew from the biblical tale in which Susanna is exonerated of adultery. The two accounts of her infidelity were deemed false when one detractor said the adultery took place under a yew tree while the other claimed it was under a clove tree.¹⁷⁹

A typical Church court case generated other documents aside from the depositions with which this study is concerned. After the libel outlining the suit’s allegation was issued, the plaintiff expanded the charge in the form of positions and articles. In the York cause papers, the positions and articles are recorded on the

¹⁷⁶ Helmholz, *Marriage*, pp. 112-13.

¹⁷⁷ Helmholz, *Marriage*, p. 113.

¹⁷⁸ The plaintiff was permitted three or four terms to bring deponents before the court in order to settle the burden of proof. Helmholz, *Oxford History of the Laws of England*, p. 328; *Select Cases from the Ecclesiastical Courts of the Province of Canterbury*, (eds.) N. Adams and J. Donahue, Selden Society, 95 (1981), p. 44.

¹⁷⁹ Helmholz, *Oxford History of the Laws of England*, p. 341.

same document from the fifteenth century.¹⁸⁰ Helmholz contends that the depositions were written up afterwards from notes made during the examination.¹⁸¹ However, the fifteenth-century statements are much messier than the fourteenth-century depositions, indicating that scribes had begun to submit the first set of notes.¹⁸² Meagre in detail, the sentence renders judgment in formal and solemn language but does not contain the reasons for the decision. The rationale behind a judgement might be determined from the depositions and other apparatus but when only one set of depositions survive, reasoning for a particular decision remains elusive.

The depositions which form the main body of evidence for this thesis were shaped by the clerical personnel of the courts. If the gender identities of the deponents who testified are to be examined then we must first understand something of the men who contributed to their creation. The experiences of those staffing the courts created a clerical and legal discourse which influenced how defences and depositions were shaped, and how the receiving audience was imagined. The gulf between Church courts and the depositions provides an interface between competing gender ideologies. Deponents may well be parroting gender ideologies of the clerical canon lawyer, thus obscuring their own gender identity. The argument put forward by the plaintiff and the statement of the deponent were shaped by these considerations and narrative models may well have been made to appeal to the clerical audience of the Consistory court.

Trained to represent clients in their stead, proctors emerge as the workhorse of the courts. Representatives, rather than expert advisers like advocates, proctors were not required to have degrees in canon or civil law. While the court might preference holders of degrees, proctors were appointed without them. From the proctors who practiced in the Church courts of York from 1417 to 1420, Helmholz found that none were graduates of Oxford or Cambridge.¹⁸³ Lack of a university degree does not preclude their attendance without proceeding to graduation, or the

¹⁸⁰ For an extended discussion of the documents most commonly used in the course of a dispute, see Helmholz, *Marriage*, pp. 13-22.

¹⁸¹ Helmholz, *Marriage*, p. 20.

¹⁸² For further discussion of how depositions were created see pp. 60-65 below.

¹⁸³ Helmholz, *Marriage*, p. 148.

completion of an apprenticeship period in the court itself.¹⁸⁴ Educated in canon law and trained to represent their clients, proctors were undeniably aware of the Church's teachings on a range of moral and spiritual issues.

The proctor was often advised by an advocate who was trained to a higher standard in canon and civil law. Often a proctor acted as the advocate, implying that proctors could do both jobs if necessary. The Official or judge of the court was usually trained to a high level in both types of law and the evidence suggests that most had some form of university degree. Whether the average proctor had gained a university degree, their knowledge and familiarity of the courts and their workings certainly surpassed that of the ordinary layperson. All these men were in minor orders with the opportunity to proceed to the priesthood if they remained unmarried. These are the kind of men, unmarried and in minor orders, that Cullum discusses in her study of clerical masculinity.¹⁸⁵

What can be said about the deponents whose testimony came to the Court of York? According to canon law, two witnesses fulfilled the criteria of proof.¹⁸⁶ Cases of disputed tithes and parochial rights in particular contain depositions from large numbers of deponents up to the canonical limit of forty.¹⁸⁷ For cases related to marriage, defamation, and testamentary disputes, between two and five deponents was standard since these events were usually witnessed by fewer people and because each party had to cover deponents' expenses.¹⁸⁸

Memories of an event can vary between eyewitnesses, however, consistency between the depositions was important to the court and at least two deponents needed to testify to the same event in detail. This may engender some scepticism in the modern historian, and some deponents may have met before examination to ensure uniformity in their evidence. However, when examining witness testimony,

¹⁸⁴ Helmholz, *Marriage*, p. 149.

¹⁸⁵ P.H. Cullum, 'Clergy, Masculinity and Transgression in Late Medieval England', in Hadley (ed.), *Masculinity in Medieval Europe*, pp. 178-96.

¹⁸⁶ X.2.20.1-56. 'De testibus et attestationibus' advises on which individuals are accepted as deponents and discusses how deponents should be examined.

¹⁸⁷ Charles Donahue, Jr., 'Proof by Witnesses in the Church Courts of Medieval England: An Imperfect Reception of the Learned Law', in M.S. Arnold et al. (eds.), *On the Law and Customs of England: Essays in Honor of Samuel E. Thorne* (Chapel Hill, 1981), pp. 127-58 (p. 130).

¹⁸⁸ Helmholz, *Marriage*, p. 154.

perceptions of plausibility matter more than elusive concepts of truth. Chris Wickham defends the value of the testimony given by the inhabitants of Montailou. Their evidence may not be the 'truth', but the villagers told stories which were, at least, believable.¹⁸⁹

Helmholz comments that most litigants could ill afford many deponents since they were 'neither rich nor powerful'.¹⁹⁰ However, there are occasional exceptions to this rule in the form of lower aristocracy and well-to-do merchants. The lack of higher status individuals and families who wished to annul or enforce a marriage contract could be explained by their ability to approach the bishop themselves, thus circumventing the Church courts.¹⁹¹

Contrary to canon legal theory which debarred certain individuals from testifying, the English Church courts only accepted objections to deponents' suitability after their testimony had been recorded and publicised.¹⁹² Helmholz comments that it would be too hasty to dismiss the rules of exceptions as unworkable; judges might still exclude evidence on the basis of later testimony.¹⁹³ However, the desire to hear both objection and defence of a witness's character seems a pragmatic response to exceptions which may have been unfounded allegations intended to disrupt the opposing party's argument.

The way in which canon law viewed female deponents may have influenced actual practice in the Church courts. Canon legal opinion on the capacity of women to testify was divided. In his *Decretum* written around 1140, Gratian expressed ambivalence over whether women could testify or not, giving a list of occasions when women could testify in different jurisdictions and types of cases.¹⁹⁴ However, he also cited St Augustine who stated that women should not act as witnesses.¹⁹⁵ In

¹⁸⁹ Chris Wickham, 'Gossip and Resistance among the Medieval Peasantry', *Past and Present*, 160 (1998), 3-24 (p. 8).

¹⁹⁰ Helmholz, *Marriage*, p. 154.

¹⁹¹ Goldberg, 'Fiction in the Archives', p. 429.

¹⁹² Helmholz, *Marriage*, p. 154.

¹⁹³ Helmholz, *Marriage*, p. 155.

¹⁹⁴ James A. Brundage, 'Juridical Space: Female Witnesses in Canon Law', *Dumbarton Oaks Papers*, 52 (1998), 147-56 (p. 148).

¹⁹⁵ Brundage, 'Juridical Space', p. 148. *Mulierem constat subiectam dominio viri esse, et nullam auctoritatem habere; nec docere potest, nec testis esse, nec iudicare.*

other places Gratian discusses instances in which female testimony was admissible and important.¹⁹⁶ Gratian's *Decretum* was disseminated widely in the decades immediately after its completion, not least within the schools of law where it was embraced as the textbook for the instruction of canon law. Hostiensis, one of the most influential canonists of the thirteenth century and author of the *Summa Aurea* and *Lectura*, similarly declared that witnesses could be disqualified on grounds of 'condition, gender, age, discretion, reputation, fortune and truthfulness'.¹⁹⁷ He then offered so many exceptions that women could in fact testify in most circumstances. Tancred, writing around 1215, said that 'slaves, women (in certain circumstances), those below the age of fourteen, the insane, the infamous, paupers and infidels may not be witnesses'.¹⁹⁸ Where the evidence of two deponents was in conflict Tancred argued that the man should be believed over the woman.¹⁹⁹

Charles Donahue contends that the medieval Church courts discriminated against female plaintiffs and deponents on the grounds of gender.²⁰⁰ Frederik Pedersen agrees with Donahue in his analysis of the fourteenth-century York cause papers.²⁰¹ In a recent study of gender and marriage litigation in the York Church courts, Goldberg argues against Donahue and Pedersen. His analysis of select cases in which personnel of the court were involved shows that the Court of York did not discriminate against female parties.²⁰² The laity, however, did retain prejudices against female testimony. Rural litigants relied on male rather than female deponents. Women were employed more often as witnesses in urban rather than rural causes. From the litigants analysed, women were far more likely than men to call on female deponents. While chronological trends differed over time, male

¹⁹⁶ Brundage, 'Juridical Space', p. 149.

¹⁹⁷ Helmholz, *Oxford History of the Laws of England*, pp. 339-40; Kenneth Pennington, 'Henricus de Segusio (Hostiensis)', in Pennington, *Popes, Canonists and Texts, 1150-1550* (Aldershot, 1993), no. 16.

¹⁹⁸ Donahue, 'Proof by Witnesses', p. 130.

¹⁹⁹ Donahue, 'Proof by Witnesses', p. 131.

²⁰⁰ C. Donahue, Jr., 'Female Plaintiffs in Marriage Cases in the Court of York in the Later Middle Ages: What Can We Learn from the Numbers?', in Sue Sheridan Walker (ed.), *Wife and Widow in Medieval England* (Ann Arbor, 1993), pp. 183-213.

²⁰¹ Pedersen, 'Demography in the Archives', p. 420.

²⁰² Goldberg, 'Gender and Matrimonial Litigation', pp. 52-55.

deponents outnumber female in marriage disputes by a ratio of 3:1.²⁰³ Awareness of these gendered patterns of employing deponents will inform my discussion of gender in the Church courts.

In practice it is in disputes relating to marital breakdown, defamation and breach of promise that women appear more readily as deponents. Matrimonial litigation generated depositions from both male and female witnesses which permits important comparisons to be made. This will allow comparative analysis of gender specific patterns in recalling past events and methods of self-representation. Gender also affected how deponents functioned in different types of disputes, shaping the memories which were provided. Men and especially older male witnesses were preferred as deponents in cases concerning parochial rights and tithing litigation. There are disputes in which women do testify but these are exceptions.²⁰⁴ In a 1425 ecclesiastical liberties case female deponents gave evidence on the abduction of Katherine Northfolk from the nunnery of Wallingwells. However, their expertise depended on their memories of when the young heiress was born so the court could decide whether Katherine had properly taken her vow as a female religious.

Goldberg argues that certain types of marriage disputes saw female deponents employed as expert witnesses in which knowledge about birth or impotence was needed. Canon law permitted a spouse to seek annulment on the grounds of impotence if the other party's physical incapacity prevented the marriage's consummation. Jacqueline Murray focuses on the origins of the 'wise women' who performed impotence tests, while Goldberg argues that several of the women acting as deponents in these cases were sex workers who used their expertise to incite an allegedly impotent husband's arousal.²⁰⁵ The wider point is that female deponents were called upon to testify as 'expert' witnesses in suits in which children's ages, and on the other hand, male sexual prowess, were at issue.²⁰⁶

²⁰³ Goldberg, 'Gender and Matrimonial Litigation', p. 46.

²⁰⁴ B.I., CP.F.89.

²⁰⁵ Jacqueline Murray, 'On the Origins and Role of "Wise Women" in Causes for Annulment on the Grounds of Male Impotence', *Journal of Medieval History*, 16 (1990), 235-49; Jeremy Goldberg, 'John Skathelok's Dick: Voyeurism and "Pornography" in Late Medieval England', in Nicola McDonald (ed.), *Medieval Obscenities* (York, 2006), pp. 105-23 (pp. 117-19).

²⁰⁶ Goldberg, 'Gender and Matrimonial Litigation', p. 50.

It is worth making several points about the discourses used between deponent and clerical examiner. After the deponent had given their main evidence, a statement that the testimony given was ‘publica vox et fama’ usually followed. In his study of twelfth-century Italian peasants, Chris Wickham reminds us that ‘public fame’ is common knowledge which is constructed through speech.²⁰⁷ Eleanor de Barton knew of the dispensation sought by her sister and John Hildyard, senior, for their marriage as ‘she heard it reported to her by a certain helpful woman’.²⁰⁸ Following his earlier work on social memory, Wickham is quick to emphasise the utility of gossip. He notes how common speech facilitates the formation of relationships, and forms and constitutes groups, sealing them off from others.²⁰⁹

Often a deponent gained knowledge of an event because they had heard it from relatives, friends, or elderly members of their community. In 1370 John Hildyard deposed that he had heard of the blood relationship between John, his late father, and his father’s widow from his father himself, Peter, his uncle and William Boy, an octogenarian.²¹⁰ An eager informant could impart knowledge to those who later appeared as deponents. In a case dated 1362-4, John Feraunt deposed that he knew little of the exception made against a witness but ‘he knows well that it is a common subject of discussion in Craven and roundabout’.²¹¹

The phrase ‘vidit et audivit’ is ubiquitous in the deposition evidence.²¹² In disputes concerning marriage, deponents reported on the words exchanged between the parties in dispute. In 1465 Alice wife of Robert Burges testified to the validity of a marriage contract ‘because on a certain feast day she could not recall, this witness was in the home of her husband in Davygate in York and she saw and heard

²⁰⁷ Wickham, ‘Gossip and Resistance’, p. 5.

²⁰⁸ B.I., CP.E.108. audivit sibi referri per quadam mulierem auxiatricem.

²⁰⁹ Wickham, ‘Gossip and Resistance’, p. 11.

²¹⁰ B.I., CP.F.108.

²¹¹ B.I., CP.E.170. sed bene scit quod est communis luctio in partibus de Craven et locis vices.

²¹² Patrick J. Geary, ‘Land, Language and Memory in Europe, 700-1100’, *Transactions of the Royal Historical Society*, 6th series, 9 (1999), 169-84 (p. 175).

the couple talk and exchange words of consent'.²¹³ The Gregorian Decretals stated that consummation of a marriage was proved if the deponent had seen the couple having intercourse.²¹⁴ Witnesses in several marriage disputes from the fourteenth and fifteenth centuries describe seeing the couple 'solus cum sola nudus cum nuda'.²¹⁵

Auditory evidence was admissible when a deponent had not actually seen the marriage take place. In a fifteenth-century marriage case the testimony of a female witness was allowed despite an exception made against her on the grounds that she was blind and simple-minded. The judge stated that though her sight was impaired 'she could perfectly well hear a contract to marry'.²¹⁶ This emphasises the importance placed on words of present consent rather than the ceremony or physical actions of the contractors. Marriage contracts, and intercourse that often followed, might be glimpsed through doorways and windows or overheard through thin walls. Though already married, Thomas Walde had contracted marriage in his home with one Joan Suardby while his wife, Marion, Margaret de Burton and John Wald listened undetected at the foot of the steps outside the room.²¹⁷ In December 1364, Alice de Rouclif, a young heiress was alleged to have married John Marrays.²¹⁸ The abbot of St Mary's, York, heard of the marriage's consummation from a young girl who 'heard a noise from them like they were making love together, and how two or three times Alice silently complained at the force on account of John's labour as if she had been hurt then as a result of this labour'.²¹⁹ In this context, the noise was intended to signify Alice's virginity as much as consummation.

These considerations prompt important questions such as whether certain types of narrative elements were more common and thus considered to be more

²¹³ B.I., CP.F.208.

²¹⁴ X.1.32.27. Carnalis copula probatur per conveniens testimonium de visu; idem in testimonio auditus, quod adminicula et fama coadiuvant.

²¹⁵ B.I., CP.F.103. Goldberg, 'Voyeurism and "Pornography"', pp. 108-109.

²¹⁶ Helmholz, *Oxford History of the Laws of England*, p. 340.

²¹⁷ B.I., CP.E.111.

²¹⁸ B.I., CP.E.89.

²¹⁹ *Women in England, c. 1275-1525*, (ed.), P.J.P. Goldberg (Manchester and New York, 1995), p. 62.

acceptable and possibly more readily believable than others. Perhaps certain narrative structures and methods of retelling past events were specific to gender, status or occupation. Men and women within the York deposition evidence may have similarly made use of specific narrative strategies when presenting themselves and their stories to the court.

The first chapter will introduce the depositions as mediated texts, instructive for the study of identity and self-presentation. Employing narrative analysis as an analytical tool, this chapter will argue that deponents told their stories within recognisable narrative frameworks which often manipulated gender to construct and promote a particular view of power relationships. Building upon the conclusions from chapter one, the second chapter will offer a comparative discussion of the memories which male and female deponents employed. This chapter will analyse memories which deponents commonly relied upon in order to assess the influence of gender on individual memory. Chapter three will examine the dissonance that opens up between individual and communal memory-work. Implicitly engaging with the theoretical debates outlined above, this chapter will discuss the way in which gender was exploited to constitute 'communities of memory'. It will explore the conversation created by interactions between memory and gender. The final chapter will consider family memory and gender, in particular the roles and functions of men and women as guardians of memory. Evidence from suits related to marriage initiated on the grounds of consanguinity and affinity will allow us to reconstruct family genealogies from both female and male perspectives. Relying on depositions from the late medieval Church courts of York, this thesis will draw wider conclusions on the memorial roles which men and women adopted in daily life.

Chapter 1: Gender, Narrative and Litigation

We organize our experience and our memory of human happenings mainly in the form of narrative – stories, excuses, myths, reasons for doing and not doing, and so on. Narrative is a conventional form, transmitted culturally and constrained by each individual's level of mastery ... Narratives, then, are a version of reality whose acceptability is governed by convention and “narrative necessity” rather than by empirical verification and logical requiredness, although ironically we have no compunction about calling stories true or false.¹

Paradigmatic of recent developments in narrative analysis, Jerome Bruner's discussion sums up many of the methodological questions which have begun to concern medieval and early modern historians.² Cordelia Beattie has turned her attention to the records of the late medieval court of Chancery, identifying narrative elements common to petitions from individuals with similar backgrounds and interests.³ Widows and daughters in these petitions couched their supplication in language of neediness and weakness. Aside from shaping our interpretations of historical narratives, the fruits of this theoretical labour also structure our own ethical relationship to the human subjects in the text. In his study of French heresy registers, John H. Arnold debates whether historians should empathise with their subjects or let them rest in peace, gaining satisfaction instead from identifying with the scribe.⁴ This chapter will begin by considering the utility of narrative analysis for understanding individual identity.

Chief among the questions asked of historical narratives is the relationship between the narrative and reality. Hayden White, a medievalist himself, has

¹ Jerome Bruner, 'The Narrative Construction of Reality' *Critical Inquiry*, 18:1 (1991), 1-21 (pp. 4-5).

² Davis, *Fiction in the Archives*; Cordelia Beattie, 'Meanings of Singleness: the Single Woman in Late Medieval England' (Unpublished PhD thesis, University of York, 2001); Laura Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford, 1996); Goldberg, 'Gender and Matrimonial Litigation', pp. 51-52; Garthine Walker, 'Just Stories: Telling Tales of Infant Death in Early Modern England', in Margaret Mikesell and Adele Seeff (eds.), *Culture and Change: Attending to Early Modern Women* (London, 2003), pp. 98-115.

³ Beattie, 'Meanings of Singleness', pp. 190-205.

⁴ John H. Arnold, *Inquisition and Power: Catharism and the Confessing Subject in Medieval Languedoc* (Philadelphia, 2001), p. 14; John H. Arnold, 'The Historian as Inquisitor: The Ethics of Interrogating Subaltern Voices', *Rethinking History*, 2:3 (1998), 379-86.

emphasised the distance between text and reality. Anthropologists have argued that narratives render only subjective accounts, as opposed to material remains which can provide better objective evidence. Many social scientists, anthropologists, and historians agree that narratives are often rendered familiar and recognisable for ease of interpretation.⁵ Indeed, medievalists have begun to apply these theories to their source material. Noel James Menuge demonstrates how Middle English romances of wardship can be read for evidence of social perceptions. Her analysis of female wards in the romances yields great benefits when compared with disputes related to marriage from the Court of York in which wardship is an issue.⁶ However, much debate surrounds the extent to which narratives may be fictionalised. White has suggested that historical narratives should be viewed as an 'extended metaphor' rather than an actual reflection of events. The implication of this argument for medievalists is that legal depositions, such as those generated by the Church courts of York, should be regarded as fictionalised in the same way as romances and saints' lives. Anthropologists and historians alike have responded to this structuralist approach, arguing that narration constitutes identities through the performance of social actions.⁷

Though constructed elements are occasionally present in narrative sources, like the York depositions, these documents remain valuable because they reveal much about cultural norms. Goldberg has highlighted the narrative elements present in deposition evidence from the Church courts of York. His analysis portrays the parties and deponents engaged in attempts to present their accounts in culturally appealing terms.⁸ Narratives do occasionally enlist extant frameworks and accounts of events will always remain interpretations. The difficulty with White's thesis, however, is that the social actor is afforded little agency. In any one dispute, deponents who gave evidence for the same party provided different accounts. Even where accounts are curiously similar, the differences can shed light on individual

⁵ White, 'The Historical Text as Literary Artefact', p. 91.

⁶ Menuge, *Medieval English Wardship*, p. 85 for the disputes used. For the parallels between romances and Church court disputes in which wardship is involved see chapter 4, 'Female Wards and Marriage: A Question of Consent', pp. 82-100.

⁷ Tonkin, *Narrating Our Pasts*, pp. 38-49.

⁸ Goldberg, 'Gender and Matrimonial Litigation', pp. 51-52.

identity. The depositions were mediated by the ‘social and juridical context’ and the extent to which a witness could act freely within the narrative which they told.⁹

Central to any understanding of narration is an appreciation of the role of human agency.¹⁰ In his study of social identity and the self in late medieval England, David Gary Shaw recognises the importance of human agency and self-presentation as an enduring question. Shaw demonstrates that close examination of individual identity can provide a partial answer to the beleaguered issues of agency.¹¹ Deposition narratives in the Church court sought to reproduce a believable and recognizable facsimile of the society in which the actors dwelt. Individual agency constituted the narrative which parties and deponents proffered.¹² Parallel to this, litigation as narrative provided the channel through which agency could be exercised. Anthony Giddens defines this process as the ‘generation of systems of interaction through duality of structure’. Parties and deponents could exercise agency through the structures or the ‘systems of generative rules and resources’ which they relied on in their daily lives.¹³ Although these structures might assist deponents in their self-presentation, the legal context that fashioned the depositions in their final form could place limits on human agency. The narrative concerns of the deponents can only be considered after an attempt to unravel this process.

Narrative and Discourse in the York Depositions

An exploration of the influences upon the depositions presents the possibility of discovering why witnesses represented their personas and their recollections in

⁹ Sara Heller Mendelson, ‘To Shift for a Cloak’: Disorderly Women in the Church Courts’, in Valerie Frith (ed.), *Women and History: Voices of Early Modern England* (Toronto, 1995), pp. 3-18 (p. 6).

¹⁰ J.D.Y. Peel, ‘For Who Hath Despised the Day of Small Things? Missionary Narratives and Historical Anthropology’, *Comparative Studies in Society and History*, 37:3 (1995), 581-607 (p. 582).

¹¹ David Gary Shaw, *Necessary Conjunctions: The Social Self in Medieval England* (New York and Basingstoke, 2005), pp. 13-15. However, Shaw’s entire introduction deals with approaches to the social self in history.

¹² Christopher G.A. Bryant and David Jary, ‘Introduction: Coming to Terms with Anthony Giddens’, in Bryant and Jary (eds.), *Giddens’ Theory of Structuration: A Critical Appreciation* (New York and London, 1991), pp. 1-31 (p. 7).

¹³ Bryant and Jary, ‘Coming to Terms with Anthony Giddens’, p. 7.

particular ways. Written records of oral proceedings are often accompanied by complex theoretical and conceptual baggage. Whether or not language can authentically replicate an inward perception of duration has been debated.¹⁴ It has been argued that the use of language to express internal duration might result in one event being unintentionally emphasised to the detriment of another so that the representation rendered does not reflect lived experience.¹⁵ The gulf which can open up between time and language is one of the principal considerations which should be borne in mind when interpreting deposition evidence.¹⁶ While language and discourse are culturally contextual, linguistic inflection can reveal much about individual subjective identity.

Recording the verbal evidence of a deponent in written form initiated a process of textualisation which irrevocably altered the original speech act. The deponent's testimony was prompted by a set of questions or articles drawn up by the plaintiff or the defendant's legal counsel. The deponent thus responded to questions which had already been formulated and which would give the deposition its framework. Although the topics which were covered had been decided, the deponent accounted for his or her own actions and behaviour, giving a personalized and subjective narrative of events. However, what influenced the form and tone of the statement most was the process of noting down and creating a narrative from the witness's answers in Latin. Deponents' accounts were narrated to the clerical scribe – a process which saw the vernacular first person narrative converted into a Latin third person account. The personal testimony of the witness is thus inscribed within the formal and official discourse of the Church courts.

The clerical scribe occupied a similar position as the oral historian. His very presence and the questions which he posed to the deponent, to some extent, created the deponent as the subject. Although the inquisition registers and the York Cause

¹⁴ Richard Glasser, *Time in French Life and Thought*, (trans.) C.G. Pearson (Manchester, 1972), p. 3; Henri Bergson, *Time and Free Will: an essay on the immediate data of consciousness*, (trans.) F.L. Pogson (New York, 1910), pp. 107-9.

¹⁵ Glasser, *Time in French Life and Thought*, p. 4.

¹⁶ Giles Constable, 'Past and Present in the Eleventh and Twelfth Centuries: perceptions of time and change' in Giles Constable (ed.), *Culture and Spirituality in Medieval Europe* (Aldershot, 1996), pp. 135-70 (p. 139). Time or *temps* has been differentiated from duration or *durée* since the former could be seen as externalized and measurable, whereas the latter cannot be reckoned temporally since it is an essentially internalized experience. Language and speech themselves are acts which can be quantified by time and are capable of representing divisions of time used to measure durations. Glasser, *Time in French Life and Thought*, p. 5.

Papers are not entirely analogous, John Arnold's study has identified similar narrative structures at work in heresy depositions which are also present in the York material. Like the deponents in the heresy registers, witnesses within the Church courts are 'drawn into a particular kind of linguistic context and thus made to collude in taking on a particular kind of identity'.¹⁷ 'Truth' and the construction of the subject remain at the fore in the York depositions through the practice of cross-examining canonic witnesses and permitting interrogatories.

The experiences of those staffing the courts created a clerical and legal discourse which influenced how defences and depositions were shaped, and how the receiving audience was imagined. The privileged knowledge which the clerical personnel could deploy meant that arguments could be formulated in ways which made use of canon legal considerations. The need to appease and appeal to a clerical audience acts as a filter throughout.¹⁸ The linguistic register employed in the depositions was undoubtedly quite distinct from the language deponents used to describe their own perception of events. Clerical interpolations are detectable in the depositions on occasion. In one marriage dispute which will be discussed a wife had allegedly left her marital home 'without the licence of her husband'; a phrase used in a similar marriage dispute which also touched upon the issue of a husband's cruelty toward his wife.¹⁹ Narrative ploys such as these were intended to elicit silent agreement through appeals to shared understandings of expected behaviour. The different discourses present in the deposition evidence must be analysed because they offer a window into the historicized and culturally specific 'memories, actions and intentions' which motivate individuals and influence the groups which they inhabit.²⁰

The personnel of the Church courts were invariably male and clerical, including the examiner or scribe who recorded the examination of witnesses, so that the lens placed over witnesses's testimony was also gendered male. Recent studies on contemporary oral history have observed that certain male oral historians who

¹⁷ Arnold, *Inquisition and Power*, p. 11.

¹⁸ Walter J. Ong, 'The Writer's Audience is Always a Fiction', *Proceedings of the Modern Language Association*, 90:1 (1975), 9-21 (pp. 10-11).

¹⁹ B.I., CP.E.77, CP.E.221.

²⁰ Peel, 'For Who Hath Despised the Day of Small Things', p. 382.

interviewed women 'never overcame the barriers of gender difference'.²¹ Female deponents were not able to enjoy the complicity of shared gender that might have existed between male deponent and the clerical scribe. Even when the court personnel and the deponent were both male gender relations could remain problematic. The gulf between Church court personnel and the deponent provides an interface between competing gender ideologies. Deponents may well be parroting gender ideologies of the clerical canon lawyer, thus obscuring their own gender identity. Both the argument put forward by the plaintiff or defendant, and the deponents' statements were shaped by these considerations; and narrative models may well have been made to appeal to the audience of the Consistory court. The relationship between these different discourses created a 'multi-vocal' text that reflected the various influences at work.²²

The process which shaped the depositions also influenced the ultimate form which the narratives took. The clerical scribe in the Church court may also have provided his own verbal prompts and interventions. In an extreme case, the scribe recording a deponent's testimony could intervene, placing comments in the margin. A scribe commented in the margins of the depositions that one witness he examined hesitated as if he had been persuaded to give evidence.²³ While another York scribe questioning a deponent noted that he changed his accent so often during the examination that his testimony should not be relied on.²⁴

Though reported speech may appear to bring us closer to the actual words used by the parties and deponents, these instances remain selective and reinterpreted representations of the general sense of what transpired. In the fourteenth and first half of the fifteenth centuries, the only names and phrases which may have been given by the scribe in English were place names, insults in disputes concerning defamation, and the words used in marriage contracts.

²¹ Sherna Berger Gluck, 'What's So Special about Women? Women's Oral History', in Susan H. Armitage, Patricia Hart and Karen Weathermon (eds.), *Women's Oral History: The Frontiers Reader* (Lincoln, 2002), pp. 2-20 (p. 10).

²² Mikhail M. Bakhtin, *The Dialogic Imagination: Four Essays*, (trans.) C. Emerson and M. Holquist (Austin, 1990), pp. 293-94, 314; see also Garthine Walker's application of Bakhtinian theory, 'Just Stories', pp. 99, 113 n. 7.

²³ Helmholz, *Marriage*, p. 130.

²⁴ Owen, 'White Annays and Others', pp. 332, 343-44; Helmholz, *Marriage*, p. 130.

Sometimes reported speech was required in a deposition to fulfil the canon legal requirement of words of present consent in marriage disputes. Though the depositions were recorded mainly in Latin until the late fifteenth century, the process that produced the statements may indicate how much clerical intervention was involved, and how close the statements are to the words of the deponents.

The fourteenth-century depositions are, on the whole, written in a neat hand and eminently legible. Overall, they are tidy in appearance and free from the many crossed out words and sentences which mar their fifteenth-century counterparts. The product of careful rewriting of notes taken in Latin during the examination, the depositions were occasionally revised to remove unwanted words, phrases or entire sentences. Whether the notes from the examination were heavily expanded or additional comments inserted when they were copied out in a neater hand is debatable. However, if the fourteenth-century depositions are compared with those from the fifteenth century then several changes may be noted. By the fifteenth century the general appearance of many of the depositions has altered. Entire lines, sometimes two or three, are crossed out and amendments are inserted above the line, rendering the statements messy and scrappy in form.²⁵ There is little reason for this alteration in appearance unless the recording process itself had undergone some kind of change in the intervening period. The everyday pressures of the court may have necessitated a more efficient and swifter method of recording. If little or no change was made to the notes from the examination of witnesses, then copying out the notes in a tidy hand would have begun to seem excessive and pointless.²⁶

Changes in the process of recording the deponents' accounts has ramifications for interpretations of the documents and the witnesses' testimony. In the neater fourteenth-century statements the scribe intervened to a greater extent, tidying up his own working record to provide a neat copy for the court. If the material from the fifteenth-century cases represents more directly the immediate

²⁵ See for example, B.I., CP.F.342 and CP.F.338. In CP.F.342, several of the depositions contain crossed out lines with corrections inserted over the crossed out words. The corrections are squeezed in above the line so they are difficult to read. In CP.F.338, the depositions are recorded in a poor hand with lines crossed out and text is forced in above the line. These two cases are typical examples from the fifteenth-century material.

²⁶ Helmholz does not comment on the implications of changes in the methods of recording deponents' examinations.

process by which the depositions were recorded, then these statements may reflect more closely the actual words of the deponents.

On occasion, the identity of the deponent had more force than the clerical discourses which controlled and shaped statements. In a case of disputed ecclesiastical liberties dated 1425, the deposition of Michael Dawnay, a Franciscan friar, consists mainly of uninterrupted narrative.²⁷ Few questions break the flow of his account for he was clearly practised in oratory and his statement is very long. He may even have deposed in Latin rather than English. His deposition contains rhetorical flourishes, reported speech and evocative descriptions of people and events. Coupled with the changes in the fifteenth-century methods of recording, his deposition brings the historian tantalisingly close to his actual verbal testimony.

Perhaps certain narrative structures and methods of retelling past events were specific to gender, status or occupation. Differences in household structure, and milieu might have affected memory strategies and thus shaped how, and by whom, events were recollected. Men and women within the York deposition evidence may have made use of specific narrative strategies when presenting themselves and their stories to the court. In this instance, gender does matter. The sixteenth-century pardon tales of France studied by Natalie Zemon Davis show that male supplicants utilised narratives of anger and provocation to excuse murder and manslaughter.²⁸ Female supplicants in the pardon tales examined by Davis were less likely to rely upon anger as a defence for their actions which suggests that it was not an acceptable emotion for women to rely upon in their defence.²⁹ All these considerations prompt important questions such as whether certain types of narrative elements were more common and thus considered to be more acceptable and possibly more readily believable than others.

Narration and Status

Deponents often privileged their own role in the events which they reported to the clerical scribe. The construction of a narrative allowed the individual to formulate their identity through their remembered actions. The clergy, as much as the laity,

²⁷ B.L., CP.F.89. For a discussion of this case, see pp. 131-41, 207-11 below.

²⁸ Davis, *Fiction in the Archives*, pp. 36-47.

²⁹ Davis, *Fiction in the Archives*, pp. 79-82.

were prone to the kind of social performance which may be found in many of the depositions. The evidence of William Semanson, chaplain of the church of Sutton, in a fifteenth-century dispute over parochial rights at Wawne and Sutton-on-Hull is particularly instructive.³⁰ One of the issues in the dispute was where the children of the local inhabitants were buried. The evidence suggests that William created his own persona based upon his position as chaplain. Questioned on burial rights, William deposed that

the witness himself was present in person and attended all the burials so far of adults, and those children and adolescents buried for three years last past at the said parish church of Sutton and the same cemetery. And he was present and he heard their choice of burial of their own accord before their deaths. And questioned on the names and surnames of those buried in this way he said that John Gardener who was buried in this same place about a year ago and more last past and before his burial, a certain Dominus Thomas Wilton was buried near to the same John Gardener, a certain William Spencer, chaplain of the same chapel, Alice wife of Peter Sayer, William Swaldale, Joanna wife of Thomas Edmond ... And he said that he heard each and every single one of them in the time of their sickness decide to appoint their body for burial at the parish church and cemetery of St James in Sutton ...³¹

Having listed the names of the children and adolescents buried at Sutton, William then deposed that he heard their fathers choose to bury them in the church cemetery.³² The implication in William's testimony is that during their sickness he heard the deceased parishioners choose to be buried in the cemetery of the parish church of Sutton. William thus presented himself as diligently fulfilling the

³⁰ YMA, M2 (3)c.

³¹ YMA, M2 (3)c, fols. 44v-45r. ipsemet iuratus presens personaliter interfuit in sepultura omnium tam adultorum quam puerorum impuberum apud dictam ecclesiam parochiam de Sutton et cimiterium eiusdem per tres annos ultimos preteritos sepultorum. Et interfuit eciam ut dicit et audivit electionem sepulture ipsorum ibidem ante mortem eorundem factam. Et interrogatus de nominibus et cognominibus huiusmodi sepultorum dicit quod Johannes Gardener qui fuit sepultus ibidem huic ad annum ultimo preteritum et amplius ac ante sepulturam suam quidam dominus Thomas Wilton dicte ecclesie capellanus ac citra sepulturam eiusdem Johannis Gardener quidam dominus Willelmus Spencer eiusdem ecclesie capellanus Alicia uxor Petri Sayer Willelmus Swaldale Johanna uxor Thome Edmond ... Et dicit interrogatus quod isti omnes et singuli per ipsum iuratum superius nominati tempore mortis eorundem fuerunt adulti et in etate sufficienti constituti. Et dicit ultra interrogatus quod audivit eosdem omnes et singulos tempore infirmatatum suarum de quibus decesserunt legare corpora sua sepeliendi apud ecclesiam parochialem et cimiterium sancti iacobi de Sutton ...

³² YMA, M2 (3)c, fol. 44v.

demands of his position as chaplain. He is depicted visiting sick parishioners on their deathbeds and during their illnesses, administering last rites and perhaps hearing them confess, as a dutiful priest should. However, William later deposed 'that the choice by the adults for the children was made voluntarily and free in whatever way from the persuasion of the said masters and chaplains'.³³ Clearly for the burials of the parishioners of Sutton, Stone Ferry and Lopholme to be established as freely chosen, as he claimed to have witnessed, served his own best interests and those of the church of Sutton.

To view William's deposition evidence as an aspect of the social performance of his position as a priest would help make sense of a representation which, at first glance, appears only to be self-aggrandising and laudatory. If we consider that little information was included in the depositions without a specific purpose, then we can consider William's evidence with a more critical eye. Erving Goffman has argued, more specifically, that 'if the individual's activity is to become significant to others, he must mobilise his activity so that it will express *during the interaction* what he wishes to convey'.³⁴ The narrative elements within his witness statement take on a new light if we consider that he may have exploited his position as chaplain in order to verify his evidence, and that it was the ecclesiastical courts which were being addressed. We could thus ask whether William Semanson's verification story which depicted him as the 'dutiful priest' was tailored to the clerical nature of the court which he was addressing.³⁵

If his depiction as the 'dutiful priest' was a triumph in self-representation then his comparison with the vicar and other chaplains was a *coup* in terms of the clerical audience. William gave an account of a discussion held in York Minster around Easter the previous year at the behest of Robert Tyas, the vicar of Wawne. Tyas objected to the burial of the inhabitants' children at the church of St James in Sutton. William presents Tyas and the clergy of Wawne as unsympathetic to the spiritual needs of their parishioners. The compromise which was agreed still prevented the parishioners from deciding where to celebrate mass for their children.

³³ YMA, M2 (3)c, fol. 46v.

³⁴ Erving Goffman, *The Presentation of Self in Everyday Life* (Harmondsworth, 1959), p. 40.

³⁵ Ong, 'The Writer's Audience is Always a Fiction', pp. 17-18.

While the parents were allowed to bury their children in the cemetery of St James, before burial the bodies should be brought to Wawne parish church where mass would be said for the souls of the dead until the ninth hour. However, at this time, if 'the said vicar and other chaplains refuse to celebrate mass with the effect that the inhabitants should make their devotions there without any greater expectation'.³⁶

Whether William Semanson, the chaplain of St James in Sutton, actually attended to his sick and dying parishioners is of no consequence here. Of rather more importance is William's use of his position as chaplain and his self-representation as the 'dutiful priest' to verify his evidence and his recollection of the free choice made by parishioners to be buried in the parish church of Sutton. Therefore, as a priest, William Semanson could make use of a narrative structure which was specific to his position and would not have been available to the laity, and certainly not to women. William, like many other deponents, emphasised his own actions in his narrative account which worked particularly well because he set up his own persona for comparison with the behaviour of the opposing party. In this sense, his evidence did serve as an 'extended metaphor' which was intended to be used to gauge the moral worth of both parties. Clearly, a deponent's convincing self-representation or a successful attack on an opposing witness's character could be central to a believable narrative. However, the male and female witnesses of the York depositions are undoubtedly found to have made use of other narrative models specific to gender and occupation.

Gender, Status and Agency

If we turn to a case related to the violation of ecclesiastical rights dated 1305-6 we find that the prioress of the nunnery of Handale (located in the North Riding of Yorkshire) was engaged in a similar process of self-fashioning. In her case which she brought before the Court of York, Ivetta, prioress of Handale, sued the three men who she alleged had attacked her in the autumn of 1304 as she returned to her priory.³⁷ In an article which urges the use of Church court records for monastic

³⁶ YMA, M2 (3)c, fol. 45r. Et si huiusmodi hora novena adveniente predictus vicarius aut aliquis alius capellanus loco sui huiusmodi missa celebrare non curaverunt cum effectu quod tunc predicti incole et inhabitaciones facta devocione sua ibidem absque quacumque ulteriori expectacionis ibidem.

³⁷ B.L., CP.E.3. Janet Burton has recently discussed this case in a study of the uses of the cause papers for historians of medieval nunneries. Burton, 'Convent and Community'.

history, Janet Burton has viewed this case as evidence of the daily activities of female religious. She interprets the depositions as evidence of the movements of a prioress of a small nunnery who 'far from being protected from the outside world, was at risk from it ... they also show the confidence felt by the prioress that – under normal conditions – she could travel freely and conduct the business of her house unimpeded and in safety'.³⁸ If we consider the case and the deponents' presentation of Ivetta in the wider circumstances which surrounded the assault then we can deconstruct certain narrative features within the evidence. Further, there are tensions in the account proffered by the witnesses which will be explained in relation to the plot utilized in support of Ivetta's suit.

An overview of the assault is as follows. On 20 September in 1304, the eve of the feast of St Matthew, the year before the case was initiated, Ivetta, prioress of Handale, rode back from South Loftus where she had journeyed to free the priory's animals which had been impounded there. She then set out on the short return to Handale priory which lay several miles south of the field in Loftus that she had set out to visit on the day on which she was attacked.³⁹ As she rode through a field in Loftus she was set upon by three men. A violent assault followed in which she and the palfrey upon which she sat were beaten. Though Nicholas de Marske and Gilbert, son of Lecia, carried out some of the assault they orchestrated the actions of Humphrey Pex who was described as the 'subiectus' of Nicholas. William de Kyrkeby saw Nicholas with his sword drawn.⁴⁰ Osbert, parish chaplain of Loftus,

³⁸ Burton, 'Convent and Community', p. 72.

³⁹ Although the priory of Handale is listed as Cistercian by Knowles and Hadcock there are problems with designating a priory of female religious a house of the Cistercian order in the twelfth and thirteenth centuries. David Knowles and R.N. Hadcock, *Medieval Religious Houses in England and Wales* (London, 1971), p. 223; Sally Thompson, 'The Problem of the Cistercian Nuns in the Twelfth and Early Thirteenth Centuries', in Baker (ed.) *Medieval Women*, pp. 227-252 (p. 249). Founded in the early or mid- twelfth century, it is not known if Handale was Cistercian at this point since the order itself had very few nunneries affiliated to them in this period. Further, there is no actual evidence that the nunnery was Cistercian until the sixteenth century. Sally Thompson, *Women Religious: The Founding of English Nunneries after the Norman Conquest* (Oxford, 1991), p. 103. It was not until 1504, and again in 1532, upon the election of two of its prioresses, that the convent of Handale is described as a house of the Cistercian order, William Page (ed.), *VCH: A History of the County of York vol. 3* (1974), p. 166. Thompson argues that it is more likely that Handale itself was Benedictine in origin and this may be borne out by its associations with Whitby abbey, a Benedictine foundation. Thompson, *Women Religious*, p. 103.

⁴⁰ habere tunc gladium extractu.

did not witness the assault but was privy to an argument between Humphrey and Ivetta in which he called her a whore or harlot, in Latin 'meretricem'.⁴¹

The deponents' statements when set alongside contextual evidence are suggestive of the prioress's interactions with the local lay community and the clergy of the parish of Loftus itself. The foundation of the priory of Handale is tentatively dated to 1133 when it was established in the parish of Loftus-in-Cleveland by William Percy of Dunsley.⁴² Three of the men who testified to the assault lived in the area and may also have been parishioners of Loftus. The fourth deponent, Osbert, was parochial chaplain of Loftus. William de Kyrkeby and Ranulph de Esyngton knew Ivetta for three years, while Richard, son of Simon the forester of Hutton knew her for five or six years and Osbert the chaplain had known her for six years. The first three deponents knew the men who assaulted the prioress for several years whereas Osbert only knew Nicholas de Marske since Pentecost the previous year.

The deponents who testified on Ivetta's behalf knew her for several years but it is interesting to note that the deponents do little to justify their presence at the assault. The failure of the first three witnesses to intervene during the attack may have resulted from an unwillingness to get caught up in the incident; their reluctance to intercede could also have stemmed from animosity towards the prioress in her role as an important local landowner. The men testified to the assault but Richard, son of Simon the forester of Hutton, presented the incident as such common knowledge in the local area that 'in no way could that which is public knowledge be disguised'.⁴³ Despite his position as parochial chaplain of Loftus, Osbert, the fourth deponent to testify, stated that he did not know whether Nicholas had committed the assault, nor did he know whether he had ordered an attack and he did not know of any common knowledge of the events contained in the articles. However, 'he saw and heard Humphrey Pex, Nicholas's servant, arguing with the prioress and call her a whore on a certain day which he could not recall around the

⁴¹ Burton, 'Convent and Community' reads the insult as 'mendax' or 'liar' but the abbreviated Latin reads 'meretricem' rather than 'mendax' in its accusative form.

⁴² See note 37.

⁴³ *nullo modo celari potest quam famam publicam.*

feast of St Michael [29 September] the year before'.⁴⁴ The positions which survive from the case painstakingly outline the concerns as seen from the prioress's perspective. The deponents, however, remain silent on the moral implications of the crime allegedly committed against Ivetta.

If we examine the narrative itself we can see that it was couched in a gendered discourse of weakness and lack of agency. However, this is balanced with Ivetta's actions as prioress of her own convent. Burton has observed that Ivetta carried out her priory's duties without the aid of male servants or bailiffs upon which nunneries are believed traditionally to have relied. However, when appointed in 1318 to oversee the convent's affairs in the community the rector of Loftus was also granted the power to dismiss unsuitable servants which indicates that the priory was probably supported by servants by the early fourteenth century.⁴⁵ That Ivetta's deponents in their evidence testified that she rode out alone to secure the release of her animals ensures that she is depicted as a confident landowner, carrying out her duties with assurance. Indeed, that she is depicted performing the task herself rather than sending a messenger or appointed servant which could well demonstrate her desire to be seen administering her house's lands. For the purpose of the narrative, however, Ivetta's independence also rendered her vulnerable to attack from her enemies.

That Ivetta was independent enough to ride across the moors alone at nightfall would be believable were it not for her comparative lack of agency in every other respect. The narrative which the deponents presented began only on the day of the alleged attack and focused on the assault itself. The violence perpetrated against the prioress provided the central action of their evidence. The witnesses elide Ivetta's own actions during the incident, effectively removing any agency from her in the outcome of the events. Nowhere in the depositions is there any record of Ivetta speaking to the men. The men spoke to her and told her that 'she should have no common for her animals at the field of Lofthous'.⁴⁶ Humphrey Pex

⁴⁴ Osbert: vidit et audivit Umfredum Pex in campo de Lofthous contende cum dicta priorissa et eandem meretricem vocare quadam die de qua non recolit circa festum sancti michaelis ultimo preteritum.

⁴⁵ The existence of servants to support the priory may provide further evidence that it was a Benedictine rather than Cistercian foundation. The latter tended not to retain servants and the abbey's duties were carried out by its own monks and lay brothers.

⁴⁶ non haberet communem cum animalibus suis in campo de Lofthous.

argued with her and called her a whore. She was beaten, struck and hit but did not resist or speak.

She was not unarmed as she traveled through Loftus; she carried a rod or in Latin, *virga*, which the audience may have thought she used to drive her palfrey, or indeed the animals which she implicitly brought back with her. In her own hands, the rod is ineffectual as a weapon. None of the deponents state that she struck back at her assailants with her stick. Yet when Gilbert, son of Lecia, grabbed the rod from her hand it is transformed into an offensive weapon which he uses to strike her 'atrociter' on the back.⁴⁷ Apart from the violence of the assault the irony of her own stick being used to beat her could not have been lost on the clerical audience. In fact, the rod was probably intended to represent her power and agency which was snatched violently from her during the incident.

If the word 'meretricem' which Osbert stated was hurled against her is interpreted as 'harlot' or 'whore' rather than 'liar' then it may have been added to the list of sacrilegious crimes which the men had committed against her because of its potency and its implications. Gendered language and insult has been described as 'prior semantic misogyny'.⁴⁸ In this context, however, the insult becomes a symbol for the worst sort of violence that could be done against a female religious. Whether or not the insult was actually uttered does not matter. Of rather more importance is the fact that Osbert, the deponent and priest, and the clerical scribe thought it relevant material to be inserted in the narrative, particularly in the deposition of a priest, when little was included into the depositions without purpose. Ivetta is presented not only suing for the assault but in order to defend her own honour as a bride of Christ and a sealed vessel of God. It was certainly the type of insult which would be taken more seriously in an ecclesiastical court, especially given the circumstances. This highlights the important fact that narratives were shaped differently according to the jurisdiction in which a suit was brought.

We cannot state that the depositions draw us closer to Ivetta's 'voice' as a subjective agent. Quite apart from the selective elements of the story which the men presented to the court, their accounts drew from and chimed with different

⁴⁷ abstulit unam virgam a manu dicte priorisse.

⁴⁸ Poos, 'Sex, Lies and the Church Courts', p. 592.

discourses prevalent in social and legal contexts. Far from distorting the authentic intention behind the depositions, this 'multi-vocality' uncovers these discourses as they operated alongside one another.⁴⁹ The success of the deponents' account, for the men were excommunicated, lay in its composite nature. The narrative which they told was made up of recognizable motifs. An attack on a local landowner who trod on toes in defence of their own rights was a familiar occurrence. Tales of violence against women were not uncommon in the Church courts. Wives came before the court, supported by their female neighbours, with accounts of shocking violence suffered at the hands of a husband.⁵⁰

It should be remembered, however, that another story lay behind the suit which Ivetta brought before the Court of York. The depositions given in support of Ivetta against her alleged attackers can be seen from a different perspective if they are considered as a version of events from the viewpoint of an individual teller rather than as an authentic record.⁵¹ As readers of the depositions in support of Ivetta's claims we would be forgiven the assumption that this was an unwarranted attack on a defenseless female religious whose only interest in Loftus was the fulfillment of her house's business. Rather more likely is a situation in which Ivetta's assertion of her house's rights over lands in Loftus, and possibly in other neighbouring areas, brought her into conflict with other local landowners. The four men who deposed in her support allude to a dispute over the priory's right to graze their animals in the field in Loftus. However, they are frugal with their words, giving little indication of the cause of the dispute and the reason for the assault.

Like any religious house, Handale priory's interactions with the neighbouring community depended greatly on relationships forged through land ownership with other local landowners and their servants. Unfortunately, little evidence survives for a sketch of the priory's landholdings in the Loftus area. The fortunes of Handale from its foundation were bound particularly to the fate of neighbouring Guisborough priory, a house of Austin canons. The Guisborough cartulary contains

⁴⁹ Bakhtin, *The Dialogic Imagination*, (trans.) Emerson and M. Holquist, p. 314.

⁵⁰ See for example Margery Nesfeld's request for separation from her husband in B.I., CP.E.221; Goldberg, 'Gender and Matrimonial Litigation', pp. 53-54.

⁵¹ Barbara Herrnstein-Smith, 'Narrative Versions, Narrative Theories', in W.J.T. Mitchell (ed.), *On Narrative* (Chicago and London, 1980), pp. 209-32 (p. 215).

many land deeds and agreements for the late thirteenth and early fourteenth centuries from which a skeletal outline of land ownership in the area can be recovered. In 1287 a dispute was settled between the Grandimontine house of Grosmont and the priory of Handale who were in disagreement with Guisborough over land rights in Wapley and Loftus.⁵² In the late thirteenth-century one Peter, son of Humphrey de Lasynby, gained land in the Loftus area through his marriage to an heiress, Maud, daughter of Alexander de Butterwick. Maud's sister, Cecily, married Thomas de St Martin who improved Peter's situation further with a grant of the rent from the capital messuage's mill.⁵³ The Lasynby family had not yielded all its lands and rights in Loftus to the priory since John, son of Robert de Lasynby possessed a pound in South Loftus in 1305. In 1278 Peter granted land with appurtenances to nearby Guisborough priory. William de Saucay who held the manor of Loftus until 1205, granted to Guisborough priory the parish church of St Leonard's in Loftus.⁵⁴ In short, the Lasynby family held lands in South Loftus, alongside the convent of Guisborough's holdings.

When the depositions in a case survive from the perspective of one rather than both parties the inescapable fact remains that we have the record of only one side of the story. Fortunately, however, a document enrolled in the Court of Common Pleas for 1305 records the accused men's alternative version of the alleged assault.⁵⁵ This civil action was not brought by Ivetta but against her by one John, son of Robert de Leysynby or Lasynby. The prioress was named as the first defendant alongside William, son of Stephen de Kirkeby, and Ranulf 'the Prioress's cuhirde'. The charge made against Ivetta and the two men was the 'breaking of John's pound at Suth Lofthuses and rescuing the Prioress's cattle which had been seized and impounded by Nicholas de Mersk, John's servant'. If we compare the name of Ivetta's co-defendants with her deponents in the Church court case then the

⁵² *Cartularium Prioratus de Gyseburne, Ebor Dioecesis, Ordinis S. Augustini* vol II Surtees Society (1894), pp. 154-55.

⁵³ William Page (ed.), *VCH: A History of the North Riding of York*, vol. 2 (1923), p. 387.

⁵⁴ Page (ed.), *VCH: North Riding of York*, vol. 2, p. 386; C.H. Lawrence, *Medieval Monasticism: Forms of Religious Life in Western Europe in the Middle Ages* (London, 1984), p. 167.

⁵⁵ The National Archives, Kew, CP 40/154 m224. See also the English summary of this document provided in W.P. Baildon (ed.), *Notes on the Religious and Secular Houses of Yorkshire*, I, Yorkshire Archaeological Society Record Series, 17 (1895), p. 87.

two versions of the incident become clearer. 'William, son of Stephen de Kirkeby' in the civil action is most likely the same man as the 'William de Kyrkeby' of the ecclesiastical case. While Ranulf 'the Prioresses cuhirde' is probably the individual named 'Ranulph de Esington' in the Church court case.⁵⁶ Their self-presentation as bystanders and their implied failure to intervene in the assault should be seen as an attempt to conceal their roles as the prioress's servants. If their presence could be read as innocuous rather than practical support against her attackers the assault would seem more credible. The Official and the clerical audience would scarcely believe that two servants might stand by while their lord was assaulted, even more so because it was a female religious to whom they owed obedience. The ambivalence that has been detected in the deponents' representation of the prioress was probably evasiveness in order to appear impartial as witnesses.

Accepting that the men charged alongside Ivetta were her deponents in the Church court action, their presence with the prioress that day points towards the dispute's alternative narratives. While the civil action gives evidence of their presence we should not consider it proof that they were guilty of the charge. Contextual evidence of this nature cannot bring us closer to the actual events or personal motivations of those involved. It can however facilitate our understanding of the subjective and narrative elements which shape legal depositions. The alternative narrative inscribed in the civil suit thus presents us with two possibilities. Either the two men had lied about witnessing the assault and concocted their account retrospectively, or they had been with the prioress as her servants and their depositions had presented a carefully selected narrative. It is more likely that William and Ranulf had accompanied Ivetta on her journey, especially because they were named as accomplices in the civil action. Indeed, William testified that the prioress was attacked as she returned from releasing her animals which had been impounded. If Ivetta brought her liberated animals back with her from the pound in which they had been held, as the account in the York cause suggests, a cowherd would have made a sensible companion on the homeward journey, particularly at nightfall. While William and Ranulf's depositions unwittingly reveal Ivetta's liberation of the animals, they omit the logistics involved in their retrieval. In an ecclesiastical suit, damage to another's

⁵⁶ TNA, CP 40/154 m224.

property was almost irrelevant since it was the wrong jurisdiction in which to sue. However, the men needed to present the prioress as defenceless and the assault as unprovoked for the decision to be made in her favour.

Ivetta begins to appear even less like a defenseless nun and more like a local landowner who had made enemies if we look at an incident which occurred several years earlier, in 1301.⁵⁷ That year John de Aslakeby and John Etwatre of Yarm were sued by Ivetta on the charge that they, along with several others, had committed crimes against her and had held her captive at Yarm. It took two years for the court to decide against Ivetta, at which point the jury decided that the attack had not been made and that the prioress would not be awarded the £40 which she had sought in damages. Whether this incident is related to her 1305-6 suit against the three men who assaulted her in the field cannot be known. Long and protracted feuds between individuals and religious houses were not uncommon in the late Middle Ages and enmities might be played out in different jurisdictions.⁵⁸ Brought after her failed attempt at redress for the alleged assault and imprisonment in 1301, Ivetta's suit in the Church court may have been prompted by a desire to settle her complaints through litigation in a court in which her assault could be better pursued as a spiritual crime. Recourse to ecclesiastical jurisdiction with its spiritual punishment for moral crimes could allow the prioress to mete out punitive justice. Should Handale have failed to gain secure rights of common in Loftus then excommunication was Ivetta's and the priory's most potent weapon against the men. The language in which Ivetta's witnesses couched the assault, however, is reminiscent of that used in civil law suits.⁵⁹

The Church court dispute was probably a by-product of a longer ongoing dispute between the prioress and John, son of Robert de Lesyngby, or the Lesyngby family more widely. In 1318, Archbishop Melton appointed the rector of Loftus, Thomas de Mydelsburg, to the administration of the temporal goods and accounts of the priory of Handale.⁶⁰ Archbishop Melton's commission may have served to

⁵⁷ Page (ed.), *VCH: A History of the County of York vol. 3*, p. 166; Baildon, *Monastic Notes*, I, p. 86.

⁵⁸ Phillip R. Schofield, 'Peasants and the Manor Court: Gossip and Litigation in a Suffolk village at the Close of the Thirteenth Century', *Past and Present*, 159 (1998), 3-42 (p. 30).

⁵⁹ Schofield, 'Peasants and the Manor Court', p. 12.

⁶⁰ Page (ed.), *VCH: A History of the County of York vol. 3*, p. 166.

restrain the priory's activities as landowner in the area. If the rector of the local parish church was granted the power to administer the convent's goods in Loftus then the Archbishop may have hoped that the quarrel over rights to land use in the area would be more easily diffused. The appointment of an important member of the local community in the form of the parish's rector may have served as a friendlier and more approachable figure. However, in 1319 the prioress of Handale regained from Galvanus de Tavenge and John de Dighton seisin of 30 acres of moor located in South Loftus, along with common pasture and other uses which suggests that the clashes over land rights had not yet settled.⁶¹ Indeed, the positions were as concerned with establishing Ivetta's position as female religious and prioress as with the alleged sacrilegious crime against her. Men and women could utilize gender stereotypes for their own ends as the next dispute will demonstrate.

Gender, Agency and Power

In a complex multi-party marriage dispute which came before the Court of York in 1333 the deponents who testified tell a story of marriage, domestic cruelty, and intrigue from different perspectives.⁶² Depositions survive from two women, the husband's parish priest and two men providing narratives which can be compared for gender and status-specific concerns. The witnesses agreed that six or seven years previously Alice, daughter of Gilbert Palmere of Flixton had married Geoffrey de Brunne in the parish church of St John in Folkton. According to the deponents and the common knowledge which then circulated, the couple had lived together uneventfully as spouses for four years in the village of Scalby. Hawise and Alice, wife of Robert de Flixton, testified to Geoffrey's abuse of his wife which had led Alice and her father to enlist the aid of a man named Ralph Fuler whom they paid to claim falsely a prior contract with Alice. All the witnesses deposed that Ralph's claim, which he presented to the official of the archdeaconry of the East Riding, had been false. An annulment was granted the couple, after which Geoffrey married Joan de Suthbrun, the third party in the dispute. Some years later Alice approached the Court of York, presumably regretting her decision, admitting that

⁶¹ Burton, 'Convent and the Community', p. 72 n. 36.

⁶² B.L., CP.E.25.

she had secured the original sentence through false testimony and perjury. In this fascinating dispute we witness a wife utilizing different narrative strategies in order to secure a favourable outcome.

Each deponents' treatment of the violence that Alice had suffered at her husband's hands varied and reveals much about their own subjective position. One Hawise, daughter of Albret, told the court that the couple had lived together for several years but Geoffrey had beaten Alice badly and treated her badly. Hawise stated that it was 'because of this that the same Alice and her father had gone to a certain Ralph Fuler and given him gifts [damaged] so that he would say that he had contracted with Alice' before her marriage to Geoffrey.⁶³ Alice, wife of Robert de Flixton, also testified to Geoffrey's ill treatment of his wife, stating that he had beaten her badly just as she had seen and heard it commonly to be said. Alice and her father sought Ralph Fuler's aid 'for that reason', giving him five shillings in payment.

The two female deponents saw a causal link between the domestic cruelty Alice had suffered and the plot to create a fraudulent prior contract. A husband's just chastisement of a recalcitrant wife was permitted within marriage. From the evidence of the early modern Church courts, Laura Gowing has noted that women interceded in domestic disputes more often than men in order to shield wives from abuse.⁶⁴ To the female witnesses, Geoffrey's violence drove Alice to concoct a false contract. Pleading a prior contract could thus spare her the ordeal of trying to support claims of excessive cruelty before the Church court. Careful handling of canon law on marriage ensured a favourable outcome without the need to prove the extent of abuse which was, and has always been, notoriously difficult to corroborate.

Perhaps it was fear of others belittling her abuse which made Alice seek separation through false testimony. The evidence of the three male witnesses in the case might provide a good indication of how her woes were regarded by men in general. In direct contrast to the female deponents' evidence neither William, vicar of Scalby, nor the two male witnesses mention the domestic abuse at all. Roger de

⁶³ Hawise, daughter of Albret: propter hoc eadem Alicia et pater eiusdem Alicie adinierunt quedam Radulpho Fuler et dederunt eidem dona ea [damaged] ut ipse diceret se matrimonium contraxisse cum dicta Alicia.

⁶⁴ Gowing, *Domestic Dangers*, p. 233.

Foulewode testified only that 'there was often great disagreement and strife between them'.⁶⁵ He deposed also that Alice and Gilbert had fabricated a prior contract for her with the agreement of Ralph Fuler but their plan was not presented as the direct result of the cruelty Alice suffered.

If William, vicar of Scalby, was aware of Geoffrey's violence toward his wife he gave little indication of this knowledge in his deposition. He did however allege that it was Alice who had done violence against Geoffrey but in a more insidious and subtle manner: '[i]t was and is publicly known that the said [Alice] poisoned him and gave poison to him to drink, namely resalgar which is a poison and venomous drink'.⁶⁶ William deposed that it was 'on account of this [poisoning] and other matters, great dissension and quarrel rose up between Geoffrey and Alice'.⁶⁷ William may have included these details in order to portray Geoffrey as a husband who suffered at his wife's devious cruelty, with the implication that if he had beaten Alice then her behaviour had forced his hand. William borrowed from familiar tropes of the conniving wife who used her devious nature to compensate for her lack of physical strength. In the late fourteenth-century marriage dispute between Margery and Thomas Nesfeld, the latter's deponents attempted to excuse his domestic abuse of his wife with claims that she had threatened to kill him in bed during the night.⁶⁸ The deponents for Geoffrey de Brunne and Thomas Nesfeld manipulated stereotyped motifs which portrayed female violence as secretive and cunning.

William's deposition contains more detail on Geoffrey and Alice's marriage than the other statements. William later described how he blessed the marriage of Geoffrey to Joan de Suthburn as they lay in bed together. Though William was a vicar he would not suffer censure for his actions since he had believed the marriage between Geoffrey and Alice to have been invalid. His evidence is framed within a religious discourse of the sanctity of marriage which Alice had violated. First, she

⁶⁵ Roger de Foulewode: magna rixa et contencio inter eosdem sepius fuerat.

⁶⁶ William, vicar of Scalby: dicit insuper quod publice fuit et est in parochia de Scalby quod dict[damaged] intoxicavit eundem et venenum eidem dedit ad bibendum videlicet resalgar quam intoxicacionem et veneni potacionem.

⁶⁷ Et propter hec et alia magna dissencio et rixa oriebatur inter eosdem Galfridum et Aliciam.

⁶⁸ B.I., CP.F.221.

had attempted to poison her husband and had then sought a false annulment of their contract, causing her husband to marry another woman.

Alice and the female deponents who testified for her did not retract the claims of abuse which had been made against Geoffrey. Presumably, this was because Alice had not sought separation on these grounds. Rather she had formulated a strategy to extricate herself from the marriage outside the Church courts in the first instance. Though separation could be gained on the grounds of unreasonable cruelty, Alice decided to 'uncover' a prior contract which would render her marriage to Geoffrey invalid. Whether Alice had actually made a prior contract with Ralph Fuler which was helpfully resurrected to save her from an abusive marriage cannot be known. Certainly Alice and her deponents were quick to point out the deceit which was involved and the money and gifts which had changed hands. The admittance that the alleged contract was fraudulent served to invalidate Alice's marriage to Ralph and to quash the separation of Alice and Geoffrey's marriage which the Court had confirmed.

Turning to a late fourteenth-century matrimonial case there is evidence that the plaintiff and his witnesses attempted to dissolve an alleged marriage contract by creating an alternative version of events. In 1362 Robert Thomeson of Heton brought an action against Alice, daughter of Thomas Belamy of Raskelf, in order to enforce a disputed marriage contract.⁶⁹ It was alleged by Alice's defence and by several deponents testifying on her behalf that she had agreed to contract with Robert only when her great-uncle issued serious threats of physical violence if she repudiated her prospective spouse. Pressure both from her mother and, more notably, her great-uncle was allegedly enough encouragement for Alice to eventually concede to the contract.

One Richard Belamy, present at the alleged event, deposed upon the threats made against Alice when she refused to contract with Robert. As a witness to the events described, Richard could present himself as reliable. He was, in fact, the great-uncle who had supposedly menaced Alice by threatening to throw her into the well. We might ask why he experienced a volte-face in his attitude toward the marriage, and why he would wish to give evidence to his psychological abuse of his

⁶⁹ B.I., CP.E.85.

own niece who was apparently still a young child. But first the evidence from Richard:

Then the same witness, as he said, who is a relative of the same Alice, namely uncle of her father [great-uncle], instructed the said Alice that she should marry the said Robert in the same place. She replied that she did not wish to and then this witness, threatening her, said to the aforesaid Alice, 'Willing or unwilling, you shall contract marriage with Robert, and unless you do so immediately I will take you by both ears and throw you into the well'.⁷⁰

A contract was then made between them, and Robert gave Alice some of his lands to hold from him. Children and adolescents, whether female or male, were indeed coerced into unwanted nuptials by parents and adult relatives with effective control over their marital alliances.⁷¹ But emphasis upon threats and intimidation in Alice's suit seems rather convenient in this instance.⁷² It had probably not escaped the attention of her great-uncle and mother that a marriage contract could be invalidated if a party pleaded 'force and fear' and a supporting argument was made by deponents.⁷³ That threats of force could be utilised in order to exculpate a spouse from a previously desired but subsequently lamented alliance was appreciated both by the court and by the opposing party's defence.

Force and fear rendered it possible for the contract to be declared void but securing proof of unremitting resistance to a marriage was notoriously problematic, hence, witnesses appearing for Alice were asked whether force and fear were brought against her.⁷⁴ Even the existence of a well in Joan Belamy's home was

⁷⁰ Tunc idem iuratus ut dicit qui est de consanguinate eiusdem Alicie videlicet advunculus patris sui precepit dicte Alicie quod contraheret ibidem matrimonium cum predicto Roberto que sibi respondit ut dicit idem iuratus quod noluit et tunc idem iuratus minando dixit prefate Alicie tu contrahas matrimonium cum dicto Robert velis nolis et nisi tu contrahas statim cum ipso ego capiam te per ambas aures et iactabat te in puteum.

⁷¹ B.I., CP.E.97. In 1368, Alice, daughter of John Crescy, aged twelve, sought to extricate herself from a marital contract with William Whitehevede of Brayton. The clerical deponents appearing on her behalf deposed that William threatened to cut Alice with a knife if she refused to acquiesce.

⁷² See also Christine Meek, 'Women, the Church and the Law: Matrimonial Litigation in Lucca under Bishop Nicolao Guinigi (1394-1435)', in Mary O'Dowd and Sabine Wichert (eds.), *Chattel or Citizen: Women's Status in Church, State and Society* (Belfast, 1995), pp. 82-90 (p. 84).

⁷³ X.4.1.28, X.4.18.4, X.5.17.7; Helmholz, *Marriage*, pp. 90-94.

⁷⁴ Helmholz, *Oxford History of the Laws of England*, p. 545.

questioned. There was a well, argued Alice's counsel, but it was at the door to the residence rather than within the house itself. Alice de Handeles deposed that she knew the well existed, and was more than ten paces from the house because she drew water from it every day as one of her duties as a servant of Joan Belamy.⁷⁵ Equally though, William de Thresk, a chaplain deposing on Robert's behalf, argued that there no such well existed. Evidently the legal counsel instructing Alice and her deponents had to work harder to transform knowledge of an impediment into a triumph in the court.

If we reflect upon the accounts of Alice's resistance and her great-uncle's subsequent threats, then it would seem that the specific representation of Alice was shaped by the manipulation of canon legal exceptions. To convince the personnel of the Church court, an entire persona was created for Alice which differs markedly, as we shall see, from her representation by the opposing party. Indeed, Alice's reaction to the threats of violence appears to be choreographed. When Alice was faced with the prospect of marrying Robert 'the said Alice refrained from marrying Robert and knelt before Joan Bellamy, her mother, and weeping, asked that she might please give her a stay until Easter then next, so that she might be able to deliberate about marrying Robert in the interim'.⁷⁶ That Alice is portrayed as wishing to deliberate her decision until Easter presents her in a particularly positive light. Lent was not an appropriate period in which to marry but served as a time of introspection and reflection. Her emotional reaction which was required in order to verify her resistance was represented by much 'weeping', 'bemoaning' and 'passionate weeping'.⁷⁷ Judicious deployment of expression and gesture further serve to heighten Alice's opposition to the contract. She is depicted seeking intercession and pity from her mother, making a supplication upon her knees.

⁷⁵ Alice de Handeles: fons sine puteus prope domum in qua huius fiebat ab domo per x pedes et amplius de quo fonte ista iurata [illegible] singulis diebus haurit aquam.

⁷⁶ Dicta Alicia retinebat contrahere cum dicto Roberto matrimonium et flectebat genua coram dictam Johannam Belamy matre sua et flendo rogavit eandem quod placeret dare sibi indutias usque festum Pasche tunc proxima futura ut interim posset deliberare super matrimonio cum dicto Roberto contrahendo.

⁷⁷ 'flens', 'dolens' and 'flens amare'.

According to Richard, when her resistance wilts under his threats, her resentful acquiescence was accompanied by a 'bad countenance'.⁷⁸

To view Alice's behaviour as the social performance of the strategy chosen by her legal counsel, and supported by her family, would aid in deconstructing a representation which superficially seems excessively emotional and rather exaggerated. Richard and his fellow deponents may have fabricated the entire account, and constructed an alternative narrative, deliberately laying emphasis on Alice's emotional reaction, and the threats made against her. Her emotional reaction seems carefully attuned to the level of threat which she perceived from her great-uncle. Here, her perception of the danger to her life was crucially important. Canon law interpreted alleged forced marriage using the yardstick of the constant man. If the threats were deemed sufficient to have swayed the individual then a case could be argued for force and fear.⁷⁹ For an argument of force and fear to triumph, compulsion had to be great, and it had to be experienced emotionally by the reluctant party.⁸⁰ This representation of Alice clearly attempted to meet this criterion. But, as Robert's legal counsel swiftly pointed out, had her great-uncle actually tried to throw her into a well, her mother and others present would surely have prevented it.

Alice's exaggerated emotional reaction may also characterize another strategy that could have been employed in tandem with claims of force and fear. If we consider the emotionality of Alice's reaction in which she cried and pulled faces with the attempts to represent her as a child, then her behaviour could be presented as a tantrum. However, for Alice to have made a valid marriage contract she must have been at least the canonical age of twelve, and there is no evidence that she was below this age. Richard and the deponents acting on Alice's behalf were clearly attempting to use youth as a strategy in order to make his coercion more plausible. Should the clerical audience believe that Alice was young and vulnerable by virtue

⁷⁸ 'Male vultu'. For a young girl resisting marriage with an earthly suitor in favour of her existing union with God, see Catherine Peyroux, 'Gertrude's Furor: Reading Anger in an Early Medieval Saint's Life' in Barbara H. Rosenwein (ed.), *Anger's Past: The Social Uses of an Emotion in the Middle Ages* (New York, 1998), pp. 36-55.

⁷⁹ Helmholz, *Marriage*, pp. 91, 221.

⁸⁰ Helmholz, *Oxford History of the Laws of England*, p. 545.

of her emotional reaction then her great-uncle's threats would be regarded as sufficient to pressurise her into the contract. Richard himself later attested to her vulnerability deposing that she had no refuge from the force and fear with which he threatened her.

If we compare Richard's testimony with the evidence given by deponents of the opposing side then the narrative elements take on a new light. The witnesses on behalf of Robert Thomeson present a dramatically different account. The deposition of William de Thresk chaplain depicts the arrangement of the contract in a markedly different light; his account is devoid of the threats of violence and childlike vulnerability present in the evidence of the opposing side. One day in Lent the previous year, William had been visiting Raskelf in the company of his fellow deponent, Thomas Tailour, in order to secure the release of one of his cows held for a fine of the King. When stabling their horses in the residence of Alice's mother their attention was drawn to noises coming from the kiln. They heard Alice and Robert 'conversing and behaving riotously together who, seeing that deponent and his fellow witness in the same place, went out from the neighbouring building to the said house, and the said Alice [was] very red in the face'.⁸¹ Understandably, the priest and his companion became rather suspicious and Thomas questioned Alice about what she had been doing alone, or in Latin, 'sola cum solo', with Robert.⁸² To this, Alice brazenly replied that she did no wrong: '[she responded that] she had no shame for the reason that the same Robert was her husband'.⁸³ Further, he had given to her his lands to hold until the end of her life. The two witnesses deposed that they then asked the couple if they were prepared to contract again before them, to which she declared 'By St. James, I am'.⁸⁴ If Alice and Robert had not already contracted, then words of present consent in front of two male witnesses, one of whom was a priest, satisfied canon legal demands and offered indisputable proof.

⁸¹ Thomas Tailour: Interloquentes et simul rabiantes qui percipientes istum testem et contestem suum ibidem a propinquo exierunt dictam domum et dicta Alicie valde rubicunda facie.

⁸² Interrogata a predicto Thoma conteste sua quid ipsa ibidem fecerat sola cum solo predicto Roberto in predicto loco.

⁸³ inde non habere pudorem eo quod idem Robertus fuerat maritus suus.

⁸⁴ Ita per sanctum jacobum sum.

The priest and his companion who testified for Robert present an altogether contradictory account both of the couple's relationship after the marriage and of Alice's attitude toward it. The deposition evidence from William and Thomas constructs Alice as sexually aware and involved in a sexual relationship with Robert. Her protests are telling; if she had not been engaged in some kind of sexual activity with Robert in the kiln, she would not have so hotly denied any indignity. The implication is that she did not regret this because they were already married to one another. However, sexual intercourse between the couple is only strongly implied in the depositions. It could clearly not be proven otherwise the witnesses would have included it. The ambiguous language employed, however, mimicked that used to describe sexual intercourse. A very similar phrase 'solus cum sola, nudus cum nuda' appears in several other disputes to imply sexual intercourse between couples who allegedly contracted marriage.⁸⁵

Interestingly, the legal counsel when framing the positions and articles for Robert described the dynamics of their relationship after the contract as follows:

[T]he said Alice, after the marriage contracted between her and the said Robert, consented freely to Robert as her legitimate husband by words of present consent in Robert's home. She went to him as to her husband, [damaged] and conversed with him and spoke with him, and she played with him, and embraced him and kissed him, and that the aforesaid Alice did the aforesaid freely, and often from voluntary will.⁸⁶

The relationship between Alice and Robert was already portrayed as sexual and conjugal by the witnesses appearing for the latter. The Latin of the court record probably reflects the Middle English words which the deponents spoke. In this context, sexual activity is clearly suggested in the verb 'ludebat'. In Middle English the second meaning of 'plei' has sexual overtones, meaning 'to play amorously' or 'to make love'.⁸⁷ It is framed by Alice visiting Robert 'as to her husband' and

⁸⁵ Goldberg, 'Voyeurism and "Pornography"', p. 109.

⁸⁶ Positions and Articles: dicta Alicia post matrimonium inter dictum Robertum et ipsam Aliciam per verba de presenti ut prefertur contractum in domum Roberti ut in virum suum legitimum sponte consensit et ad dictum Robertum ut ad virum suum [damaged] accessit et secum loquebatur et cum eo conversabatur et ludebat eumque amplexabatur et osculabatur et quod predicta Alicia premissa gratis et spontanea voluntate sua plures fecit.

⁸⁷ See the *MED* entry for 'plei'. Meaning 2 (b) of 'plei' is to 'play amorously; make love, engage in sexual intercourse'.

references to embracing and kissing which would imply a sexual relationship rather than games between children.

Obviously this opposing account caused difficulties for Alice and her family. Not only did the deponents giving testimony on Alice's behalf have to prove that the marriage was coerced, but also that the parties contracting had not later implied consent through mutually agreed sexual intercourse or living together as man and wife.⁸⁸ How, then, did Alice's legal counsel deal with accounts of her consent through implied subsequent sexual activity? If we further inquire into the textual evidence provided by Alice's deponents, then the substance of these accounts have been neatly turned on their head, and the connotations altered to their own utility. That Richard and his fellow witnesses employed the vulnerability of youth as a strategy facilitated this tactic. The implication in Richard's testimony is that during the time that the contract was made Alice was a young child who was more likely to experience emotional outbursts than consummate a marriage contract. Clearly, for Alice to be depicted as a child who was accustomed to playing and talking with friends but not with Robert, inadvertently served Richard's purposes and those of Alice's family.

If we interrogate Richard's evidence with a closer eye then we may be able to make sense of his motivation, and intentions for couching his account in this manner. Evidently, for Alice to be portrayed as a vulnerable and weak-willed young girl suited her family's legal strategy as it permitted them to exculpate her from an unfavourable marriage. It is likely that Richard's evidence was influenced by the subsequent revelations that Robert Thomeson's lands were in fact 'brigosa' or marsh land. Indeed William de Thresk deposed that Richard and Joan decided to impede the contract when they discovered this information. We may compare this acquisitive approach to making marriage with a 1422 marriage case in which the parents of Agnes Louth of Kingston upon Hull decided against their daughter's marriage to John Aslott as his losses made while overseas on business were too great.⁸⁹ When they gained the knowledge that Robert's land lay in a marsh area, Alice de Belamy's mother and great-uncle might have deemed the contract to be

⁸⁸ X.5.17.7.

⁸⁹ B.L., CP.F.46.

not such an opportune match. In this context, Richard and Alice's mother could utilise their legal adviser's knowledge of Church law by couching the initial contract within a narrative based upon the canon legal exception of force and fear. The sexually suggestive claims to have embraced, kissed and 'played' with Alice actually augmented their strategy rather well; it was one point that her legal counsel probably did not balk at addressing. In Middle English 'plei' meant 'to play or have fun' as well as 'to play amorously' and 'make love'. To answer that she did not play with him was perfectly congruous in a narrative in which Alice was already portrayed as an intimidated young girl. That the clerical personnel were incredulous of the narratives which Alice's great-uncle and mother proffered is evident in the sentence passed. Robert was judged to be Alice's husband.

Gender and Household Order

In a multi-party marriage dispute dated 1357 conjugal gender roles within the household are similarly manipulated.⁹⁰ One Lucy brought suit against William de Fentrice of Tollesby in an attempt to claim restitution of goods from their unsuccessful marriage. Lucy had previously failed to have the contract enforced as evidence from her appeal against the decision of the commissary-general of York and the special commissary of the Official of York are extant in the case. Though previous sets of depositions do not survive, a deponent later testifying for Lucy, Richard de Fentrice, admitted that his previous evidence had been false. He had testified that William, his brother, had a prior contract with Alice de Normanby but second time around he deposed that Lucy rather than Alice de Normanby was his legitimate wife.⁹¹ Indeed, though William alleged to have pre-contracted with Alice, Lucy's deponents sought to convince the court otherwise.⁹² Thomas Dogeson deposed that the couple lived together for many years after their marriage.

John Schephyrd further strengthened Lucy's strategy to exculpate her from wrongdoing; according to John's evidence, during the time in which the couple had cohabited, William had often and cruelly beaten Lucy, until she had departed in the

⁹⁰ B.I., CP.E.77.

⁹¹ Richard de Fentrice: bene scit ut dicit quod dicta Lucia est vera uxor dicti Willemi.

⁹² Sheehan, 'The Formation and Stability of Marriage'. Sheehan argues that multi-party cases were actually engagement disputes pursued through the court as marriage actions.

previous autumn.⁹³ Discord arose a year before the dispute entered the court because William was angered by Lucy leaving their marital home that autumn to engage in harvest work ‘without the licence of her said husband’.⁹⁴ Presentments under the Statute of Labourers (1351) show that women like Lucy did take on short-term employment during harvest time which contributed to the financial independence of female peasant wage earners.⁹⁵ Yet a wife’s absence from the marital home had ramifications. Lucy’s witnesses admitted that she left home for harvest work without William’s permission but they presented her as repentant, thus gaining the favour of the clerical audience. Her absence was presented as short-lived and as respite from William’s beatings. The various meanings of the word ‘licencia’ are legalistic in tone. The phrasing was probably interpolated by a clerical scribe and is reminiscent of the language used in another marriage dispute dated 1396 in which Margery Nesfeld was said to have left home without her husband’s permission; but his violence was presented as just punishment for her disobedience.⁹⁶ Goldberg has convincingly argued that the Whore of Babylon from the Book of Proverbs may have acted as a model for the witness and legal counsel’s presentation of Margery.⁹⁷ Lucy’s abandonment of the marital home was also probably intended to subvert biblical and Christian understandings of proper wifely behaviour and subjection to the husband’s authority.

As her deponent related, Lucy proceeded to return from her absence after autumn; her defection from their marital home was presented as a moderate and short lived rather than excessive absence. This narrative marked the initial step towards Lucy regaining a tenable position before the clerical audience of the court. John Schephyrd deposed that Lucy petitioned William on her knees before the

⁹³ Et dicit quod idem Willelmus medio tempore diu sic simul steterunt sepius verberavit ipsam Luciam et tandem propter nimiam serviciam et verbera ipsius Willelmi ut dicebatur a vicinis suis eadem Lucia in principio autumpno ultimo preterito recessit a dicto Willelmo et consortio et ab eo tempore usque in hodiernum diem sic separatus a consortio suo fuit et adhuc est.

⁹⁴ sine licentia dicti mariti sui.

⁹⁵ Simon A.C. Penn, ‘Female Wage-Earners in Late Fourteenth-century England’, *Agricultural History Review*, 35:1 (1987), 1-14 (pp. 8-9).

⁹⁶ B.I., CP.E.221. Her request for judicial separation was refused. See also P.J.P. Goldberg, ‘Masters and Men in Later Medieval England’ in Hadley (ed.), *Masculinity in Medieval Europe*, pp. 56-70 (p. 63); *Women in England*, (ed.) Goldberg, pp. 141-42.

⁹⁷ Goldberg, ‘Masters and Men’, p. 63.

parish priest of Leake, beseeching him to spend the night with her and discuss their marriage but William refused.⁹⁸

If her public submission to her husband convincingly recast her as a penitent wife then its enactment before the rector was a triumph in terms of the clerical audience. Encoded in Lucy's behaviour was her desire for the rector's judgement and his absolution. Her submission to judgement by her husband and the rector was condensed in her careful gestures. Her prostration before both men indicated her renewed acceptance of norms expounded by the Church and the restitution of patriarchal moral values which her disobedience had disrupted. Not only had Lucy returned repentant but she subjected herself to William's governance. Significantly, Lucy referred to the marriage debt in her appeal in a moment that seems unusually self-aware.⁹⁹ Her counsel and witnesses cast her as a dutiful wife of good repute. Proving William's recalcitrance, rather than lack of validity, was essential for her to prevail. That Lucy referred to the marital debt or 'ius' must have resonated with the clerical audience and may have encouraged them to consider the disputed relationship as that of a married couple.

William neglected his conjugal duty as a husband preferring instead to pursue an illicit and transgressive sexual relationship with a woman who was not his wife. Thomas Dogeson depicted it as such; he 'heard it to be commonly said by the said William's neighbours that he knew Alice carnally ... the witness himself saw [her] twice in William's home in the month last past'; theirs was not a pre-contract marriage but merely an adulterous and make-shift domestic arrangement. Implied lack of self-control mattered all the more because his incontinence was recounted by male witnesses to the male clerical audience. It was argued too that Alice 'had sustenance' illicitly from Lucy and William's common marital goods. William as a husband is presented as failing to fulfill his spousal duty both sexually and materially. That Lucy and her witnesses sought to convince the Official of the legitimacy of her union with William goes some way to explaining their

⁹⁸ Et fuit iste testis presens ut dicit in villa de Tollesby die Lune ultimo iam preterito ubi et quando audivit dictam Luciam genibus flexis sedente in vico de Tollesby coram ipso Willelmo ad hostium eiusdem in presencia rectoris de Lech.

⁹⁹ petere et iustavit requirere dictum Willelmum quod placeret se pernoctere eam morari secum quousque fuisset [illegible] ius habuit ad aliam et dicit quod idem Willelmus hoc facere ibidem expresse recusavit.

presentation of his relationship with Alice de Normanby. Thomas Dogeson deposed that 'she [Alice] was in the fields doing William's work and he saw her commonly serving him and he was often able to see the said Alice driving William's plough by day'.¹⁰⁰ Women were not excluded from agricultural tasks and Lucy had probably angered William with her departure for seasonal work elsewhere as wives were often expected to join their husbands in the field during the high points of the year but particularly during the harvest.¹⁰¹ Rarely however did wives perform such physically demanding tasks as ploughing. The late medieval poem 'The Ballad of the Tyrannical Husband' presents spouses swapping gendered labour roles, with the wife ploughing the field heralding the collapse of order in the household.¹⁰² In the context of conjugal gender models, Thomas's evidence amounted to more than a chance glimpse of domestic job-sharing. While Lucy's union with William upheld normative gender boundaries, Alice's behaviour caused an inversion of these norms. Lucy and her witnesses knew the value of control over one's wife in the household, drawing attention to deviant gender models within Alice and William's household as her means to win the case.

This case could simply be dismissed as the revenge tactic of the scorned wife. However, one of Lucy's deponents alludes to a different motivation. John Schephyrd gave witness to her supplication for reclamation from William of her portion of their communal goods.

And then the said Lucy, as he said, asked him [William] if it should please him to give to her something from their shared common goods, as he was able, [illegible.] and to pay her expenses in defence of the present cause and the said William, as he said, said that he did not wish to give

¹⁰⁰ Thomas Dogeson: *Ea in campis faciente opus ipsius Willelmi et se deservientis vidit communiter et videre potest quampluries ut dicit ipsa Alicia fugare carucam eiusdem Willelmi diu.*

¹⁰¹ Penn, 'Female Wage-Earners', p. 2; Judith M. Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock Before the Plague* (Oxford, 1987), p. 116; Barbara A. Hanawalt, 'Peasant Women's Contribution to the Home Economy in Fourteenth-Century England', in Hanawalt (ed.), *Women and Work in Pre-Industrial Europe* (Bloomington, 1986), pp. 3-20.

¹⁰² *Reliquiae Antiquae: Songs and Carols*, (eds.) Thomas Wright and James O. Halliwell (London, 1841), pp. 196-99.

her anything for the cause or otherwise, only that which she was able to recover through the said church ... ¹⁰³

From this perspective Lucy seems to have changed tack. Her determination to rescue her marriage has dissipated and her interest has turned to monetary matters. This slippage will serve to permit us a closer look at Lucy's persona which reveals the constructed elements in her presentation by her deponents. While not enshrined in canon legal texts, Lucy may have been informally seeking alimony payment because she had failed in her previous efforts to secure enforcement of the marriage contract. Lucy's deponents depicted her as a repentant and dutiful wife scorned by William in favour of Alice whom he kept adulterously within their marital home. Reading against the text, Lucy was an astute figure who exploited the court system in order to recoup the material costs of a failed relationship. On 27 March 1360, however, William and Lucy were ordered to treat one another with marital affection. Tropes of gender and household order were manipulated elsewhere as the next dispute demonstrates.

The Servant or the Priest? Representing Defamation in a High-Status Household

In a defamation case which reached the Court of York in 1363, meanings and representations of estate, status, gender, and sexuality converge in a surprising narrative of sex and bribery.¹⁰⁴ According to the four depositions extant, Thomas de Pickworthe's difficulties began when his unmarried only daughter Margaret was made pregnant by one Robert de Berlay, a servant in their household. Expulsion from the Pickworthe household ensued for Robert, and Margaret fell into disfavour with her parents, a predictable enough an outcome for a liaison ending in the pregnancy of the master's daughter.

¹⁰³ Et tunc dicta Lucia ut dicit rogavit eum quod placeret sibi dare se aliquid de bonis suis communibus unde poterat [illegible] et expensis suis habere in defensione presentis cause et dictus Willelmus ut dicit dixit quod ipse noluit aliquid dare se pro una causa vel alia nisi hoc poterit recuperare per dictam ecclesiam

¹⁰⁴ B.I., CP.E.249. This case is discussed briefly in Derek Neal, 'Meanings of Masculinity in Late Medieval England: Self, Body and Society', (Unpublished PhD thesis, McGill University, 2004), pp. 227-28. For a discussion of several suits concerning defamation from the diocese of York from a canon legal perspective see R.H. Helmholz, 'Canonical Defamation in Medieval England', *The American Journal of Legal History*, 15:4 (1971), 255-68.

A dramatic twist in an already tense family situation came when Thomas Pickworthe's wife, in her husband's absence, was presented with writings that exposed the family's account of their daughter's pregnancy as a deliberately constructed fallacy. The document accused Thomas of concocting the account of his daughter's pregnancy. The document was alleged to have been written, or at least dictated, by William de Bracebridge, lord of Barlow, and sent by messenger to the Pickworthe residence. The main, but not the only, damaging accusation was that Robert de Berlay had in return for money been used and manipulated by Thomas de Pickworthe and William de Saperton chaplain, as the scapegoat in order to accept public culpability for fathering Margaret's child. Shockingly enough, the allegation was that William de Saperton, chaplain, had impregnated Margaret and not Robert. Bracebridge, more damagingly, had claimed that both men had been involved in bribery. Allegedly, Thomas de Pickworthe knew his daughter was pregnant by the priest, and had accepted gifts from him in return for his daughter's love but suborned the family servant to gain his collusion in a fabricated account implicating him instead. While the case was initiated in the wake of a daughter's pre-marital pregnancy, the dispute itself sought to restore the father's and the priest's honour. In his brief treatment of this case, Derek Neal describes William de Saperton as 'the family's priest'.¹⁰⁵ Robert de Berlay, the servant alleged to have impregnated Margaret, however, describes William as the rector of the church of Hemsworth, near the family's manor in Holme.

In this dispute, transmission of writings in order to expose a family scandal seems to have been motivated by animosity between Thomas de Pickworthe and William de Bracebridge. That the move to exacerbate the Pickworthe's humiliation by unearthing more skeletons was prompted by the playing out of local politics is evident both in the positions and witness statements. One of the positions agreed to by the defendant stated that the writing claimed that Thomas de Pickworthe was of bad will towards William de Bracebridge and he did not know for what reason except that Thomas wished that he had William's goods.

The most interesting and detailed account of the delivery of the written accusations comes from William de Skelton, chaplain, who unwittingly accompanied the messenger on his errand with the letter to the Pickworthe

¹⁰⁵ Neal, 'Meanings of Masculinity', p. 227.

residence. Undoubtedly an authoritative witness by virtue of his position as chaplain, William deposed that upon the request of a layman, John de Eccleslay, he had agreed to accompany him to the manor of Holme near Selby. Together they went to pay Thomas de Pickworthe a visit but he was not home at the time. In his absence, John delivered the letter which William de Bracebridge had entrusted to him to Isabella, wife of Thomas. Delivering the letter accompanied by a priest was clearly a strategic move of trickery on Bracebridge's part in order to give the appearance of moral and spiritual weight to the enclosed accusations; it did not matter that William de Skelton was oblivious to the contents of the writing. Authority was needed for the document to have any effect. Thomas de Pickworthe and William de Saperton had to believe that religious censure was upon them for their activities as described in the writing. John, the messenger thus had to be accompanied by William, the priest. William deposed that it was only on their return from Holme that he asked John about the letter's contents and was informed of several points written within the document.

In the positions, however, William Bracebridge's legal counsel answered that the writings and accusations were not made to the defamation of Thomas and William de Saperton because he had sent the writing in secret through a layman who did not know how to read.¹⁰⁶ William's defence proffered this point in order to prove that the allegations had not been made in malice, in other words with the intention of causing harm.¹⁰⁷ Notoriously difficult to prove, lack of malice remained the millstone around the defendant's neck unless an exception could be utilised.¹⁰⁸ The qualified privilege, as it was known, allowed for a set of circumstances in which an individual could make comments without any legal action to follow as censure.¹⁰⁹ Evidently the continued claims that the letter was written and its contents known only by William de Bracebridge were intended to fit this legal loophole. However, tricking a clergyman into helping deliver the document, at the very least, gave the illusion of wider knowledge; otherwise instilling fear of religious censure into the receiver would not have been achievable.

¹⁰⁶ *Credere que transmisit per laicum qui legere nescivit.*

¹⁰⁷ Helmholz, *Oxford History of the Laws of England*, p. 579.

¹⁰⁸ Helmholz, 'Canonical Defamation', p. 262.

¹⁰⁹ Helmholz, *Oxford History of the Laws of England*, pp. 579-81.

Added to this is the simple fact that the messenger could outline its contents to William. Evidently, the threat of public knowledge of the document was intended, if not widespread knowledge itself. To counter this defence, Thomas and William had to allege and, to some extent, provide witnesses to the fact that the defamatory claims had been widely publicized, made in malice and on different occasions.¹¹⁰ Indeed, Shaw makes the point that initiating a defamation suit was the second stage in a dispute over honour. The first stage involved the recognition that the damaging gossip was widely known in the local community.¹¹¹

Rather intriguingly, Robert de Berlay, the servant that Pickworthe alleged had deflowered and impregnated Margaret, testified in the case. Robert admitted that he was a servant of Thomas's while his only daughter was 'in her virginity' but continued to depose that he knew her carnally and that she fell pregnant by him:

He was Sir Thomas de Pickworthe's servant last year and for a long time he remained in his service. The witness himself carnally knew the said Sir Thomas's only daughter, Margaret, then a virgin, just as he says truthfully, and made her pregnant. Because of this the said Sir Thomas expelled him from his service and household, as he says.¹¹²

William de Skelton chaplain deposed that Margaret had indeed been made pregnant by Robert, and that he had heard the servant swear that she was deflowered and impregnated by him, and 'by no other'.¹¹³ This repeated focus upon Margaret's prior state of virginity was probably part of a dogged attempt to limit the damage done to her reputation. At least she was only known sexually by one man, her family and Thomas's legal counsel may have argued, in order to publicly cleanse her soiled moral state. The defence for William de Bracebridge saw this claim in a

¹¹⁰ Helmholz, *Oxford History of the Laws of England*, p. 581.

¹¹¹ Shaw, *Necessary Conjunctions*, p. 125.

¹¹² Robert de Berlay: fuit serviens domini Thome de Pickworth anno proximo preterito et diu stetit in servicione suo ipsemet Robertus testis Margaretam unicam filiam predicti domini Thome in virginitate sua tunc existente prout credit verisimiliter ut dicit carnaliter cognovit et eam impregnavit cuius pretextu dictus dominus Thomas eum expulit a servicio et familia sua ut dicit.

¹¹³ William de Skelton: Dicta Margareta fuerat impregnata per dictum Robertum de Berlay et requisitus deflorata ut bene scit istemet iuratus et per nullum alii et hoc audet bene iurare et dicere.

more cynical and humorous manner. One of the positions drawn up by the Pickworthe and Saperton counsel stated that Margaret was deflowered by Robert de Berlay and known carnally by him. To this the reply was made that William believed that Robert had known her carnally but he did not know whether he deflowered her. Clearly, the implication was that Margaret had had a sexual relationship with more than one man.

Isabella, Margaret's mother, had received the letter before her husband, and she was justifiably angry upon learning of their daughter's condition. William de Skelton chaplain deposed thus:

Asked he said that the said Margaret's mother in anger expelled Margaret from her company outside of the manor of Holme near Selby. The said Thomas, father of the same Margaret, found her thus pregnant in their home. The same Sir Thomas had to return from London because her mother was greatly distressed when she heard that she was made pregnant.¹¹⁴

One could well expect higher status families, like the Pickworthes, to be extremely protective over their female relatives' reproductive capacities. After all, more was at stake in this case than damaged marriage prospects and tattered reputations. Inheritance, lineage, social standing, and status-specific concerns of honour were all in danger of collapse. Margaret's marriage prospects were undoubtedly diminished in comparison with other unmarried but childless females of similar status.¹¹⁵ While Margaret was Thomas and Isabella's only daughter and there is no evidence of any irate brothers, absence from the written record does not preclude existence. Margaret may, or may not have been an heiress; it is difficult to know for certain. If a daughter within an elite household enjoyed premarital sexual relationships then her sullied chastity threatened the uninterrupted continuance of the patrilineage. Further, masculine honour and household reputation, in most status

¹¹⁴ William de Skelton: Dicit requisitus que mater dicte Margarete expulit illam Margaretam ex a communitia sua extra manerii de Holm iuxta Selby ire dictus Thomas pater eiusdem Margarete inveniret eam sic impregnata in domibus suis et idem dominus Thomas in redditu suo de London ratum habuit hoc que mater sua fecit quia male contentebatur quando audivit que fuerat impregnata.

¹¹⁵ Chris Given-Wilson and Alice Curteis, *The Royal Bastards of Medieval England* (London, 1994), p. 39.

groups but particularly in an aristocratic milieu, was coterminous with, and depended upon intact female chastity.¹¹⁶

But sexual liaisons were not uncommon among the higher echelons of later-medieval society, and even the daughters of great magnates could fall pregnant in disreputable circumstances. Withholding modern judgement of the moral implications of such behaviour, we may do well to remember that elite groupings including the aristocracy and gentry indulged in a form of ‘parasexuality’.¹¹⁷ Flirtation was permitted but only within certain properly controlled situations. Parents of elite status could utilize additional strategies aside from female chastity with which their social status and cachet could be reinforced.¹¹⁸ Since Margaret could not wed her child’s father, it was thus an instance of ‘general’ rather than ‘special’ bastardy.¹¹⁹ In effect, this meant that her child could never be legitimate unless made so by ecclesiastical dispensation.¹²⁰ If circumstances were propitious, however, Margaret might receive support from her parents, and could perform penance for her sin upon her ‘churching’ after childbirth.¹²¹ Inheritance presented another problem for both Margaret and her child. Bastards could not inherit ‘as of right’, so unless they received any lands through testamentary bequest, any claims to inheritance that they might have possessed if the child was legitimate could well be contested by another branch of the family.¹²²

These concerns of reputation, inheritance, and social standing must have dominated the fall-out of this family scandal. The anger and distress that Isabella experienced upon hearing the news, and Thomas’s dismissal of the alleged culprit are expressions of these concerns. However, upon first glance, these are not the

¹¹⁶ Given-Wilson and Curteis, *Royal Bastards*, p. 39; Kim M. Phillips, *Medieval Maidens: Young Women and Gender in England, 1270-1540* (Manchester, 2003), pp. 146-47.

¹¹⁷ As discussed by Phillips, *Medieval Maidens*, pp. 162-67.

¹¹⁸ Phillips, *Medieval Maidens*, p. 154.

¹¹⁹ Given-Wilson and Curteis, *Royal Bastards*, p. 47.

¹²⁰ Given-Wilson and Curteis, *Royal Bastards*, p. 43.

¹²¹ Alan McFarlane, ‘Illegitimacy and Illegitimates in English History’, in Peter Laslett, Karla Oosterveen and Richard M. Smith (eds.), *Bastardy and Its Comparative History: Studies in the History of Illegitimacy and Marital Nonconformism in Britain, France, Germany, Sweden, North America, Jamaica and Japan* (London, 1990), pp. 71-85 (p. 74).

¹²² Given-Wilson and Curteis, *Royal Bastards*, pp. 47-49.

concerns which are litigated upon. Presumably the family could have withstood the birth of their daughter's illegitimate child had William de Bracebridge not exacerbated the situation.¹²³ We could then ask how Bracebridge's claims were more damaging than the reality of Margaret's pregnancy and why the suit against William de Bracebridge was brought before the Court of York by Thomas de Pickworthe and William de Saperton.

The greatest challenge to Thomas de Pickworthe's position in terms of his daughter's pregnancy was undoubtedly the lack of control over the governance of his household implied by her illicit sexual relationship. A daughter's unlicensed pregnancy outside of wedlock posed a significant challenge to a father's patriarchal control. The head of a household, whether father, master or employer, claimed responsibility over the sexual behaviour of his dependents. Studies of the family and kinship have shown that it is often only the conjugal married couple as heads of the household that are allowed freedom to indulge in a sexual relationship without censure.¹²⁴ If this balance of power was disrupted, the patriarchal head had to work quickly and firmly in order to reinstate the former state of affairs. This was not any ordinary narrative of an unmarried daughter made pregnant; this was a household of relatively high social status and it was a servant who had allegedly done the deed. The threat to Thomas' ability to control his dependents thus advanced on two fronts. He was a father whose unmarried daughter had become pregnant but he was also a master whose servant had indulged in unlicensed sexual relations. This affront upon his authority and slur upon his honour had occurred under his own nose and in all likelihood within his own home, and most insultingly, with his own and only daughter.¹²⁵

Impregnating the daughter of a knight did not presage marriage into a high status family in every instance. Undoubtedly, either Robert de Berlay or William de Saperton had made Margaret pregnant. But unlike the daughter of John of Gaunt, Elizabeth Lancaster, who fell pregnant with Sir John Holland's child sometime

¹²³ The Church embraced a humane attitude toward illegitimate children and preached that parents should care for all their offspring, regardless of illegitimacy. X.4.7.5.

¹²⁴ Goldberg, 'Masters and Men', p. 63.

¹²⁵ Goldberg, 'Masters and Men', p. 60; see also Martin Ingram, 'Law, Litigants and the Construction of "Honour": Slander Suits in Early Modern England' in Peter Coss (ed.), *The Moral World of the Law* (Cambridge, 2000), pp. 134-60.

after 1387 and later married him, Margaret's prospects of marriage with regards to Robert the servant or William the priest were evidently not very promising.¹²⁶ With little expectation and opportunity to remedy the situation with a prompt marriage, Thomas had to protect his reputation by salvaging his and, to a lesser extent, his daughter's honour as best he could. Dismissing Robert from his employ as servant, not only ensured the apparent restoration of household control, but in the event that Saperton was indeed the guilty party, this expulsion also served to verify their fabricated account. Thomas had to dismiss Robert, in order to express outwardly convincing and appropriate levels of disgust toward a sexual relationship which breeched fixed codes of conduct between status groups. Thomas litigated then in order to salvage his honour as an able patriarchal head of a household.

If we consider the accusations involving William de Saperton and Margaret then we might begin to deconstruct the more complex issues upon which the suit turned. Why was Saperton litigating with Thomas de Pickworthe and how damaging and believable were the claims against him? William, most importantly, was suspected and accused not of straightforward fornication; several further allegations addressed in the articles and in the depositions ensured that his would not be a simple case of a priest breaking his vow of celibacy by indulging in sexual intercourse. Canon law prohibited marriage between persons related in the fourth degree, and intercourse was strictly forbidden within the forbidden degrees.¹²⁷ Fornication between relatives only three or four degrees apart would certainly have been frowned upon by local Church authorities, even if William had himself not been a priest. The chaplain William de Skelton, who deposed in support of Thomas de Pickworthe and William the priest, verified their consanguinity stating that to his knowledge it was commonly said that William and Margaret were blood related in the fourth degree. That this was meant to imply violation of another sexual taboo is demonstrated in the positions and articles where it is stated that Bracebridge alleged that William and Margaret had fornicated 'in incestuous embraces'.¹²⁸ Several deponents attested to Bracebridge's more damaging assertion that Thomas had

¹²⁶ Phillips, *Medieval Maidens*, pp. 154-55.

¹²⁷ Phillips, *Medieval Maidens*, p. 161.

¹²⁸ Carnaliter cognovit in incestuosus amplexibus.

accepted gifts from Saperton in return for the 'love of his daughter'.¹²⁹ This accusation is rather suggestive of procuring in order to facilitate prostitution.

Further, it was even asserted that Margaret was promised to the Church; one of the statements in the articles drawn up against William de Bracebridge was that Margaret was by no means intended for the Holy Church; further, she was not, and had never been a nun or any other type of religious, she was neither approved, delivered, nor in any way received or avowed into the Church or any order, and she had never even made a vow of chastity.¹³⁰ It is plausible that Margaret was indeed intended for the Church as numbers of daughters of elite families were promised to nunneries and religious houses.¹³¹ Disregarding the truth of this charge, William could thus have been implicated as an adulterer who had deflowered and indulged in incestuous intercourse with a virgin who was betrothed to God.¹³² Yet in Thomas and Saperton's positions and articles when the point inquiring into claims of carnal knowledge and incestuous embraces between Saperton and Margaret was drawn up, a rather cryptic comment made in reply could hint at a rather different meaning: 'He does not mean to imply or mean by the said words, anything except that the said daughter was supported from the goods of the Church before the time she withdrew from her father's house and she is not staying with the same'.¹³³ In this context and in answer to a question about their relationship, 'support' from the Church takes on a sexual tone and seems to deliberately imply that Margaret received support for her child from William de Saperton the priest; one of Bracebridge's damaging assertions was that Margaret visited the priest and was often in his room while it was also claimed that Thomas de Pickworthe had visited the home of Saperton and found Margaret there. Rumours that Margaret was meant

¹²⁹ Dedit prefato domino Thome pulchra dona pro amore filie sue predicte.

¹³⁰ Item intendit probare que dicta Margareta filia domini Thome non est nec aliqui tempore fuit monialis vel alicui de religionibus approbata tradita nec aliquo modo in eis recepta vel professata nec votum castitatis emisit.

¹³¹ Phillips, *Medieval Maidens*, pp. 38-39.

¹³² *Book of Vices and Virtues*, (ed.) W. Nelson Francis, EETS 217 (London, 1942), p. 45.

¹³³ Non credere que voluit innuere vel intelligere per dicta verba nisi que dicta filia sustentata fuit de bonis ecclesie prius temporis suo recessit a patrem suo et non stat cum eodem.

for the Church may have worked well as a bawdy double entendre alongside suspicions that she had a sexual relationship with a priest.

As any judge or proctor of the Church court would have known, these additional revelations whether true or false were particularly damaging to the reputations of father, priest and daughter. If Margaret had really been avowed to a religious house, or had taken an oath of chastity then categorization of their sexual sin moved beyond simple fornication. Accusations of fornication with Margaret levied against William thus encompassed at least two, and possibly three, of the more serious branches of lechery as outlined in the vernacular penitentials.¹³⁴ This included fornication with blood kin as it was alleged they were related in the third or fourth degree, and intercourse between a woman and a hooded clerk. While there is no evidence that William was a member of the regular clergy, accusations that Margaret was meant for the Church, true or not, in their publicity in the community and before the Church court were resonant with a third branch of lechery which gravely proscribed fornication between a male religious and a female religious. In an ecclesiastical court context, the instruction given by legal counsel counted for a lot. The bare bones of the claims made by William could be given flesh by utilizing and playing upon privileged canon legal knowledge.

All these elements may suggest a deliberately constructed and embroidered account of farfetched proportions. Accusations of consanguinity in order to imply incest, and the exchange of gifts which hinted at procuring were clearly incorporated into the case in order to play upon religious and moral concerns with particular sexual practices. Certain aspects of the narrative seem concocted when piled on top of one another and might seem intended to compound an already difficult situation. But it is equally plausible that only certain aspects of the allegations were based on actual events.

In this context, William de Saperton's misbehaviour could be represented as having not only broken his vow of celibacy, but more seriously, implicated him in an incestuous and adulterous sexual relationship which he had procured through bestowing gifts upon the young woman's father. But the medieval mind was probably quite capable of making its own judgement upon the nature of the case. Margaret was clearly pregnant, but this did not make the more salacious allegations

¹³⁴ *Book of Vices and Virtues*, (ed.) Nelson Francis.

truthful. Indeed imputations and slurs of adultery, sexual misconduct and fathering of bastards were made against members of royalty and the lesser aristocracy. But they were not often made against men, or at least for men they were issues little litigated upon.¹³⁵ This could well suggest that it was not the fornication itself but the seriousness of the allegations that made the difference.¹³⁶ But if we have established that neighbours would not have automatically believed William de Bracebridge's claims, then how could the added salacious claims have affected Thomas de Pickworthe and William de Saperton's reasons for litigating?

The writings communicated to Thomas also alleged that he had accepted many 'beautiful gifts' from William de Saperton in return for sexual favours from Margaret his daughter. Aside from hinting at prostitution of his own daughter, these claims suggested a man from whom anything, including his own honour, could be bought and procured. Further allegations of bribery were thrown up against William de Saperton:

The same William de Bracebridge said and imputed to the said William de Saperton that the aforesaid Sir William de Saperton had bestowed gifts from his goods upon Robert de Berlay so that the same Robert should say that Margaret was made pregnant by him since the same Sir William had carnally known her and had made her pregnant.¹³⁷

The imputation of bribery reflected badly upon Thomas's and William's honour. Underhanded dealings and lying in order to conceal them pointed towards that falseness that was at the root of the majority of disputes over defamation which were initiated by men. Parishioners and neighbours could probably have forgiven Margaret's pregnancy and stomached unfounded rumours about the priest's involvement if there was not any evidence implicating Thomas and William de Saperton in an attempt to conceal the child's paternity. Not only might they have

¹³⁵ Neal, 'Suits Make the Man', p. 3.

¹³⁶ Gowing, *Domestic Dangers*, p. 4. Gowing argues that sexual slander was one way in which gender identities were constructed and discussed.

¹³⁷ idem Willelmus de Bracebrigg dixit et prefato domino Willelmo de Saperton imposuit quod idem Willelmus de Saperton contulit Roberto de Berlay dona de bonis suis ut idem Robertus diceret dictam Margaretam de eo esse impregnatam cum idemet dominus Willelmus ipsam carnaliter cognovisset et fecerat impregnari.

imperiled their own souls but they drew Robert de Berlay into their shame too. In urban and mercantile social contexts, the construction and maintenance of identities as honourable was necessary and, indeed, imperative for business and personal exchanges.¹³⁸ Thomas was evidently not suing in the Church court in order to restore his daughter's reputation – the damage was already done and in Margaret's case, the evidence was corporeal. This capability to make use of other means of displaying social status may explain Thomas de Pickworthe's perplexing attitude towards his daughter's pregnancy.¹³⁹

If we examine the positions and articles with a more critical eye then we might come closer to unpicking certain confusing aspects in the dispute and uncovering personal motivations. The indisputable fact that Margaret was indeed pregnant creates the question of whether it was Robert de Berlay or William de Saperton that fathered her child, and it was this question of identity that dominated the case. So what of the culprit behind Margaret's pregnancy? Thomas de Pickworthe had a difficult situation to deal with as head of the household and was faced with the stark question of whether it was worse for his daughter to have been deflowered and impregnated by the servant or by the priest.

Robert and William both invited suspicion and were plausible figures for the same reasons. That Robert could move around within most spaces in the Pickworthe residence by virtue of his employ cannot be overstated. Elite households tended to employ more male than female servants and this led to ample exposure of daughters to male company. Christine de Pizan in her *Treasure of the City of Ladies* anticipated danger in the employment of unmarried male servants in the chambers of princesses.¹⁴⁰ It was not without reason that chastity while living under the master's roof was encoded in the understanding between urban employers and their apprentices.¹⁴¹ Similarly, for a master to insist upon marriage between fornicating servants was not entirely exceptional. In this instance, marriage was not

¹³⁸ Shaw, *Necessary Conjunctions*, pp. 31-36.

¹³⁹ Phillips, *Medieval Maidens*, p. 154; Peter Coss, 'Knighthood, Heraldry and Social Exclusion in Edwardian England', in Coss and Maurice Keen (eds.), *Heraldry, Pageantry, and Social Display in Medieval England* (Woodbridge, 2002), pp. 39-68.

¹⁴⁰ Sarah Salih, 'At Home; Out of the House', in Carolyn Dinshaw and David Wallace, (eds.), *Cambridge Companion to Medieval Women's Writing* (Cambridge, 2003), pp. 124-40 (p. 131).

¹⁴¹ Goldberg, 'Masters and Men', p. 58.

an option due to the disparity in social status. However, Thomas de Pickworthe could have played upon the common trope of sexually indiscreet and misbehaving servants as a narrative strategy when presenting his story to neighbours, and later before the Church court. If he dismissed Robert de Berlay, having bribed him, then Thomas would have appeared to have meted out suitable punishment.

William de Bracebridge could equally utilise types of narrative elements that were more common and thus considered to be more acceptable and possibly more readily believable than others. Little effort would have been needed to convince interested neighbours and parishioners that it was William, the priest that had done the deed. As a priest, William de Saperton too had legitimate entry to the household in which Margaret dwelt. His privileged position as a clergyman allowed him to visit parishioners without immediate suspicion of engaging in sexual misdemeanours with daughters or wives, and it also gave him license and reason to consort with them. Both unmarried and able to reach the inner spaces of the household, if William was the father then Robert was surely a plausible scapegoat.

If Robert were the guilty party rather than William de Saperton, why then did Bracebridge claim that he was residing with the priest? Presumably as a family member, priest and probably a pastoral adviser to the Pickworthe's, it was not within his immediate remit or duty of care to offer shelter to the father of Margaret's illegitimate child; that is, unless Saperton himself owed Robert a favour and was obliged to take him in. According to Bracebridge's allegations, William de Saperton had also given Margaret material support in the form of 'a robe and all the clothes for her body'; the implication was that William de Saperton was the infant's father.¹⁴²

Should Thomas have wished to conceal the true identity of the culprit behind his daughter's pregnancy then an entirely plausible narrative that Robert de Berlay had impregnated Margaret could be quite easily constructed. Robert was a single male servant who might not have been able to marry while still employed as a servant. Young male servants and apprentices had their sexual fun while remaining unmarried and the women that they consorted with had to be somebody's daughter. Indeed aristocratic and mercantile households offered many opportunities for

¹⁴² Sustentavit totaliter dictam filiam postquam fuit impregnata et dedit sibi roba et omnia indumenta corporis.

flirtation and romance to develop.¹⁴³ Manipulating commonly held beliefs about the sexual misbehaviour of servants and playing upon concerns with household order and governance would have made such a tale perfectly believable to neighbours and acquaintances. Indeed, it might well have led them to keep a closer rein of their daughters and servants. With the involvement of the rumour mill, no doubt the priest was also under close surveillance.

If the plaintiffs and the defendant in *Pickworthe and Saperton c. Bracebridge* manipulated common tropes when dealing with the implications of Margaret's pregnancy then other litigants made use of specific narrative strategies to play upon canon legal exceptions when presenting themselves and their stories to the court. The advantage of the reliance of witnesses upon their ability to recall the events that took place is that the past can then be reshaped and reconstructed in a very specific manner to suit the often very different needs of the present. Lucy's suit against William de Fentrice manipulated aspects of domestic life deemed to constitute the normative household. In both of these disputes relationships were under scrutiny because they deviated from conjugal normality.

It was upon mastery of their own households and their own bodies that men were judged. Reputation and honour in sexual relationships seem to be more important to male identity than has been assumed.¹⁴⁴ But these cases demonstrate that honour was asserted and dishonour alleged through the prism of the household. An unwed pregnant daughter, a lecherous priest and a bribed servant, and an illicit domestic relationship certainly subverted gender models within the household. The public recitation of these charges exacerbated the situation; their articulation by male rather than female deponents further undermined control. Women understood these concerns all too well. Expectations of wifely behaviour did not merely render Alice de Normanby an adulterous usurper but presented William as a failed husband who had lost control of his own household. Differing levels of status shaped what was considered important. That is not to argue that sexual honour and reputation weighed less heavily on Berlay's mind than on Saperton's. The permeability of household boundaries, both physical and conceptual, often made

¹⁴³ Phillips, *Medieval Maidens*, pp. 152-53.

¹⁴⁴ Neal for the late Middle Ages and Bernard Capp for the early modern period have both begun to demonstrate that sexual honour was important to male identity. Bernard Capp, 'The Double Standard Revisited: Plebeian Women and Male Sexual Reputation in Early Modern England', *Past and Present*, 162 (1999), 70-100.

difficult situations more problematic. Failure to fulfill normative gender roles resulted in abnormal households. Demonstration of compliance in transgressive relationships destroyed reputations before the Church court. Aberrant arrangements within the household were the screws tightened upon the reputations of those concerned.

Each of the case studies discussed above provides a close reading of narratives presented by deponents and parties. Many witnesses not only gave an account of the events of which they claimed knowledge, but also located themselves within their narratives. This chapter has offered an explanation of how and why individuals behaved in different ways and how they justified and moralized their own and other people's behaviour. The ability to exercise human agency allowed them to manipulate these processes and to produce a convincing narrative. Ivetta, the prioress of Handale, exploited her gender and status to present a narrative which had the most chance of success. Perhaps she justified her selective account because it contributed to the overall defence of her priory's rights. What can be said for certain is that the prioress was not the weak and defenceless figure which she and her deponents depicted. Parties and deponents could utilise the processes involved in Church court litigation to their own advantage. They reflect individual attempts to exercise agency in a difficult situation.

For deponents to present convincing narratives to the Church courts they needed to draw from and locate their actions within a prevalent 'system of expectations'.¹⁴⁵ The deponents' participation in these disputes reveals perceptions of the 'structuration' of society. This system was shaped by preconceptions which, in essence, were remembered behavioural norms. Devious wives and sexually incontinent servants were convenient gendered tropes for parties who sought to exculpate themselves and others from blame. A careful juggling act took place as deponents balanced societal expectations and clerical influence against their own experiences.

Deponents supplied a certain amount of background information, a brief life history, which was necessary because their evidence was given to relative strangers.¹⁴⁶ The clerical audience was asked to accept or mistrust stories which

¹⁴⁵ Connerton, *How Societies Remember*, p. 6.

¹⁴⁶ Connerton, *How Societies Remember*, p. 17.

deponents told, both of their own pasts and of their relationship to the events described.¹⁴⁷ However, as the selective accounts of Ivetta's deponents demonstrate, past histories and affiliations could be concealed. Memory shaped the identities of deponents who testified in the Church courts. When asked how they remembered the events they had outlined in narrative form, deponents replied with an answer intended to verify their account. Their memories recorded marriages made in the recent past or many decades before, children born who had lived or died, and mundane events which occur in everyday life. The category of gender threw all of these experiences into sharp relief. Just as narratives were influenced by gender, men and women located past events using different memories as yard-sticks. The following chapter will examine the types of memories ordinary people relied upon and will offer a discussion of medieval concepts of gender as much as memory.

¹⁴⁷ Connerton, *How Societies Remember*, p. 21.

Chapter 2: Memory and Gender

Honore: We met at nine
Mamita: We met at eight
Honore: I was on time
Mamita: No, you were late
Honore: Ah, yes, I remember it well
We dined with friends
Mamita: We dined alone
Honore: A tenor sang
Mamita: A baritone
Honore: Ah, yes, I remember it well
That dazzling April moon!
Mamita: There was none that night
And the month was June
Honore: That's right. That's right.
Mamita: It warms my heart to know that you
remember still the way you do
Honore: Ah, yes, I remember it well¹

At first glance, this excerpt from the duet 'I Remember It Well' sung by Maurice Chevalier and Hermione Gingold in the 1958 film, *Gigi*, may seem unrelated to the memory practices of deponents in the late medieval court of York. However, the ideology encoded in the male and female roles in the song embodies many modern assumptions which are subsequently applied to the study of gendered roles of remembering. Reflecting male dominance over narratives of the past, Honore gives primary voice to the couple's shared recollections while Mamita, the female character, acts as a corrective and supplementary force. Fentress and Wickham, in their study of social memory, signal the methodological problems which this male control creates for historians who seek to study female memory practices.² Gender difference structures the power dynamics in the duet between Chevalier and Gingold; however, the actual content of the couple's memories remains the same. While Honore, the male character, initially recalls their shared experiences alone, Mamita draws attention to inconsistencies in his memories, providing additional

¹ 'I Remember It Well', *Gigi* (1958), (Lyrics: Alan Jay Lerner/Frederick Loewe). Male part of Honore (H) played by Maurice Chevalier and female role of Mamita (M) by Hermione Gingold.

² Fentress and Wickham, *Social Memory*, p. 138.

and more accurate information. Both characters remember identical events but Mamita remembers them better than Honore.

Chief among the issues that surround gender and memory is the question of whether gender causes men and women to remember past events differently. In their 1992 study Fentress and Wickham comment that, while studies on women's life writing and autobiography were beginning to appear, little current research focused on gender and women's memory. Fentress and Wickham expect female memory to differ little from male modes of recollection. When sociologists and memory theorists do allow room for gender difference in modes of remembering, their observations usually consign female memory to the home in opposition to male memory which focuses on the public sphere.³ Treading carefully around the influence of gender on male and female memory, Fentress and Wickham comment that resolution has not yet been reached on whether 'women's separate consciousness' springs from cultural experience or 'innate' gender difference.⁴ Theorists are now in agreement that gender is a cultural construction, with expressions of gender ideologies owing their shape more to societal expectations than to biological sex. Yet cultural conditioning on the grounds of biological sex remains a powerful factor in the fashioning of gender, identity and the self.

While theorists argue that sex difference does not produce innately gendered memory practice, the association of female memory with the home and childbirth reinforces gender difference at the outset, stopping academic inquiry in its tracks. Often symptomatic of the methodological problems which Fentress and Wickham outline, this approach risks constructing late medieval women's memory within tight gendered strictures which Felicity Riddy eloquently derides.⁵ These assumptions consider gender, and consequently memory patterns, in terms of 'public' and 'private', a broad and unhelpful analytical distinction which often elides rather than nuances difference in gender and memory. This chapter will not accept these scholarly assumptions as implicit. Underpinned by modern memory and gender theory, it will consider the influence of gender on memory.

³ Fentress and Wickham, *Social Memory*, p. 141.

⁴ Fentress and Wickham, *Social Memory*, p. 138.

⁵ Riddy, 'Looking Closely', p. 215.

Exploring male and female memory strategies in the depositions, this discussion will show the diverse memorial roles men and women adopted in daily life. It will focus on how memory marked the minds, landscapes and physical worlds of medieval men and women. The discussion will focus on three themes in particular, namely the personal events which affected deponents, the world which surrounded them and finally, the landscape which they inhabited. On occasion, these categories overlap and influence one another. Analysis of deponents' memories will concentrate initially on their mental worlds. By examining childbirth, death, marriage and moving home, we can explore gender difference in memories of domestic and family events. Consideration of how men and women recalled these emotional life events reveals the effect of gender on memory. Historically viewed as caretakers of birth and death, women are said to remember events related to family and the home.⁶ This assumption shall be tested against social practice, with male memories of births allowing gender comparison. Depositions from conjugal couples testifying in the same dispute permit close reading of how memory operated in conjugal and domestic spheres. The discussion will then turn from deponents' inner mental worlds to the aspects of their lives which made pragmatic demands on their time. Memories of work, administrative and legal duties, and written documents will receive attention. The third area for discussion is the landscape which deponents inhabited. Tithe disputes yield depositions from older men rather than women, revealing how custom structured male memories of the landscape. These deponents only provided memories related to their family or personal life when they were framed within local narratives of land use, boundaries and the local landscape. Male and female narratives emphasise different events and it is here that gender difference in memory can be detected.

Central to any analysis of popular memory is its relationship to elite memory practice. Prior to discussion of male and female memory, elite memory practice, and consequently clerical knowledge of these traditions, should be outlined. In the context of late medieval England, elite memory should be differentiated from the experience of ordinary deponents who did not rely on learned mnemonics.

⁶ Fentress and Wickham, *Social Memory*, pp. 137-39.

In her seminal work on medieval memory, Mary Carruthers charts the interplay of artificial memory techniques with manuscript traditions. Her work highlights the dialectic between Platonic and artificial *memoria*, the two memory models handed down to medieval society.⁷ Platonic memory discourse focused on inherent truths which were recovered from internal contemplation. The Cistercian order often used memory treatises to encourage novitiates to forget their previous life and incline their thoughts towards Christ.⁸ Despite widespread acceptance that the brain was responsible for storing memories, continued use of the heart in symbolic terms is evident in the Latin verb 'recordare'.⁹ The heart retained a symbolic and etymological importance in discourses of memory. In the twelfth century, 'herte' in Middle English was understood to mean 'memory' while the French 'par coeur' was appropriated in Chaucer's use of the phrase 'by heart'.¹⁰ Hugh of St. Victor wrote that 'every day wisdom builds in our hearts out of continual meditation on the law of God'. Heart signified memory since *meditatio* allowed prayer and reading to be memorised and introduced into the soul.

In contrast, artificial memory focused on the ability to store and retrieve memories.¹¹ Declining in popularity from the first century AD, the architectural mnemonic propagated and favoured by classical scholars fell into almost complete disuse by the eleventh and twelfth centuries. Carruthers argues that the early thirteenth century witnessed a renewed interest in the Pseudo-Cicero *Rhetorica ad Herennium*. Treatises by Thomas Aquinas and Albertus Magnus revived the architectural mnemonic.¹² While teachers of rhetoric might have instructed their students on the origins of mnemonic arts, thirteenth-century understandings often misinterpreted the classical architectural mnemonic model. Evident in the work of John of Garland, who composed his treatise in the 1230s, this misinterpretation

⁷ For a brief overview of these two memory discourses see Geary, *Phantoms of Remembrance*, pp. 16-19.

⁸ Cassidy-Welch, 'Confessing to Remembrance', pp. 20-21.

⁹ Carruthers, *Book of Memory*, pp. 48-49.

¹⁰ Carruthers, *Book of Memory*, pp. 44, 49.

¹¹ Carruthers, *Book of Memory*, pp. 16-17.

¹² Carruthers, *Book of Memory*, p. 122.

belied his intention to describe the method promulgated in the classical texts.¹³ The medieval understanding pivoted upon the treatment of the column as a point on a manuscript page rather than a place. The legacy of the architectural mnemonic and the solid roots laid by the works of Thomas Aquinas and Albertus Magnus can be detected in its subsequent popularity, not only in the Dominican order and students of law but amongst Italian civic elites.¹⁴

It is difficult to know how far the memory traditions described above influenced memory practice in the Court of York. Officials or judges are the only figures for whom attendance at the universities can be confirmed. Little evidence survives for the education of proctors and advocates. The art of the dictamen or *ars dictaminis* and the art of shorthand or notes or *ars notaria* were methods of instruction applied when teaching students of law the skill of Latin abbreviations.¹⁵ *Memoria* was intrinsic to understanding and learning this system.¹⁶ Corpus Christi College, Cambridge, MS. 450 contains a work titled *Practica seu usus dictaminis* by Lawrence of Aquileia.¹⁷ Written between 1290 and 1320, this manuscript also holds a *Summa artis notarie* authored by John of Bologna and a treatise on grammar.¹⁸ The legal works found in the manuscript provide evidence for its ownership by an ecclesiastical lawyer. Both works give advice on practical matters and counsel the reader on methods of constructing legal documents in the courts. Additional material includes the decrees of the Fourth Lateran Council and many papal letters which refer to canon law.¹⁹ The ecclesiastical lawyer who used this manuscript would have possessed a wide knowledge of practical matters associated

¹³ Carruthers, *Book of Memory*, p. 123.

¹⁴ Carruthers, *Book of Memory*, pp. 154-55.

¹⁵ Carruthers, *Book of Memory*, p. 124. See James J. Murphy, *Rhetoric in the Middle Ages* (Berkeley, 1974), pp. 194-268; James J. Murphy, *Medieval Rhetoric: A Select Bibliography* (Toronto, 1971).

¹⁶ Carruthers, *Book of Memory*, p. 124.

¹⁷ C.R. Cheney, 'Law and Letters in Fourteenth-Century Durham: A Study of Corpus Christi College, Cambridge, MS. 450', *Bulletin of the John Rylands University Library*, 55 (1972-3), pp. 60-82 (p. 62).

¹⁸ Cheney, 'Law and Letters', p. 62.

¹⁹ Cheney, 'Law and Letters', p. 66.

with his profession, such as learning abbreviations and notarial skills, but also canon law and reform. Lecture notes from the sixteenth and seventeenth centuries, however, indicate that students were expected to memorise much of the information taught to them. One set of notes records the lecturer's words: 'So that you may better understand this law, you should commit these conclusions to memory'.²⁰ Proctors probably also had to commit to memory the form of language used at various stages in a dispute described in handbooks such as *De forma procurandi* or *Actor et reus*.²¹ The personnel of the Church court were familiar with canon law, possessing pragmatic knowledge in terms of the daily business with which they were concerned, and perhaps familiarity with Gratian and the Liber Extra. The proctor who received professional training in the court may have had little or no knowledge of scholastic or learned opinion on memory.

Perhaps of more importance to the shape of deponents' statements in their final form, and to analysis of gendered memory, is the refinement of confessional practice in the aftermath of the Fourth Lateran Council of 1215. One stated consequence of Lateran IV is the further development of a discourse of confession which created an awareness of self-identity and past behaviour.²² How far did stipulations on confession after Lateran IV contribute to a specific discourse which deponents were able to employ in their Church court depositions? While elite memory discourse does not often filter into the memories of the deponents themselves, the administration of confession to the laity may have constructed how witnesses framed their memories. Indeed, deponents remembered in a setting particularly suited to confessional discourse. When questioned on their memories of past events, they may have appreciated the parallels with their experience of confession. Even before the Lateran IV strengthened the directive for annual

²⁰ R.H. Helmholz, 'The Education of English Proctors, 1400-1640', in Jonathan Bush and Alain Wijffels (eds.), *Learning the Law: the Teaching and Transmission of Law in England, 1150-1900* (London, 2003), pp. 191-210 (p. 199). Helmholz quotes from British Library, MS Harley 3190, fol. 8v: Sed ut hanc legem melius intelligas oportet te has conclusiones memoriae tuae commendare.

²¹ Helmholz, 'Education of English Proctors', pp. 204-5.

²² Peter Biller, 'Confession in the Middle Ages: Introduction', in Peter Biller and A.J. Minnis (eds.), *Handling Sin: Confession in the Middle Ages* (Woodbridge, 1998), pp. 1-33; Linda Georgianna, *The Solitary Self: Individuality in the Ancrene Wisse* (Cambridge, 1981); Felicity Riddy, 'Text and Self in *The Book of Margery Kempe*', in Linda Olson, and Kathryn Kerby-Fulton (eds.), *Voices in Dialogue: Reading Women in the Middle Ages* (Notre Dame, 2005), pp. 435-53 (p. 446).

confession in the canon *Omnis utriusque sexus*, the laity confessed at least once a year. These lay requirements were successfully disseminated through rural deans who were expected to possess a copy of the decrees and understand their provisions.²³ The anonymous thirteenth-century treatise *Omnis etas* urged the laity to attend confession at least three times a year.²⁴ The 1258 statutes of Wells promulgated in Carlisle and York advised parish priests in Carlisle and York to hear confession from the laity four times each year.²⁵ In comparison, for most individuals the chance to give evidence to the Church courts often occurred only once, if at all. Provisions which penalised parish priests for failure to possess copies of certain statutes and manuals, at least in theory, ensured that advice for the circumstances of sin and its recollection reached a wide audience, both lay and clerical in its composition.

When the layperson who confessed at least once a year came to depose in the ecclesiastical courts, the interrogatories of the Church courts probably called to mind the experience of confession. The *Memoriale presbiterorum*, a fourteenth-century English manual for confession, contains examples of interrogatories which parish priests might use to question individuals in confession.²⁶ While this manual circulated less widely than the *Oculus sacerdotis*, it reveals the kind of questions which may have framed conversations in confession. The form of the interrogatories takes its shape from the estates which medieval individuals occupied. In this sense, the interrogatories formulated an entire persona for the individual who sinned, based on occupation, gender and status. Confession thus created the outline of an identical life history for every penitent which the individual could accept, reject or reformulate.

Confessing to the parish priest was a ‘quasi-judicial’ experience. Deponents were examined individually rather than in the company of fellow witnesses. Efforts

²³ Joseph Goering and Daniel S. Taylor, ‘The *Summulae* of Bishops Walter de Cantilupe (1240) and Peter Quinel (1287)’, *Speculum*, 67:3 (1992), 576-94 (p. 578).

²⁴ Goering and Taylor, ‘*Summulae* of Cantilupe and Quinel’, p. 579. *Omnis etas* may be the document which accompanied the Constitutions of Walter de Cantilupe, bishop of Worcester.

²⁵ Helen Birkett, ‘The Pastoral Application of the Lateran IV Reforms in the Northern Province, 1215-1348’, *Northern History*, 43 (2006), 199-219 (p. 203).

²⁶ Michael Haren, ‘The Interrogatories for Officials, Lawyers and Secular Estates of the *Memoriale presbiterorum*’, in Biller and Minnis (eds.), *Handling Sin*, pp. 123-163.

were made to ensure that litigants did not coerce or coach deponents. To the laity who testified, the examiner of the Church court may have appeared similar to the parish priest or friar who heard their confession. Confessional manuals counselled penitents to examine their souls for memories of their wrongdoings. A similar method of seeking out truth prevailed in the ecclesiastical courts; the phrase 'examinatus diligenter' is ubiquitous and introduces every deposition.

Confession manuals in the thirteenth and fourteenth centuries focused on the circumstances in which the penitent's sin had occurred. Building on this concept which was widely discussed in classical rhetoric, penitential writers from the mid-thirteenth century began to consider the context of sin.²⁷ Under special scrutiny was the social status of the sinner, the 'quis' of the doctrine of circumstances. Pastoral writers also inquired after the other aspects of sin. Canon 20 of the *Summula* of Walter de Cantilupe, bishop of Worcester, included with the Statutes of Exeter (1287) of Peter Quinel, bishop of Exeter, asked 'quis, quid, ubi, quibus auxiliis, cur, quomodo, quando' sin had occurred.²⁸

The questions posed to deponents in the Church courts followed a similar line of investigation. They are also reminiscent of Hugh of St. Victor's advice on how events could be more fully remembered. Hugh counselled that the conditions surrounding a memory should be imprinted so that the circumstances were memorised such as 'the sort of day it is, how one feels, the gestures and appearance of one's teacher, the appearance of the manuscript page'.²⁹ This is not surprising since the classical concept of circumstances debated in works on rhetoric found practical use in legal disputes. In the Church courts of York, deponents were asked where an event had occurred, whether it was a fair day, and who was present. A common concern of the Church courts and confession writers was the recovery of memories. If the dispute concerned an alleged marriage, deponents were asked

²⁷ Michael J. Haren, 'Social Ideas in the Pastoral Literature of Fourteenth-century England', in Christopher Harper-Bill (ed.), *Religious Belief and Ecclesiastical Careers in Late Medieval England* (Woodbridge, 1991), pp. 43-57 (p. 46).

²⁸ *Councils and Synods with Other Documents relating to the English Church, Vol. II A.D. 1205-1313*, (eds.) F.M. Powicke and C.R. Cheney (Oxford, 1964), p. 1069. For detailed explanation of the identification of the *Summula*, presumed to be Quinel's but discovered to be a copy of Cantilupe's earlier *Omnis etas*, see Goering and Taylor, 'Summulae of Cantilupe and Quinel'.

²⁹ Carruthers, *Book of Memory*, pp. 95, 125.

what the parties had worn, were they sitting or standing and, on occasion, whether they had eaten fish or meat.

Bishop Peter Quinel's Statutes of Exeter (1287) and the accompanying *Summula* or treatise on confession illustrate several important aspects of the doctrine of circumstances as it relates to recollection.³⁰ The instructions on how to administer confession reveal the need for the penitent to remember the circumstances of their sin. Canon 5 of the Statutes of Exeter stipulates that the confessor 'should not ask about other unusual things except about their circumstances and from a distance, so that with this expertise their memory is refreshed, let the cause for confessing be given during that time, and to the inexperienced ones a chance to commit a crime may not be provided, while unknown things are kept hidden'.³¹ In a similar fashion, the *Summula* addresses the importance of memory in the discernment of past sins. Proven to be a copy of Cantilupe's confessional treatise, the *Summula* contains advice for the parish clergy on how confessions should be conducted. Each parish church was ordered to have a copy of the treatise; failure to possess one resulted in payment of one mark to the archdeacon.³² In the *Summula* we encounter a surprising exposition on the utility of memory for the narration of sins:

truly, he [the sinner] ought to return to the beginning of his life how he had been born, reflecting on all the years of his life that he can remember, and what he did in what years and on what days and in which places because place is the origin of memory. For through places we often bring back to memory that which we had given up to forgetfulness, and through this we are reminded of the number, that is to say of how many sins we committed which we should have confessed.³³

³⁰ D.W. Robertson, 'A Note on the Classical Origin of "Circumstances" in the Medieval Confessional', *Studies in Philology*, 53 (1946), 6-14.

³¹ *Councils and Synods*, p. 1287. de aliis inusitatis non requirat nisi per circumstantias et a longe, ut per hoc expertis, dum eorum recensetur memoria, detur material confitendi, inexpertis, dum celantur incognita, occasio delinquendi non pandatur.

³² Peter Biller, 'Confession in the Middle Ages', p. 8; Goering and Taylor, '*Summulae* of Cantilupe and Quinel', p. 583.

³³ *Councils and Synods*, p. 1071. debet enim reverti in se ad exordium vite sue quomodo se gesserit, cogitans de omnibus annis vite sue qui possunt sue occurrere memorie, et sollicite quid quibus annis fecerit et diebus et in quibus locis, quia locus est principium memorie. Per loca enim reducimus sepe ad memoriam que tradidimus oblivioni, et per hoc recordabimur numerum, quotiens scilicet peccata que confitemur commiserimus.

Memory, confession and introspection were tightly bound together in a discourse remarkably similar to that which framed the articles and replies in Church court disputes. Inquiries about circumstances, when the event occurred, where it took place and in which years, structured both forms of questioning.

Certain deponents understood the parallels and interconnections between the Church courts, confession and introspection better than others. Friar Michael Dawnay swore that he told the truth when he remembered Katherine Northfolk's age.³⁴ However, his oath differed from those of other deponents. He imagines his day of judgement in a kind of ecclesiastical court: 'this witness said on the virtue of his oath and just as he would wish to respond before the highest judge *at his final examination*'.³⁵ Friar Michael, professor of theology and Franciscan friar trained in the art of confession, makes an unusual reference to his examination on the day of judgement. In the fourteenth century, friars were still employed as confessors and penitentiaries though the secular clergy were becoming increasingly well prepared for their mission.³⁶ In comparison, Katherine, wife of Robert Rudstan deposed on her memory of the same birth: 'And she well dares to say and to swear, as she says, on the peril of her soul and just as she should have wished to respond before the highest judge on the day of judgement'.³⁷

In order to establish a temporal framework for deponents' memories, it is necessary to consider their complex attitude towards the past, present and future. Past behaviour could influence greatly the outcome of marriage negotiations or even the marriage itself. A union was prohibited on the basis of spiritual and blood affinity, and pre-marital sexual intercourse was held to create such ties of affinity. Marriage was disallowed if sexual intercourse or marriage had occurred between the two parties' kin.

³⁴ B.I., CP.F.89.

³⁵ B.I., CP.F.89. Michael Dawnay: *idem iuratus dixit in virtute iuramenti sui et prout coram summo iudice in extreme examinatione voluerit respondere.*

³⁶ Jonathan Hughes, 'The Administration of Confession in the Diocese of York in the Fourteenth Century', in David M. Smith (ed.), *Studies in Clergy and Ministry in Medieval England*, Borthwick Studies in History, 1 (York, 1991), pp. 87-163 (p. 88); Birkett, 'Lateran IV Reforms in the Northern Province', p. 218.

³⁷ BI, CP.F.89. *hoc audet bene ut dicit dicere et iurare in periculo anime sue ac prout coram summo iudice in die iudicii voluerit respondere.*

The sole instance of a deathbed curse among the surveyed causes illustrates several of the complexities which surround interpretations of reported speech. In a 1370 marriage dispute John Colnwill told how John Hildyard from his death-bed reassured Katherine, his anxious wife, that ‘if any of my sons should do injury to you so I give to them my malediction just as I begat them’.³⁸ John Hildyard’s subjunctive curse depended on his son’s behaviour towards his widow. While his reported words refer to a future outcome contingent on events which had not yet occurred, they also bear the memory of past events. How often had Katherine been widowed? Had her children or step-children failed in their duty toward her? Intended to discipline his sons and better dispose them toward his wife, John Hildyard’s curse was only effective if their feared mistreatment occurred.

In a marriage suit dated 1365, John de Haytefeld, clerk, deposed on the relationship between Thomas de Middleton and Margery de Merton: ‘Ten weeks had passed since the time he had last known her carnally and he had not continued to know her carnally subsequently in the future’.³⁹ The phrase ‘in futuri’ from ‘futurus-a-um’, inserted above the text is remarkably similar to ‘futuo-uere-uitum’, to have intercourse with a woman, perhaps a bawdy bilingual pun by a clerical scribe.⁴⁰ Parents and guardians might also demonstrate a shrewd sense of the future. In a 1418 matrimonial dispute, one deponent demonstrated the utility of accurate recollections.⁴¹ Margaret Carow, aunt of Isabel, daughter of Richard Foxholes, worried that John Litterester might later try to annul his marriage to her niece. Margaret deposed that ‘she recalls the time because she often brought the said contract back to her memory lest by chance the said John should want to be false in the future by denying the contract in this way’.⁴² Seeking to exercise

³⁸ B.I., CP.E.108. si aliqui de filiis meis faciant tibi iniuriam ego do eis ita plene maledictionem meam sicut eos genaravi.

³⁹ B.I., CP.E.102. decem septimane fuerunt tunc elapsis a tempore quo ultimo cognoverat eam carnaliter et quod extens ipsam non cognosceret carnaliter in futuri.

⁴⁰ Carruthers, *Book of Memory*, pp. 135, 137, 287 and 320 n.7 for bilingual puns used in treatises on memory.

⁴¹ B.I., CP.F.81.

⁴² B.I., CP.F.81. dicit que recolit de huiusmodi tempore ex eo que sepius reduxit memorie sue dictum contractum ne forte in futurum dictus Johannes vellet esse falsus huiusmodi contractum negando.

control over future events, Margaret's ongoing act of recollection formed her contingency plan should the marriage be disputed later in the Church court.⁴³

Life Events

The Court of York had a specific interest in how deponents remembered the stories they narrated. The most common personal events which witnesses used as a mnemonic yardstick relate to childbirth, marriage and domestic life. For many women the fertile years of their lives were spent pregnant and caring for their children. Medical texts that circulated amongst the literate laity such as *The Sekenesse of Women* held that women had 'purgations from the time of twelve winters age unto the age of fifty winters'.⁴⁴ Goldberg argues that women were considered expert deponents in cases where the recollection of date of birth was a central issue. Skinner's study of gender and memory in high medieval Italy presents similar findings.⁴⁵ The discussion which follows will draw on several disputes to consider the contexts in which women remembered childbirth. A case of disputed ecclesiastical liberties, Wallingwells c. Arhyngton, brought over the abduction of Katherine Northfolk, a young heiress and nun, will permit analysis of male and female memories of births, allowing gendered comparisons to be made.⁴⁶ Male and female deponents testified on Katherine's birth in order to prove that she had been old enough to profess as a nun of the convent of Wallingwells.

Cultural practice at births meant that female friends and relatives were expected to be present.⁴⁷ Failure to attend the birth of a friend's child remained long

⁴³ Ian P. Wei, 'Predicting the Future to Judge the Present: Paris Theologians and Attitudes to the Future', in J.A. Burrows and Wei (eds.), *Medieval Futures: Attitudes to the Future in the Middle Ages* (Rochester, 2000), pp. 19-36.

⁴⁴ Phillips, *Medieval Maidens*, p. 25.

⁴⁵ Goldberg, 'Gender and Matrimonial Litigation', p. 49; Patricia Skinner, 'Gender and Memory in Medieval Italy', in van Houts (ed.), *Medieval Memories*, pp. 36-52 (p. 47).

⁴⁶ B.I., CP.F.89. Sharon Hubbs Wright, 'Women in the Northern Courts: Interpreting Legal Records of Familial Conflict in Early Fifteenth-Century Yorkshire', *Florilegium*, 19 (2002), 27-48.

⁴⁷ Adrian Wilson, 'The Ceremony of Childbirth and its Interpretation', in Valerie Fildes (ed.), *Women as Mothers in Pre-Industrial England: Essays in Memory of Dorothy McLaren* (London, 1990), pp. 68-107 (pp. 70-78); David Cressy, 'Purification, Thanksgiving and the Churching of Women', in David Cressy, *Birth, Marriage and Death: Ritual, Religion and the Life-Cycle in Tudor and Stuart England* (Oxford, 1997), pp. 197-228 (pp. 201-203); David Cressy, 'Purification, Thanksgiving and the Churching of Women in Post Reformation England', *Past and Present*, 141 (1993), 106-46 (pp. 113-15).

in the memories of both mother and friend. Joan, wife of Thomas Nayler, remembered Katherine Northefolk's birth despite her own absence:

[I]f she had not been at the birth of the now deceased son of a certain Richard Neleson, this witness would have travelled with Katherine More, her fellow witness and godmother of Katherine Northefolk on the same Monday.⁴⁸

In 1422 Agnes, wife of John Bacon, recalled a marriage contract made thirteen years before because her friend Alice was in childbed at the time. Like Joan, wife of Thomas Nayler, her memory of the event was shaped by her absence from the birth. Yet she remembered the day of the contract because her absence affected her friendship with Alice:

Asked how she recalls the said day, so much time having passed, she says because on that Tuesday a certain Alice, wife of John Towton of Wistow, was in labour and she gave birth that day to a certain John, her son, and because this witness was not with Alice on that occasion she was annoyed and troubled with this witness for a long time, which certain John was, as she says, at the beginning of Lent nearest, in the future, aged thirteen years, and thus this witness heard the same Alice often calculate John's age.⁴⁹

Alice was aggrieved with Agnes for not attending her during the labour and birth, which suggests that the latter's absence was enough to cause an emotional rift between them. Childbirth not only imprinted itself upon the minds' of mothers and their friends but placed a burden of expectation and responsibility upon close friends. Agnes deposed that during the thirteen years since the birth she had often heard Joan calculate her son John's age. We can assume then that their friendship recovered and reconciliation was reached. Thirteen years later, Agnes recalled her friend's annoyance with her but this may have functioned inversely with both

⁴⁸ B.L., CP.F.89. Joan, wife of Thomas Nayler: ipsa iurata eodem die lune transmisset cum Katerine de More conteste sua commatre eiusdem Katerine Northefolk si non fuisset prope partum cuiusdam Ricardi Neleson fili sui iam defuncti que ut asserit.

⁴⁹ B.L., CP.F.133. Alice, wife of John Bacon: interrogata quomodo de dicta certo die tanta tempore elapsis ita bene recolit in presenti dicit quia ipse die martis quedam Alicia uxor Johannis Towtonn de Wystowe fuit in parturendo quemdam Johannem filium suum et ipsa peperit illo die et quia ista iurata non fuit cum ipsa Alicia illa vice diu fuit molestata et gravata cum illa iurata qui quidem Johannes foret ut dicit ad carniprivium proximum futurum etatis tresdecim annorum et ita sepius audivit ista iurata eandem Aliciam etate ipsius Johannis sepius computo.

women remembering the temporary breakdown in their friendship and relying upon those emotions to supplement childbirth as a mnemonic strategy. With her friend's labour as a yardstick, Agnes remembered the marriage, recalling the birth itself and her relationship with the child's mother. Her absence from the birth provoked emotions that became fixed deeply in Agnes's memory. Thirteen years later, after resolution of the conflict, Agnes could not remember the event and her friend's emotional state separately. Agnes's memory strategy speaks specifically to the maintenance of female friendship networks. This evidence points towards one reason for privileging female testimony on childbirth.

Childbirth etched itself upon the body as a powerful mnemonic, leaving both immediate and enduring marks. Appeals to the saints from women experiencing gynaecological difficulties are reflected in miracle stories which depict pregnant women giving birth by divine caesarean section or in adverse weather conditions.⁵⁰ Postnatal changes to the body could bear witness to intercourse and even signal guilt. In cases related to marriage in the Court of York where impotence was an issue, the husband rather than the wife was examined.⁵¹ In 1433, however, Katherine, daughter of Henry Barlay, was inspected for signs of intercourse so that the court could decide whether her marriage to William Barton had been consummated. While a mixed-sex group tested William for impotence, a group of women inspected Katherine's breasts. One deponent stated that the women wished to examine Katherine further but she refused their request to inspect her secret parts. Examination of the hymen was a difficult task to carry out if consent was not given. Sarah Salih notes that medical treatises contain few examples of virginity tests in which the hymen is examined.⁵²

On account of red marks that encircled Katherine's breasts, in English, 'sulekornes', the group of women judged her to be corrupt and known carnally on many occasions.⁵³ Alice Barton, perhaps a relative of William, declared that the

⁵⁰ Kathleen Quirk, 'Men, Women and Miracles in Normandy, 1000-1150', in van Houts (ed.), *Medieval Memories*, pp. 53-71 (pp. 59-60).

⁵¹ B.I., CP.F.175. Murray, 'On the Origins and Role of "Wise Women"', pp. 235-49.

⁵² Sarah Salih, *Versions of Virginity in Late Medieval England* (Cambridge, 2001), p. 21.

⁵³ The MED does not have an entry for 'sulekorne' but there are separate entries for 'sulen' and 'corne'. See the MED entry for 'sullen' (a): to become dirty; to befoul; sulede, dirty; besmeared (b) to pollute morally; defile, pollute, taint; also, pollute, defile; ppl. sulede, defiled, polluted; flesh-sulede, defiled with respect to the flesh. See also MED entry for 'corne', a 'horny growth'.

markings and appearance of Katherine's breasts indicated that she was not a virgin but corrupted. Her breasts were 'molle et fractum' rather than 'durum et integrum' and 'integrum et sanum'.⁵⁴ Perhaps the women were searching for signs of childbirth on account of allegations that Katherine had given birth to William's child. However, the women's search of Katherine's body was intended to determine whether she had been corrupted with intercourse.⁵⁵ This provides fascinating evidence on perceived differences between the body of a virgin and that of a sexually experienced woman.

In an *ex officio* action dated 1517 from the diocese of Lincoln, one Alice Rydyng, found guilty of infanticide, had denied giving birth to an infant despite the suspicions of local women who had raised questions about her stomach. After the incident, the matrons had then seized her and 'inspected her belly and her breasts by which they knew for certain that she had given birth'.⁵⁶ These were not illicit methods of examination. Both incidents are reminiscent of an episode Matthew Paris describes in which Robert Grosseteste was said to have arranged for the palpation of the breasts of female religious to assess their morality.⁵⁷ Probably performed by a group of 'worthy matrons' rather than male physicians, the inspection sought to ascertain their physical purity.

High levels of infant mortality left many parents at risk of bereavement, consequently the period after childbirth could be traumatic. In 1430 Isabel, wife of John Croxton, recalled a marriage contract made sixteen years before between Joan Ingoly and John Midleton.⁵⁸

And asked how she recalls so certainly the aforesaid day and year, she says that because on the Sunday immediately preceding, between the feasts of the aforesaid All Saints [1 November] and St Martin [10

⁵⁴ See depositions of Alice Barton and Alice, wife of William Gatehed.

⁵⁵ B.I., CP.F.175. X.2.20.14. Groups of matrons were permitted to inspect women for corruption.

⁵⁶ *Women in England*, (ed.) Goldberg, pp. 119-20.

⁵⁷ *Mathaei Parisiensis, monachi Sancti Albani Chronica Majora*, (ed.) H.R. Luard, Rolls Series 57, 7 vols. (1872-83), vol. 5, p. 227. Et quod indignum scribi, ad domos religiosarum veniens, fecit exprimi mamillas earundem, ut sic physice si esset inter eas corruptela experiretur. (And, what is shameful to be written, he came to the houses of [female] religious, and had their breasts pressed so that in this way, in the manner of physic it could be found out whether there was any corruption among them.) I would like to thank Peter Biller for this reference and his help with this translation.

⁵⁸ B.I., CP.F.201.

November] this witness gave birth to a daughter named Joan, who died many years past, who would have been sixteen at the feast of St Martin last past if she had lived.⁵⁹

While Isabel referenced her labour and childbirth as a mnemonic strategy, her memories of that event were undoubtedly heightened by anguish since her child had later died.

The circumstance in which an infant died might provide an additional mnemonic which reinforced recollections. For Alice, wife of John Jakson of Waterfulford, who deposed on Katherine Norfolk's birth thirteen years before, memories of her son's birth and death that year were painful and unhappy:

Asked how she knew this and how she remembers after the lapse of so much time, she says that on the same Monday she was lying in childbirth after the birth of William her son who died of smothering on the Monday immediately following in May and because of whose death this witness and her husband carried out public penance for seven years.⁶⁰

The topic of child death was not uncommon in medieval sermons and literature. Pastoral literature, aimed at young mothers, touched on child death in relation to lying over, the accidental suffocation of an infant in bed. Interrogatories in the confession manual, the *Memoriale presbiterorum*, advise priests to ask the married woman, widow, and sexually-experienced woman if she had ever 'knowingly or unknowingly' overlain her own child.⁶¹ However, Alice, wife of John Jakson, was not an unwed mother at the time of her child's death, she states explicitly that she and her husband, John Jakson, carried out penance for seven

⁵⁹ B.I., CP.F.201. Isabel, wife of John Croxton: Et interrogata qualiter recolit ita certitudiliter de predictis die et anno dicit quod quia inter festa sanctorum michaelis et martini predicti diem dominicam immediate precedente ipsamet iurata peperit de utero suo unam filiam Johannam nominatam pluribus annis elapsis defunctis que si vixisset ad festum sancti martini ultimo preteritum fuisset etate xvi annorum.

⁶⁰ B.I., CP.F.89. Alice, wife of John Jakson: Interrogata de causa sciencie sue in hac parte et quomodo recolit de lapsu tanti temporis dicit quod eadem die lune iacebat ipsa iurata in puerperio post partum Willelmi filii sui qui obiit subito oppressionis in mense maii dictum diem lune immediate sequentem ratione cuius mortis et subite oppressionis ipsa iurata et dictus maritus suus egerunt publicam penitentiam vii annis. See also Helmholz, *Marriage*, p. 99 n. 93, where he states that the penance occurred on a set day when the deponent actually testified that it was carried out for seven years.

⁶¹ Haren, 'Interrogatories', p. 161.

years. Though pastoral writers directed their warnings on lying over at wives, Alice had not repented alone for her child's death.

The local community probably knew of the infant's death because of the couple's public penance but it may have also been reported initially to the Church court.⁶² The events that led to the child's death and in the aftermath were not detailed in Alice's deposition. The paucity of information means that we do not know whether their grief led them to seek the help of neighbours or friends, nor the manner in which the court or the priest heard of the deed.

Admitting to having overlain a child in order to verify memory of another child's birth may seem both poignant and peculiar. The Fourth Lateran Council of 1215 had set down regulations that bound parishioners to confess annually to their parish priest. If the canon titled *Omnis utriusque sexus* had encouraged the laity to confess, then testifying in the Court of York gave deponents ample opportunity for introspection. Testimony in the Church court was public but, unlike performance of public penance, the deponent could exercise greater agency and control.

How might the judge at the Court of York have interpreted women's memories of childbirth? The number of women who gave evidence on childbirth indicates that the court regarded women's recollections of childbirth as authoritative testimony. Despite the obvious association of women with childbirth, many medieval scholars connected birth with male dominance over knowledge. Intellectual production was interpreted as a form of birth, the 'creational violence of rhetorical invention'.⁶³ Thomas Bradwardine produced one such treatise, his 'De Memoria Artificiali', in which a pregnant woman gives birth painfully to a crab which ruptures her stomach as it emerges. Violent images abound in his treatise, much of it associated with biological and reproductive process.⁶⁴ Despite male clerical attempts to appropriate metaphors of birth, their acknowledgement of the trauma and pain involved during childbirth probably meant that women were recognised as very credible deponents.

⁶² Poos, 'Sex, Lies, and the Church Courts', p. 587; Paul R. Hyams, 'Deans and their Doings: The Norwich Inquiry of 1286', in Stephen Kuttner (ed.), *Proceedings of the Sixth International Congress of Medieval Canon Law Berkeley, California, 1980* (Vatican City, 1985), pp. 619-46 (p. 637).

⁶³ Jody Enders, *The Medieval Theater of Cruelty* (Ithaca, 1999), p. 84.

⁶⁴ Carruthers, *Book of Memory*, p. 134; Enders, *Medieval Theater of Cruelty*, pp. 82-83.

Male recollections of birth and purification, however, have recently received attention. Becky Lee has examined Proof of Age inquests in an attempt to build a bridge between the 'feminine' domain of the birthing chamber and the 'masculine' preserve of the hall.⁶⁵ Joel Rosenthal has analysed the different types of events which men recollect in their testimony.⁶⁶ The Proofs depict men recalling children's births, their own marriages, social occasions and other incidental details. Since male jurors were preferred by law, using the male testimony provided by the Proofs risks constructing a false community of men around the bedchamber. The exclusion of female testimony discounted eye-witnesses who were best placed to recall the actual moment of birth. Cases concerning disputed parochial rights find men testifying to the deaths and burials of their children since their evidence was preferred.⁶⁷

Male deponents in the court of York did remember past events with reference to childbirth but much less frequently than their female counterparts. Often, men learned of an infant's arrival from women who had attended the birth.⁶⁸ In the 1322 case, *Draycote c. Crane*, John de Draycote testified on the ages of William Crane and Alice, daughter of Richard de Draycote, married prior to their respective canonical majorities of twelve for girls and fourteen for boys.⁶⁹ The girl's mother and the boy's godmother had informed him of their ages. However, Hugh Wodecok, a fellow deponent, knew the boy was underage because his own son was 'the same age [est eiusdem etatis]'.⁷⁰

In 1348 Adam de Helay and Richard de Helay each testified that they had a child the same age as the plaintiff, William Hopton, who was only nine years old when he married Constance, daughter of Walter del Brome. William de Heley

⁶⁵ Lee, 'Men's Recollections of a Women's Rite', pp. 224-241; Lee, 'A Company of Women and Men', pp. 92-100.

⁶⁶ Rosenthal, *Telling Tales*, pp. 1-62.

⁶⁷ See the fifteenth-century parochial rights case between Wawne and Sutton-on Hull, YMA, M2 (3)c.

⁶⁸ Rosenthal, *Telling Tales*, p. 32.

⁶⁹ B.I., CP.E.23. See Helmholz's comments on 'De desponsatione impuberum' in relation to this case, Helmholz, *Marriage*, pp. 199-200. X 4.2.14.

⁷⁰ B.I., CP.E.23. However, see B.I., CP.E.76 (*Aunger c. Malcake*) in which William Raynald knew the boy and girl who had contracted were only eight and twelve but he could not remember the time of the boy's birth.

corroborated Richard's evidence, remembering that the latter had a child aged nine, whose sex he had forgotten.⁷¹ William de Heley's evidence is not particularly reliable. If we acknowledge wider patterns that mediated the types of deponents who testified then we can further examine why these men were employed as deponents.

Both the disputes discussed involved parties from the countryside rather than the town. Matrimonial disputes which arose between rural litigants drew on male rather than female deponents.⁷² The men from Draycote c. Crane appeared for the male defendant, and male litigants tended to rely on male rather than female deponents. Unlike the Rouclif and Northfolk disputes where the child's age became the centre of debate, the 1348 case did not focus on age alone. In addition to William Hopton's nonage, Constance, his putative wife, asserted other claims aimed to annul their marriage. She could not marry him because of her own pre-contract, his affinity with her deceased husband and because her guardian, William's father, had threatened her with violence should she refuse.⁷³ Since the child's age was not the central issue in either of these disputes female deponents were not utilised as memory experts.

If we compare the statements of ten married couples who testified to the age of Katherine Northfolk in Wallingwells c. Arthyngton we can examine how gender difference influenced the way husbands and wives remembered their children's births.⁷⁴ Children were born to seven of these couples within a year of

⁷¹ B.I., C.P.E.62.

⁷² Goldberg, 'Gender and Matrimonial Litigation', p. 46.

⁷³ Charles Donahue, Jr., 'The Policy of Alexander III's Consent Theory of Marriage', in Stephen Kuttner (ed.), *Proceedings of the Fourth International Congress of Medieval Canon Law* (Vatican City, 1976), pp. 251-91 (p. 265).

⁷⁴ B.I., C.P.F.89. I have established which deponents were married to one another using name matches, comparative ages, village of residence, internal corroborative evidence and comparison of deposition evidence. The ten who are used in the discussion are: John Carbot & Margery, wife of John Carbot; Hugh Tailour & Margaret, wife of Hugh Tailour; William Wighton & Joan, wife of William Wighton; Robert Bolton & Alice, wife of Robert Bolton; John Norton & Joan Norton, wife of John Norton; John Galt & Margaret, wife of John Galt; Robert Souman & Joan, wife of Robert Souman; John Andrewe & Joan, wife of John Andrewe; Thomas Carbot & Matilda, wife of Thomas Carbot; John Ingram & Agnes, wife of John Ingram. There were two female deponents (Margaret and Agnes) in their thirties who termed themselves 'wife of Nicholas Symson', who also testified in the dispute. However, since I could not establish which deponent was his wife, I have not included any of the three in the sample of married couples.

Katherine Northefolk's birth.⁷⁵ While all seven wives remembered Katherine's age with reference to their own children's births, only four of the husbands used the same mnemonic strategy. Joan, wife of William Wighton remembered the birth of her daughter that same year, whom Agnes Northefolk had breastfed in her absence. However, Joan's husband, William, only remembered that they came to live in Water Fulford that year.⁷⁶ Alice, wife of Robert Bolton, remembered that the previous year, before the feast Exultation of the Holy Cross (14 September), she had given birth to twins who would have been fourteen years old had they lived.⁷⁷ Robert Bolton, her husband, failed to mention the birth of these children, remembering instead that he was then a servant of Thomas and Katherine More. He remembered accompanying his mistress to Katherine Northefolk's baptism and bringing gifts in his sleeves to Agnes Northefolk.⁷⁸ However, there may be another explanation for Robert not mentioning their arrival and subsequent deaths. Robert may have been engaged in life-cycle service and servants often only married after leaving their master's employ.⁷⁹ He may not have been Alice's first husband, and the children to whom his wife gave birth may have been from a previous marriage.

While Joan Souman remembered that her son John, who had died aged one and a half, had been born the same year as Katherine Northefolk, Robert Souman, her husband, failed to mention their son's birth or death in his deposition, locating Katherine's birth using a list of all his tenants over thirteen years.⁸⁰ John Ingram

⁷⁵ William Wighton & Joan, wife of William Wighton; John Norton & Joan Norton, wife of John Norton; Robert de Bolton & Alice, wife of Robert Bolton; John Galt & Margaret, wife of John Galt; Robert Souman & Joan, wife of Robert Souman; John Andrewe & Joan, wife of John Andrew; John Ingram & Agnes, wife of John Ingram.

⁷⁶ William Wighton knew when Katherine was born: *quia quod ipse iuratus et Johanna uxor sua tempore nativitatis dicte Katherine ac ante et post per tempus non modicum in dicta villa de Watirfulford moram traxerunt ... que Katherine si vivat et sit eadem persona de qua agitur in hac causa ut prefertur fuit etata xiii annorum tempore quadragesimali.*

⁷⁷ Alice, wife of Robert Bolton: *peperit unum filium et filiam qui si vixissent ad festum exaltacionis sancte crucis ultimo preteritum complevissent etatem xiiii annorum.*

⁷⁸ Robert Bolton: *fuit ipse iuratus in capella de Fulford cum eadem Katerina [More] domina sua ubi et quando quidam capellanus cuius nominis ad presens non recolit ut dicit dictam Katerinam Northefolk in fonte ipsius capelle baptizavit ... ipsemet iuratus portavit in una manica sua xi pullos columbarum et in altera manica ipsius iurati sex pullos gallinaroum ad villam de Fullfold predicti ad prandium ipsius Agnetis et aliorum.*

⁷⁹ Goldberg, 'Masters and Men', p. 58.

⁸⁰ B.I., CP.F.89.

remembered when Katherine Northfolk was born in relation to the birth and subsequent death of his daughter, Joan. Her birth and death are sandwiched between his memory of Katherine's birth and his sowing oats beside a house near where Agnes Northfolk lay in childbed.⁸¹

When men remembered their children's births their testimony rarely centred on the birth itself, focusing instead on its social implications. In 1431 John Tailour recalled a marriage contract from the birth of his son, William, because after the birth he had asked William Rosyn to be godfather.⁸² John then celebrated with his son's godfather and other male friends, eating and drinking with them. Exclusion from the birth may have caused many men to seek an emotional connection with their male friends in order to create their own male community to rival that of the 'gossips' surrounding the postnatal female.

Male deponents on occasion viewed childbirth as a disruption to daily routine. In 1425 Robert Souman deposed on his own involvement in the postnatal care of Agnes Northfolk, his wife's niece, remembering her child's birth and her daughter's age at the time of the dispute with reference to Agnes lying in childbed:

Also he says that during the time which she had lain in childbirth after the birth of Katherine her daughter and for some time after the birth in this way, the said Agnes had and received the greater part of her support from the aforesaid witness and Joan his wife as he says by which reasons he knows.⁸³

Joan Souman, Robert's wife, was also Agnes's aunt and she was probably expected to provide her niece's postnatal care, particularly after a difficult labour. That Joan was not merely discharging an expected familial duty is clear from her comment to John Rande, a friend and fellow pilgrim, as they travelled in a group back from

⁸¹ John Ingram: He gives a long account of Katherine's birth and then mentions briefly his own child's birth and death. After this he deposes: *Item dicit quod tempore quo dicta Agnes iacuit in puerperio post partu dicte Katerine ipse iuratus trituravit avenam in quadam domo iuxta et prope domum habitacionis qua ipsi Thomas et Agnes in villa de Watirfulford tunc inhabitabant quo tempore ipse iuratus ut dicit videbat predictam Agnetem iacentem in puerperio cum qua tunc comedebat ut asserit et bibebat.*

⁸² B.I., CP.F.113.

⁸³ B.I., CP.F.89. *Item dicit quod dicta Agnes tempore quo iacuit in puerperio post partum eiusdem Katerine filie sue et per tempus non modicum post huiusmodi partus maiorem partem exhibicionis sue victualie a predicto iurato et Johanna uxore sua habuit et recepit ut dicit per causas scit.*

Bridlington that 'she greatly wished to be with Agnes Northefolk, wife of Thomas Northefolk, her [illegible] and Katherine their daughter'.⁸⁴

Robert testified that he also knew of the time of the birth because the women who were present at the birth stayed at his home both for the event itself and the subsequent baptism. While Robert referred to the birth and the aftercare needed, there are subtle differences in the narratives told by the husband and wife. Joan Souman did not describe the aftercare which postnatal nursing entailed. Nor did she refer to the arrival and residence in their home of the women who attended Agnes in her labour and the infant's baptism. To Joan, the birthing process was an accepted part of the female life cycle, while postnatal care was a necessary duty that she performed for her niece and probably other friends and family. Robert viewed the birth as a disruption to his everyday life. Visitors arrived and stayed at his home for several days, and his wife's postpartum niece required care after the birth. Ironically Robert may have remembered more about the event itself because of its unusual nature. Providing postnatal care was memorable precisely because he was not accustomed to it.

Female deponents such as Isabel, wife of John Croxton, described memories of childbirth in a physical and emotional manner. Her child was not merely born but was born 'from her womb'. Isabel further reinforced her method of recollection through calculation of her child's age had it lived, a characteristic more common in female accounts of a child's birth and subsequent death. Mnemonically inscribed through childbirth, the post-natal female body was no longer a *tabula rasa* but could be read and interpreted. Memories of childbirth in female deposition evidence created out of the female body a site of memory. However, women could also locate past events by reference to their experience of children and their birth order, which ensured that one birth could be distinguished from another. The female body was perceived to be altered and mnemonically inscribed through intercourse and childbirth. The female body received impressions more easily than the male which gave female memory a somatic quality. Drawing on the memory discourse of the wax tablet which receives mnemonic images, Andreas Capellanus described

⁸⁴ B.I., CP.F.89. John Rande deposes on Joan, wife of Robert Souman's remark: eidem iurato dixit quod libenter tunc vellet esse cum Agnete Northefolk uxore Thome Northefolk [illegible] sui et Katerina filia eorumdem. (she said to this same witness that she greatly wished to be with Agnes Northefolk, wife of Thomas Northefolk her [illegible] and Katherine their daughter.)

women as 'like melting wax, always ready to assume fresh shape and to be moulded to the imprint of anyone's seal'.⁸⁵ Female memory was itself perceived to be somatic, reflecting contemporary perceptions of women's carnality.

Both father and mother of a deceased child could experience grief that would later become intrinsically linked with its birth. Rosenthal recounts the recollection of one male juror in the Proofs who had also counted up his child's age 'had he lived'.⁸⁶ This type of memory in the Proofs is noteworthy because of its exceptional nature. Imagining the child's physical continuation long after its death, the mother's memories of childbirth may have been tied more closely emotionally and somatically to the memory of its death than the father's.

When John Norton and Joan, his wife, remembered Katherine Northefolk's birth they located it with memories of their own daughter who was born fourteen years before and later died. However, John and Joan provide different names for their daughter.⁸⁷ Women might recall past events using strategies related to gender and childbirth more than men but parents might still disagree over the exact details of their child's birth. This is demonstrated in a cause dated 1355 which was brought by Maud de Bradelay to enforce an alleged marriage contract with John de Walkyngton. Maud Katerforth or Katersouth and her son, Robert, served as deponents providing evidence to support Maud de Bradelay's cause. Maud Katerforth seems to have lived separately from Robert's father and the depositions make no mention of any living arrangements or marriage existing between them. Several other deponents testify that Maud and her son were reputed to be 'poor and needy' with nothing to live on.⁸⁸ Maud's poverty reflects the greater numbers of female poor in late medieval urban areas.⁸⁹ She seems to have earned her living through odd-jobs and the goodwill of others.

⁸⁵ Enders, *The Medieval Theater of Cruelty*, p. 97; Carruthers, *Book of Memory*, pp. 16-17, 21-22. Carruthers details the 'seal-in-wax' model of memory impressions.

⁸⁶ Rosenthal, *Telling Tales*, p. 23.

⁸⁷ B.I., CP.F.89. John remembered their daughter as Matilda and Joan remembered her as Alice. Both say that had she lived she would have been fourteen at the time of the case.

⁸⁸ B.I., CP.F.82. Selected depositions for this case are translated in *Women in England*, (ed.) Goldberg, pp. 156-62.

⁸⁹ Sharon Farmer, 'Down, Out and Female in Thirteenth-century Paris', *American Historical Review*, 103 (1998), 345-72.

Maud gave evidence for her son Robert's age on account of his proximity to the canonical male age limit of fourteen. Maud deposed that 'Robert her son was aged fourteen years coming up fifteen years at the time he was examined in Maud de Bradelay's matrimonial cause'. Maud may have deposed that her son was not yet fifteen when he gave evidence but Robert himself testified differently. When similarly questioned on his age at the time of his examination Robert deposed that he was 'fifteen years and more as he heard his father, who is living still, swear and stoutly assert'.⁹⁰ Both Maud and her son were examined at the same time and both their depositions are dated to the same day.⁹¹

Date of birth in this instance was a rather important detail to disagree upon; had Robert been younger than fourteen he may have been unable to give evidence for this matrimonial cause. In his deposition, Robert stated that his father was still living but he is not mentioned elsewhere throughout the statements of the mother and her son. That Robert's father had at some previous point sworn, and stoutly asserted, that their son was older than his mother stated indicates that Maud and Robert's father remembered the date of their son's birth differently. If comparatively precise recollection of the date of childbirth was an aspect of life about which women were considered to be especially knowledgeable, then Robert and his father were not fully aware or perhaps mindful of this belief. The fact remains, for whatever reason, that it was Maud, and not Robert's father, who was requested to give evidence for the age of their son.

It seems significant that Robert used his father as the authority for his age rather than his mother. Modern oral historians have shown that children's memories of the loss of a parent during childhood, through the breakdown of a marriage or death, have shown gendered differences in their recollections.⁹² Later in life, male children give precedence to feelings of emotional detachment.⁹³ While this evidence is derived from modern rather than medieval source material, their

⁹⁰ *Women in England*, (ed.) Goldberg, p. 157.

⁹¹ B.I., CP.E.82. Their depositions are both dated 15 April 1355. *Women in England*, (ed.) Goldberg, p. 157.

⁹² Gwyn Daniel and Paul Thompson, 'Stepchildren's Memories of Love and Loss: Men's and Women's Narratives', in Leydesdorff, Passerini and Thompson (eds.), with a new introduction by Selma Leydesdorff, *Gender and Memory*, pp. 165-85.

⁹³ Daniel and Thompson, 'Stepchildren's Memories', pp. 167-70.

findings hint at a difference in male and female communication models and methods of gender socialisation which may well be reflected in how men and women remember past events. Perhaps we can read a measure of adolescent masculine angst into Robert's reliance on his absent father's word. Remaining with his mother, Robert may have felt drawn to identify with the position of his father in order to reassert his male gender identity. Equally plausibly, Robert may have been reflecting lay opinion, but not necessarily that of the Church courts, which viewed men as more authoritative deponents in disputes.⁹⁴ Even so, Robert's father emerges as an authority from the deposition evidence despite not actually giving evidence. This disagreement over the child's age shows that male testimony could supplement female memories of birth. The case study that follows provides further evidence on male memories of birth but from a learned and mendicant perspective.

Patrick Geary has argued that the religious orders, the Benedictines in particular, wrested memorial control from the hands of female family members in the eleventh and twelfth centuries.⁹⁵ The chance survival of the deposition of Friar Michael Dawnay, the Franciscan and professor of theology at Cambridge, in a 1425 ecclesiastical liberties dispute, initially implies mendicant participation in the later stages of memorial takeover.⁹⁶ That Dawnay's memory strategy relied on a quire or book in which he recorded the births of his siblings' children superficially reinforces this suspicion. The religious orders, monastic houses in particular, recorded genealogies, and occasionally the births of children, in their archives.⁹⁷ Dawnay's memory strategy alone is forty three lines in length, offering a fortunate, if atypical, parallel to lay male and female memories of birth presented above. The following discussion analyses Dawnay's education, his practice of astrology and his quire of nativities in order to draw conclusions about his memory practice in relation to children's birth.

Reflecting the mobility for which the friars were renowned, Dawnay moved between the Franciscan convents of Hartlepool, Doncaster, Richmond and

⁹⁴ Goldberg, 'Gender and Matrimonial Litigation', p. 46.

⁹⁵ Geary, *Phantoms of Remembrance*, p. 80.

⁹⁶ B.L., CP.F.89.

⁹⁷ Given-Wilson, *Chronicles*, p. 79.

Cambridge.⁹⁸ Following a path familiar to many friars, Dawnay received a local education before he trained in theology and preaching in one of the custodial schools maintained by a convent or house.⁹⁹ Little is known of the Franciscan houses of Doncaster and Hartlepoole where Dawnay spent some years, and few records survive to document activities that took place in these and other Yorkshire friaries.¹⁰⁰ While the mendicant orders had fostered an efficient means of training new recruits, not every Franciscan progressed to the intellectual heights of university teacher or even to the custodial.¹⁰¹ However, Dawnay was one amongst a small number whose aptitude ensured dispatch to one of the universities for advanced education in theology.¹⁰² Dawnay studied at Cambridge which ranked alongside Paris and Oxford once it was granted the status of *studium generale*.¹⁰³ Candidates were sent to university to enhance their knowledge of theology so that they might enter both mendicant and monastic schools as trained lecturers. Study at Cambridge and inception as a master led Dawnay to teach at the university as a regent lecturer for a period of at least one year.¹⁰⁴

Worth quoting at length, Dawnay's deposition records how he remembered when Katherine Northfolk was born:

⁹⁸ Lawrence, *Medieval Monasticism*, p. 238.

⁹⁹ Siegfried Wenzel, *Latin Sermon Collections from Later Medieval England: Orthodox Preaching in the Age of Wycliff* (Cambridge, 2005), p. 288. A member of the Franciscan order, Friar Michael was ordained a sub-deacon in the archdeaconry of Richmond on 22 September 1397 in the church of Holy Trinity, Micklegate. *A Calendar of the Register of Robert Waldby, Archbishop of York, 1397* (ed.) D.M. Smith, Borthwick Texts and Calendars (York, 1974), p. 47.

¹⁰⁰ Barrie Dobson, 'Mendicant Ideal and Practice in Late Medieval York', in P.V. Addyman and V.E. Black (eds.), *Archaeological Papers from York presented to M.W. Barley* (York Archaeological Trust, 1984), pp. 109-22 (p. 110); F.R. Firbank, 'The House of the Grey Friars, Doncaster', *Yorkshire Archaeological Journal*, 12 (1893-4), 481-86; A.G. Little, 'The Grey Friars of Doncaster', in Page (ed.), *VCH: A History of the County of York vol. 3*, pp. 266-67.

¹⁰¹ Bert Roest, *A History of Franciscan Education, c.1210-1517* (Leiden, 2000), p. 68.

¹⁰² Wenzel, *Latin Sermon Collections*, p. 288.

¹⁰³ Roest, *A History of Franciscan Education*, p. 26; R.B. Dobson, 'The Religious Orders, 1370-1540', in Jeremy I. Catto and Ralph Evans (eds.), *The History of the University of Oxford, vol. II Late Medieval Oxford* (Oxford, 1992), pp. 539-79 (p. 558). Dobson highlights the problems inherent in attempts to differentiate between the 'mendicants 'in the University of Oxford', 'in our Oxford studium' and 'in our Oxford convent', a semantic consideration which probably applies to the University of Cambridge and its mendicant population in this period.

¹⁰⁴ Roest, *A History of Franciscan Education*, pp. 105-11. Roest outlines the characteristic education pattern of a clever mendicant who studied in the fourteenth or fifteenth centuries.

This witness says that he lived at the religious house of the order of the Friars Minor of Hartlepoole twenty five years ago, at which time he began to learn arithmetic, the study of the houses of the planets and other [subjects] which are studied for the science of astronomy. And at the end of the same year, as he says, he resolved firmly in his heart, that, having completed the years assigned to him by his superiors to study in the schools in order to learn other branches of study, he would calculate from [their] births both the lives and fates of the children of his brothers and his sisters presently to be born. And in the meantime he would note the years, days, months and hours of their births on a certain quire and thus persevering in the same purpose, in calculating and noting the births of the same children, he carefully noted the initial births of the children of his brothers and sisters in their particular years in a certain quire.¹⁰⁵

Dedicated to the study of astronomy and occupied as a lecturer of theology at Cambridge, Dawnay does not immediately seem to have been an itinerant friar; however, he may have spent a period of his life as such but not have included this in his deposition.¹⁰⁶ He would have adhered to the ideal of poverty practiced and promoted by the mendicant orders and his superiors probably furnished him with writing materials. In theory, the ideal of poverty meant that books used by friars actually belonged to the order itself and could be transferred between houses, and mendicant superiors did exercise a degree of control over their friars' ownership of books.¹⁰⁷ However, the mendicant orders, and individual friars, were important late medieval book-owners and book collectors, emerging in the late Middle Ages as

¹⁰⁵ B.I., CP.F. 89. Friar Michael Dawnay: Quia ut dicit ipse iuratus isto tempore sive anno ad xxv annos ultimo preteritos stetit in et de conventu domus ordinis fratrum minorum de hertlipule quo tempore sive anno incepit discere calculaciones domificaciones et alia facere que ad scienciam spectant astronomie. Et in fine eiusdem anni ut dicit statuit firmiter in corde suo quod finitis annis sibi assignatis per suos superiores ad standum et studendum in studio et scolis causa discendi certas alias facultates calcularet de nativitatibus futurisque disposicionibus et eventibus puerorum fratrum et sororum suorum postmodum nascendorum. Et quod interim notaret in quodam quaterno annos dies menses et horas nativitatum eorundem ac in huiusmodi proposito calculando et notando primevas nativitates huiusmodi puerorum perseverans certis et diversis annis huiusmodi primevas nativitates certorum puerorum germanorum suorum et sororum in quodam quaterno inservit et notavit tandem.

¹⁰⁶ David L. d'Avray, *Preaching of the Friars: Sermons Diffused from Paris before 1300* (Oxford, 1985), p. 39.

¹⁰⁷ D.L. d'Avray, with A.C. de la Mare, 'Portable *Vademecum* Books containing Franciscan and Dominican Texts', in A.C. de la Mare and B.C. Barker-Benfield (eds.), *Manuscripts at Oxford: An Exhibition in memory of Richard William Hunt ... on Themes Selected and Described by Some of his Friends (1908-1979)* (Oxford, 1980), pp. 60-64 (p. 61); Roest, *A History of Franciscan Education*, p. 228; N.R. Ker (ed.), *Medieval Libraries of Great Britain: A List of Surviving Books* (2nd edn., London, 1964), p. xxvi.

the principal makers and producers of service books.¹⁰⁸ For a friar to write or illuminate a book for their own convent or a neighbouring monastery was not remarkable. Sermons were recorded in quires for ease of transport. Rarely housed in the library of a convent since they travelled with friars, quires were more susceptible to damage and loss. Consequently, they suffer from a comparatively low survival rate.¹⁰⁹ However, from the paucity of evidence which survives on the activities of individual mendicants the production of a personal catalogue of births in the friar's own family is not otherwise documented.¹¹⁰

From his decision to begin the quire of births, Dawnay's statement then advances ten years to the birth of Katherine Northfolk, fourteen years before the dispute was initiated. According to his deposition, his book gained much use, appropriately enough, when he visited family members. Dawnay's first account of his use of the quire focused on a visit with his brother:

It so happened that this witness went to the home of John Dawnay, his brother, in the autumn fourteen years ago to visit his same brother, whose wife, named Elizabeth, had given birth that year to a daughter, named Ellen. He noted down in full in his quire the exact time of Ellen's initial birth, namely the year, month, day and hour.¹¹¹

Dawnay had begun a quire or book which was small enough to carry with him. Franciscans and Dominicans carried with them *vademecum* which were books which were small in size and eminently suited to the peripatetic lifestyle of the friar on missionary work.¹¹² Evidence of the friars' European mission shows that *vademecum* contained a range of texts such as a Bible, a breviary for daily offices

¹⁰⁸ Roest, *A History of Franciscan Education*, pp. 225-28; N.R. Ker, *Books, Collectors and Libraries: Studies in Medieval Heritage*, (ed.) A.G. Watson (London, 1981), p. 301; *Medieval Libraries*, p. vii; John B. Friedman, *Northern English Books, Owners, and Makers in the Late Middle Ages* (New York, 1995), p. 31; Dobson, 'The Religious Orders', p. 562.

¹⁰⁹ David d'Avray, *Medieval Marriage: Symbolism and Society* (Oxford, 2005), pp. 48-49.

¹¹⁰ Friedman, *Northern English Books, Owners, and Makers*, pp. 36-37, 52; Friedman, *Northern English Books, Owners, and Makers*, p. 52.

¹¹¹ tempore autumpnali ad quattuordecim annos ultimo preteritos accidit quod ipse iuratus venit ad domum habitationis johannis Dawnay fratris ipsius iurati causa visitandi eundem fratrem suum cuius johannis fratris sui uxor Elizabeth nuncupata eodem anno peperit unam filiam Elenam nominatam cuius quidam Elene certus tempus nativitatis primeve videlicet annum mensem diem et horam in suo huiusmodi quaterno inservit et descripsit.

¹¹² d'Avray, *Preaching of the Friars*, p. 57; d'Avray, 'Portable *Vademecum* Books', p. 61.

and handbooks for confessor.¹¹³ Dawnay's deposition indicates that his quire or booklet, like the *vademecum* friars carried for preaching, was probably in pocket format for ease of transport.¹¹⁴

His account initially seems to affirm the argument that remembrance and recording of family memory was wrested from the hands of female relatives. However, the religious orders in general were better known for books which recorded the deaths of donors, important benefactors and some monks.¹¹⁵ Further, the involvement of the religious orders in family memory, whereby children's births might be recorded in institutional muniments or chronicles, had begun to recede.¹¹⁶ His quire could more fully reflect male concerns with family lineage, in particular the anxiety of a man neither able to father his own children nor capable of creating a succeeding generation.¹¹⁷ His decision to record the births of his siblings' children certainly seems poignant. Lacking his own offspring who would safeguard his memory and prevent its consignment to oblivion, Dawnay may have embarked on the task of recording his family's births to preserve his family's genealogy. Genealogies, and in Renaissance Florence private *ricordanze*, were produced by this individual desire to cultivate identity through 'props for memory' which extended outwards to the family.¹¹⁸ Kinship networks provided a forum for the creation and maintenance of recollections and served to connect individual memory with that possessed by the family.¹¹⁹ Dawnay's quire could be interpreted as an extension of this type of commemorative activity but *ricordanze* were not an English phenomenon.

¹¹³ d'Avray, 'Portable *Vademecum* Books', p. 61.

¹¹⁴ Friars tended to travel in pairs, preaching to the laity both outside and in parish churches, however, Michael probably travelled alone to visit his family as there is no mention of a companion. Wenzel, *Latin Sermon Collections*, p. 289.

¹¹⁵ A.J. Piper, 'The Names of Durham Monks', in David W. Rollason et al. (eds.), *The Durham Liber Vitae and its Context* (Woodbridge, 2004), pp. 117-25 (p. 117).

¹¹⁶ Lee, 'Men's Recollections of a Women's Rite', p. 227; Bedell, 'Memory and Proof of Age', p. 25. Bedell notes the decline in numbers of jurors who remembered the prospective heir's birth because it had been recorded in chronicles of monastic houses.

¹¹⁷ Cullum, 'Clergy, Masculinity and Transgression', p. 179.

¹¹⁸ Ciappelli, 'Family Memory', pp. 26-38 (p. 31).

¹¹⁹ Fentress and Wickham, *Social Memory*, p. 113.

A situation in which Dawnay's study of astronomy developed into the practice of nativity astrology seems much more likely. The genuine clue to Dawnay's quire of births can be found in his conversation with a family member at his brother's house in which he explained his decision to compile the book, in particular why he decided to record his family member's births:

Thomas Northfolk, his relative, then being present asked this witness, as he asserts, why he inquired so attentively about the birth of the said Ellen and also why he wrote so carefully in his book in this way, the month, day and hour of her birth. Then this witness replying, as he asserts, said because he wished to know if it [i.e. the time of birth] in the future would affect the life, fate and fortune of the same Ellen, and this same Thomas wishing to know what should befall him in the future [contingeret infuturum], immediately asked this witness to make the calculation carefully. This Thomas asked by this witness, in which year and month, on what day and in which hour he was born from his mother's womb, said he did not know for certain how to answer him. Therefore this witness at last entered very little of this kind in his book about Thomas' birth, so then the same Thomas entreated this witness with not a little perseverance to enter the birth of Katherine, his daughter, in his said book. This witness, repeatedly asked and begged by Thomas, yielded and agreed.¹²⁰

Dawnay's reference to the 'provisions, fates and fortunes' of his niece indicates that he was casting early nativity horoscopes, a practice which undoubtedly grew from his interests in astronomy and astrology.¹²¹ J.D. North labels the study of astronomy 'an extension of the conventional curriculum for the *quadrivium*', a constituent of the *quadrivium intelligentiae* along with arithmetic,

¹²⁰ presente tunc ibidem predicto Thoma Northfolk suo consanguineo supradicto qui quidam Thomas quesivit tunc ab ipso iurato ut asserit quare ita diligenter quesivit de huiusmodi primeva nativitate dicte Elene et quare taliter et tam seriose scripsit in huiusmodi libro suo mensem diem et horam nativitatis sue cui quidam Thome ipse iuratus tunc ut asserit respondens dixit quod quia desideravit scire si necesse fuerit dispositiones eventus et fortunas eiusdem Elene in futurum qui quidam Thomas desiderans scire ut asseruit quid de ipsemet Thoma contingeret infuturum rogavit ipsum iuratum instanter quatinus vellet suam in hoc parte facere diligenciam et laborem qui quidam Thomas per ipsum iuratum ut asserit requisitus quo anno quo mense quo die et qua hora natus fuit de utero matris sue dixit se nescire sibi certitudinaliter declarare. Ideo ipse iuratus nativitate ipsius Thome in libro suo huiusmodi minime inserebat demum tunc ibidem idem Thomas isti iurato cum instancia non modica supplicavit quatinus nativitatem primevam cuiusdam Katerine filie sue insereret in dicto quaterno suo qui quidam iuratus per eundem Thomam ut asserit consimilibus instanciis et precibus requisitus eidem Thome ut dicit annuit et concessit.

¹²¹ The two terms are virtually interchangeable in the late Middle Ages.

music and geometry.¹²² Astrology was a generally accepted way of predicting the future, employed by physicians to establish opportune times for procedures such as bloodletting, by political figures to determine their fate and by the well-to-do laity who sought answers to questions which troubled them. In the late Middle Ages, the mendicant orders produced several notable figures whose activities in the area of astronomy attracted the attention of other practitioners and aristocratic lay patrons. John Somer, an astronomer based at the Franciscan convent of Bridgwater and later associated with Peterhouse, Cambridge, produced a *Kalendarium* which he presented to Joan of Kent and later received grants from Richard II.¹²³ His reputation as an esteemed astronomer led Chaucer to mention Somer's calendar along with his contemporary, Nicholas of Lynn, when he wrote 'A Treatise on the Astrolabe' in 1392.¹²⁴ Franciscan religious houses on occasion possessed books and manuscripts on the subjects of astronomy as the list of surviving books from the convents of Babwell (Suffolk) and Shrewsbury demonstrate.¹²⁵ The now lost library of the Austin friars at York contained astronomical works, the extant catalogue of which refers to the 'equatorium' of Richard Thorpe.¹²⁶ Manuscripts and quires of several mendicant astronomers are extant, though the evidence which survives is patchy and drawn mainly from southern and university sources.

Dawnay nurtured his burgeoning interest in astronomy in a Yorkshire milieu. Little is known of the intellectual climate at the Franciscan house of Hartlepoole but it was sufficiently conducive to the pursuit of science that Dawnay could study arithmetic and domification. The practice of astronomy required training in mathematics which Dawnay reveals he studied alongside domification at Hartlepool. Dawnay was not the only Yorkshireman interested in the science of astronomy. Perhaps produced to attract the attention of a northern patron, Richard

¹²² J.D. North, 'Astronomy and Mathematics', in J.I. Catto and Ralph Evans (eds.), *The History of the University of Oxford, vol. II Late Medieval Oxford* (Oxford, 1992), pp. 103-74 (p. 104); Roest, *A History of Franciscan Education*, p. 266.

¹²³ Dobson, 'The Religious Orders', p. 570.

¹²⁴ 'A Treatise on the Astrolabe', in *The Riverside Chaucer*, (ed.) Larry D. Benson (3rd edn., Boston, 1987), p. 663; *The Kalendarium of John Somer*, (ed.) Linne Mooney (Athens, 1998), p. 2.

¹²⁵ Lynn Thorndike, *A History of Magic and Experimental Science, vol. III The Fourteenth and Fifteenth Centuries* (New York, 1934), pp. 213-223; *Medieval Libraries of Great Britain*, pp. 5, 179. From Babwell, a 'tabule planetarum' survives, whilst Shrewsbury possessed a book titled *Astronomica*.

¹²⁶ John B. Friedman, 'Richard de Thorpe's Astronomical Kalendar and the Luxury Book Trade at York', *Studies in the Age of Chaucer*, 7 (1985), 137-60 (p. 138).

de Thorpe, an Augustinian friar in York, compiled an astronomical calendar between 1381 and 1389 furnished with a Book of Hours of York use.¹²⁷ Essentially derivative as it relied on Somer's calendar, Thorpe's manuscript nonetheless evinces further mendicant, and probably lay, interest in astronomy and astrology in late fourteenth-century York.

From Dawnay's chronology in his deposition, he was studying astronomy by 1400, and casting nativity horoscopes by 1411 at the latest, the year of Katherine Northfolk's birth. Predicting the future life and health of the individual for whom they were cast, nativity horoscopes were a facet of judicial astrology which also produced horary and election forecasts. Requiring knowledge of the exact time of the infant's birth, the 'primevas nativitas', the horoscopes which Dawnay cast were early and experimental in nature, however not all nativities were cast using the exact hour of birth. When Eleanor, duchess of Gloucester, with an eye to her and the duke of Gloucester's political progression, arranged for the horoscope of Henry VI to be cast, the prediction of the king's illness ended in her imprisonment and the execution of the two astronomers she had commissioned.¹²⁸ Under more usual circumstances, however, astrology and nativity horoscopes were not viewed with suspicion.

Highly educated as a professor of theology, Dawnay might represent a breed of learned astrologist, trained in the friaries or the universities who continued astrological *praxis* outside their confines. The extant notebook of Richard Trewythian, a fifteenth-century London astrologist, who recorded predictions on natural occurrences and human events, provides further evidence of the practice of astrology outside the universities among 'citizens, artisans, merchants and members of the religious orders'.¹²⁹ Possibly connected with Oxford and familiar with learned works on astrology, Trewythian cast horoscopes for individuals, friends and family. Page observes that Trewythian cast nativities for his clients' children most often.¹³⁰ Perhaps these parents were individuals like Thomas Northfolk, who was

¹²⁷ Friedman, 'Richard de Thorpe's Astronomical Kalendar', pp. 137-60.

¹²⁸ *ODNB*, 'Eleanor, duchess of Gloucester'.

¹²⁹ Sophie Page, 'Richard Trewythian and the Uses of Astrology in Late Medieval England', *Journal of the Warburg and Courtauld Institutes*, 64 (2001), 193-228.

¹³⁰ Page, 'Richard Trewythian and the Uses of Astrology', p. 208.

curious to know his own fate but keen also to have his daughter's nativity cast. That Northfolk was a member of the lesser aristocracy underlines the interest which certain sections of the affluent and moderately educated laity took in astrology.

Interpreting Dawnay's notebook as a quire of nativities may misrepresent not only his intentions but his actual usage. Trewythian did not restrict his notebook entries to horoscopes, also recording events that occurred in the political sphere and in his personal life.¹³¹ While Dawnay provides evidence on how he recorded births in his quire including the hour of birth, he fails to reveal how he calculated the nativity horoscope, and where this was recorded:

And then and there the same witness, informed by Thomas [Northfolk] concerning Katherine's birth, about the year, the month, the day and the hour in which Katherine's mother brought her forth into the world, inserted and noted it in his own particular hand in this form 'the birth of Katherine Northfolk, daughter of Thomas, son of Nicholas Northfolk, on the twentieth day in the month of March, at the fifteenth hour, in the year of the Lord one thousand four hundred and eleven' on one page of his quire parchment, together with the initial births of other children noted in the same folio, set forth and shown at the present time of his examination, as he asserts.¹³²

What is certain is that Dawnay was complicit in the creation of the deposition as a written text. Proficient in Latin, probably to a higher level than the clerical scribe who recorded his deposition, Dawnay may have deposed in Latin rather than the vernacular. For a friar the non-scholastic Latin into which depositions were translated would have been relatively easy to compose. Compared with depositions garnered from his lay counterparts, few questions from the scribe prompt his account in which the memory strategy alone is forty three lines in length, suggesting that he gave his evidence in Latin and without interruption. His narrative, which includes excerpts from his quire, implies that he entered the births

¹³¹ Page, 'Richard Trewythian and the Uses of Astrology', p. 197.

¹³² Et tunc ibidem idem iuratus per eundem Thomam de anno mense die et hora quibus mater ipsius Katerine eandem Katerinam edidit in hunc mundum informatum nativitatem eiusdem Katerine super uno folio pergameni quaterni sui una cum nativitatibus primevis diversorum puerorum notatis in eodem folio tempore presentis examinacionis sue exhibito et ostense manu sua propria ut asserit inseruit et notavit sub hac forma nativitas Katerine Northfolk filie Thome filii Nicholi Northfolk vicesima die mensis marcii hora quinta decima anno domini millesimo iii undecimo.

directly into his book in Latin. His articulate account of the visit to his brother, alongside the amount of reported speech, provokes the question of whether he recorded only the births. Though reported speech in the depositions was often subject to revision over time, the level of detail which Michael included on the conversation he had with Thomas Northfolk suggests that he made notes on encounters related to the practise of astronomy.

Not only did he record the births and their circumstances but he copied details of the birth from his quire and inserted them in his deposition. His own composition from over a decade earlier was interpolated into his deposition.

This extract of the said Katherine's birth, inserted and made in a collation with the original writings of this kind, having been copied and extracted from the said folio and presented fully at the time of his examination and deposition, and the clause of the said Katherine's birth thus having been extracted from the same original, this witness said on the virtue of his oath and just as he would wish to respond before the highest judge at his final examination, that the aforesaid words, noted in the said folio and inserted above in his deposition, this witness wrote and noted in the said quire and folio of parchment with his own hand in the autumn fourteen years ago, as is aforesaid.¹³³

Since Friar Michael's memories were not punctuated by the emotional and physical experience of childbirth his quire provided an artificial memory to which he could refer in his deposition. Unlike the mothers who remembered their children's births, Friar Michael's memory of his family's births were inscribed on parchment. The details of Ellen and Katherine's births were disseminated through discourse between male family members. When he needed to locate a birth, he turned to his booklet which provided an accurate but artificial memory. Friar Michael recalled Katherine's birth only with the aid of many years of training and the existence of his own record of important births. While his memory relied on his booklet, it was not subject to the same transmutations that affected the unaided

¹³³ Qua quidam clausa nativitatis dicte Katerine a dicto folio copiata et extracta et serie presentis deposicionis tempore examinacionis sue inserta factaque collacione cum scriptura huiusmodi originali et ipsa clausa nativitatis dicte Katerine sic extracta ab eodem originali idem iuratus dixit in virtute iuramenti sui et prout coram summo iudice in extreme examinatione voluerit respondere quod verba premissa in dicto folio notata et in hanc deposicione sua superius inserta ipsemet iuratus tempore autumpnali ultimo preterito ad quatuordecim annos in dicto quaterno et folio pergameni manu sua propria ut prefertur scripsit et notavit preterea.

memory of ordinary individuals who were not university-educated and were untrained in oratory and memory techniques.

Both men and women relied on marriage as a mnemonic strategy. Longevity and maintenance of intimate emotional bonds ensured that an individual's marriage was a more memorable event than most other events over time. Rosenthal makes a similar point, however his discussion is restricted to memories of male jurors so that a gender comparison cannot be made.¹³⁴ John Wyman remembered a marriage contract 'because on Sunday nearest after feast of All Saints [1 November] at the parish of St. Wilfrid's, marriage was solemnised between this witness and the said Cecilia, blood relative of John Elvyngton, thirty nine years ago'. William Gudale, by then aged sixty eight, remembered that he had married Margaret Farman thirty eight years before. When he testified, she had been dead for many years. William Kenlay remembered a contract 'because of the marriage between himself and Alice his wife now dead'.¹³⁵

Mothers remembered their children's marriages as often as their own. Margaret, wife of Hugh Tailour remembered a birth because of its proximity to the marriage of her daughter, Agnes, to Nicholas Kyrkeby, a fellow deponent in the dispute.¹³⁶ Aware that young men could change their minds either before or after marriage, Margaret Carow declared that she remembered her niece's contract with John Littester because 'she often brought back the said contract to her memory'.¹³⁷ John Carow, Margaret's husband, remembered the marriage for reasons which were not so far-sighted; the marriage had taken place in his home.¹³⁸ Richard Belamy recounted a memorable narrative in which he threatened his niece with violence in order to secure her consent to marriage with Robert Thomeson.¹³⁹ Whether she was forced to marry against her will or the account was concocted to release her from an

¹³⁴ Rosenthal, *Telling Tales*, pp. 16-19.

¹³⁵ B.I., CP.F.101. All three witnesses are from the same case.

¹³⁶ B.I., CP.F.89. Margaret, wife of Hugh Tailour: Et ultra dicit quod die mercurie prox' ante festum corporis Christi dictus tempus quadragesimale immediate sequente matrimonium inter Nicholam Kyrkeby contestem suum et Agnetem filiam ipsius iurate et dicti mariti sui in capella de Fulford fuit publice solempnitum.

¹³⁷ B.I., CP.F.81. sepius reduxit memorie sue dictum contractum.

¹³⁸ interrogatus quo recolit de lapsu tanti temporis ac de die et hora predicta dicit que causa fuit dictus contractus quem ut prefertur audivit inter partes predictas in domo sua.

¹³⁹ B.I., CP.F.85.

ultimately unfavourable match, Richard sought to manipulate past and future events through memory. Thomas Northeby remembered his niece's marriage as he had travelled to Scarborough in order to discuss her marriage prospects with her.¹⁴⁰

Male and female deponents relied on marriage as a memory strategy more often than entering a trade or beginning service. The domestic rearrangement which marriage demanded may have been a more enduring mnemonic reference than the continued resettlement which temporary life-cycle service demanded. Marriage is not as gender neutral a memory strategy as it may appear at first glance. While male and female deponents remembered their own marriages as a memory strategy, men relied upon it more than women. Marriage and service may have provided men with a convenient mnemonic yardstick in instances where memories of childbirth and nurture were not deeply embedded. Yet marriage was intimately connected with the creation of a household; men were granted a new legal status as head of their own independent household. Marriage represented social adulthood for men as it signaled freedom from dependence on a father or employer.¹⁴¹ For the *paterfamilias*, exercising authority over servants and dependents, as well as his own wife, control over a household established his male gender identity in opposition to unmarried men without similar independence. Consequently, it heralded successful performance of adult lay masculinity. Women did not experience a similar legal freedom upon marriage. Peasant and bourgeois households, however, required the participation of both spouses to maintain the moral and material aspects of the household.¹⁴² Men's and women's memories of domestic and married life point towards complex associations between conjugality, work, and gender identity.

Aside from the birth of offspring and marriage, lay deponents remembered the deaths of their own children alongside those of spouses and other close relatives. Women remembered events most commonly with reference to their children's births which often coincided poignantly with their deaths. Consequently, the function of female deponents in specific cases – women were more likely to use

¹⁴⁰ B.L., CP.F.113.

¹⁴¹ P.J.P. Goldberg, 'Migration, Youth and Gender in Later Medieval England', in Goldberg and Felicity Riddy (eds.), *Youth in the Middle Ages* (Woodbridge, 2004), pp. 85-99 (pp. 95-96).

¹⁴² Felicity Riddy, 'Mother Knows Best: Reading Social Change in a Courtesy Text', *Speculum*, 71 (1996), 66-86 (p. 69).

childbirth as a memory strategy – alongside high child mortality levels means that women are more likely than men to remember events in relation to their children's deaths.

Men did on occasion reference past events in relation to their children's deaths but most often in cases where women remembered childbirth and death in greater numbers. In 1431 John Tailour remembered that Richard Sereby had married three years before: 'And asked how he remembers after the passage of so much time, he says by the birth of his son, William, who is no longer living. Asked, he says that at the Nativity of St John the Baptist last past or within the ten days before it, this son was three years old'.¹⁴³ However, even though men appeared as deponents in disputes related to marriage in greater numbers than women, the latter remembered child death more often.

In the fifteenth-century case involving parochial rights, older male parishioners of Sutton provided evidence to the burial of children in the churchyard of St James.¹⁴⁴ In this protracted case, the exclusively male deponents remembered the village's dead, many of whom perished in the mortality crisis of 1429. Their evidence sought to establish common consensus on where parishioners of the village were buried rather than when or what age they were born or died. The long lists of the village's dead included children whose fathers were named, all of whom were buried in the cemetery of St James in Sutton-on-Hull. Several deponents also remembered the burial of Sir John de Sutton and several others in the nave of St James' church. Memory of the burial places of friends, children, neighbours and superiors was related to the customs and rights of their parish.

Female deponents seldom remember a spouse's death in comparison with their husbands who referenced their wives' deaths rather more often. William Gudalc remembered a marriage contract because thirty eight years before he had married Margaret Farman who was 'now many years dead'.¹⁴⁵ John Wyman remembered that he had been present at the mass and burial of Margery, his

¹⁴³ B.I., CP.F.113. Et interrogatus qualiter recolit ita certitudinaliter de lapsu tanti temporis dicit quod per nativitatem dicti filii sui Willelmi nominati adhuc viventis non, dicit interrogatus quod ad festum nativitatis sancti Johannis ultimo preteritum seu saltem infra decem dies proximo precedentes idem filius suus primo complevit etatem trium annorum.

¹⁴⁴ YMA, M2 (3)c.

¹⁴⁵ B.I., CP.F.101. pluris annis iam elapsis.

friend's late wife.¹⁴⁶ That men remembered the death of their wives reflects the tendency of male deponents to remember their marriages more often than female deponents in the first place.

When Thomas de Myton, a webster of York deposed in a late fourteenth-century multi-party matrimonial dispute, he recalled a marriage contract, later disputed, because it had fallen upon the same day as an anniversary of a death in his family.¹⁴⁷ Questioned upon his knowledge of the marriage contract, he located the event to a Thursday between Easter and Pentecost. He knew this well, he deposed, because he was present at an anniversary Mass celebrated by the Dominicans in York for the soul of Katherine, lately the wife of Hugh de Myton, the witness' father. Katherine was not actually Thomas' mother but the wife of Thomas' father. Whether or not he had experienced any difficulties with Katherine stemming from her position as his father's wife rather than his own mother, Thomas attended her anniversary Mass regardless.¹⁴⁸

Commemoration of family members was usually arranged and paid for by the deceased person's spouse or by their children. We do not know of the length of time that financial and commemorative provisions for Katherine actually endured. Even if arrangements for the celebration of Katherine's anniversaries had stretched financially to perpetual annual services led by the Dominicans, these commemorations often only lasted for several generations after the individual's death.¹⁴⁹ Thomas' attendance of her anniversary Mass and the date itself were fixed in his memory. Funerals, administration of the goods of the deceased, the disputed allocation and division of important memory items, and marking of subsequent anniversaries could all be the focus, or at the very least the backdrop, for emotional experiences. Alternatively, Thomas may have been commemorating his father's

¹⁴⁶ B.I., CP.F.101.

¹⁴⁷ B.I., CP.E.138.

¹⁴⁸ Interrogatus per quid scit dicit per hoc quod die Jovis in festo sancti Dominici inter festa Pasche et Pentecost ultimo preterita et scit bene quia fuit idem iuratus presens apud fratres predicatores Ebor in anniversariis et missa facta tunc ibidem pro anima Katherine nuper uxoris Hugonis de Myton patris ipsius iurati et eadem die in domo dicti iurati in vico de Hertegate in parochia beate marie ad portam castri Ebor situata inter horas terciam et quartam super le klok post prandium.

¹⁴⁹ van Houts, *Memory and Gender*, p. 95.

wife's anniversary under duress. Perhaps his father, if still living, would not have countenanced non-attendance at the Mass from his son.

Male and female gender identity, in relation to domestic life, is further expressed in deponents' memories of moving house. These memories yield solid insights into gender difference in memory practice, particularly when we can compare the depositions of conjugal couples. Home and households were exceptionally evocative places where memories could be formed more clearly than in other locations. It is argued that recollections are 'intrinsically associated with places' which serve as *aide memoires* in order to resurrect fading memories and prevent forgetting.¹⁵⁰ Further, it has been said that only when image and emotion, whether positive or negative, coalesce can an encounter become a memory in entirety.¹⁵¹ The most effective memory locations therefore needed to be 'moving'.¹⁵² Often, emotionally significant events which affected the household such as deaths, burials, and marriages occurred elsewhere. Personal recollections should not be considered only in relation to the interior built structure of the household. The late medieval household often comprised kin and dependents, including servants and apprentices.

Disruption to home life may have acted as a more ready marker for female than male recollections. In a 1367 marriage dispute between Agnes, daughter of William Morice, and Walter de Tiryngton, Agnes Payge deposed that 'she remembers the time [of the marriage] well, as she says on her oath, because Joan her daughter was not yet two years old and now at the Nativity of St John last she was seventeen years old and not more'.¹⁵³ Agnes Payge also remembered when the marriage was solemnized because Joan's father had travelled to Berwick at that time and was captured and imprisoned there for two and a half years.¹⁵⁴ It is not

¹⁵⁰ Paul Ricoeur, *Memory, History and Forgetting*, (London, 2004), p. 41.

¹⁵¹ Carruthers, *Book of Memory*, p. 257.

¹⁵² Yates, *The Art of Memory*, p. 75.

¹⁵³ B.I., CP.E.95. Agnes Payge: et bene recolit de tempore ut dicit in iurato suo pro eo quod Johanna filia ipsius iurate tunc fuit etate nisi duorum annorum et nunc ad festum nativitatis sancti Johannis Baptiste ultimimo preteritum ipsa erat etate xvii annorum et non ultra.

¹⁵⁴ B.I., CP.E.95. Agnes Payge: similiter dicit quod tempore solemnizacionis dicti matrimonii pater dicte Johanne filie sue ivit versus Berwyc super Tymam et ibidem fuit captus et incarceratus per ii annos et dimidia per ista signa et per tempora que ipsa pluries computavit bene scit quod dictus articulus est verus.

clear whether Agnes lived with the father of her child but his absence weighed heavily enough to be recalled over a decade later. As Felicity Riddy has pointed out, discourses in preachers' exempla and in literature allied the home with wives who tended to their husbands' bodily needs.¹⁵⁵

Male deponents did remember past events using mnemonic strategies related to the home. Another deponent in this 1367 dispute, William Sturgys, recalled the contract because he had been present, along with his wife, at the marriage of her sister, Agnes, to Walter de Tiryngton, which had taken place in Richard Hare's home in Willsthorp one day around Michaelmas, two years after the Black Death.¹⁵⁶ William deposed that Agnes and Walter had lived together as a married couple for more than thirteen years. He was asked 'by what means he remember[ed] after such a length of time':

He said [that he remembered] because this witness and his wife moved thus from one home to another at the said feast of St. Michael the Archangel which was two years after the first pestilence, and at the coming feast of St. Michael the Archangel there were sixteen years fully after they first held the said last house in which they still live and he calculated these years many times with his wife'.¹⁵⁷

Occasionally, deponents like William reference the plague as a fixed yardstick in their memory. While the Black Death had a devastating and calamitous influence both on fourteenth-century society and the mental outlook of its survivors, it is rarely referred to as a personal strategy of locating past events.¹⁵⁸ William further remembered the marriage contract by locating it in relation to his moving home with his wife. This marks the difference between two emotional but differentiated experiences, those of collective events, such as the Black Death, and those experienced by the individual or in a small group, like moving home or

¹⁵⁵ Riddy, 'Looking Closely', p. 220.

¹⁵⁶ B.I., CP.E.95.

¹⁵⁷ William Sturgys: dicit pro eo quod ipse iuratus et uxor sua removerunt sic ab una domo ad aliam ad dictum festum sancti michaeli archangeli que fuit per duos annos post prima pestilencia et veniente festo sancti michaeli archangeli proxima futura erant sedecim anni complete postquam primo tenuerunt dictam ultimam domum in quo adhuc morantur et istos annos pluries computavit cum uxore sua.

¹⁵⁸ Jeremy Goldberg, *Communal Discord, Child Abduction and Rape in the Later Middle Ages* (New York, 2007), p. 96.

marriage. Demonstrating the reciprocal and processual relationship between collective and individual memories formed concurrently, deponents located events using personal memories rather than relying upon collective experiences alone.

That William alone did not calculate the number of years since he and his wife moved home is evident from his statement that ‘he calculated these years with his wife’. His reliance upon moving home as a yard-stick for recalling the contract proves interesting since it is a strategy that could be considered feminine by virtue of its connection with the inner space of the home. It has been already been suggested that women were able to locate past occurrences relatively accurately with reference to pregnancy and childbirth in a manner which may have been unavailable to men.¹⁵⁹ Although personal recollections of emotive events such as childbirth and death reflect affective events associated with the household, the control of which is often gendered feminine, the home was not simply a space ruled by women, nor a domain in which disruption registered only with female spouses.¹⁶⁰ Anthropologists of Palestinian Arab narratives of ‘the return’ to their homeland following forced abandonment after 1948 highlight the overlapping vocabulary applied to Palestinian Arab women and the home. Male peasants in Syria and Lebanon refer both to their wives and to their home when they use the phrase ‘the house’ to refer to their wives. Fixed spatial distinctions based on gender are contested, however, in Palestinian folk literature as women are ascribed an autonomous role as homebuilder.¹⁶¹ Male and female roles in domestic life are not insular and fixed.

Reluctant to rely upon his own memory of the event which could have been referenced solely in relation to the plague, William Sturgys enlisted the aid of his wife to calculate the years since they moved home. His wife, Maud, however, provides little additional information and her method of recalling the event is not included in her deposition.¹⁶² Perhaps her evidence was recorded after that of her husband, and the scribe suppressed it to avoid repetition. However, William called

¹⁵⁹ Goldberg, ‘Gender and Matrimonial Litigation’, pp. 49-50; Fentress and Wickham, *Social Memory*, pp. 141-42; Owen, ‘White Annays and Others’, pp. 336-39.

¹⁶⁰ For intimacy, home and power see Riddy, ‘Looking Closely’, pp. 212-28.

¹⁶¹ Slyomovics, *Object of Memory*, p. 205.

¹⁶² The clerical scribe noted that Maud agreed (concordat) with everything that her husband had deposed.

upon his wife's memorial authority in order to verify his own recollection. Nevertheless, although Maud's own memory of the event verified her husband's testimony, her own deposition was recorded subsequently, and was considered less important. The ability to mark past experiences with relation to events that impinged upon the household could be presented as specifically feminine. Courtesy and conduct literature which sought to control and curtail female movement outside the home insisted that her femininity, chastity and modesty depended on her staying at home. This view not only ignores the quotidian reality that many homes were also workplaces but overlooks the way in which masculine identity was bound to the home, a place where the male legal persona of master and householder reached its ideological and literal expression.¹⁶³

Before the Church court on an occasion when authority, as well as accuracy, was demanded, the male deponent, and husband, gave voice these recollections. Alterations to domestic arrangements were subsumed into a narrative that continued to privilege male interpretations of past events. Emotion remains all but absent from William's account. By referencing moving home in snapshot form, he made the usage of a potentially domestic and 'feminine' mnemonic strategy more palatable to the personnel of the Church court. If William was viewed as husband and householder, then his articulation of the couple's memories of moving home represented acceptable conjugal memory practice.

In the 1425 Wallingwells c. Arthyngton case over Katherine Northfolk's abduction, a husband and wife both remembered moving house. Margery Carbot, wife of John Carbot, aged more than sixty years, remembered Katherine Northfolk's birth with reference to entering a new home:

she says that this witness and her husband went to one house in the aforesaid village of Naburne, the same home which they live at present and hold at farm [damaged] from William Gascoigne, and they entered the same home on the said Sunday immediately following the feast of the Exultation of the Cross, for which house she and the same John, her husband, have since continued to pay an annual farm, and for that

¹⁶³ Sarah Rees Jones and Felicity Riddy, 'The Bolton Hours of York: Female Domestic Piety and the Public Sphere', in Anneke B. Mulder-Bakker and Jocelyn Wogan-Browne (eds.), *Household, Women and Christianities in Late Antiquity and the Middle Ages* (Turnhout, 2005), pp. 215-54 (p. 25).

reason, as she claims, she remembers well after the lapse of such great time.¹⁶⁴

Unlike most of the women who deposed on Katherine Northfolk's birth, Margery failed to use pregnancy or childbirth as her memory strategy. When Katherine was born Margery was already aged approximately forty-seven, with her fecund years probably long behind her. At a remove from the younger community of women who shared pregnancy and birth as a mnemonic referent, Margery remembered Katherine's age because she and her husband had recently moved to their new home in Naburne. Her exclusion from this younger group meant that she received knowledge of Katherine's birth from the father and not from the women in the community.¹⁶⁵ Whether Margery and her husband had any children, living or dead, cannot be known. Yet it is her age and her apparent freedom from the ties and demands of motherhood that allowed her to remember moving house and payment of an annual farm rather than pregnancy and childbirth.

John Carbot, Margery's husband, deposed similarly:

[at that time] this witness and Margery, his wife and fellow witness, moved their goods and household from the house and tenement of Henry Aclom, squire, up to the tenement of William Gascoigne, recently deceased overseas, situated in the said village of Naburne where they live at present, for which house this witness and his wife pay a fixed annual farm.¹⁶⁶

Moving home and payment of an annual farm acted as the mnemonic focal point for both husband and wife. Margery's account does include details of their previous home, however John's mnemonic strategy was rather more concerned with

¹⁶⁴ B.I., CP.F.89. Margery Carbot: dicit quod ipsa iurata et dictus maritus suus unam domum in ville de Naburne predicta qua inhabitant in presenti de Willelmo Gascoigne ad firmam ceperunt [damaged] ad eandem domum venerunt et intrarunt eandem ad festum Exaltacionis sancte crucis dictam diem dominicam immediatam sequentem pro qua domo continue citra idem Johannes maritus suus et ipsa iurata solverunt annuatim firmam et ideo ut asserit recolit bene de lapsu tanti temporis.

¹⁶⁵ Margery Carbot: prout ex relacione Thome Northfolk patris ipsius Katerine et aliorum diversorum virorum et mulierum sepissime audivit dicit et referri.

¹⁶⁶ John Carbot: ipse iuratus et marioria uxor sua et contestis transtulerunt se bonaque sua et familia a domo et tenemente henrici aclom domicelli usque ad tenementum et dominum Willelmum Gascoigne nuper in partibus transmarinis defuncti in dicta villa de Naburne situata qua inhabitant in presenti pro qua domo ipse iuratus et uxor sua certam firmam annuatim persolverunt.

practical arrangements. Though both are practically identical in length. John included the names of both past and present landlords along with the detail that they moved 'bonaque sua et familia'. Margery, however, included only the name of the present landlord and failed to note his death.

John Carbot's additional detail challenges medieval and modern discourse which associates women with the home and disrupts claims that women tended to be more accurate than men in the recollection of home and family life.¹⁶⁷ Unlike William Sturgys who sought to control his and his wife's memory of moving house, John Carbot might have tried to exert his dominance over their memory through the provision of more concrete detail. The gender difference between Margery and John Carbot's shared memory strategy might be reflective of the practical demands which the role of householder made on the male spouse. The responsibility fell to him as head of the household to record landlords and arrange payment of farms.

Deponents did remember their quotidian religious lives, in particular, attendance at Mass, the baptism of children and marriages. However, an event which undoubtedly affected the mental world of the inhabitant of late medieval York, the execution of Archbishop Richard Scrope in 1405 in the wake of the rebellion against Henry IV, is mentioned only once in the York depositions.¹⁶⁸ In a 1430 marriage dispute, Robert Grynston, over thirty six years old, deposed on a marriage made twenty years previously which he remembered from the execution of Archbishop Scrope.¹⁶⁹ The execution happened five years before the marriage contract. Despite the passage of twenty-five years, Robert still utilised his death as a temporal yard-stick. While not an elderly man remembering his youth, the event had occurred in a relatively distant period in his life. Sociological research on generations and memory has shown that political events have greater influence on an individual when he or she is 'in [the] early stages of forming adult identity'.¹⁷⁰

¹⁶⁷ Fentress and Wickham, *Social Memory*, p. 141.

¹⁶⁸ Rees Jones and Riddy, 'The Bolton Hours of York', pp. 215-54; J.W. McKenna, 'Popular Canonization as Political Propaganda: The Cult of Archbishop Scrope', *Speculum*, 45 (1970), 608-23.

¹⁶⁹ B.I., CP.F.201.

¹⁷⁰ Howard Schuman and Jacqueline Scott, 'Generations and Collective Memory', *American Sociological Review*, 54 (1989), 359-81; Coser, 'Introduction', in Halbwachs, *On Collective Memory*, p. 30.

While Robert's short account of his memory contains no emotional undercurrent, we should not assume that his original reaction to the execution was devoid of emotion. Executions probably elicited strong emotions from medieval spectators, and the experience probably functioned mnemonically in the same way as the violent and shocking images endorsed by Thomas Bradwardine.¹⁷¹ Anthropologists have argued that individuals remember distant past events from their own lives as an outside spectator without actually experiencing it.¹⁷² When remembering Scrope's execution Robert may not have felt any of the emotions which he had originally experienced.

Robert Grynston's long memory may have been reinforced by Scrope's commemoration and the subsequent political and religious fall-out.¹⁷³ After his death, an unofficial cult grew up around him despite royal suppression. Veneration centred upon his shrine at York Minster which attracted such attention that the king ordered the erection of a wooden barrier to impede visits from pilgrims.¹⁷⁴ The place of his burial became sanctified in the memory of pilgrims and the inhabitants of York. Scrope's memory was further inscribed on the landscape when a chapel was constructed in the field where he was executed.¹⁷⁵ Restrictions on pilgrimages and offerings to the tomb were relaxed in June 1406, and the first half of the fifteenth century saw royal acceptance of the archbishop's cult, while oblations at his tomb provided financially for building works in the Minster.¹⁷⁶ Scrope also continued to exist temporally and posthumously within the Yorkist calendar. The memory of his execution was thus underpinned by group and individual recollections, ensuring that the event did not pass swiftly into oblivion in either of these memorial settings.

¹⁷¹ Carruthers, *Book of Memory*, p. 134.

¹⁷² M.E.F. Bloch, 'Autobiographical Memory and the Historical Memory of the More Distant Past', in M.E.F. Bloch (ed.), *How We Think They Think: Anthropological Approaches to Cognition, Memory and Literacy* (Boulder, 1998), pp. 114-27 (p. 124).

¹⁷³ Rees Jones and Riddy, 'Bolton Hours of York', p. 222.

¹⁷⁴ McKenna, 'Popular Canonization', p. 611.

¹⁷⁵ McKenna, 'Popular Canonization', p. 621.

¹⁷⁶ Rees Jones and Riddy, 'Bolton Hours of York', p. 223; McKenna, 'Popular Canonization', p. 614.

Pragmatic Concerns

Aside from personal events and religious happenings that inscribed themselves on deponents' inner mental worlds, witnesses also remembered past events in relation to their work life. John Selybarn knew of a marriage that was made 'because he was a servant at the time of the contract and lying in bed he saw and heard' the couple exchange words of consent.¹⁷⁷ In a case dated 1430, Robert Dalton remembered a marriage contract because he entered Robert Ketill's service and stayed in his employ for three years.¹⁷⁸ Alice, Robert Dalton's wife, recalled the same marriage, deposing that she had begun service in Aldwark with a certain William Lemyng in whose household she stayed for a year.¹⁷⁹ For many people, employment marked the beginning and end of periods in their lives. Both Robert and Alice remembered that they married soon after they left service. Aside from Alice's memory of her employment as a servant there are few other examples of female deponents remembering events in relation to work.

Male deponents, however, provide more variety in their memories of employment. Thomas Catryk remembered a marriage contract because 'he worked as a plumber in the village of Hunmanby in building the choir of the parish church of Hunmanby'.¹⁸⁰ He heard of Richard Sereby's marriage when he travelled to Scarborough to purchase coloured glass for the abbot of Bardenay in Lincoln. His journey to Scarborough and his purchase of the glass constituted his primary mnemonic strategy. Physical proof of Thomas's memory strategy was rooted in the parish church of Hunmanby, in the building of the church itself. In 1372 William Tayliour, living in Coney Street in York, testified to a marriage made between Margery, daughter of Simon Taliour, and John Beek, a saddler. He remembered

¹⁷⁷ B.I., CP.F.189.

¹⁷⁸ B.I., CP.F.201.

¹⁷⁹ B.I., CP.F.201.

¹⁸⁰ B.I., CP.F.113. ipse iuratus laboravit in artificio suo de Plomercraft apud villam de hundemandby in tegendo chorum ecclesie parochialis de hundemandby dictis abbati et conventui de Bardenay ac eorum monasterio appropriatam et annexam citra quod tempus tecture huiusmodi ad festum nativitatis sancti johannis ultimo preteritum fuerunt tres anni elapsi et non plures neque pauciores.

their marriage, he claimed, because he was made free of his craft around that time, as a result of which he was 'rather anxious'.¹⁸¹

Men may have recalled past events more firmly when the situation remembered had involved stepping outside the constraints of a prevailing gender ideology. This is particularly the case in work environments. A suit dated 1394 which Margery Spuret brought to enforce a marriage contract with Thomas Hornby, junior, is particularly telling in this instance.¹⁸² Walter de Mellerby, a saddler employed by Thomas Hornby, senior, uncle of the defendant, had attested that Margery had also been in service in that household. One point of dispute concerned Margery's absence from York permitted to her for a month to engage in harvest work around the feast of the nativity of the Blessed Virgin Mary which fell on 8 September. A deponent for Thomas Hornby, Walter de Mellerby, testified that he knew that she had been absent because he 'carried a jug with water from the River Ouse to his master's house for the whole of the aforesaid time, which duty *Margery was wont to do* when she was present in the city of York'.¹⁸³ Perhaps Walter recalled Margery's absence because this disruption to the rhythms of the household occurred on an annual basis. For a servant to be absent from the household of their master for an entire month was a memorable occurrence, especially when duties included those as necessary as the provision of water for the household and perhaps the workshop. However, Walter evidently recalled his completion of Margery's task for the entire time of her absence because it was not his usual duty. It was not merely because of disruption to the running of the household that Walter recalled her absence, but because he had to complete the task of a female servant.

Walter, described as a saddler, was probably a journeyman employed by Thomas Hornby. As a journeyman rather than an apprentice, Walter would have been further down the hierarchy of status within the household and thus more likely to be expected to act as a substitute for a female servant. Yet he was not a

¹⁸¹ B.I., CP.E.121. Interrogatus qualiter recolit de lapsu tanti temporis dicit per hoc quod fuit magis sollicitus illo die [start of line missing] quam aliqua die festive precedente fuit pro vestibis consuendum et liberandum magistris suis ad festum pentecoste quod tunc instabat et quia ipsum tunc primo vidit fortius recolit de his [start of line missing] que fiebant tempore illo et quia fuit dies duorum apostolorum.

¹⁸² B.I., CP.E.159. Depositions from this case are translated in *Women in England*, (ed.) Goldberg, pp. 103-109.

¹⁸³ B.I., CP.E.159; *Women in England*, (ed.) Goldberg, p. 105.

dependent like a live-in servant would have been, and was perhaps more resentful as a result.

Saddlers such as Thomas Hornby, senior, Walter's master, were included in the leather-working sector which tended to employ very few women and in particular servants.¹⁸⁴ From the late fourteenth century, servants employed within artisan households, such as those involved in the leather trade, were increasingly male. Although women were exposed to many processes within various trades and workshops, there remained a general division between the types of jobs which women and men tended to do.¹⁸⁵ Female servants tended to carry out more domestic tasks such as brewing, preparing and selling victuals, needlecraft, and carrying water.¹⁸⁶ The testimony made by Walter provides evidence that carrying water to the main house was indeed Margery's task. In fact, we only know this because a male servant or journeyman of the household had to carry out the duty on this occasion. The river was a more exclusively feminised area where groups of female servants may have congregated at the same time every day to fetch water and wash clothes.¹⁸⁷ Walter probably resented completing a task which usually belonged to a female servant which is why he remembered completing Margery's task for an entire month.¹⁸⁸

In a matrimonial cause initiated in 1431, Hugh Swynflete, a squire aged more than twenty years, remembered that he worked for the earl of Northumberland in the month immediately before the alleged marriage. Employed in the earl's household 'in order to acquire certain patronage', his service probably marked a formative moment in his early career from which he gained the patronage he had

¹⁸⁴ Goldberg, *Women, Work and Life Cycle*, p. 193.

¹⁸⁵ Helena 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, c.1200-1500* (Stroud, 1992), pp. 126-48 (p. 136). Graham notes that women from the lower levels of peasant society may have had more independence to move outside traditional sexual divisions of labour.

¹⁸⁶ Goldberg, *Women, Work and Life Cycle*, p. 193.

¹⁸⁷ In a 1487 London marriage dispute a female servant brought clothes to the Thames to be washed. McSheffrey, *Love and Marriage*, pp. 58-59.

¹⁸⁸ See also Goldberg, 'Masters and Men', pp. 64-68.

sought.¹⁸⁹ Men utilised involvement in local or royal administration as a mnemonic strategy more often than women. In 1425 Thomas Gyselay remembered Katherine Northfolk's birth because he was elected constable of Gate Fulford, in the suburbs of York.¹⁹⁰

When Hugh Tailour was appointed reeve of the village of Gate Fulford around the time of Katherine Northfolk's birth, Margaret, his wife remembered his election thirteen years later, using his appointment as her own memory strategy.¹⁹¹ While women were ineligible for offices of local administration, they were clearly aware of the significance of election to local office. Probably present when male family members conversed about administrative business, women later recounted and perhaps even vicariously participated in public and administrative life. Female deponents also testified on political events when they impinged on family life. In 1425 Joan Pynder deposed that she remembered Katherine Northfolk's birth because she was told of it by Katherine More who had been 'busy at York castle on certain business concerning her then husband, Thomas More'.¹⁹² In 1367, Agnes Payge deposed that when the marriage between her friend Agnes and Walter de Tiryngton was solemnized the father of her child was imprisoned in Berwick for two and a half years.¹⁹³ Agnes Payge and Joan Pynder recalled political events which had probably affected their own domestic arrangements.

¹⁸⁹ B.I., CP.F.113. Et ultra interrogatus qualiter ita certitudinaliter recolit de lapsu tanti temporis dicit quod quia infra mensem proximum precedentem dictum contractum ipse iuratus laboravit penes dominum comitem northumbrie pro quadam protectione adquirenda et huiusmodi protectionem eodem tempore obtinuit prout dicit. And further asked how he remembers so clearly after the lapse of so much time, he says because in the month just before the said contract he worked in the household of the lord earl of Northumbria in order to acquire certain patronage and he says that he obtained that patronage during the same time.

¹⁹⁰ B.I., CP.F.89. Interrogatus de causa sciencie sue in hac parte et qualiter recolit de lapsu tanti temporis dicit quod ad festum sancti michaelis ultimo preteritum ad quattuordecim annos iste iuratus fuit electus in constabularium de Gatefulford.

¹⁹¹ B.I., CP.F.89.

¹⁹² B.I., CP.F.89. quo die lune ipsa Katerina [More] fuit assidua apud castrum Ebor pro certis negociis expediendis Thomam More maritum suum protunc concernentibus.

¹⁹³ B.I., CP.E.95. Interrogata qualiter hoc scit dicit per illud quod illa fuit presens tunc temporis in dicta ecclesia de Tadcastre et offerebat cum eis in missa circa hora tertia dicti diei et bene recolit de tempore ut dicit in iurato suo pro eo quod Johanna filia ipsius iurate tunc fuit etate nisi duorum annorum et nunc ad festum nativitatis sancti Johannis Baptiste ultimo preteritum ipsa erat etate xvii annorum et non ultra et similiter dicit quod tempore solemnizacionis dicti matrimonii pater dicte Johanne filie sue ivit versus Berwyc super Tymam et ibidem fuit captus et incarceratus per ii annos et dimidia per ista signa et per tempora que ipsa pluries computavit bene scit quod dictus articulis est verus.

Involvement in judicial matters in another court might provide deponents with a fixed chronological yardstick. Richard Thoresby remembered Agnes' marriage because of a dispute over money. The week before the Nativity of St John the Baptist which fell on 24 June his plea against Robert Scherman was undecided in the king's court, but before the feast he recovered the six shillings owed to him.¹⁹⁴ In a mid fourteenth-century tithe case Edward, son of Germain, testified to his knowledge of his parish's boundaries, remembering that the area of 'Hughlathes' was in Darrington rather than Pontefract from a coroner's inquest which had taken place in his youth:

[A] certain Mauger, vavasour, died suddenly and was killed accidentally in a heavy snow when this witness was a boy at the said place, Hughlathes, and this witness heard, as he says, that an inquest was sought before the King's coroner, from the vill of Darrington and other surrounding vills to know about the dead person himself, as the deceased was in the parish of Darrington, and not from the vill of Pontefract.¹⁹⁵

In the decades after the inquest, Edward probably remembered the visit of the king's coroner with other villagers who may have shared in this memory. Before the Church court, his recollections were reshaped further to provide evidence that 'Hughlathes' was in the parish of Darrington rather than Pontefract. The parishioners of Darrington were expected to provide the knowledge sought by the coroner. Edward needed his personal memory to accord with that of his local community and his recollection was thus depicted as a communal memory.

¹⁹⁴ B.I., CP.F.113. Et interrogatus qualiter ita certitudinaliter recolit de predicta septimana precedente dictum festum dicit quod per prosecutionem suam contra dictum Johannem Schermann ut supradeposuit quia dicit interrogatus se bene scire quod tempore [illegible] supradicte placitum contra dictum Johannem in predicta curia introductum pendebat indeterminatum scit tunc bene ut dicit quod ante dictum festum nativitatis recuperavit et habuit dictam summam ab eodem Johanne Scherman per quas quidem prosecutionem et recuperacionem scit bene.

¹⁹⁵ B.I., CP.E.67. quidam Mauger vavasour moriebatur subito et casualiter periit in magna nive quando ipsemet testis fuit puer apud dictum locum Hughlathes et audivit iste testis ut dicit quod inquisitione fuit capta coram coronatorem Regis scire ipso mortuo a villatis de Darrington et aliis villatis circumclusis tanquam de mortuo infra parochiali de Darrington et nullo modo a villatis Pontefractis.

Edward understood the role of the coroner and the reciprocal duties of village inhabitants in the event of an accidental or suspicious death.¹⁹⁶ Participation in the inquest linked Edward not only with a much talked about incident in Darrington but also with judicial process. Anthony Musson has argued that ‘legal knowledge was acquired throughout a person’s life concomitant with the level of his or her exposure to legal process’.¹⁹⁷ Edward’s testimony exemplifies the means by which such knowledge could be accrued. That he remembered the coroner’s visit while appearing before the Church court in a tithe dispute, speaks of the ‘incremental nature of legal experience’.¹⁹⁸

It was not merely because of a death in the village that Edward recalled the boundaries and limits between Pontefract and Darrington, but because of the involvement of male villagers and townsmen in the judicial inquiry. As a younger male member of his community, Edward may well have been aware that he possessed certain legal duties within, and responsibilities to his community. Women were restricted by their inability to act as jurors in inquiries, an impediment that may have caused female legal experience to diverge from that of male inhabitants and participants.

Written records increased in number and usage in the late Middle Ages but they did not usurp individual memory as this discussion will demonstrate. Deponents’ memories were sharpened if money was owed or a loan was repaid. John Billyng had heard of Agnes Schilbotill’s marriage to Richard Sereby during a visit to Scarborough where he rendered payment on a debt owed to Robert Awner. He remembered hearing about the marriage, dating it ‘by the payment of the said sum and a certain bond’.¹⁹⁹ John deposed that the date of the final payment as

¹⁹⁶ For a critique of Barbara Hanawalt’s usage of coroner’s inquest records see, P.J.P. Goldberg, ‘The Public and the Private: Women in the Pre-Plague Economy’, in Peter R. Coss and S.D. Lloyd (eds.), *Thirteenth-Century England III: Proceedings of the Newcastle-upon-Tyne Conference* (Woodbridge, 1991), pp. 75-90.

¹⁹⁷ Anthony Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants’ Revolt* (Manchester, 2001), p. 84.

¹⁹⁸ Musson, *Medieval Law in Context*, p. 85.

¹⁹⁹ B.I., CP.F.113. Et interrogatus qualiter recolit ita certitudinaliter de lapsu tanti temporis dicit quod per solucionem dicte summe et quoddam scriptum obligatorem expressatus fuit festum pentecoste ad tres annos ultimo preteritos et post huiusmodi terminum videlicet infra decem dies precedentes festum nativitatis sancti johannis proximum tunc sequentem satisfecit dicto Roberto [Awner] de huiusmodi summa ut supradeposuit.

stated on the bond was the feast of Pentecost three years ago. He paid the debt ten days before the Nativity of John the Baptist which was 14 June.

In contrast, female deponents did not usually remember past events with reference to monetary transactions or debts. However, cases concerning disputed testaments yield female deponents who saw the last will of the deceased or heard it read aloud. In 1390, John de Buttercram and Henry de Gudechilde, executors of William Awne's testament pursued John Clerk, cardmaker, in the court of York for non-payment of a thirteen shilling debt.²⁰⁰ Avice de Awne, William's wife, testified that 'she had often seen his testament and heard it read' before his death.²⁰¹ Agnes de Awne, William's daughter deposed similarly that she had heard the testament read out. In the Rouclif case, Lady Margery Rouclif remembered writings associated with her grants of land.²⁰² Gentry families needed to have a greater awareness of documents related to their landholdings and where they were stored.²⁰³ In this instance, Lady Margaret's social position allowed her to remember in ways which were not available to lower status women. In the same dispute, another female deponent describes writings helpful in childbirth which a friend had given her, probably with oral instructions on their use.²⁰⁴

Clerical Memory

Secular clergy, notaries and those in religious orders relied on written documents to support their recollections on far more occasions than the laity. In a protracted fifteenth-century dispute concerning parochial rights, William Semanson, chaplain of the church of Sutton, questioned on his knowledge of the church's consecration, deposed that he remembered the date from 'ancient calendars' belonging to the parish church:

²⁰⁰ B.I., CP.E.174.

²⁰¹ Avice de Awne: quia ipsum testamentum sepius vidit et legi audivit.

²⁰² B.I., CP.E.89. Deborah Marsh, "I See By Sizt of Evidence": Information Gathering in Late Medieval Cheshire', in Diana E.S Dunn (ed.), *Courts, counties and the capital in the latter middle ages*, The Fifteenth Century series, 4 (Stroud, 1996), pp. 71-91 (p. 74); Owen, 'White Annays and Others', p. 334.

²⁰³ Marsh, "I See By Sizt of Evidence", p. 75.

²⁰⁴ Marianne Elsackers, "In Pain You Shall Bear Children" [Gen. 3:16]: Medieval Prayers for a Safe Delivery', in Anne-Marie Korte (ed.), *Women and Miracle Stories: A Multidisciplinary Exploration*, (Leiden, 2001), pp. 179-209 (p. 194).

And on the above, he says that mention was made, on which day and in which year the consecration was carried out in different calendars of the parish church's ancient books in this way. In which calendars, as he says above, on the twelfth day in the month of September it was written in an old hand in this form 'the consecration of the cemetery of the chapel of St James in Sutton in the year 1349', which writing this witness saw in the aforesaid calendars on the day of his examination and he inspected and read often at many other times.²⁰⁵

Only seventy years after the church was consecrated, William sought to convince the court of the entry's age, describing how it was written in 'an old hand'.²⁰⁶ That it was written in the 'ancient books' of the parish church conferred authority upon the entry's claims.

In a dispute dated 1344, the prior of Malton, a house of Gilbertine canons, laid claim to tithes in the parish of Wressell from the areas of Brind, Loftsome and Newsholme. Many of the local inhabitants deposed that the tithes were granted by Lord Eustace, known as de Vescy. When Eustace de Vescy sought a horse and money from the rector of Wressel, he had declined aid. The prior of Malton, however, responded to his appeal and met his request, receiving a grant from de Vescy in gratitude. One canon of the priory, Brother William de Clifton, knew of the tithes grant because it was preserved in the house's muniments.²⁰⁷ In this dispute popular and educated memory supplement one another, demonstrating the dialectic between oral memory and written record.

Laymen, members of the clergy and men in religious orders had more contact with documents than laywomen; this gender imbalance affected the likelihood that written records would appear as a mnemonic reference in female depositions. However, female religious who testified in tithe disputes referred to documents containing information on business associated with their houses. In 1345, a dispute between the rectors of the church of Thwing and the prioress and convent of

²⁰⁵ YMA, M2 (3)c. William Semanson: Et dicit insuper quod in diversis kalendariis antiquorum librorum dicte ecclesie parochialis habetur mencio quibus die et anno huiusmodi consecraccio facta fuit. In quibus kalendariis ut dicit super duodecimo die mensis septembris manu veteri scribitur sub hac forma consecraccio cimiterii capelle sancti jacobi de Sutton anno domino millesimo ccc xlix^o quam scripturam in predictis kalendariis ipsemet iuratus ut dicit isto eodem die examinacionis sue et pluribus aliis temporibus vidit inspexit sepius et perlegit.

²⁰⁶ For handwriting and memory see Connerton, *How Societies Remember*, pp. 74-78.

²⁰⁷ B.I., CP.E.49.

Wykeham reached the court of York. Four female religious from Wykeham testified that they had seen, read and heard read written documents that confirmed their rights within the convent itself.²⁰⁸ Emma de Wilton knew of the exemption 'because she saw and heard this many times in the privileges and bulls of the said monastery'.²⁰⁹ Agnes de Wynerthorp, fellow deponent and nun of Wykeham, also referred to these documents, specifically stating that she knew 'because she saw two papal bulls but she could not recall the name of the pope who agreed to this'.²¹⁰ The female religious who deposed in cases of disputed tithes give evidence similar to the laymen and monks who comprised the more customary group of deponents in these disputes. These female religious saw and heard these bulls, privileges and ancient books because of their status as religious and their advanced age.

When monks, friars and priests remembered past events they could not draw from the same range of life events as the laity. The evidence of Friar Michael Dawnay, though exceptional in nature, shows that this distance from lay life was not necessarily a disadvantage. The religious orders interpreted memory in a different manner to the laity, as a faculty needed for prayer and meditation on the Passion. Following the advice of St Bernard of Clairvaux, Cistercian novices were instructed to retrain their memories and to incline their minds towards God.²¹¹ This preparation for religious life may have directed the memories of the religious away from secular life and towards their vocations.

The male and female religious who deposed about tithes and parochial rights in the Court of York relied on mnemonic strategies related to their vocations. The nuns from the convent of Wykeham who deposed in the 1345 tithe case told the examiner how many years had passed since they entered religious life. Little is known of the ages at which monks, and indeed nuns, entered religious orders. Barbara Harvey acknowledges that the sources for her study of the monks of

²⁰⁸ B.I., CP.E.52.

²⁰⁹ Emma de Wilton: quia hoc multotiens vidit et audivit in privilegiis et bullis dicti monasterii.

²¹⁰ Agnes de Wynerthorp: quia vidit dua bullas papales scire hoc sed non recolit de nomine pope qui hoc concessit.

²¹¹ Cassidy-Welch, 'Confessing to Remembrance', p. 18.

Westminster remained ‘virtually silent’ on the age of profession.²¹² The memories of these four female religious from the convent of Wykeham provide solid examples of age of entry.²¹³ The convent of Wykeham was probably a Cistercian house by the time the rector of Thwing initiated the case.²¹⁴ However, debate continues as to when the Cistercian order accepted nunneries and how far nunneries had ‘Cisterican’ identities.²¹⁵ The female religious who testify in this dispute repeatedly refer to themselves as members of the Cistercian order; Agnes de Wynnerthorp includes the vow she took when she professed. When asked their ages, for example, one Emma de Wilton deposed that she was over sixty and she professed fifty-two years ago. Her fellow deponent, Agnes de Wynnerthorp, gave her age as more than sixty. Fifty years had passed since she entered religious life. In a tithe dispute dated 1440, two female religious, Alice Hadilsay and Alice Broghton, also give their ages at profession.²¹⁶

We cannot rule out the curiosity of the ecclesiastical examiner who may have asked the nuns how long it was since they had professed in order to further verify their evidence. Even if this were the case, these examples suggest that nuns and monks remembered past events with reference to their entry into religious life. As well as indicating the ages of several Yorkshire nuns upon profession, inclusion of the number of years shows that entry to religious life formed a watershed for male and female religious.

Evidence from other disputes lends weight to this argument. In a mid-fifteenth century suit, Leo Dawtre, monk at the house of St German in Selby remembered an event because five years before he had received the order of the

²¹² Barbara Harvey, *Living and Dying in England, 1100-1540: The Monastic Experience* (Oxford, 1993), p. 118.

²¹³ B.I., CP.E.52. For a short history of the priory of Wykeham see Page (ed.), *VCH: A History of the County of York vol. 3*, pp. 182-84.

²¹⁴ Janet E. Burton, *The Monastic Order in Yorkshire, 1069-1215* (Cambridge, 1999), p. 148.

²¹⁵ Thompson, ‘The Problem of the Cistercian Nuns’, p. 245; Elizabeth Freeman, ‘“Houses of a Peculiar Order”: Cistercian Nunneries in Medieval England, with Special Attention to the Fifteenth and Sixteenth Centuries’, *Cîteaux: Commentarii Cistercienses*, 55 (2004), 245-87.

²¹⁶ B.I., CP.F.221. This dispute is mentioned briefly in Burton, ‘Convent and Community’, p. 65.

priesthood.²¹⁷ In the Marrays c. Rouclif dispute, Alice de Beleby remembered when Alice de Rouclif was born because her son had entered the Carmelite order the year before Alice de Rouclif's birth, during the pontificate of Archbishop William Zouche.²¹⁸ She deposed that 'fourteen years or more have gone by from the year he was made a friar'. Goldberg argues that Alice de Beleby remembered her son's entry to the mendicant order in a manner analogous to memories of childbirth.²¹⁹ Indeed, the nuns of Wykeham gave the years since they professed alongside their ages.

The secular clergy provided exceptional evidence on burial rights, and served as 'expert' deponents in a range of other disputes.²²⁰ In dispute over burial rights between Wawne and Sutton-on-Hull, John Day of Halsham, a chaplain of the church of Sutton, provided evidence to the burial of children.²²¹ John's testimony displays strategies of recollecting past events which may well have been specific to his position as chaplain. John deposed that 'six years and more last past a certain Gilbert Ludynton, near Burton Constable, living for seven years was to die, and Margaret, his mother, made his corpse be brought to the parish church of Halsham for burial'.²²² John then recalled that 'within the week nearest to the feast of St. Michael the Archangel last past [29 September], Katherine, the daughter of William Brigham of Gansted of the parish of Swyne died just as he had heard from William Twyer, grandfather of the same Katherine, [who] decided that she would be buried

²¹⁷ B.I., CP.F.196. Et interrogatus qualiter habet in memoria sua ita certitudinaliter die locum et annum [damaged] iuratus vigilia festi sancte trinitatis dictum festum sancti michaelis immediate precedentem ordinem presbiteriale [damaged]. Et bene scit ut dicit quod a tempore suscepcionis huiusmodi ordinis [damaged] in vigilia [damaged] fuerunt quinque anni et non pluries neque pauciores. The depositions in this case are badly damaged on the left hand margin. The name missing from this deposition was recovered from internal references in the case itself.

²¹⁸ B.I., CP.E.89.

²¹⁹ Goldberg, *Communal Discord*, p. 96. The quote is from Goldberg's translation of Alice de Beleby's deposition.

²²⁰ Frederik Pedersen, 'Marriage Contracts and the Church Courts of Fourteenth-Century England', in Reynolds and Witte (eds.), *To Have and to Hold*, pp. 287-331 (pp. 290-91).

²²¹ YMA, M2 (3)c.

²²² YMA, M2 (3)c, fol. 35v.

near to a certain chapel situated within the parish of Preston called the chapel of St. Sepulchre near to Holderness'.²²³

John further recalled that eight years previously an unknown child who died in Sutton was buried in the cemetery of the parish church in Skeckling.²²⁴ For one reason or another, these children were buried outside of Sutton. John remembers the burial of Katherine and others because they were buried in a different place from the churchyard of Sutton where parishioners were customarily buried. While John Alanson also recalled the burial of Katherine this may have been because he had buried the child himself. John Page, a servant of William Twyer, recalled Katherine's death because he had travelled to the Prioress of Swine on the instruction of his master, and obtained a licence to have the child buried at St. Sepulchre's Chapel. Men and women may have remembered past events in relation to the burial of children and loved ones but the detail provided by John Day is particularly wide-ranging. As a chaplain, one of John's main concerns would have been providing cure of souls to his parishioners and providing for their burial. More importantly though, John would also have received payment and offerings from parishioners for their burial and as a chaplain on a comparatively low income he was probably eager for the money which this would have brought him. That several of his parishioners chose to bury their deceased children and infants elsewhere could also have been construed by him as a social affront.

Memory, Landscape, and Custom

Deponents in the Court of York remembered the past not only in relation to personal life events and the world in which they lived and worked. Memories of births, deaths, marriages and work were attached to the places in which they occurred. In the late Middle Ages, when the availability of written records was not yet evenly distributed, familiar landscapes and places were used to store and prompt functional and symbolic memories.²²⁵ Recollections were inscribed on the inner mental world of the individual but they also marked the physical surroundings

²²³ YMA, M2 (3)c, fol. 35v.

²²⁴ YMA, M2 (3)c, fol. 36r.

²²⁵ For a collection which addresses how meaning is conferred upon place see James Duncan and David Ley (eds.), *Place/ Culture/ Representation* (London, 1993).

which people inhabited. Anthropological and social science works on gender and space have identified a gendered divide between the public and private. These old and unproblematised theories are being broken down. Since female experience differed culturally from that of the male, the relationship between gendered memory and place should be examined to determine whether gender difference created divergent spatial perceptions and practices.

The work of Thomas Aquinas and Albertus Magnus heralded a renewed and proficient interest in the architectural system of memory storage which enjoyed a revival from the thirteenth century.²²⁶ Buildings and palaces of the mind were not the only repository for memories. While classical and medieval treatises on memory urged individuals to use artificial locations as memory palaces to store recollections, Albertus Magnus recommended the use of actual rather than imagined buildings.²²⁷ The prevalence of spatial metaphors that related memory to the landscape shows that even seasoned scholars relied on their surroundings in order to conceptualise memory.

The landscape has functioned throughout history as ‘the most generally accessible and widely shared *aide-mémoire* of a culture’s knowledge and understanding of its past and future’.²²⁸ When Edward I claimed English overlordship over Scotland and gathered evidence of his claim, he referred to a crack which the miraculous sword of Athelstan had made in a rock near Dunbar as proof of both Athelstan’s victory over the Scots in 937 and of Edward’s claims.²²⁹ The elite concept of architectural mnemonics organised memories, but the landscape could also give past events an element of order. In his early fourteenth-century *ars memorativa* Thomas Bradwardine recommended the field in various stages of cultivation as a memory store.²³⁰ His method of storing memories relied

²²⁶ Carruthers, *Book of Memory*, pp. 122-23.

²²⁷ Coleman, *Ancient and Medieval Memories*, p. 417.

²²⁸ Pei-yi Guo, “‘Island Builders’: Landscape and Historicity among the Langalanga, Solomon’, in Pamela J. Stewart and Andrew Strathern (eds.), *Landscape, Memory and History: Anthropological Perspectives* (London, 2003), pp. 189-209 (p. 194); Fentress and Wickham, *Social Memory*, pp. 93-95.

²²⁹ Clanchy, *From Memory to Written Record*, pp. 40-41.

²³⁰ Carruthers, *Book of Memory*, pp. 130-31. Thomas Bradwardine was appointed prebend of Lincoln and chancellor of St. Paul’s and was confirmed as Archbishop of Canterbury in 1349 only to lose his life a month later from the plague.

on the field in five different stages of cultivation. The treatise was intended for his students at Merton College whose recent entry to academic study may have necessitated a comprehensible approach which mimicked agrarian practice.

For ordinary individuals the ancient landscape of England was a repository for many memories. The landscape as a memory palace held mnemonic resonance for ordinary laypeople because topographical memory systems reflected their own actual land use.²³¹ This is evident in disputes which sought to settle ownership of tithes or to determine parochial boundaries.²³² Characterised by rural and urban topographies, the landscape provided the backdrop for deponents' recollections. Anthropologists who examine the landscape remain divided over whether humans act upon the landscape or whether the relationship between humans and their environment is a complex and reciprocal process.²³³ Within the York deposition evidence there are examples of deponents 'inscribing' and 'reading' the landscape. The rural landscape served as a useful mnemonic for those who inhabited it, but we should not forget Fentress and Wickham's observation that 'people in towns locate their memories in space, as peasants do, with streets and squares replacing fields and hills'.²³⁴ In his study of vernacular systems of cartography in medieval Marseille, Daniel Lord Smail demonstrates how inhabitants viewed the urban landscape in terms of social interaction.²³⁵ Familiar locations were considered more effective store-houses for memories.

Certain locations might be better known than others partly because the inhabitants name was encoded into its title. In an early fifteenth-century marriage dispute, a female deponent remembered a child's birth which had happened in the

²³¹ David Rollison, *The Local Origins of Modern Society: Gloucestershire, 1500-1800* (London, 1992), p. 70.

²³² Andy Wood, 'The place of custom in plebeian political culture: England, 1550-1800', *Social History*, 22:1 (1997), 46-60; Nicola Whyte, 'Landscape, memory and custom: parish identities c. 1550-1700', *Social History*, 32:2 (2007), 166-86.

²³³ Guo, "'Island Builders'", pp. 199-202.

²³⁴ Fentress and Wickham, *Social Memory*, p. 121.

²³⁵ Daniel Lord Smail, *Imaginary Cartographies: Possession and Identity in Late Medieval Marseille* (Ithaca, 1999), pp. 13, 14, 140-52.

home of one 'Little Cecilia' who rented it from Thomas Caltall.²³⁶ Perhaps the midwife's house, several other deponents remember 'Little Cecilia's' home with familiarity. Inhabitants moved home or relocated so that the house in which they once dwelt was soon in the hands of another family. In the dispute over Katherine Northfolk's abduction from Wallingwells, Robert Souman remembered all his tenants who had rented from him in the thirteen years since Katherine's birth.²³⁷ In descriptions of rental properties an additional description like 'ex locacione Thome Caltall' could be included.²³⁸

Deponents occasionally remembered attending markets in urban spaces. In 1432 Alexander Butler remembered an alleged contract between Agnes Brignall and John Herford because Robert, a monk, arrived at Pontefract with John on the Wednesday during the horse fair to buy an ambling palfrey. However, the fair had almost finished.²³⁹ Hugh Swynflete remembered a contract because he was in Scarborough in order to buy casks for herring.²⁴⁰ Richard Fowler also remembered because he was in Scarborough to buy herring and salted fish.

Due to the preponderance of cases related to tithes and parochial rights, and the fact that many witnesses living outside of urban areas, the rural landscape figures more often in the depositions than the city of York. Matrimonial litigation relied on witnesses who testified to marriage contracts which, whether urban or rural, usually occurred indoors rather than in public places. Legal disputes over entitlements to land often caused parties to articulate their claims through the landscape itself. Further, cases concerning tithes and parochial rights focus on remembered boundaries and landmarks. Testimony was weighted towards the recollection of fields, ditches, crosses, and rivers.

²³⁶ B.I., CP.F.79. ista iurata presens fuit in domo qua inhabitat quedam vocata parva cecilia in villa de Sykyngale quam domum habuit eadem Cecilia ex locacione Thome Caltall.

²³⁷ B.I., CP.F.89.

²³⁸ Smail, *Imaginary Cartographies*, p. 115.

²³⁹ B.I., CP.F.104. Alexander Butler: dicit quod quia predictus dompnus Robertus monachus illo die mercurii venit sd dictam villam pontifRACTI causa emendi unum palafridum ambulante[m] quia illa septimana fuerunt ibidem nundine equorum que quidem nundine die lune proximo precedente illum diem mercurii inceperunt ac fuerunt quasi finite ut dicit illo die mercurii tempore adventus dicti dompni Roberti monachi et Johannis ad dictam villam pontifRACTI.

²⁴⁰ B.I., CP.F.113.

Use of the agricultural landscape to store mnemonics is evident in an early fifteenth-century marriage case in which Robert Dalton recalled his absence on harvest work, along with his sister. He deposed that he remembered the time of the marriage and their harvest work ‘because of the cultivation of the fields of the village of Burneby because he said that at the time of the aforesaid contract in the said place called North Hill, the harvests of grain increased, as he says, for now it is sown with grain’.²⁴¹ The fields of Burneby became a contested site when deponents for the opposing party testified that the lands were not cultivated at that time. William Feryby asserted that ‘the field or place called North Hill lay fallow just as he heard many men...often say and by their faith swear’.²⁴² John Fawden supported William’s statement, testifying that the field ‘lay sterile, not sown, namely fallow’.²⁴³ The addition of the word “fallow” in English may have sought to verify their claims.

In another matrimonial cause, John, son of James of Redness, remembered when a marriage had occurred from his memory of a watercourse begun the same year.²⁴⁴ The construction of a watercourse was a considerable undertaking, no doubt employing local workers. After completion, it would have altered the flow of water across the landscape. Its construction made an impression in the memory of the inhabitants and on conceptualisations of the surrounding area.

Prosaic descriptions of the weather were occasionally included in depositions, and deponents occasionally stated that a marriage took place on a ‘clear’ or ‘fair’

²⁴¹ B.I., CP.F.200. Robert Dalton: Et dicit interrogatus se habere in memoria sua ita certitudinaliter lapsu huiusmodi temporis per culturam agrorum dicte ville de Burneby quia dicit quod tempore contractionis predictae in dicto loco vocato North Hill crescebant messes frumenti et idem locus ut dicit pro nunc est cum frumento seminatus.

²⁴² B.I., CP.F.200.

²⁴³ John Fawden: quod de vera noticia ipsius iurati campus vocatus North Hill de qua articulatur per xviii annos ultimo preteritos per quod tempus ut dicit idem iuratus in dictis villis de Burneby et Burnham moram traxit quolibet tercio anno fuit dimissus ad falulas anglice falowes non seminatus qui quidem campus temporibus estimali et autumpnali ultimo preteritis de veris visu et scientia ipsius iurati iacuit sterilis non seminatus viz falgh et [illegible] dicit se bene scire quod dicte tempore autumpnali inter festa assumptionis et nativitatis beate marie virginis ad tres annos proximos precedentes de quibus.

²⁴⁴ B.I., CP.E.76. Dictus Willelmus fuit viii annos et non ix annorum eo tempore quo contraxit [illegible] eiusdem Willelmi moriebatur [illegible] festum Pasche ultimo preteriter fuit xiiii annos elapsis [illegible] Willelmis natis et scit quod quinque anni sunt elapsis vel sex ad plura post contrax[erunt] idem anno in quo gulla de Merskelande primo incepit creare et hoc fuit [illegible] elapsis et dicte personas contraxerunt matrimonium ut preferetur ad festum Pasche proxima tunc.

day. These memories pale in comparison to the deposition evidence of John Cotrell and Robert Kelow. Changes to the landscape as a result of flooding rewrote the mnemonics of their surrounding landscape. Asked how he remembered the disputed marriage contract, John Cotrell responded:

because at the feast of St Martin in winter [11 November] immediately preceding the said marriage, the aforesaid John moved house from the township of Carnaby to the township of Sutton, and at the feast of St. Peter's Chains [1 August] nearest after the said feast of the Circumcision the notorious floods befell these parts of northern England from which the greater part of the crops and hay-harvest growing in that year was destroyed, and in this way the day nearest before the feast of St. Peter a certain Richard Park of Lepyngton was lamentably drowned in the waters of Derwent near Kexby bridge. At the feast of St. Peter's Chains last passed, four years had gone by since the floods and drowning from the certain sight and knowledge of this witness.²⁴⁵

Robert Kelow testified similarly:

he says because, at the feast of St. Peter's Chains nearest after the said feast of the Circumcision, a certain Richard Park of Lepyngton was drowned near Kexby bridge in the floods of waters which happened on that feast, there were four years since the drowning and floods at the feast of St. Peter's Chains last passed from the certain knowledge of this witness as he says.²⁴⁶

Both of the men's recollections of the flood were personal as well as collective. The floods had occurred in recent memory and the destruction of much of the harvest had a great affect on the community. The flood not only destroyed

²⁴⁵ B.I., CP.F.179. John Cottrell: quia ad festum sancti martini in yeme dictum contractum immediate precedentem predictus Johannes Carnaby transtulit domicilium suum a villa de Carnaby super le Walde usque ad dicta villa de Sutton et ad festum sancti Petri quod dicitur advincula proxima post dictum festum circumcisionis contingebat diluvia famosa in istis partibus borialis anglie quibus maior pars messum et feni illo anno proveniens fuit destructa et die proxima precedente huiusmodi festum sancti Petri quidam Ricardus Park de Lepyngton in aqua de Derwent prope pontem de Kexby fuit lamentabiliter submersus citra qua diluvia et submersione ad festum sancti Petri advincula ultimo preteritum fuerunt quatuor anni elapsi de certis visu et scientia ipsius iurati.

²⁴⁶ Robert Kelow: Et dicit insuper interrogatus se scire ita certitudinaliter deponere de huiusmodi certo anno quia ad festum sancti Petri quod dicitur advincula proximum post dictum festum circumcisionis in diluvia aquarum illo festo contingenta quidam Ricardus Park de Lepyngton apud pontem de Kexby fuit submersus citra annum submersione effluxi fuerunt quattuor anni ad festum sancti Petri advincula ultimo preteritum de certa scientia ipsius iurati ut dicit.

crops but resulted in the drowning of a neighbour and, perhaps for John Cotrell, a friend. Overt expressions of emotion are infrequent in the causes, but John gives the added detail that Richard's drowning was lamentable. John might have been present during the event or in its aftermath, as he testified that he knew of the events from his 'certis visu'.

Memories of the floods, attached to the landscape and accompanied by a death, strengthened recollections which were perhaps recalled and transmitted orally beyond living memory. For the remainder of John and Robert's lifetimes, the bridge and surrounding waters would probably be known as the place where Richard Lepyngton drowned in the floods of that year. While the area where he drowned was located 'prope' Kexby bridge, the bridge served as the focal point for his death, acting as a solid marker to which memories were attached. The evidence of these men demonstrates that emotive and memorable events could be inscribed on the landscape.

Male memory often focused on physical locations, local customs and boundaries. However, this male dominance over the articulation of the landscape may actually reflect the fact that testimony found in cases concerning tithes and parochial rights is customarily given by groups of older men. Gender in tithe and parochial litigation has received very little attention so far. Janet Burton observed that the testimony of the inhabitants of Kirkby Roo, in a late fifteenth-century dispute over parochial rights in the Court of York, represented the 'corporate memory of the community'.²⁴⁷ However, the group of witnesses who represented this community consisted entirely of men; women did not give testimony and were rarely mentioned in the deposition evidence. Reliance on male rather than female testimony means that extant depositions which record boundaries and customs reflect only male perceptions and reconstructions of the landscape. We might also consider whether male 'authorship' of these places brought about gendered articulation of custom, memory and the landscape.

Referring to customary rights which were said not to exist 'time out of mind', litigants and deponents in cases concerning disputed tithes and parochial rights sought to establish their claim's longevity. In the common law courts, litigants

²⁴⁷ Janet E. Burton, 'Priory and Parish: Kirkham and its Parishioners 1496-7', in Benjamin Thompson (ed.), *Monasteries and Society in Medieval Britain, Proceedings of the 1994 Harlaxton Symposium* (Stamford, 1999), pp. 329-47 (p. 333).

provided oral testimony to the right of their ancestors to land since the Norman Conquest.²⁴⁸ Customary rights were indistinguishable from the memory of men. Claims were phrased in suitably vague terms, reinforcing the ‘timelessness’ of customs and rights; when these rights had begun to exist, and for whom, remained conveniently unclear so that events appear uprooted from temporal time-schemes.

In a tithing dispute initiated in 1340, John le Smale, canon of Ripon and prebendary of Studley, brought an action against William Boye, one of his tenants holding land in farm from him, in order to recover corn and hay owed in tithes from the grange of Havercroft.²⁴⁹ Hugh del Roche, chaplain, presented the rights of the church of Ripon as well established and existing, not just ‘time out of mind’ but throughout his own memory of the recent past. Enlisting his own direct memory of the ‘ancient’ customs of the church, he deposed that ‘he knew well and had seen that for thirty years nearest elapsed church sacraments had been administered in that parish of the said church’.²⁵⁰ The deponents presented the college church of Ripon as well served in sacraments and in cure of souls.²⁵¹

Deponents relied upon recent custom whereby John le Smale exercised his rights over the tithes in his parish. Richard de Stowe deposed that, until the time of the dispute, John le Smale had collected tithes in Ripon and its outlying areas until William Boye’s recent incursions in which he held the fruits of the lands pertaining to Havercroft ‘for his own use’. John le Smale’s witnesses emphasised deterioration in their evidence in an ‘essentially regressive mnemonic tradition’.²⁵² This narrative of decline has been characterized as an ‘inherently pessimistic [and] unmistakably backward-clinging historical stance [which] typically includes an inevitably tragic vision of some glorious past that, unfortunately, is lost forever’.²⁵³ John le Smale’s

²⁴⁸ Paul Brand, ‘“Time Out of Mind”: the Knowledge and Use of the Eleventh- and Twelfth-Century Past in Thirteenth-Century Litigation’, *Anglo-Norman Studies*, 16 (1994), 37-54 (p. 45).

²⁴⁹ B.I., CP.E.270.

²⁵⁰ B.I., CP.E.270.

²⁵¹ Hugh del Roche: He knew and he saw John le Smale was in the canonry of Ripon and at the prebend of Studley for the past sixteen years, throughout which time he governed.

²⁵² E. Zerubavel, *Time Maps: Collective Memory and the Social Shape of the Past* (Chicago, 2003), p. 17.

²⁵³ Zerubavel, *Time Maps*, p. 16.

deponents envisaged a glorious past revived in a future in which wrongful incursions gave way to redress.

Analysis of a complex but fascinating mid-fifteenth-century dispute over tithes in the Green Dykes area in the suburbs of York reveals how popular male memory could operate in disputes over tithes. This dispute will demonstrate how local memory might contest other forms of memory which existed synchronically. The case has not been fully catalogued in David Smith's handlist to the cause papers as only the depositions survive.²⁵⁴ However, the records of St Mary's abbey held in York Minster archive indicate that this case may have been one of a number of actions brought between the abbey and the Dean and Chapter over rights to tithes and oblations in the Green Dykes area.²⁵⁵ Although the relationship between the tithe case and the St Mary's records is unclear, by 1457 the two parties were locked in dispute over related issues of tithes and boundaries.

Peasant memory, like female memory, has often been characterized as cyclical in nature, structured by agriculture and divorced from linear history.²⁵⁶ However, the Green Dykes dispute demonstrates that popular memory did acknowledge local developments which were framed in terms of how they affected local affairs. The twelve deponents in this case, many of whom were parishioners of St Lawrence's and inhabitants of a manor in the western part of Heslington, testified to the local boundaries, topographical features and remembered events. They argued that the parish of St Lawrence was granted the right to minor tithes in Green Dykes by the hospital of St Leonard, lords of that manor of Heslington.²⁵⁷ The Dean and Chapter of York received the greater tithes as appropriators of the church of St Lawrence's. Details of this agreement do not survive but Richard More deposed that the master and brothers of St Leonard's transported manure from the city by agreement and deposited it in a great ditch near Green Dykes.²⁵⁸ He stated

²⁵⁴ B.I., CP.F.342.

²⁵⁵ YMA, P 1/1/v.

²⁵⁶ Fentress and Wickham, *Social Memory*, pp. 98-99.

²⁵⁷ Thomas Brown: Et dicit ultra quod vicarius pro tempore existens recepit et collegit ac in presenti recepit et colligit omnes et singulas decimas minores infra dictam parochiam.

²⁵⁸ Francis Drake, *Eboracum, or the History and Antiquities of the city of York*, with a new introduction by K.J. Allison (London, 1736), p. 251. Drake cites an agreement between the hospital and the dean and chapter dated 1439.

that 'no one spoke against' the dumping of manure in the ditch near Green Dykes, indicating widespread knowledge of the agreement and the parish's belief that it was in their best interest to maintain the status quo.²⁵⁹

The deponents gave evidence to prove that Green Dykes fell within their parish's boundaries, in order to fend off St Mary's abbey's aggressive attempts to seize their tithes, and oblations which were made to the Image of the Blessed Virgin Mary.²⁶⁰ Thomas Stokton deposed that a certain long ditch separated Green Dykes from the lands of St Mary's abbey. This ditch began at the corner of the close of St Nicholas' hospital, extending to Tilmire marsh. There were boundary stones on the bank of the ditch which separated the parish of St Lawrence's from St Olave's in the suburbs of York and St Oswald's in Fulford. St Mary's abbey held lands in neighbouring Gate Fulford and Water Fulford.²⁶¹ Francis Drake recorded an agreement dated 23 January 1457 which awarded tithes and oblations from Green Dykes to the vicar of St Lawrence 'whether within the limits of St Mary, and the chapelries of St Olave and Fulford, as the abbot and convent of St Mary's allege, or within the precincts of this church of St Lawrence, as Richard, the vicar thereof asserteth of right belongs to him'.²⁶²

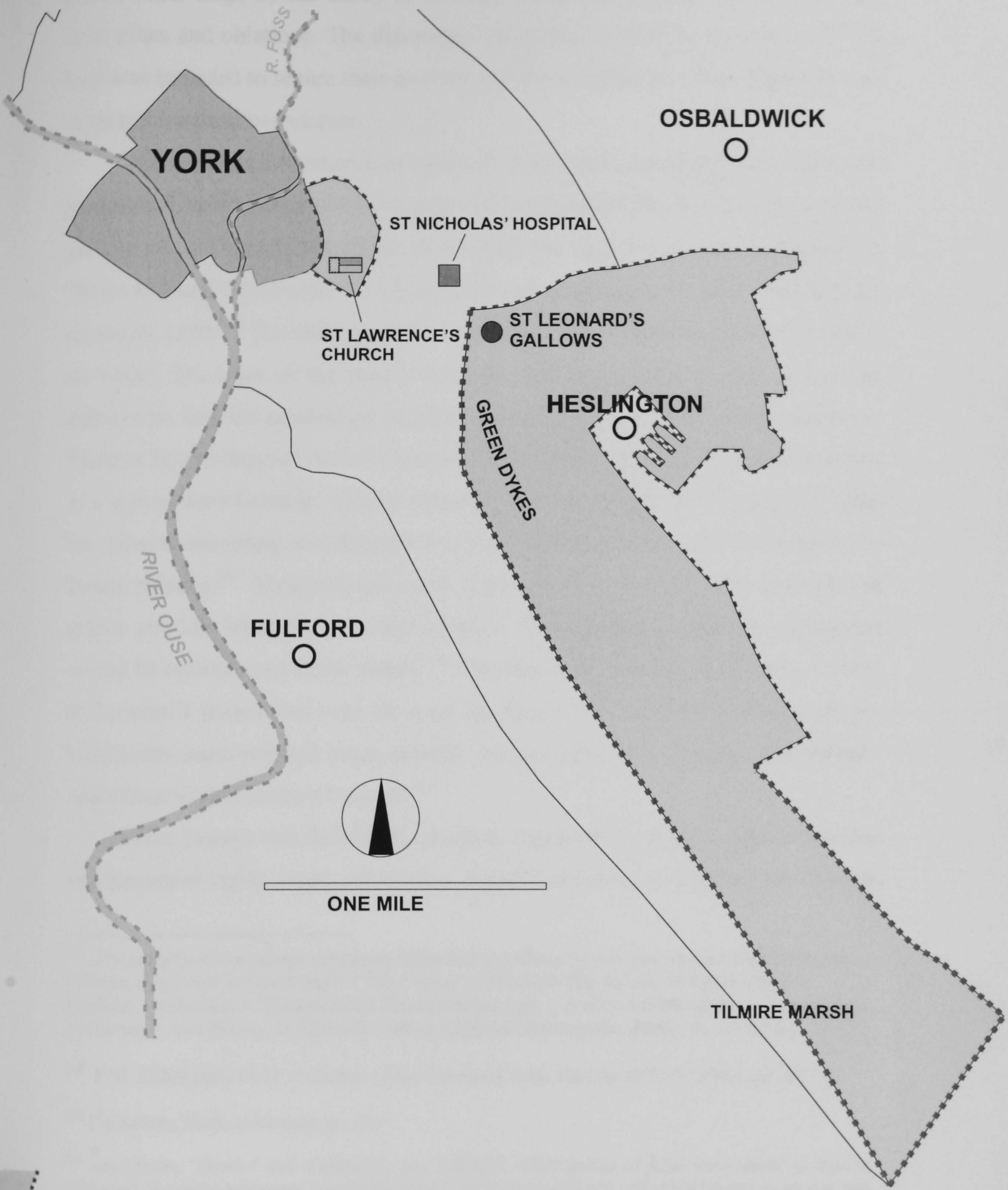
Landmarks on the boundary of the parish of St Lawrence emerged as sites of memory because their existence and legitimacy had been contested. The deponents no longer represented the old community of St Lawrence but a new memory of a

²⁵⁹ Richard More: dicit insuper quod bigarii hospitalis sancti leonardi fimum ab Ebor usque ad eundem locum multotiens cariarunt et in quadam magna fossa ibidem reposuerunt quem pro congruentia temporis in agros suos eidem loco vicinos detulerunt et ad compostacionem eorundem sparserunt nullo contradicente ad tunc de visu et sciencie suis.

²⁶⁰ Each deponent mentions the abbey's obstruction of the vicar of St Lawrence's rights to tithes and oblations. However, the statements of Thomas Stokton and John Shirwood are particularly full. Thomas Stokton: ita audivit dici a quampluribus vicinis suis et aliis quod Abbas et Conventus supradicti dictum dominum Ricardum a possessione sua expulerunt ac ipsum multipliciter gravibus sumptibus et laboribus fatigavunt. See also the deposition of John Shirwood: Super xv^{to} articulo examinatus dicit quod continent veritatem quia ita audivit dici quod Abbas et conventus monasterium beate marie Ebor predictus supradictum dominum Ricardum vicarium per violentam potentiam domini Johannis Nevyll militis familiaris et complicitis eorundem possessione sua pacifica qua per quarterium unius anni paciebatur expelleba[*right hand margin damaged*] et sic expulsus nequiter detinet in presenti viz ut a talibus molestis aliis omnibus desisterent pro parte eiusdem vicarii fuerunt debite requisiti.

²⁶¹ For an outline of landholdings in Fulford and Heslington belonging to the archbishop and St Mary's abbey see K.J. Allison (ed.), *VCH: A History of the County of York East Riding vol. 3* (1976), pp. 31-32.

²⁶² Drake, *Eboracum*, p. 251.



PARISH BOUNDARIES

RIDDEN BOUNDARIES

THE PARISH OF ST LAWRENCE'S CHURCH, YORK

parish under siege by the abbey of St Mary's and their armed attempts at seizing their tithes and oblations. The deponents' emphasis on their customary use of the land was intended to secure their position but the articulation of their rights alluded to their threatened boundaries.

The deponents testified that thirty or forty years previously they had been present with many others at the hanging of five thieves by the sheriff of York on the gallows of St Leonard's Hospital, after which the area was known, in English, as 'Seynt Leonard's Gallowes'.²⁶³ These gallows were in use from 1374-5 but fell into disuse by 1500.²⁶⁴ The hangings left a mnemonic on the area which was encoded in its name. The edge of the manor was the most logical site for the erection of gallows so that the boundaries could be inscribed more firmly on the landscape. Thomas Brown deposed that St Leonard's had erected the gallows on the boundary as a sign of their lordship. Violent imagery served as a more useful mnemonic than the prosaic according to scholastic treatises, advice which could be followed in actual practice.²⁶⁵ Medieval and early modern evidence from land disputes and grants provide instances in which children were beaten so that the boundaries would be remembered in the future.²⁶⁶ Articulated by inhabitants of Green Dykes, St Leonard's dominance over the local landscape was inscribed in their memory, which may seem unusual since popular memory tends to symbolize and embody opposition to elite forms of control.²⁶⁷

Since custom was dictated by practice, deponents in disputes related to tithes and parochial rights could construct a specific narrative of habitual use through

²⁶³ For analysis of the culture of spectatorship that surrounded public punishment see Seth Lerer, "'Representyd now in yower sight': The Culture of Spectatorship in Late-Fifteenth-Century England", in Barbara A. Hanawalt and David Wallace (eds.), *Bodies and Disciplines: Intersections of Literature and History in Fifteenth-century England* (Minneapolis, 1996), pp. 29-62 (pp. 34-42).

²⁶⁴ P.M. Tillott (ed.) *VCH: A History of the County of York, the City of York* (1961), pp. 497-98.

²⁶⁵ Carruthers, *Book of Memory*, p. 134.

²⁶⁶ van Houts, 'Gender and Authority', pp. 206-207. After grants of land were made to Rouen cathedral, the older witnesses 'whipped many little boys and [then] refreshed [them] in record and memory of this deed'. A similar scene was recorded following a land transfer at the monastery of Saint-Pierre at Préaux. An inquisitive child who sought an explanation for his beating was informed by the house's founder that his youth meant that he could testify to the grant after the older men had died.

²⁶⁷ Alessandro Portelli, 'Memory and Resistance: For a History (and Celebration) of the Circolo Gianni Bosio', in Portelli (ed.), *The Battle of Valle Giulia: Oral History and the Art of Dialogue* (Madison, 1997), pp. 40-54 (pp. 40-47).

descriptions of their own embodied actions on the land. The first witness, aged eighty-nine, had tended his father's sheep in Green Dykes from the age of ten; when the sheep gave birth his father paid tithes to the parish priest of St Lawrence's.²⁶⁸ Like several other witnesses, Thomas Stokton deposed of his father's use of Green Dykes: his father had been the herder of the cows of the city of York in Green Dykes for twenty years before his death.²⁶⁹ Customary use of the land reveals that fathers, uncles, and older men often transmitted knowledge of local boundaries to younger inhabitants. When deponents could not remember land use, the word of their father offered a link with the distant past.²⁷⁰

Cultivation of the land could become an action which tested parish boundaries. Boundaries often overlapped so that one area might coexist in a palimpsest of different jurisdictions. Thomas Brown deposed that years before, John Langwath, the bailiff of the manor of Heslington and minister of St Leonard's hospital, seized his horse and cart for digging clay from St Leonard's; for this reason he knew that Green Dykes was in the manor of Heslington.²⁷¹ Richard More

²⁶⁸ First witness: quia ipse iuratus quando fuit etatis x annorum et circiter custodivit certas oves Thome Lutton patris sui carnalis dumvixit in dicto loco lez Outegang alias Grenedykes ibi fetantes de quibus prefatus Thomas pater suis soluit decimas domino Thome Fulkmanthorp tunc vicario predicte ecclesie sancti Laurencii tam agnorum quam lane tancquam de infra loco et fines et limites parochiales predicte ecclesie parochialis sancti laurencii [damaged] quod ipse habuit certas oves [damaged] in grege omnium partis sui predicti de quibus in dicto loco [damaged] et fetantibus soluit decimam dicto Thome Fulkmanthorp vicario predicto de lana et agnis eorundem et idem pater suis durante vita sua de anno in annum quamdiu habuerat oves sic soluit predicto domino Thome vicario pro tempore suo.

²⁶⁹ Thomas Stokton: Et dicit ulterius quod Ricardus Webster pater suus fuit bubulcus sive [damaged] communis vaccarum civitatis Ebor per xx annos ante mortem suam ut sibi dixit qui una vice ministrando vaccas in dicto loco lez Grenedykes ad communem pasturam vidit unam vaccam Alicie Gare de Ebor ibidem fetantem et vitulum habentem prope furcas sancti leonardi ibidem existentes ex parte occidentali earundem pro xl pedes ut credit quam quidam vaccam cum vitulo predicto pater suus prefate Alicie adduxit et dixit quod interfuit cum patre suo quando soluit unum denarium nomine decime pro dicto vitulo vice predicte Alicie Gare ex deliberacione eiusdem ut ad tunc asseruit pater suis prefato domino Johanni Helperby vicario ecclesie predicte.

²⁷⁰ Everard, 'Sworn Testimony and Memory of the Past', p. 82.

²⁷¹ Thomas Brown: Et hoc dicit se scire quia Johannes Langwath Ballivus sive minister predicti hospitalis et manerii eiusdem de Heslyngton circiter triginta sex annos preteritos repperit istum iuratum sabulum effodientem prope furcas eiusdem hospitalis ex parte australi earundem qui et tunc bigam suam adiit et unum equum de eadem dissolvit et inclusit pro eo quod sine licencia iste iuratus effodebat sabulum in dicto loco quem quidam equum postea eidem deliberavit prestita prius [illegible] ad satisfaciendum magistro et fratribus predicti hospitalis pro transgressione huiusmodi qui de post dicto adiit hospitale et cum duobus fratribus eiusdem videlicet Skyres et Bryghton pro transgressione premissa concordavit.

knew Green Dykes was in the parish of St Lawrence's because he had participated in rogation processions when he lived in neighbouring Fulford.²⁷²

Embodied use of land was not only marked out in secular and agricultural memory. The majority of the witnesses also deposed about traditional funeral practice in Heslington. The deceased were carried to the cemetery and the procession paused at Heslington Cross, in the Green Dykes area, where prayers were said and little wooden crosses affixed to the main Cross in memory of the dead. Thomas Stokton, aged more than eighty, deposed that this was 'according to the custom of that parish and the other surrounding churches and villages ... who had the same use and observance'.²⁷³ While this funeral practice was described as an ancient custom, a shrine to the Blessed Virgin Mary developed several months before the dispute was initiated. William Paton described the shrine to which wax and money oblations were made.²⁷⁴

Several men who were among the last to testify framed their memory of St Lawrence's parish boundaries in formal and official as well as popular discourse. John Shirwood, common clerk of the city for over thirty years and described as a freeman and gentleman in the civic records, lent official weight to the parishioners' case.²⁷⁵ His lengthy deposition survives in the dispute. He deposed that he had read in a written agreement, dated June 1252, that the Dean and Chapter of the cathedral church of York were named proprietors of St Lawrence's church. The same agreement with St Leonard's hospital assigned tithes in the area to the Dean and Chapter from the hospital's lands in Heslington.

Shirwood deposed that he had read in several civic registers that the gallows were commonly known to belong to St Leonard's. From the same registers, he also gave details of the ditch or dike which ran from the corner of the close of St

²⁷² Charles Phythian-Adams, *Local History and Folklore: A New Framework* (London, 1975), p. 19.

²⁷³ For a treatment of popular religion, processions and folk practices see André Vauchez, *The Laity in the Middle Ages: Religious Beliefs and Devotional Practices*, (trans.) M.J. Schneider (London, 1993), pp. 129-39.

²⁷⁴ William Paton: quia vidit et novit crucem in dicto loco et vidit super eandem ante construcionem domuncule ibidem oblaciones inibi facta ut sibi apparuit in cera ad figuram iiii oculorum et unius tibie ac unius brachii hominis.

²⁷⁵ Barrie Dobson, 'John Shirwood of York: a Common Clerk's will of 1473', in Margaret Aston and Rosemary Horrox (eds.), *Much Heaving and Shoving: late medieval gentry and their concerns; essays for Colin Richmond* (Ipswich, 2005), pp. 109-20.

Nicholas' hospital up to the Tilmire marsh. The ditch served as the boundary between the parish of St Lawrence and those of St Olave and St Oswald. Recourse to the city registers in a case which turned on custom is not surprising in the period slightly after Roger Burton, a common clerk of the city, who was greatly concerned with civic history and custom.²⁷⁶ Shirwood himself acted as common clerk of the city of York for over thirty years in the mid-fifteenth century.²⁷⁷ Dobson suggests that the city's common clerk was the 'civic official most directly responsible for the town's many written communications'.²⁷⁸ John Shirwood's use of popular memory, alongside written records, shored up the civic or official memory on which he also relied. Further, evidence from an eighteenth-century town clerk of York indicates that Shirwood was very probably the compiler of the precursor to the extant House Books.²⁷⁹ Like the other deponents who testified on their actual use of the land, Shirwood, who was not a parishioner of St. Lawrence's, articulated his own knowledge through his professional and embodied actions. Earlier in his career, Shirwood had held the hospital's court in Heslington. This was an office which ensured contact with the hospital's accounts where Shirwood deposed he had seen details of their landholdings. Aside from the written documents, Shirwood gave similar evidence to other witnesses apart from the customary use of land. We might expect Richard Thornton, an ex-sheriff of York, to have followed suit. However, Thornton, first and foremost a parishioner of St Lawrence's, attested to the boundaries without reference to civic registers, just like the other deponents.

The city's collective memory and history of its boundaries had evolved alongside the ecclesiastical liberties of the Dean and Chapter, St Mary's abbey and St Leonard's Hospital. Further, urban communities were well versed in how to deploy appropriated myths.²⁸⁰ St Mary's abbey and the civic administration had long nursed their grievances toward one another which had become ingrained over

²⁷⁶ Rees Jones, 'York's Civic Administration', p. 110.

²⁷⁷ Dobson, 'John Shirwood of York'; see also Deborah O'Brien, "'The Veray Registre of All Trouthe": the content, function and character of the civic registers of London and York, c. 1274- c. 1482', (Unpublished PhD thesis, University of York, 1999), pp. 242-3.

²⁷⁸ Dobson, 'John Shirwood of York', p. 114.

²⁷⁹ Dobson, 'John Shirwood of York', p. 115.

²⁸⁰ Gervase Rosser, 'Myth, Image and Social Process in the English Medieval Town', *Urban History*, 23: 1 (1996), 5-25 (p. 6). Rosser argues that the approach which communal civic identities adopted towards challenges were often 'dynamic, constructive and processual' in nature.

many generations. The quarrel simmered over the issue of jurisdiction, occasionally reaching boiling point, though by the early fifteenth-century relations were somewhat improved.²⁸¹ These witnesses may have experienced some satisfaction when testifying against their old adversary, St Mary's abbey, since the delineation of boundaries was crucial to the case.

Male deponents did not then conceptualise space and place only in accordance with either popular or official memory. Even witnesses such as John Shirwood and Richard Thornton, who could draw on evidence from written records and registers, relied on popular memory to give further weight to the delineation of boundaries. The civic tradition which these men would have recognised often invoked perceptions of the past to safeguard a city's liberties with 'the currency of popular etymologies and other legends' supplementing urban government's accounts of customs and rights.²⁸² In disputes concerning tithes, even more than civic custom, the word of ordinary inhabitants who cultivated and lived on the land formed an essential cornerstone of proof. In the Green Dykes dispute experience of funeral and rogation processions, agricultural practice and payment of tithes verified descriptions of formally agreed boundaries. That the boundaries intersected in the depositions yet failed to overwrite one another demonstrates that witnesses' methods of conceptualising the landscape were diverse and fluid. Oral tradition maintained a reciprocal and processual relationship with official or written records.

In the Green Dykes case, the fixed and static landmarks were constructed by male testimony. Male voices were endowed with superior legal capacity, giving them greater symbolic power over mnemonic inscription of the landscape. Male memory was externalized to the extent that their memories involved more active engagement with the physical environment. Their communal testimony resulted in the inscription of apparently male places of memory on the landscape. The male deponents only mention women when they describe how pilgrims 'of both sexes' visited Heslington to pray before the Image of the Blessed Virgin.

Women were however involved in the transmission of collective memory. In a fifteenth-century case concerning disputed parochial rights between the churches

²⁸¹ E. Miller, 'Medieval York', in Tillott (ed.), *VCH: the City of York*, pp. 38-40.

²⁸² Rosser, 'Myth, Image and Social Process', p. 12.

of Wawne and Sutton, the elderly men who testified in an inquiry of 1402 effaced the presence of women at the dedication of the parish church of Sutton fifty years before.²⁸³ In a later set of depositions, the memories of several old women who attended the dedication are ventriloquised by younger men. In an early fifteenth-century tithe dispute we find an exceptional instance in which Alice Baker, aged seventy-eight, took on the role of the oldest living person in the village with knowledge of the parish's payment of tithes.²⁸⁴

Women did engage with, and reconstruct the landscape through female labour and remembrance of local custom but this was rarely recorded in deposition evidence. Male deponents might still efface female presence, giving interpretations of female memory an unstable quality reflective of social marginalisation. Women rarely created fixed sites of memory; instead they affixed memories to their own bodies, and to the births of their own children and those of friends as a means to locate events. These events do not represent the *lieux des memoires*, detached from memory which Pierre Nora describes, but actually encapsulate *living* memory, in real environments of memory, which was not consigned to history.²⁸⁵ Knowledge about birth provided women with a useful linear framework against which other events could be measured.

The male deponents in the Green Dykes tithe case could not claim such accuracy. While their knowledge was presented as fixed history – ‘time out of mind’, recorded in documents and archived in the city registers – it was nevertheless subject to human memory. Each deponent testified differently to the number of years since the thieves had been hanged on St Leonard's gallows. What they presented as their parish's history was also living memory which continued in their own social, agricultural and religious practice. Men, as well as women, were central to the maintenance and transmission of memory. Men may have utilised discourses of memory unavailable to women, but memory and history, and orality and the written document did not exist in a strict and gendered dichotomy.

²⁸³ YMA, M2 (3)c.

²⁸⁴ B.I., CP.F.10.

²⁸⁵ Nora, ‘Between Memory and History’, p. 12.

Journeys

Trade overseas ensured that many journeys undertaken by merchants involved not only movement into a different spatial setting but also the advance of time. Increased regulation introduced with changes in monetary practice necessitated a more precise means of measuring time.²⁸⁶ For merchants, time, and the duration of a journey in particular, had become the most important facet of their travels.²⁸⁷ One marriage case contains the depositions of a group of young men who travelled overseas. William Till, aged more than thirty, remembered the contract ‘because he went to overseas places for the reason of trading and he waited in the same parts namely Denmark and Holland for two full years and he came home at the feast of the Discovery of the Holy Cross [3 May]’.²⁸⁸ Thomas Cottesworth and John Thomson, both in their twenties, remembered because they had then been staying overseas. Both men, however, remember an illness which was visited upon parts of England that year. The men went overseas to avoid it and maintain their health and comfort.

The cause papers do not yield examples of women travelling overseas to trade or conduct other business. But that is not evidence of their relative immobility compared with men. In an *ex officio* citation which arose from a visitation to the diocese of Lincoln, Roger de Lissington told the court that his estranged first wife had not only left him thirteen years before but also that she had died three years previously in Ghent.²⁸⁹ Remarriage or, at the very least, migration was implied in his account of his wife’s whereabouts. This tale might have contained a grain of truth but Roger was told to search for his wife again with the implication that she may have still been living in England. Though not necessarily going aboard ship with merchants, women were still affected by the precarious fortunes of men overseas.

²⁸⁶ Jacques Le Goff, ‘Merchant’s Time and Church’s Time in the Middle Ages’, in Le Goff (ed.), *Time, Work and Culture in the Middle Ages* (Chicago, 1980), pp. 29-42 (p. 35).

²⁸⁷ Le Goff, ‘Merchant’s Time and Church’s Time’, p. 36.

²⁸⁸ B.I., CP.F.113.

²⁸⁹ L.R. Poos, ‘The Heavy-Handed Marriage Counsellor: Regulating Marriage in some Later-Medieval English Local Ecclesiastical Court Jurisdictions’, *The American Journal of Legal History*, 39:1 (1995), 291-309 (p. 295). For a recent treatment of wives engaging in spousal desertion see Sara Butler, ‘Runaway Wives: Husband Desertion in Medieval England’, *Journal of Social History*, 40:2 (2006), 337-59.

Women did travel but the journeys which they undertook were not characterised by travel overseas and seem shorter in general. The journeys measured and made by women differ greatly in length from those made by men. Women travelling outside of their residential town or village for harvest work is mentioned obliquely in several causes.²⁹⁰ Often an economic necessity, harvest work was far from prohibited for the late medieval female, but it could occasionally render relationships in the home and in the workplace problematic. For one Lucy, her decision to leave her marital home in the autumn of 1356 to engage in harvest work ‘without the licence of her said husband’ is mentioned because it led to discord and provoked her husband’s wrath.²⁹¹ Lucy’s witnesses presented her as repentant for leaving home on harvest work without her husband William’s permission. Walter de Mellerby remembered fetching water from the River Ouse because Margery Spuret, the servant who usually completed the task, was absent for harvest work. Her employer had agreed to her temporary release from duties but her absence did not pass unnoticed by her male workmates. The journeys of both women were framed in terms of how they affected men and were reiterated through male memories, whether that of their husbands or their workmates.²⁹²

Journeys might also have religious significance as deponents’ recollections of pilgrimage demonstrate.²⁹³ Pilgrimage occurred in a spiritual time scheme within which the Christian traveller prepared his or her soul for the Day of Judgement. This type of journey inscribed itself on the individual’s religious memory, proceeding alongside but not coterminous with other events in their lifetime. Henry Devyas had good reason to remember his pilgrimage to the shrine of St Theobald during the pestilence as it formed another element of a spiritual journey on which he had embarked. When Henry was questioned upon his knowledge of the fifteen days, he deposed that:

²⁹⁰ B.I., CP.E.77, CP.E.159.

²⁹¹ sine licentia dicti mariti sui.

²⁹² Henrietta L. Moore, *Space, Text and Gender: An Anthropological Study of the Marakwet of Kenya* (Cambridge, 1986), p. 72. Moore notes that women might withhold their agricultural and domestic labour from the menfolk in instances where they have been mistreated or their opinion disregarded.

²⁹³ See B.I., CP.E.92 for a pilgrimage to Scarborough.

[he recalls] because in the month next after the said pilgrimage, he made a certain oath, namely that he should abstain from fish every Friday during his life, which vow he observed up to now and he intends to observe as long as he shall live, and he says, that three years have passed since the oath was thus made, neither more nor less.²⁹⁴

Several of Henry's fellow deponents also remembered the pilgrimage to the shrine of St Theobald, but the oath which Henry made the month after was individual in nature. The other witnesses who travelled with him merely gave an account of their journey. Henry remembered the pilgrimage as a formative milestone in his religious life, closely bound to the oath which he had made. Memories of physical journeys could thus impinge on the individual's inner mental world. Yet for Joan Souman the pilgrimage to Bridlington which she joined meant that she could not spend time with her niece who 'she greatly wished to be with'.²⁹⁵ Her greater responsibilities lay with the provision of her niece's postnatal care.

Deponents' memories comprised of personal life events, the world which they inhabited, and the landscape around them. Despite the prevalence of personal events in the deposition evidence, emotion and affectivity were not explicit elements of popular memory, mentioned only as explanatory factors. In this sense, the memory discourses of learned treatises in the high and late Middle Ages, which speak explicitly of emotional and violent acts, are not reflected in the depositions of ordinary individuals remembering past events. Women often offer mnemonic strategies on events which were meant to be self-explanatory. If a female deponent remembered an event in relation to her own labour then little else was needed aside from that statement. If the child had died, then language could communicate little of a mother's grief at the loss. Alice, wife of John Jakson remembered the

²⁹⁴ B.I., CP.F.113. dicit quod quia infra mensem proximum precedentem dictum peregrinationem ipse iuratus vovebat certum votum videlicet quod quolibet die veneris durante vita sue renutaret et abstineret se a piscibus quod quidem votum hucusque servavit et quamdiu vixerat servare intendit ut dicit citra quod votum sic factum et emissum ut dicit tempore etatis ultimo preterite fuerunt tres anni elapsi et non plures neque pauciores.

²⁹⁵ B.I., CP.F.89. In ipsa tamen solemnizatione personaliter non fuit presens ut dicit sed absens veniendo a villa de Bridlyngton una cum Willelmo Galtres clerico parochali de Fulford predicta Johanna uxore Roberti Souman et pluribus aliis viris et mulieribus vicinis ipsius iurati quo die mercurie proxima ante dictum festum corporis Christi dicta Johanna uxor roberti Souman super le Walde de dicta villa de Bridlyngton cum ipso iurato et ceteris suis comperegriniis vicinis veniens eidem iurato dixit quod libenter tunc vellet esse cum Agnete Northefolk uxore Thome Northefolk [illegible] sui et Katerina filia eorumdem.

accidental death of her child at the hands of her and her husband.²⁹⁶ It seems poignant that Alice had worn a birth charm during Agnes Northfolke's arduous labour. Sensitive to the dangers of labour and worried for Agnes, neither her mnemonic strategy nor the narrative itself contain explicit outpourings of emotion. While her child's death was undoubtedly traumatic, the text itself is laconic.

Female deponents remembered their personal lives more readily than male witnesses. The deposition of Agnes, wife of John Bacon, remembered her disagreement with Alice, wife of John Towton, whose friendship she had jeopardised when she failed to attend the birth of the latter's child.²⁹⁷ Whether birth stirred up more complex emotions than other quotidian memories or the advice of the Fourth Lateran council had been successfully internalised, for some women confession and memory were inextricably bound together. As this chapter has shown, female memory also had a shared quality. However, groups of men shared common memories which they spoke of in the Church courts. The chapter which follows will consider further the relationship between individual and group memory, and the influence of gender on collective testimony. The conversation between the individual and the group can be appreciated if the depositions are read for subaltern narratives and for the work of the deponent as autobiographer. The discussion will also focus on the relationship between individual memory and the wider group, seeking to understand how deponents used gender to form groups and police their boundaries.

²⁹⁶ B.I., CP.F.89.

²⁹⁷ B.I., CP.F.201.

Chapter 3: Gender, Individual Memory, and Group Identity

[I]t is in society that people normally acquire their memories. It is also in society that people recall, recognize, and localize their memories ... There is no point in seeking where [memories] are preserved in my brain or in some nook of my mind to which I alone have access: for they are recalled to me externally ... It is in this sense that there exists a collective memory and social frameworks for memory ...¹ (Halbwachs, *On Collective Memory*)

Asked how he remembered the Saturday concerning which he deposed above, he says on this account: that it was such good recreation they had then shared, and they had not had any similar or as good since, and, as young men do, this witness and his fellow witnesses had often since talked amongst themselves about that recreation.² (William Bramham, B.I., CP.F.79)

Seeking to elucidate the dynamics of group remembering, Halbwachs' concept of collective memory has been criticised for the strict boundary it imposes between communal and individual modes of remembering.³ In its most tenacious application, Halbwachs argued that the individual was unable to remember outside of the group. Dominated by collective memory and purpose, the individual thus receded with the result that every mental act belonged to the group. Personal recollection was assigned a place only in the group's history 'which culminate[d] in an event comprising all the others'.⁴

An individual's participation in a group undoubtedly inflects his or her perception and construction of the past. Membership of a group determines how memory is organised and how identity is constituted, regardless of whether the group is enduring and formal or impermanent and transient. When exposed to other group members personal memory is no longer immutable. Communication

¹ Halbwachs, *On Collective Memory*, p. 38.

² B.I., CP.F.79. William Bramham: Interrogatus quomodo recolit de die sabbati de quo superius deposuit dicit pro eo quod fuit quambonum solacium quod inter eos tunc habuerunt et consimilem vel ita bonum citra non habuerunt et ut iuvenes viri volunt sepius citra de eodem solacio iste iuratus et dicti contestes sui inter communicarunt.

³ Daniel Woolf, *The Social Circulation of the Past: English Historical Culture 1500-1730* (Oxford, 2003), p. 272.

⁴ Halbwachs, *On Collective Memory*, p. 223.

between individuals ensures that other versions intervene to amend, correct and supplement.⁵ This approach neglects the interdependent nature of individual and group memory and identity.⁶ The dichotomy which too often sets individual and communal memory in opposition to each other separates modes of remembering which in practice are bound together.⁷

An element of agency was returned to the individual with Fentress and Wickham's formulation of 'social memory'. Dialectical rather than subjective in nature, this relationship could allow greater individual participation in the group. Yet the dialectic between the social and individual receives little attention. Problematic in Fentress and Wickham's usage of the term 'social memory' is the juxtaposition of two opposing forces of memory. Framed in relation to 'social' forces, the process of remembering is an individual act.

There has been a tendency to define as collective those remembered events which affected larger male groups, whether organisation and membership was dictated by political, religious, or social practicalities. As studied by Fentress and Wickham, group memory continued to concentrate on these male and public events but with little focus on individual interaction.⁸ There has been an equivalent tendency to consider as personal certain events that involved the family or that took place in the home, such as births or deaths. Sarah Foot, however, has argued that all memories must be personal because they are 'particular ... to the mind recalling [the] past events'.⁹ However, some events might be more personal and freighted with subjective meaning than others, while other memories were merely remembered by an individual. Individual memory seems a more appropriate term to encompass recollections of both types of

⁵ Fentress and Wickham, *Social Memory*, p. x; Middleton and Edwards, 'Conversational Remembering', pp. 23-45.

⁶ Miri Rubin, 'Small Groups: Identity and Solidarity in the Late Middle Ages', in Jennifer Kermode (ed.), *Enterprise and individuals in fifteenth-century England* (Stroud, 1991), pp. 132-50 (p. 136).

⁷ See Geary's comments on individual and communal memory in a high medieval context, *Phantoms of Remembrance*, pp. 10-12.

⁸ Fentress and Wickham, *Social Memory*, p. 140.

⁹ Sarah Foot, 'Remembering, forgetting and inventing: attitudes to the past in England after the First Viking Age', *Transactions of the Royal Historical Society*, 6th series, 9 (1999), 185-200 (p. 187).

events which could be personal but might be autobiographical and thus may be political, historical, or communal. In this discussion, personal memory will specifically describe events and memories which were laden with meaning and evoked emotions.

Deponents in the Church court often remembered events which had happened in earlier group situations. Yet altered circumstances could prevent the imaginative recreation of the original group when the event was later recounted. This created artificial and temporary groups whose composition and membership were illusory and whose self-regulating testimony concealed the participation and recollections of others. All forty three inhabitants of Kirkby Roo who testified in the late fifteenth-century parochial rights dispute were men.¹⁰ Disputes concerning parochial rights and tithes usually relied upon male rather than female testimony so that the extant depositions which record boundaries and customs reflect only male perceptions and reconstructions of the landscape. Indeed, Miri Rubin amongst others demonstrates the looseness of the term 'community' which can be applied to all manner of groups at the same time.¹¹ As discussion of a protracted fifteenth-century parochial rights case will demonstrate, the kind of 'community' which Burton discusses could be constituted by excluding the presence of others from its memory.¹² In this instance the women of the village were written out of the parish church's dedication ceremony.¹³ Not all groups were formed temporarily for the purposes of producing a coherent and uniform strategy. However, deponents might have come together again only to testify to the alleged events and may not have maintained contact in the intervening years.

When a deponent recalled an event his or her memory often resists narrow classification as individual or collective. The women and men who testified to Katherine Northfolk's age related their own individual mnemonic strategies, but many of the women had been present at the birth itself and talked about it

¹⁰ Burton, 'Priory and Parish', p. 33.

¹¹ Rubin, 'Small Groups', pp. 132-34.

¹² Burton, 'Priory and Parish', p. 333.

¹³ YMA, M2 (3)c.

together afterwards.¹⁴ The majority of women's memories locate Katherine's birth in relation to childbirth. Even as women recalled the birth of children, they remembered friends who were pregnant themselves. Despite being heavily pregnant, Alice, wife of John Jakson of Waterfulford, wore a birth charm around her neck when she heard of Agnes Northfolk's difficult labour.¹⁵ Memory strategies which initially appear individual in nature operated within a complex framework, and worked to shore up a group's identity or subvert a communal narrative.

Personal and individual memory strategies were often utilized to verify accounts of events submitted by witnesses; past events were arranged so that the version under contestation would be legitimized. Yet memories that were put forward as commonly accorded accounts often obscure alternate and perhaps competing versions. The marriage dispute, *Fossard c. Calthorne*, reveals how subaltern narratives and personal memory strategies were made to fit dominant narratives constructed by a party and the legal counsel.¹⁶ The reactions of the individuals behind the statement to consensual memory strategies used in the Church courts will be considered in the discussion that follows. Deponents memories were not immutable, but were subject to the vicissitudes of time, the unfolding of subsequent events, and the affect of contradictory versions of truth. When reading the depositions we are not reading accounts which faithfully reflected events, but versions of them as they were constructed through individual memory. Deponents articulated statements in a court context where the presence of an audience influenced what was said.

This chapter seeks to show that individual and communal remembering cannot be separated into discrete processes and outcomes. The dialectic between these two types of memory does not operate to relentlessly yield identical results irrespective of status, gender, age, and occupation. Narrative and memory strategies could differ greatly between individuals because of these components. Rather than attempting to retrieve particular memories and ascribe them to the

¹⁴ B.I., CP.F.89.

¹⁵ B.I., CP.F.89.

¹⁶ B.I., CP.E.175.

rightful owner, it is preferable to question in what contexts these memory strategies were used, and for what purposes.¹⁷

Fentress and Wickham offer the timely reminder that individuals, whether medieval or modern, are not 'automatons' that follow a collective will.¹⁸ The long-running title dispute between Wawne and Sutton-in-Holderness demonstrates that external factors such as age and gender could affect perceptions of authority and the utility of an individual's memory. As the depositions from Fossard c. Calthorne reveal, witnesses continued to exercise agency over their memories through their statements. The concept of individuals exercising agency over their testimony ties together the cases discussed below. Through their recollections, deponents were able to shape the structures which would inform future collective and individual action. Unconscious motivations also affected individual agency, mediating deponents' memories and how they were narrated.¹⁹

Conflicts were not limited to those between individual and collective memories; contestation also occurred between individuals who sought to construct and affirm their social and gender identities. Parties and witnesses could manipulate the dialectical relationships between gender, status, and place so that the opposing argument could be undermined. In Walker c. Kydde and Fossard c. Calthorne the memories of the male deponents located the alleged groom outside of the home in order to prove that the marriage did not occur. The deponents in the first dispute sought to situate their memories in the homosocial setting of a fishing and drinking trip amongst friends, and the language of their recollections is steeped in nostalgia and familiarity. In Fossard c. Calthorne the men remembered contributions to building the alleged groom's home. If we consider these memories in terms of Bourdieu's theory of *habitus*, then the spatial movement of these deponents produced a mnemonic. This memory contributed to the schematic structural composition of the space, within which

¹⁷ Michel Foucault, 'What is an Author?', in Paul Rabinow (ed.), *The Foucault Reader: An Introduction to Foucault's Thought* (New York, 1984), pp. 101-20 (p. 120).

¹⁸ Fentress and Wickham, *Social Memory*, p. ix.

¹⁹ Bryant and Jary, 'Coming to Terms with Anthony Giddens', pp. 8-9.

the action occurred.²⁰ The deponents in both marriage disputes manipulated the dialectic between memory, gender, and space with complex strategies intended to convince the court that the marriage could not have taken place. They provide an insight into the construction of all-male groups and how gender affected memories of past events.

Male Group Identity, Gender, and Memory

Marriage litigation of the fourteenth and fifteenth centuries indicates that disputes were more frequently brought by female rather than male plaintiffs.²¹ If faced with a cause to enforce a marriage contract, it was not uncommon for the alleged groom to respond with the argument that he was elsewhere at the time of the alleged contract.²² In 1418 one John Kydde sought to extricate himself from an alleged contract of marriage claiming that he and his male friends had been absent on a fishing and drinking trip.²³ The fact that witnesses recalled the events which they narrated meant experiences could be reconstructed in a very specific manner to suit the often altered needs of the present.

Two women testified that one weekend two years before they had overheard John Kydde and Alice Walker contract marriage in a barn in Stockhill.²⁴ Further, two other female deponents deposed that John had fathered a child with Alice who was later nurtured by his parents. John Kydde's four young male witnesses tried to extricate him from the marriage, claiming that the weekend of the alleged contract they had met on the Saturday for a weekend of fishing and drinking. According to the testimony, John Kydde and his four male deponents had agreed to meet on the Saturday after Easter week to go fishing near Kirkby Overblow. The group fished all day, then went together to John

²⁰ Pierre Bourdieu, *Outline of a Theory of Practice*, (trans.) Richard Nice (Cambridge, 1984), p. 14.

²¹ Goldberg, 'Gender and Matrimonial Litigation', p.45.

²² Helmholz, *Marriage*, pp. 156-57. See, for example, B.I., CP.F.104, 113, 137, 186.

²³ B.I., CP.F.79.

²⁴ B.I., CP.F.79.

Kydde's parents' house where they played, joked and drank into the middle of the night, only leaving when censured by John's sleepless father.

The evidence proffered by these men was designed to imply that they were unmarried and did not yet possess the means to establish their own households. According to the depositions, they drank for much of the night at the house of John's father, Richard Kydde. Young men staying up late drinking are also manifest in the evidence of witnesses for Thomas Hornby junior, in a 1394 marriage cause initiated by Margery Spuret.²⁵ This type of behaviour may have been recognized as particularly common amongst young, unmarried males; in marriage disputes it was a trait which served to encourage male witnesses's identification as such. Drinking not only established the male defendant's absence from an alleged contract but also constructed an identity which was resistant to marriage. When John Kydde's witnesses drank at his father's house, they are portrayed as subject to his governance and reprimands. Immediately after he admonished the group, John is depicted submissively undressing for bed as might be expected from a young unmarried man who, without his own household, was his father's dependent.²⁶ But the house in which they reveled was described as that of Richard Kydde, John's father; John himself may have resided in rented accommodation as a journeyman or with his employer as an apprentice or servant, or perhaps even with his father, which would correspond both with his age and with the description of the house as his father's.²⁷ With little reason for the inclusion of this episode, John's deponents probably hoped to convey that, since he could not establish an independent household, his circumstances proscribed marriage.

When questioned upon their memory of that weekend, the men formulated their own mnemonic strategy which not only made use of gender, but also deployed emotion, to reinforce their recollections. William Bramham now aged

²⁵ B.I., CP.E.159. Selected depositions from this case are translated in *Women in England* (ed.), Goldberg, pp. 103-109.

²⁶ Goldberg, 'Masters and Men', p. 59.

²⁷ B.I., CP.E.159; Goldberg, 'Masters and Men', pp. 59-61. H.S.A. Fox, 'Servants, Cottagers and Tied Cottages during the Later Middle Ages: Towards a Regional Dimension', *Rural History*, 6:2 (1995), 125-154.

twenty-two, and whose memory strategy opened this chapter, recalled the weekend nostalgically. Another deponent, Christopher Gyll deposed similarly:

Asked how he remembered the said Saturday concerning which he deposed about, he says that in truth it was the finest recreation that he, the said witness, John Kydde, and his other friends [damaged] and fellow deponents had had, and they had since frequently talked between themselves about that day, as young men do, and that therefore he retained [damaged] the day in his memory.²⁸

Thomas Honter also stated that he remembered the day for the same reasons. The men appealed further to accepted notions of male behaviour with the contrived phrase 'ut iuvenes viri volunt'. That it is present in both statements further suggests that it was a rather knowing interpolation of a proctor or the clerical scribe. These inserted details may have been interpolated to appeal to the male and unmarried clerical personnel of the court. Its inclusion also speaks something of the party's intentions. The phrase would seem more appropriate in a narrative in which old men reminisced about the bygone days of their youth. Yet the trip had happened in the recent past, two years before, and these men who evoked a mythologized youth had barely entered their twenties. The trip intended to appeal to the personnel of the court through the evocation of an imagined homosocial community of care free young men. In marriage disputes deponents were often questioned on the clothing worn by the parties who had contracted. The detailed account of John undressing for bed before his friends performed the same verifying function as recollection of the clothing of the parties who contracted.

There are striking similarities in their testimony, suggestive of prearranged connivance. Recalled by several men, memories of this kind were probably reconstructed and shaped by conversations and discussions amongst the group. While groups of women talking were often represented as gossips, in this context a gender difference operated as the young men's conversation reinforced rather

²⁸ Christopher Gyll: Interrogatus quomodo iam recolit de dicto die sabbati de quo superius deponit dicit quia in veritate fuit optimum solacium quod ipse iuratus dictus Johannes Kyd et alii consocii sui [damaged] et testes simul habuerunt et sepius citra de eodem inter se communicarunt ut iuvenes viri volunt et idcirco retentius habet in memoria huiusmodi [damaged] diem.

than undermined their recollections.²⁹ The types of memories that individuals recall are dependent upon their intentions. Motivations 'are of paramount importance to the sorts of memories...recall[ed]'.³⁰ With their emotive memories associated with specifically masculine activities and placed within a homosocial context, their memory strategy served the immediate purpose of situating John and his friends beyond locations where marriages were likely to be made.

Constructed as an all male group activity of fishing and drinking, their memory of the weekend worked to counter the female memory techniques used in the opposing depositions. Four women gave evidence for Alice and provided knowledge not only of the marriage contract but also of the birth of the couple's daughter. Joan, wife of William Taylour, deposed that John Kydde asked her to be god-mother after the infant's birth; she raised the child from the font accompanied by her fellow god-parents. Alice Remyngton deposed upon her presence at the birth which took place 'in a house that a certain person called Little Cecilia inhabited in the vill of Sicklinghall, the same Cecilia had the house from the leasing of Thomas Caltall'.³¹ Aside from witnessing this event, both Alice Remyngton and Joan, wife of William Taylour, testified that John's parents continued to help, support, and nourish the infant. These women corroborated their accounts using strategies related to birth and baptism. Their collective evidence of the birth was regarded as so authoritative that it did not require substantiation through an overt mnemonic strategy.

Like the evidence of these female witnesses, the male deponents couched their method of recollection within a collective framework and with reference to an event which they claimed was particularly evocative. Their mnemonic strategy contested the memorial and emotional site of the household by locating their emotional and recreational experiences beyond the home and by situating them within an all male group. Emotion and affectivity were amongst the most

²⁹ Wickham, 'Gossip and Resistance, pp. 15-16.

³⁰ W. Gerrod Parrott and M.P. Spackman, 'Emotion and Memory', in Michael Lewis and Jeannette M. Haviland-Jones (eds.), *Handbook of Emotions* (London, 2000), pp. 476-90 (p. 481).

³¹ Item dicit que dictus Johannes Kyd procreavit de dicta Alicia Walkar unam filiam in cuius filie nativitate ista iurata presens fuit in domo qua inhabitat quedam vocata parva cecilia in villa de Sykyngale quam domum habuit eadem Cecilia ex locacione Thome Caltall.

persuasive strategies for John Kydde's legal counsel when formulating a convincing narrative. There is much evidence from these depositions to support Mary Carruther's conclusion that 'emotions are the matrix of memory impressions'.³²

The 'solacium' that the men found in their excursion may have sought to convey to the court that memorable emotions could be experienced outside of the home. As Felicity Riddy has pointed out, discourses in preachers' exempla and in literature allied the home with wives who tended to their husbands' bodily needs.³³ The men's memory strategy should not be viewed as a challenge to the home as a female realm since the realities of domestic living mediated the strict assignment of female and male domains.³⁴ Rather, the young men contested the home as the only location associated with affectivity, intimacy, and familiarity.³⁵ For John's deponents to construct a narrative in which he was absent from the location of the alleged marriage contract, his male witnesses had to move memory and emotion outside of the house and into a predominantly male domain. By consciously constructing their own emotional community, the young men sought to create an exclusively male *habitus* where memories could be experienced and with which the male personnel of the court could identify.³⁶ Despite this complex mnemonic strategy, the court decided against John Kydde.

Collective Testimony, Individual Memory and Male Identity

In 1390, one Joan Fossard brought suit against William Calthorne, and his *de facto* wife, Katherine, daughter of Roger de Wele, in the ecclesiastical court of York, in the hope that their alleged marriage contract would be enforced.³⁷ While

³² Carruthers, *Book of Memory*, p. 259.

³³ Riddy, 'Looking Closely', p. 220.

³⁴ Riddy, 'Looking Closely', p. 215.

³⁵ Riddy, 'Looking Closely', p. 219.

³⁶ This group of men enact Bourdieu's conception of *habitus* as a 'disposition inculcated in the earliest years of life and constantly reinforced by calls to order from the group, that is to say, from the aggregate of the individuals endowed with the same dispositions, to whom each is linked by his dispositions and interests'. Bourdieu, *Outline of a Theory of Practice*, p. 14. See also Barbara H. Rosenwein, 'Worrying about Emotions in History', *American Historical Review*, 107:3 (2002), 821-45 (pp. 844-45).

³⁷ B.L., CP.F.175.

depositions do not survive for Joan's witnesses, those surviving for William, alongside Joan's extant articles, allow certain aspects of his defence to be established. The testimony of his male witnesses, who remembered his absence from the alleged contract, reveals much about how collective and individual memory functions. The community described in the depositions for William consisted predominantly of men for the purposes of presenting authoritative testimony to the Church court. The evidence proffered by the almost exclusively male deponents appearing for William demonstrates the dialectical relationship between personal testimony and communal memory in the court.

The defence presented by William Calthorne's witnesses made use of a communal narrative that was apparently straightforward. The first claim made by several of his deponents was directed squarely at the clerical audience being addressed. William was a proctor-general at the Church court of York, a position which designated him one of the court's own, and a cornerstone of the community. His witnesses further deposed upon his wealth which was demonstrated by landholdings and goods, and his position as landlord. The third article presented against Joan and her deponents alleged that William was much greater in substance than her. Her deponents were said to be corrupt for testifying to the contract so that Joan could benefit from his wealth. Thomas Calthorne, another of William's brothers, deposed that Joan was worth five marks whilst William was worth twenty. As part of their argument, William's counsel sought to convince the Official that economic gain had occasioned Joan Fossard's claims of marriage. The deposition evidence suggests that William and his legal counsel intended to portray him as a pivotal member in the community of Cawthorne.

Another story emerges, however, from the surviving articles that shed light on Joan Fossard's case. Her counsel argued that three of William's witnesses were his brothers, with the implication that their testimony should be discounted. Not only were they family, it was stated, but they were all servants, with little or nothing in goods. While the Register of the Freemen of the City of York lists

Thomas Calthorne's admittance to franchise as a draper in 1392 or 1393, in 1390 he may have been a servant or apprentice.³⁸

Returning to William's case, fourteen male witnesses, including his brothers, deposed that four years previously at the time of the alleged contract, William had been resident in Cawthorne for sixteen days between the Nativity of the Blessed Virgin Mary which fell on 8 September and Michaelmas on 29 September – claims which were intended to preclude his involvement in any marriage contract. Each of his deponents attested to varying forms of contact with him in the village of Cawthorne, while he was absent from York. They deposed that Cawthorne lay some twenty-eight miles outside the city of York, thus distancing William both from the city, and from the marriage contract itself.

As evidence of his stay in Cawthorne, William's deponents argued that during that period he had been occupied with the task of building his home there. His male witnesses used both collective and individual mnemonic strategies to verify their evidence. Several of them corroborate their evidence not only with memories of the building's construction but also their provision of materials. One deponent, William, son of William Adamson articulated his method of recalling the alleged events. He remembered William Calthorne's stay at his home even after four years had passed 'because he sold timber to him, namely the best that he had, for his house in the aforesaid village'.³⁹ William de Ardyslay, prior of Monk Bretton, a Benedictine house in the West Riding of Yorkshire, deposed that William Calthorne had stayed at the priory for several days during his absence from York. When asked how he recalled that period, de Ardyslay stated that he remembered 'because he gave timber to the aforesaid master William [Cawthorne]'.⁴⁰

Remembered by several witnesses, the provision of materials for building could be viewed as evocative of the deponents' place in the community of Cawthorne. Each deponent who provided materials to construct William Calthorne's home could recall his own contribution to the project through the

³⁸ *Register of the Freemen of the City of York: From the City Records, 1272-1759*, (ed.) F. Collins, 2 vols., Surtees Society, 96, 102 (1897-1900), vol. 1, p. 92.

³⁹ *dicit pro eo quod vendidit sibi maereium videlicet primum quod habuit ad edificium suum in villa predicta.*

⁴⁰ *pro eo que dedit maereium prefato magistro Willelmo.*

house itself, which provided a constant and fixed memory peg for his recollections. Not only could the deponent recall his involvement, but it was inscribed upon the building itself. Memories of the house being built were recalled by deponents whose actions had shaped its construction. If these memories are considered in terms of Bourdieu's theory of *habitus*, then the deponents' spatial movement produced the mnemonic to which they later testified. This contributed to the creation of a recursive relationship that organized the schematic arrangements of the space, within which the action had occurred.⁴¹

Further evidence of William's landholdings and status as an important community figure emerges from Roger de Pekton's deposition. William owned lands and tenements in the neighbouring areas for which rents were owed; in fact, his brother Thomas paid five marks annually to him for lands which he held. Roger de Pekton, a brother of Monk Bretton priory, recalled William's residency in Cawthorne at that time because he remembered that he had rendered a buck or a dam to him that year as a payment.⁴² Not only would this mnemonic strategy remind the court that William was an important figure in Cawthorne, of good standing and material wealth, but it established a hierarchy between William and Roger de Pekton in which the latter was designated subordinate. William was thus cast as a man with power over other men who rendered payments to him for the use of his lands.

John Gefray, chaplain of the parish church of Cawthorne, remembered that William had indeed been present in the village by reference to his own spiritual role in the community. When questioned, John deposed that he remembered after such a lapse of time because 'he came to serve the chapel of Cawthorne at the feast of St Martin in winter [11 November] nearest preceding the said Wednesday and Thursday, and he had never seen the aforesaid master William before that time ...'.⁴³ John Gefray's testimony derived religious and moral

⁴¹ Bourdieu, *Outline of a Theory of Practice*, pp. 80-81, 85-86.

⁴² Roger de Pekton: illo anno promisit eidem magistro Willelmo unum [illegible] buk aut dama nomine feodi sui in signum retente sue.

⁴³ John Gefray: venit ad deserviendum capelle de Calthorn in festo sancti martini in yeme proxima dicta dies mercurie et jovis precendentis et nuncquam prefatum magistrum Willelmum viderat ante tempus ...

authority from his position. Two of William's other deponents were drawn from monastic orders and the prior of Monk Bretton, and Roger de Pekton, one of the house's brethren, testified that William stayed with them at the priory. In the testimony of the local priest and members of a neighbouring religious community, William benefited from spiritual and moral support in the form of influential and respected figures.

In order to appreciate the extent to which past experiences shaped memories used for subsequent purposes, it is essential to consider the manner in which the individual formulated his own personal recollections. Firstly, it should be borne in mind that the evidence given by witnesses did not pass unmediated into its final form. The words of the deponent were channeled by the context of the Church court, clerical in nature, and aware of canon law. The means by which an argument was conceded or accepted within this discourse made mutable the deponent's personal memory.

Memories generated by the process of examining witnesses in the Court of York necessarily relied upon conceptions of the self. The deponent utilized personal memories, shaped by perceptions of selfhood, to bridge the distance between the individual and the wider community. Deponents were not mindless creatures who were governed only by their social environment. They recalled and located events individually, placing themselves and subjective experiences at the centre of their memory, and formulating mnemonic strategies through personal cognitive processes. While memories, like those of William Calthorne's supporting witnesses, were often embedded in a wider social group, recollections were also necessarily embodied within the 'person actively engaged in forging selfhood'.⁴⁴ Deponents in other disputes use personal events as yard-sticks to locate other events, and autobiographical details often played a part in constructing memories.⁴⁵ However, the deponents supporting William Calthorne, almost without exception, reference personal involvement in his building project. Those memories articulated by William's witnesses were not entirely culturally constructed. The point is not that these memories could exist beyond a delineated

⁴⁴ Jeffrey Prager, *Presenting the Past: Psychoanalysis and the Sociology of Misremembering* (Cambridge, 1998), p. 81.

⁴⁵ William F. Brewer, 'What is Autobiographical Memory?', in David C. Rubin (ed.), *Autobiographical Memory* (Cambridge, 1986), pp. 25-49 (pp. 33-35).

group, but that individual memory framed as collective testimony constituted a group and its identity.⁴⁶

We can shed further light upon these different modes of remembering if we consider these methods within a wider framework of function, and community. That the testimony of each deponent interlinks with that of the others provides an important connection between the collective and individual. Without the community there would not be a buyer or a vendor of building materials, nor community members to facilitate the construction of the building. Each deponent's individual participation was necessarily embedded within the community itself. According to Maurice Halbwachs' theory of social memory all recollections are located firmly within the community.⁴⁷ The testimony of the men of Cawthorne did not, however, construct a shared past as demonstrated in instances of communities seeking recognition of parochial bounds or customary rights. The depositions prioritized memories of building a home, gifts of timber and communal ties. The embeddedness and interplay of these recollections with social hierarchy implies something of the deponents' motivations.⁴⁸ The memories of these male deponents constituted the social hierarchy within Cawthorne which they presented as part of the community's memory.

The reference point used for their recollections has William Calthorne, rather than any personal events, as its focal point. The men's recollections take on a new light if viewed as a component of a wider court strategy, formulated to support their presentation of William as an influential community member. Memories could constitute not only communal identity but also that of the individual.

Several witnesses deposed upon William's affluence. It is no coincidence that several statements involve William purchasing goods and collecting dues. William, son of William Adamson, had tacitly acknowledged William Calthorne's standing in the village when 'he sold timber to him, namely the best

⁴⁶ Halbwachs, *On Collective Memory*, p. 54.

⁴⁷ Halbwachs, *On Collective Memory*, pp. 167-73.

⁴⁸ Prager, *Presenting the Past*, p. 83.

that he had'.⁴⁹ His deponents may have sought to convince the court that Joan had alleged a marriage contract with William Calthorne so that she might secure herself a wealthy spouse. Possessing the integral masculine values of public life which were trustworthiness, material means, and honour, William's social self was developed and reinforced along very definite lines.⁵⁰ The deponents' evidence created a specific persona for him, as a man of material wealth and social standing within Cawthorne.

If the narrative aspects of the deposition evidence are interrogated then the representation of William Calthorne emerges as manufactured. His deponents' not only constructed William's home, but also his social identity and persona as a householder and homebuilder. The deposition evidence presents William to the court as a man rooted in Cawthorne: his house was built there and he was an important figure in the lives of its inhabitants. Their memories were intended to convince the court that William was not the sort of man who would travel as far afield as York to find a spouse. The testimony of these witnesses thus functioned not only to portray William as a principal figure in the village of Cawthorne, but also as an aspect of a more subtle strategy fashioned to encourage amongst the clerical audience a belief in his rootedness in Cawthorne. The argument put forward by William's defence may have also subtly implied that since he was establishing himself as a householder in Cawthorne, he would marry there, if at all.

The case presented in a party's deposition evidence and the accompanying apparatus was influenced by the canon legal knowledge of an advocate who advised the accompanying proctor on the formulation of the plaintiff's legal argument.⁵¹ This privileged knowledge meant that arguments could be formulated in ways which played upon, and made use of, canon legal considerations. When we speak of his legal strategy, we should include William himself as an influencing factor, as he was a proctor-general in the Church court. He might have engaged in the provision of notarial services outside of court sessions, but the majority of his employment was carried out at the Church court

⁴⁹ William, son of William Adamson: vendidit sibi maerium videlicet primum quod habuit.

⁵⁰ Shaw, *Necessary Conjunctions*, pp. 12-15.

⁵¹ Helmholz, *Marriage*, p. 149.

itself.⁵² A situation in which William's canon legal experience influenced his argument was not only plausible but likely. In fact, the articles drawn up on Joan's behalf levied a pertinent charge against William, accusing him of instructing his deponents.

It was possible for one side to brand the opposing party's account a fabrication, as one Patrick de Newham declared with regard to the evidence given by Joan Fossard's deponents. We must bear in mind that there were other versions claiming to be authentic accounts of these events. Joan and her female deponents were presented as inventors of her claims of marriage with William.⁵³ Patrick deposed that the women had gathered in the home of Richard Cosyn and concocted a false story. Patrick and Margaret Wyrslay both alleged that the women were enemies of William because he had spurned Joan and decided to wed another. Groups of women talking were often represented as gossips. Female witnesses could be presented as malevolent creators of false memories precisely because of the dialectical relationship between gender, conversation, and memory. Memories, such as those articulated by all of these deponents, were undoubtedly reconstructed and fashioned by conversations and discussions before being recorded in transcript form. Rather than solidifying a consensual account through conversation, a process which is rarely marked in male depositions, Joan and her female witnesses are presented as having inverted the norms of remembering and narration in the courts by constructing an invented account through private conversation in the domestic sphere. Sandy Bardsley demonstrates that female speech was not entirely illicit in the domestic sphere since wives could speak with their husbands at home.⁵⁴ With husbands absent, women's conversations were easily interpreted as subversive. Past events which were shared by an entirely male group and were approved communally are presented as the only legitimate memories.

⁵² K.F. Burns, 'The Administrative System of the Ecclesiastical Courts in the Diocese and Province of York, Part I: The Medieval Courts', (Unpublished typescript, Borthwick Institute, York, 1962), p. 148.

⁵³ Wickham, 'Gossip and Resistance', pp. 15-16.

⁵⁴ Sandy Bardsley, *Venomous Tongues: Speech and Gender in Late Medieval England* (Philadelphia, 2006), pp. 67-68.

What deponents remember and the discrepancies between the types of memories deployed reveals much about what was considered to be important. Several of William's brothers testified on his behalf and their evidence sheds light not only upon the function of fraternal mnemonic strategies, but also upon its association with community memory. A dialectical relationship can be detected between the memory of the group consisting primarily of the men of Cawthorne and that of this smaller family grouping, different in nature and with arguably a greater level of emotional investment in remembered family events.

Even within the fraternal group itself variations occur in their testimony.⁵⁵ While memories could fluctuate between witnesses, these brothers all had one shared event by which they could reference William's stay in Cawthorne. Curiously, only two of William Calthorne's brothers specifically locate the weekend of the disputed marriage contract with reference to their own father's death and for the purpose of dividing his goods amongst them. The efforts of the legal counsel to stabilize the fluidity of the brother's memories, as they differed from the approved narrative, produced a conflict between communal and personal mnemonic strategies.

Thomas Calthorne, a draper, deposed that his elder brother John shared a bed with William, but failed to reference their father's death or the division of his goods as a mnemonic strategy. Two of William's brothers deposed not only upon his stay in Cawthorne but also on an illness he had suffered at that time. The testimony of Robert Calthorne, another brother, offers further insights into the functioning of varying types of memory communities in this case. Robert's recollections reveal that the brothers were gathered in Cawthorne, not only to participate in William's building project but also to divide amongst them the goods of their recently deceased father. This event provided the first of two memory strategies as Robert deposed further that he remembered 'on account of the division made of their father's goods and the construction of the said building'.⁵⁶ The construction of William's house acted as a mnemonic reference point for John Calthorne, another of his brothers. Preferring to reference a

⁵⁵ Halbwachs, *On Collective Memory*, p. 54.

⁵⁶ Robert Calthorne: propter divisione bonorum patrum tunc temporis factam et constructionem dicte placee.

collective event rather than a familial and individual experience, John remembered the events in relation to William's home being constructed and the timber which had been purchased.

Another of William's brothers located these events with reference to the building's construction. While he deposed elsewhere that his brothers were present in order to divide their father's goods amongst themselves, he did not use this more personal strategy to actually mark the time of William's presence. In this respect, collective memories of the building of William's home seem to have functioned as a more persuasive mnemonic technique than that of family memory. In a court context, non-family members served as more convincing deponents than close kin.⁵⁷ Indeed Joan Fossard's legal counsel had sought to exclude the brothers' testimony upon the basis of their fraternal bond.

When the Calthorne brothers were utilized as deponents, they were evidently required to frame their memories within the narrative constructed by the wider local community. Elision, or partial suppression, of the fact that their visit was needed in order to divide their father's goods was necessary for several reasons. The dictates of presenting cohesive and communal memories that confirmed William's residency in Cawthorne, and his absence from York, meant that, for the sake of his legal defence, the account of the construction of his home had to take precedence in the depositions. Only certain events were intended for inscription in a meta-narrative that sought to convince the court that William had not contracted marriage with Joan Fossard. That William's brothers consigned their memory of the division of their father's goods to an inferior position, and gave priority to the construction of William's home instead, demonstrates the weight of collective and communal remembering in a court context. Memories of the distribution of their father's goods resurfaced amongst the Calthorne brothers and their persistence in the testimony suggests that fissures had opened up between personal and communal remembering processes. These fractures may well be indicative of intra-familial tensions between William and his brothers concerning a dispute over the distribution of their father's goods and the treatment of his memory after his death. Perhaps William's house-building was a consequence of their father's death and his subsequent inheritance. In doing so

⁵⁷ X.1.32.24. Non sunt idonei testes, quos actor de familia sua produxit.

he may have been asserting a hereditary status that was itself resented. Resentment may have arisen too in reaction to the request for uniformity in mnemonic techniques and effacement of the reason for their visit.

The imposition of narrative and memory strategies as a means of developing a party's argument served not only to rupture existing mnemonic techniques but also to create tensions amongst those wishing to engage in self-representation in their deposition evidence. As a witness testifying to William Calthorne's inability to contract marriage with Joan Fossard, William de Ardyslay, the prior of Monk Bretton, remembered providing William Calthorne with timber, a deed which allowed him to establish himself as an active agent in the construction of William Calthorne's identity. But if we read the prior's deposition with a more critical eye than a high-profile witness emerges who refused to sacrifice his own social self for the construction of William's persona. De Ardyslay stated that he remembered 'because he gave timber to the aforesaid master William'.⁵⁸ By reading closely the nuances in the mnemonic technique of this third person narrative, we draw nearer to the subjective position of the prior himself.⁵⁹ De Ardyslay phrased his interaction with William Calthorne and his home-building project in strikingly different terms to other deponents. He did not sell timber to William but 'gave' it to him. Aside from this, William stayed at de Ardyslay's priory and enjoyed his hospitality. The voice that emerges, whether it is that of the prior, the scribe recording it or even a combination of both, proclaims de Ardyslay's social position as prior, landholder and as an important member of the community in his own right. Placing William Calthorne in a subordinate role as recipient of his gift, de Ardyslay's evidence suggests anxiety borne out of competition with another high status male for the most dominant role.⁶⁰

De Ardyslay was appointed prior of Monk Bretton in 1387. From the extant remains of the priory itself, it can be established that the prior's lodgings included a heated hall, in which important guests were received, demonstrating both his status as superior of the house and as feudal landholder. One of his

⁵⁸ William de Ardyslay: pro eo que dedit maerium prefato magistro Willelmo.

⁵⁹ Shaw, *Necessary Conjunctions*, p. 196.

⁶⁰ Natalie Zemon Davies, *The Gift in Sixteenth-century France* (New York, 2000), p. 72.

fifteenth-century successors augmented the prior's lodgings, and probably his social standing, with the addition of a further heated room over his chamber.⁶¹ De Ardyslay, according to his own testimony and the nature of his office, was a man who was superior of his own priory and entertained influential individuals including staff from the Church court in lodgings of which any knight would have been proud.⁶² Depicted as a generous benefactor, he also bestowed gifts of timber upon William Calthorne who was an important member of the local community.

That the spiritual and economic welfare and the careful running of the priory were not de Ardyslay's chief concerns as prior is evident from a complaint made by the community itself several years later, on 19 April 1404.⁶³ All was not well at Monk Bretton, and the grievances levied against him by the monks included his ongoing dilapidation and alienation of the priory's goods.⁶⁴ It is very likely that de Ardyslay's gift of timber to William Calthorne for the construction of his home was drawn from the priory's own stocks. Monasteries usually sourced materials from their own lands which often included forested areas and woods.⁶⁵ It has been argued that novices were recruited from the estates of religious houses and the monks of Durham priory were drawn from a thirty to forty mile surrounding area.⁶⁶ While the late Middle Ages saw an increased intake of novices from burgess stock, the exact social origins of the late medieval monk remain somewhat obscure. Barrie Dobson has observed that they were 'not people of great substance' and thus monks, and consequently priors, may have been more self-conscious about imitating aristocratic style.⁶⁷ Indeed, the late

⁶¹ Glyn Coppack, *English Heritage Book of Abbeys and Priories* (London, 1990), p. 76.

⁶² Janet Burton, *Monastic and Religious Orders in Britain, 1000-1300* (Cambridge, 1994), p. 168.

⁶³ William Page (ed.), *VCH: A History of the County of York, vol. 3*, p. 94.

⁶⁴ *Calendar of entries in the Papal Registers relating to Great Britain and Ireland: Papal Letters, vol. 5, 1396-1404*, (ed.) W.H. Bliss and J.A. Tremlow (London, 1904), p. 604.

⁶⁵ Burton, *Monastic and Religious Orders*, p. 239.

⁶⁶ R.B. Dobson, *Durham Priory, 1400-1450* (Cambridge, 1973), p. 58; Harvey, *Living and Dying in England*, p. 76; E. H. Pearce, *The Monks of Westminster* (Cambridge, 1916), p. 38.

⁶⁷ Dobson, *Durham Priory*, pp. 58-59; P.J.P. Goldberg, *Medieval England: A Social History, 1250-1550* (London, 2004), p. 130.

Middle Ages saw a concerted attempt by heads of religious houses to augment their own social status and many adopted the manners and style of the aristocracy.⁶⁸ But whereas an individual prior may have been able to forget his background and behave like an aristocrat, the monastic community would have had a profound sense of the priory as a perpetual institution whose possessions could not be arbitrarily alienated. Timber drawn from the house's lands was intended for tasks undertaken by the monastic community such as building works, making repairs and fencing, rather than donation to neighbours to further bolster the prior's social standing.⁶⁹

Considering the substantiation of the complaints, and his ultimate dismissal in December 1404 in favour of one John de Crofton, alongside his bestowal of gifts and entertaining of guests, presentation of his social self was probably a greater concern for the prior than sound administration of the house itself.⁷⁰ De Ardyslay had risen to the office of prior, an achievement undoubtedly envied by many, but as an adult male unable to prove his manliness and virility through sexual intercourse, his position was not without its anxieties.⁷¹ Augmentation of his social standing could have been another facet in his competition with sexually active male local landowners with whom he had contact.

The strategy employed by William Calthorne's legal counsel relied upon his persona as a wealthy and influential householder and homebuilder. His position as a dominant and powerful layman could not be questioned, partially because the ability to establish an independent household was an important

⁶⁸ Harvey, *Living and Dying in England*, p. 74; John Hatcher, 'Mortality in the Fifteenth Century: Some New Evidence', *The Economic History Review*, new series, 39:1 (1986), 19-38; Goldberg, *Medieval England*, p. 130.

⁶⁹ Burton, *Monastic and Religious Orders*, p. 239.

⁷⁰ *A Calendar of the Register of Richard Scrope, Archbishop of York, 1398-1405, part 1*, (ed.) Robert N. Swanson, Borthwick Texts and Calendars (York, 1981), pp. 42-43. The register contains letters testimonial, and a mandate to the sub-prior and convent of Monk Bretton to obey John de Crofton in his appointment. Page (ed.), *VCH: A History of the County of York vol. 3*, p. 94.

⁷¹ J.L. Nelson, 'Monks, Secular Men and Masculinity, c.900', in Hadley (ed.) *Masculinity in Medieval Europe*, pp. 121-42 (p. 129); Cullum, 'Clergy, Masculinity and Transgression', p. 179; see also John H. Arnold, 'The Labour of Continence: Masculinity and Virginitie in the Twelfth and Thirteenth Centuries', in Anke Bernau, Sarah Salih and Ruth Evans (eds.), *Medieval Virginitie* (Cardiff, 2003), pp. 102-18.

signifier of male adulthood.⁷² That de Ardyslay stated that he remembered because he gave timber to William Calthorne, rather than speaking directly of the building of the latter's home, suggests tensions between two conflicting forms of masculinity. De Ardyslay's testimony may thus have been tailored to reassert his manliness through his social status. Unable to demonstrate his masculinity through sexual activity or marriage, de Ardyslay was fortunate enough to be able to display his manliness through his position as prior, landholder, and gift-giver.

If we consider the prior's testimony as a form of life-writing then we draw nearer to the dialectical relationship between remembered personal narratives and memory, both individual and communal. In de Ardyslay's deposition and the complaints lodged against him we witness a prior actively constituting his own identity and presenting himself as the embodiment of high-status masculinity. While one witness, William, son of William Adamson, remembered selling timber to William Calthorne, the prior's social status meant that he possessed the material wealth to make his timber a gift.⁷³ De Ardyslay's statement should not be read and interpreted as an unrealistic and idealized self-portrait, but rather as an indispensable aspect of his social self. That he wished to be perceived in this manner remains important because it was an integral component of his identity which conveys his own understanding of himself.

Both the communal and, to a lesser extent, the fraternal memory groups existing within the village of Cawthorne place William at their centre. The methods of recollection utilized by deponents in this case combined to provide the testimony of an exclusively male community which was closely bound together through spiritual, trade and kinship ties. The depositions generated by this dispute indicate that narratives could be displaced by memories emerging from the dialectics between communal and personal accounts of past events. Anxieties were not manifested solely in the recollections of witnesses; individuals could also struggle with the imposition of communal memory and narrative strategies upon their testimony. A deponent might have preferred to seize their opportunity to engage in writing their own autobiography, particularly

⁷² See also Thomas Hornby c. Margery Spuret, B.I. CP.E.159 (1394). Selected depositions from this case are translated in *Women in England* (ed.), Goldberg, pp. 103-109.

⁷³ Riddy, 'Text and Self', p. 445.

high status men with much at stake including the stability of their social identity.⁷⁴ One caveat amongst many that have been added to readings of third person narratives is that the absence of the narratorial subject is masked.⁷⁵ It is in the ruptures between collective testimony and individual memory that deponents' social selves may be explored.

The sentence does not survive amongst the apparatus of the case and, as a result, it is impossible to determine whether the collective testimony constructing William Calthorne's identity influenced the outcome of the dispute.⁷⁶ This case demonstrates, however, that certain deponents, through their use of memory strategies, constituted themselves as a group whose shared experience demarcated boundaries that denied entry to others. Further, memories could not be too personal or individual lest boundaries become strained and the wider court strategy be endangered.

Male Memory and Autobiography

The deposition of Friar Michael Dawnay in the Wallingwells c. Arthyngton dispute of 1425 provides an unparalleled opportunity to examine autobiographical memory.⁷⁷ The lengthy sections of his testimony on Katherine Northfolk's age indicate that few questions broke his narrative. His uninterrupted account was probably a result of his training in oratory.⁷⁸ Maintained to record and conserve the family's history for future generations, his quire kept chronological evidence of his relative's births as they were interspersed throughout his life. As author and compiler, Michael held an important position in his own narrative in which births were not the only dates which he could recall with accuracy. After the lengthy description of the booklet, Michael described his career subsequent to his visit to York. From Doncaster he

⁷⁴ Riddy, 'Text and Self', pp. 442-43.

⁷⁵ Riddy, 'Text and Self', p. 441.

⁷⁶ For survival rates of sentences see Helmholz, *Marriage*, pp. 13, 20-22.

⁷⁷ B.L., CP.F.89.

⁷⁸ For a comparative example see Alessandro Portelli's account of his interview with a preacher whose training allowed him to speak unprompted by questions and without pauses for forty five minutes. Portelli describes his oral narrative as a 'public performance' or a 'set piece'. Portelli, 'There's Gonna Always Be a Line: History-Telling as a Multivocal Art', in Portelli (ed.), *The Battle of Valle Giulia*, pp. 24-39 (p. 26).

transferred to Cambridge where he became a master of studies and, in the following year, studied the Bible. He spent a year lecturing at Cambridge and then proceeded to the Franciscan house at Richmond in Yorkshire for five years. Following the period at Richmond, he returned to Doncaster where he spent six years and was resident when he appeared as a witness for the Church court. Friar Michael was 'certain that fourteen years and more had passed since the autumn time in which this witness wrote the note about the birth of the said Katherine'.⁷⁹ His recollective powers seem considerable but his chronology was probably drawn from notes he had made on his movements over the years, whether in his quire or elsewhere.

The strong autobiographical thrust of his deposition can also be partially explained with reference to his mendicant training. While local and regional practice varied, combined licences were granted from the fourteenth century which authorized friars in the activities of preaching and hearing confession.⁸⁰ Canon *Inter cetera* decreed that bishops be aided in their mission by capable men not only intent upon preaching to their flock but keen to hear their confession and to relieve the burden of sin from their hearts with penance. Well versed in the theological precepts of confession, Friar Michael was probably licensed to hear confession from the laity and his mnemonic strategy reflects his training.⁸¹ When questioned upon his memory of Katherine Northefolk's birth, Michael answered fully and completely in a manner he would have expected from those confessing to him. From this perspective, Friar Michael merely set down his memory as his complete truth on the matter of Katherine's birth. His anxiety that his family history would be consigned to oblivion, coupled with his training in oratory and story-telling, explains the remarkable length of his mnemonic strategy. Aware that the written record was susceptible to damage and destruction, he seized his opportunity to record his life and part of his family's history once more. Facing his own inability to have children, which could result in subsequent loss of his

⁷⁹ Michael Dawnay: *satis certus est quod effluxerunt quattuor decim anni et ultra citra tempus autumpnale quo ipse iuratus scripsit notam nativitatis dicte Katerine.*

⁸⁰ Wenzel, *Latin Sermon Collections*, p. 290 n. 13.

⁸¹ However, the extant archbishops registers do not contain a licence for a Friar Michael Dawnay.

family memory, he wrote his deposition with the purpose of setting down a detailed account of his life for posterity.

The engaging style and unusual length of Michael's deposition also owes much to his Franciscan training. In response to the precepts set down by the Fourth Lateran Council the friars developed exemplum books which were an innovation intended to further assist their preaching to the laity.⁸² The use of stories in preaching ensured that the audience would pay greater attention to the content of a sermon, such tales were the focal point for a preacher writing a sermon.⁸³ Alphabetical reference books authored or compiled by Franciscan or Dominican friars catalogued exempla for use in preaching.⁸⁴ Followed the advice of St Dominic on the benefit of using stories when preaching, the alphabetical work authored by John Herolt, a Dominican prior of Nuremberg, contains more than six hundred stories and sermons.⁸⁵ Compared to their counterparts amongst the parish clergy, friars had far greater contact with exemplum collections and reference books and could deliver more lively and varied sermons.⁸⁶ The English friars were perhaps more instrumental than their European counterparts in the development of inventive stories.⁸⁷

Many friars learned and polished their skills in sermon-making and oratory through observation of the more advanced members of their order.⁸⁸ A high level of instruction in public speaking is evident in Friar Michael's deposition. The intellectual seeds sown in a course of study comprised of preaching and sermon-making yielded individuals well accustomed to oratory. As a university student who gained inception as a master, Friar Michael would have had to preach,

⁸² d'Avray, *Preaching of the Friars*, pp. 13, 67.

⁸³ d'Avray, *Preaching of the Friars*, pp. 13, 66.

⁸⁴ d'Avray, *Preaching of the Friars*, p. 13; H.G. Pfander, 'The Medieval Friars and Some Alphabetical Reference-Books for Sermons', *Medium Ævum*, 3 (1934), 19-29 (p. 29).

⁸⁵ Pfander, 'The Medieval Friars and Some Alphabetical Reference-Books', p. 29.

⁸⁶ d'Avray, *Preaching of the Friars*, pp. 50-51.

⁸⁷ d'Avray, *Preaching of the Friars*, p. 67.

⁸⁸ Wenzel, *Latin Sermon Collections*, p. 291; Marian Michèle Mulcahey, *First the Bow is Bent in Study: Dominican Education before 1350* (1998), pp. 184-193.

lecture, and engage in disputations.⁸⁹ Regardless of their reason for attending university, a student was obliged to hear the weekly sermon preached.⁹⁰ Both the bachelor and master were expected to give a sermon at intervals throughout their period of study. Friar Michael undoubtedly discovered that the burden of responsibility became more onerous for a master as he was required to deliver a *principium* sermon upon his inception.⁹¹

Trained to contend with the local secular clergy for the pecuniary affections of parishioners, not to mention his study of theology in the schools and universities, led Friar Michael to develop and cultivate a certain style of oratory. Latin was used in sermons and exempla collections to increase the facility of use and communication so that sermons could be converted into the vernacular appropriate for the particular context.⁹² Sermons and speeches written for the purpose of examination or inception were academic but some were lighter in tone and content. Both Friar Michael and the clerical scribe composed a deposition that is articulate and engaging in both its expression and style. Mendicant sermons, in particular those composed by Franciscans, have been described as ‘affective’.⁹³ Wenzel argues however that the necessity of arousing feelings when preaching existed in all types of sermons, not just mendicant examples.⁹⁴ Rhetorical ploys and exclamations abounded, whether sermons were mendicant or monastic, with the intention of attracting and holding the attention of the listeners. Friar Michael’s deposition was certainly intended to engage the reader, and his narrative contains several instances of reported speech. The discussion with Thomas Northfolk during which he asked Friar Michael why he wrote in his quire seems tantalisingly reflective of an actual conversation. On his way to York Michael met two men on the bank of the Ouse from whom he sought to know the location of Agnes Northfolk’s home. The men pointed with their

⁸⁹ Wenzel, *Latin Sermon Collections*, p. 297.

⁹⁰ Wenzel, *Latin Sermon Collections*, p. 300.

⁹¹ Wenzel, *Latin Sermon Collections*, p. 298.

⁹² d’Avray, *Preaching of the Friars*, p. 95.

⁹³ John V. Fleming, *An Introduction to the Franciscan Literature of the Middle Ages* (1977), p. 186.

⁹⁴ Wenzel, *Latin Sermon Collections*, pp. 294-95.

fingers towards Agnes' house where she could be seen standing with the infant, Katherine, in her arms.⁹⁵ Gesticulations enhanced Michael's narrative just as they may have augmented mendicant and monastic sermons. The narrative construction of Dawnay's memories spoke of his mendicant education as much as his autobiography.

Guardians of Memory?

Gender could affect the authority with which men and women were endowed as deponents and as authorities cited by witnesses. A protracted parochial rights case elucidates how the deponent and eyewitness functioned in larger groups, and the manner in which gender mediated the choice of witness.

In 1429 a dispute was brought before the Dean and Chapter at the behest of Robert Tyas, vicar of Wawne, on account of encroachments on his church's parochial rights by the dependent chapel of Sutton. The quarrel between the church of Wawne and the chapel of Sutton can be traced back to an earlier dispute between the abbey of Meaux and that of St Martin D'Auchy, Aumale.⁹⁶ Wrangling over the rights to advowson of the church of Wawne continued until 1228 when they passed into the control of the chancellor of York. A difficult situation was made more complex by the partitioning of the patronage between the chancellor of York and the Sutton family. The former became the rector of Wawne with the right to present a perpetual vicar while the latter was granted the advowson of the chapel of Sutton.⁹⁷ In 1346 a licence in mortmain permitted the chapel to become a college with tithes of the chapel of Sutton and cure of souls

⁹⁵ *dicit ipse iuratus quod infra tres vel quatuor dies immediate post communicacionem habitam cum predicto Thoma ut prefertur ipse iuratus accessit ad villam de Naburne predictam et domum habitacionis Nicholi Northefolk mariti protunc Johanne sororis ipsius iurati et per duos vel tres dies ut credit ibidem stetit et permansit. Et deinde versus civitate Ebor transeundo in villa de Waterfulford prope et iuxta ripas aque Use situata obviavit duobus viris a quibus interrogavit ubi morabatur uxor Thome Northefolk cui quidam iurato sic interroganti ipsi viri respondentes digitis indicarunt quamdam domum prope domum habitacionis Roberti Souman de Fulford predicti situatum et unam mulierem stantem in ostio eiusdem unum puerum in suis brachiis tenentem et habentem quam quidam mulierem Agnetem nominatam ipse iuratus ut dicit per antea bene novit iidemque viri dixerunt quod ipsa prolis quam dicti viri et ipse iuratus tunc viderunt fuit filie Thome Northefolk filii Nicholi Northefolk et Naburne ... [Asked if there was any speech between them, he says no] ...*

⁹⁶ C. Lutgens, 'The Case of Waghen vs. Sutton: Conflict over Burial Rights in Late Medieval England', *Mediaeval Studies*, 38 (1976), 145-84 (p. 146).

⁹⁷ Lutgens, 'The Case of Waghen vs. Sutton', p. 147.

of the villages of Sutton and Stoneferry granted to the college's masters and chaplains. The mortuaries and oblations of the college were reserved to the church of Wawne and an annual pension assigned to the chancellor of York, but the college soon breached these conditions. This intrusion upon the rights of the church of Wawne did not pass unobserved and the college was ordered by Archbishop Zouche to cease the interment of villagers of Sutton and Stoneferry in its cemetery. The reinstatement of the bodies of those improperly buried by the college, alongside accompanying mortuaries and offerings, to the church of Wawne was intended to restore good relations between the church and its dependency. An inquiry into burial rights was held in 1402 on a complaint of the incumbent of Wawne.⁹⁸ It was thus an ongoing dispute that generated evidence in two stages, in which more than eighty exclusively male deponents testified, many of whom were sixty or more, some even seventy or eighty years of age.

Litigation concerning parochial rights invariably made use of male rather than female deponents, and the large number of witnesses in this case has much to do with the nature of the proof required. When the Fourth Lateran Council of 1215 signalled a formal move away from proof by ordeal in canon law, proof by witness had already begun to be embedded in the procedure of the Church courts.⁹⁹ However, Charles Donahue suggests that, in certain cases within the ecclesiastical courts, deponents served in a collective capacity as a type of jury rather similar to that used in the civil courts.¹⁰⁰ This occurred primarily when deponents, like jurors, were not actually eye-witnesses but gave evidence to the common belief of the community.¹⁰¹ This contrasts with how deponents were employed in marriage and defamation causes where they were expected to give evidence based on events usually witnessed in person.

In the Wawne against Sutton cause, the argument followed by the counsel for Sutton in 1402, and again in the dispute of 1429, was that the church possessed parochial status. The inquiry of October 1402 sought to establish the

⁹⁸ Lutgens, 'The Case of Waghens vs. Sutton', p. 148.

⁹⁹ Donahue, 'Proof by Witnesses', p. 129.

¹⁰⁰ Donahue, 'Proof by Witnesses', pp. 150-51.

¹⁰¹ Donahue, 'Proof by Witnesses', p. 151.

rights of burial of laypersons in the surrounding areas.¹⁰² The function of the majority of the deponents was to establish proof that the church of St James in Sutton had been dedicated and regarded as a parish church. Many of the deponents seem to be acting like the sworn jury discussed by Donahue, giving evidence to ‘public voice and fame’.¹⁰³ Deponents such as John Day of Halsham attested that the church had a baptismal font, a dedication feast and buried parishioners in the church’s cemetery.¹⁰⁴

The example of a group of older men who, during the 1402 inquiry, testified to their presence at the dedication of the church of Sutton provides a case study for how men might have recollected past events. There are striking similarities in their testimony, perhaps because of the nature of the case which required few actual details of events. Other deponents can be seen relying on ‘public voice and fame’ as evidence of the dedication of the church rather than actual eyewitness testimony. These men deposed not only upon knowledge that Sutton chapel was a parish church but also gave eyewitness evidence from their own attendance at the dedication of the parish church around fifty years previously. Another article questioned the men upon their knowledge of persons buried in the church itself or the attached cemetery. These older men gave evidence as witnesses to an event but, on the other hand, their accounts are curiously similar in nature. Despite superficial similarities common to these depositions, their evidence, when compared with that of the 1429–31 stage of the case, yields interesting patterns that reveal much about conceptions of collective memory and gender.

Peter Dowson, aged sixty-eight, deposed that ‘fifty two years last past ... he saw the suffragan of the archbishop of York, whose name he could not recall, dedicate and consecrate in honour of St James, the apostle, the said church and cemetery of the same...with those present his fellow witnesses John Dowson, Peter Spencer, Robert Stevenson and many others whose names he cannot

¹⁰² Lutgens, ‘The Case of Waghen vs. Sutton’, p. 148.

¹⁰³ Donahue, ‘Proof by Witnesses’, p. 150.

¹⁰⁴ YMA, M2 (3)c, fol. 35v.

remember'.¹⁰⁵ Peter Spencer, more than sixty four years old, recalled that he was present when the parish church of Sutton was dedicated fifty years ago 'with William Spencer his father, Richard Baker, Peter Dowson, his fellow witness and many other of the parish whose names he is not able to recall'.¹⁰⁶ John Dowson deposed that he had been present at the dedication of the church and cemetery 'together with Peter Dowson, Simon Tayliour, Peter Carter and many others the names of whom are not recalled at present'.¹⁰⁷ The evidence given by these men is unsurprisingly confirmed by the depositions of fellow witnesses, Simon Tayliour, Nicholas Walde and Peter Carter.¹⁰⁸ However, these male deponents may have only needed to confirm that several of the other witnesses attended the dedication in order to present a plausible case.

One might question why the group of older men did not mention the attendance of anyone else in order to verify their recollections. It is the same small group of men which is recollected and the same small number of names reappears in their testimonies. The dedication may have been an emergency measure enacted under plague conditions to ensure swifter and less problematic burial which may explain low attendance rates. But while the depositions of this older group of seven men from the 1402 inquiry testified to the attendance of men and 'many others whose names are not recalled' at the dedication, we know from the statements of 1429–31 that women were also in attendance. Amongst this group of older men who testified to their attendance at the dedication of the church fifty-three years previously only male companions are remembered.

Considering the important part played by the Dowson family in the inquiry of 1402, it is remarkable that the older group of men do not include Katherine Dowson, John Dowson's wife. Evidence from the depositions of 1429–31

¹⁰⁵ YMA, M2 (3)c, fol. 180v. Peter Dowson: Presens erat iuratus iste huic ad quinquaginta duos annos ultimo preteritos ... iste iuratus vidit unum suffraganem archiepiscopi Ebor cuius nominis non recolit in honorem sancti jacobi apostoli dictam ecclesiam sive capellam ac cimiterium eiusdem palam et publice dedicare et consecrare ut moris est aliorum ecclesiarum presentibus protunc isto iurato Johanne Dowson Petro Spencer Roberto Stevenson contestibus suis et multis aliis quorum nominum non recordatur.

¹⁰⁶ YMA, M2 (3)c, fol. 194v. Peter Spencer: Willelmo Spencer patre suo Nicholo Baker Petro Dowson conteste suo et pluries ab parochis eiusdem ecclesie quorum nominum non recordatur.

¹⁰⁷ YMA, M 2(3)c, fol. 191v. John Dowson: unacum petro dowson symundo taliour contestibus suis et petro carter ac nonnullis aliis in multitudine capiosa quorum nominum non recordatur in presenti.

¹⁰⁸ YMA, M 2(3)c, fols. 197v, 202v.

inquiry shows that Katherine did attend the dedication. Omission of her attendance could indicate that men remembered other men more readily than women in their recollection of past events. However, this could be a result of men taking their wives so much for granted that their presence faded into the background. If John himself may not have remembered to include his wife amongst those present, then his brother also did not recall her attendance. Presumably Katherine Dowson was not the only woman from Sutton and its hinterlands to attend the dedication; indeed, evidence from the 1429–31 stage of the case bears this out. Perhaps this absence of female company in their testimonies reflected lay opinion which viewed men as more reliable deponents and authorities when recounting past events. The preference for male deponents in this parochial rights case could be explained in terms of differences detected between town and countryside. Urban male litigants tended to make use of male rather than female witnesses; this held true for the countryside as well, and male deponents were relied upon more readily even by female litigants.¹⁰⁹ These men may have deliberately omitted other female attendants from their deposition evidence, in order to provide what they viewed as a more watertight case. The all-male community of father, brothers, sons and male friends seems to be an artificial masculine construction borne out of the exclusion of female testimony both from the deposition evidence and from the narrative of the event itself. Amongst the men of the 1402 inquiry, most of whom were elderly, only one comparatively younger deponent refers to the presence of a female at the dedication. Henry Hobson, aged forty years and more, was not present but mentions that his grandmother, Alice Gawnsted, attended the dedication and recounted to him details of the status of the chapel and its receipt of tithes.¹¹⁰

When the case was brought before the court in 1429–31, a group of younger men of the parish of Sutton acted as deponents. They testify to recent burial practice and what they had heard from parents and elders of their community. Fifteen of these younger men who testified deposed that several older women attended the dedication of the parish church eighty years before.

¹⁰⁹ Goldberg, 'Gender and Matrimonial Litigation', p. 46.

¹¹⁰ YMA, M 2(3)c, fols. 205v–207v. Henry Hobson: requisitus dicit articulas veritatem continere prout iuratus iste audivit de domina Alicia Gawnsted ava presenti iurati et aliis antiquioribus et maioribus suis quorum nominum non recolit.

These men, in effect, act as ventriloquists for the recollections of the older women, Alice Sayer, and Katherine Dowson in particular. John Hogeson deposed:

that the abovesaid parish church of Sutton and this same cemetery were dedicated eighty years last past and more by a good suffragan according to an old woman (vetulam nuper uxorem petri sayer) late wife of Peter Sayer who in this way attended the dedication ... and he heard her often to say and to swear two years last past.¹¹¹

William Wetwang of the parish of Sutton similarly deposed that:

many and diverse times two years last past he heard a certain old woman, wife of Peter Sayer of Sutton when still living (vetulam uxorem dum vixit petri sayer de Sutton) say and swear by her faith that the said parish church and the cemetery of the same were dedicated eighty years ago through a certain good suffragan, and that in this way she was present at the dedication as she has said.¹¹²

Thomas Dowson testified that 'he had heard old women of Sutton, Katherine Dowson and Alice Sayer, often say and swear that they themselves, together with many other men and women, were present at the dedication of the said cemetery of the parish church of Sutton made by a certain suffragan eighty years ago'.¹¹³ The descriptions of Alice Sayer and Katherine Dowson as 'vetulas' are particularly interesting: 'Vetula' means the more specific 'old woman' rather

¹¹¹ YMA, M2 (3)c, fol. 39r. John Hogeson: quod predicta ecclesia parochie de Sutton ac cimiterium eiusdem huic ad lxxx annos ultimo preteritos et amplius per unam suffraganem fuerunt dedicate prout quamdam vetulam nuper uxorem petri sayer que in huiusmodi dedicacione interfuit ac ... audivit infra duos annos ultimo preteritos sepius dicere et iurare.

¹¹² YMA, M2 (3)c, fol. 67r. William Wetwang: quod sepius et diversis temporibus infra duos annos ultimo preteritos audivit quamdam vetulam uxorem suam dum vixit petri sayer de Sutton dicere et per fidem suam iurare quod dicta ecclesia parochia ac cimiterium eiusdem lxxx annis elapsis per unum suffraganem fuerunt dedicata ac quod in huiusmodi dedicacione interfuit ut dicebat.

¹¹³ YMA, M2 (3)c, fol. 81r. Thomas Dowson: audivit Katerina Dowson et Alicia Sayer quondam de Sutton predictas vetulas sepius dicere et iurare quod ipse una cum aliis quampluribus viris et mulieribus interfuerunt in dedicacione cimiterium dicte ecclesie parochie de Sutton facta per unum suffraganem huic ad lxxx annos elapsis.

than the diminutive 'vetulus' which means 'little old' or 'poor little old'.¹¹⁴ Alice Sayer, described as an old woman who was the wife of Peter Sayer, appears to be identified solely through her husband, but the use of the word 'vetula' suggests an authority attained with age. Katherine Dowson is mentioned on several occasions alongside Alice Sayer but not as frequently, which suggests that Alice had outlived Katherine and that fewer people in the community relied on her as an authority.

As these women were providing indirect testimony it is not unusual that their ages are omitted whereas those of the male deponents are provided. Despite not actually testifying when still alive in 1402 alongside older men giving evidence in the earlier stage of the dispute, the recollections of Alice Sayer and Katherine Dowson were deemed to be sufficiently reliable to be included in the later depositions of 1429. This raises the question of whether female deponents were regarded as more trustworthy and dependable with increasing age.

In the later evidence of 1429–31, the older men of the inquiry of 1402 were seldom mentioned as authorities for the dedication. Of fifteen deponents giving evidence on those who had attended the dedication, only John Hobson made reference to the older group of men. Even then the older women accompany the men in his account. John, aged forty years, deposed that he had heard 'certain older deceased persons namely Peter Dowson, John Fyssher, Alice Sayer, John Dowson, Katherine his wife, Margaret Spencer, Thomas Burton, Peter Spencer, Nicholas Wald of the parish of Sutton, at certain times often saying and swearing that they were present at the dedication'.¹¹⁵ This raises significant issues surrounding perceptions of the corroborative nature of female testimony and potential narrative structures utilised and accepted in the church courts and society. Recent work considering the authority of deponents appearing before the Church courts has contended that male rather than female testimony was held in higher esteem.¹¹⁶ However, the treatment of female testimony by other witnesses

¹¹⁴ D.P. Simpson (ed.), *Cassell's Latin Dictionary: Latin-English, English-Latin* (5th edn., New York, 1968), p. 639.

¹¹⁵ YMA, M2 (3)c, fol. 70v.

¹¹⁶ Donahue, 'Female Plaintiffs in Marriage Cases', pp. 183-213.

uncovers the shortcomings of this generalisation. Indeed older women may have been regarded as more trustworthy and authoritative witnesses than older men.

The reliance upon the recollections of older women here, however, might be an issue of life-expectancy. The older men of the 1402 inquiry remembered the dedication fifty-three years earlier and after thirty more years they may have been dead for some time. While the older men may have died some time before 1429, there may have been several women who were still alive comparatively recently. The younger men could have merely given evidence of the oldest living individual, within recent and living memory, who had spoken of the event: individuals who happened to be female rather than male. Evidence from twelfth- and thirteenth-century legal disputes in Brittany indicates that women were permitted to testify as inquest-jurors in a limited number of situations.¹¹⁷ This suggests that male deponents may have had occasion to depend upon female testimony. However, Judith Everard places this potential for female involvement within the context of the oldest living female giving evidence in the absence of any male witness.¹¹⁸ If the appearance of older women in these depositions was a matter of life expectancy then reliance on female testimony may have still affected perceptions of female capacity to locate past events.

The women transmitted their memories to men outside of their own families. In their capacity as witnesses they did not pass on information related to land or descent which the death of a husband ensured was their responsibility. Their memories were not intrinsically linked with family and lineage as was the case in disputes that pivoted upon consanguinity and testamentary disputes. However the Sutton women cast a longer shadow over the men's testimony since they served as the actual suppliers of information for the male witnesses. Unlike their predecessors of the 1402 inquiry, the younger men were more willing to admit their reliance upon women as their source of memory and informants. When younger, their husbands and family members did not regard their presence at the dedication to be influential enough to be included. At this point in their lives the women were neither exceptional as eyewitnesses nor had they

¹¹⁷ Everard, 'Sworn Testimony', p. 79.

¹¹⁸ Everard, 'Sworn Testimony', p. 81.

transcended the constraints of their gender by becoming the oldest inhabitant with living memory of the dedication.

The preference for male witnesses ensured that few women were involved in cases related to disputed tithes and parochial rights. Female involvement can, however, be detected in a small number of tithe disputes that had prioresses and their convents as their litigants.¹¹⁹ An early fourteenth-century tithe dispute brought by the rectors of the parish of Thwing against the prioress and convent of Wykeham reveals much about how the female religious themselves constructed institutional memory.¹²⁰ Four members of the community deposed on the house's rights and privileges which they claimed originated with its foundation two hundred years before. They recalled seeing two papal bulls which granted them recognition and right to exemption from payment of tithes. The women not only gave their ages but the number of years since they took their vows, whilst one repeated the vow that she made upon entry.

Female deponents were thus not excluded from testifying in cases concerning tithes and parochial rights. Customary practice, however, called on older men rather than women to give evidence. In certain circumstances this preference was not so unyielding as to exclude women entirely on the grounds of gender. An elderly female deponent in a 1404 tithe case further indicates not only that increased age lent authority to female testimony but that it could equal that of male.¹²¹ Nor is this dispute an aberration that contains evidence from other female deponents; Alice Baker aged seventy-eight was the only female to give evidence in this case. The content of her account was thus judged equal in merit to those of the other male witnesses. The ages of Alice's fellow witnesses are revealing: one John Brandesby described himself as forty years old, a certain Hugh gave his age as fifty and one John Haxholme stated that he was thirty two.

¹¹⁹ For the fourteenth century see B.I., CP.E.52, 81, 177 and 195. Also see Burton, 'Convent and Community', pp. 64, 71. Burton points out that male and female religious orders usually appeared in disputes about ecclesiastical rights and liberties. In the early fourteenth-century case brought by Prioress Ivetta of Handale against three men who allegedly assaulted her depicts her returning one evening from the business of the religious house. Despite this case relating to an attack rather than rights and liberties per se, it sheds light upon the activities of a female head of a religious house. B.I., CP.F.3.

¹²⁰ B.I., CP.E.52. See pp. 159-61 above.

¹²¹ B.I., CP.F.10.

Presumably she was permitted to testify since no older living person possessed the knowledge that she provided. It is surely not a coincidence that her male fellow deponents were all much younger than her.

Alice and the other deponents provide similar evidence when replying to most of the articles. An important issue within the dispute was whether John Craykeson, the farmer of lands involved, had driven the animals of Peter Axiholm, rector of Crayke, from pasture in a place called 'le Overfosse'. When asked about her knowledge of the events, Alice's statement is more detailed than any of the other deponents:

Examined on the fifth particle beginning 'the said John Craykson however' and so on, she says every and each [point] contained in the said particle was true just as she had heard from the report of her neighbours in the aforesaid vill of Crayk because this witness lay gravely ill in bed on the day that is mentioned and [illegible] she says she does not know to depose other than as she has deposed above as she says.¹²²

Donahue has demonstrated how deponents could function like a jury. All too frequently in disputed over parochial rights and tithes witnesses stated that they knew of boundaries and custom regarding tithes from elders, parents or neighbours. Such a response would not have been surprising from any of the deponents. One Hugh heard about John driving out the rector's animals from his wife, his brother and many others in the vill of Crayke. Alice remembered the day when the event took place but she was not an actual eyewitness. Alice was the only deponent to proffer such vivid and detailed evidence. She thus seems to be offering justification for not actually witnessing the event herself; a justification which was not wholly unnecessary if her perceived function as an elderly deponent was to add veracity by providing knowledge that few other witnesses possessed. It was important then for Alice to give a valid explanation, which an illness that may have resulted from her advanced years certainly constituted. There is no further detail about any illness or physical disability.

¹²² Super v particula incipit dictus tamen Johannes craykson et cetera examinata dicit quod omnia et singula in dicta particula contenta sunt vera prout ex relatione vicinorum suorum ville de crayk predictae sepius audivit quia die de quo memoratur ista iurata gravissime infirmata iacuit in lecto et [illegible] dicit se nescire aliter deponere quam superius deposuit ut dicit.

Utilisation of Alice as a deponent indicates an awareness of the function of older witnesses in cases that drew upon custom and eyewitness reports. Few women, aside from female religious, testify in these kinds of cases, and her age was clearly the influencing factor. But there is a subtle difference. Her evidence itself suggests that the rector decided upon an elderly woman whose testimony could not function as it should, rather than a younger man or woman. It was Alice Baker's age that allowed her to be selected as a deponent. That she could remember the day itself sought to compensate for the fact that she was not an eyewitness. Her subtle mnemonic strategy shifted the focus from her deficiency as an eyewitness to her ability to recall the events even when absent from them. In an attempt to shore up the slippage between the intended function of her evidence and its inherent limitations, Alice complemented her account of the most important event in the dispute so that her inability to provide an eyewitness account was mediated by her detailed memory of the day on which it occurred. The women of Sutton shared in communal and public recognition of their memory, the value of which was strengthened by age.

Crossing Gender Boundaries

Male witnesses predominated in parochial rights and tithe disputes but the reliance of younger men upon the recollections of old women indicates that authority was conferred upon lay women with increased age, bringing about a shift in status. Whereas the much younger Maud Katersouth was overlooked by her own son as an authority for his birth, an event which she could not have been better placed to recall, Alice Baker and the older women of the parish of Sutton were exemplars of authority.¹²³

This authority was drawn in part from the probability that these women were widows and occupied a more independent position than many younger single or married women. Although widows often struggled with households disrupted by loss and instability, widowhood could bring an improvement in status and public position. As Judith Bennett has shown for the manor of Brigstock, a widow 'as long as she remained unmarried... shared with all the other widows the status of a female endowed with extensive public authority ...

¹²³ For reference to Maud Katerforth, or Katersouth, and her son see pp. 129-31 above.

in a society of male householders, they were female heads of households'.¹²⁴ Indeed, widows can be seen accepting certain public roles and rights which were usually reserved for men.

With the adoption of a publicly masculine role as the head of a household, late medieval perceptions of older women may have further mediated attitudes toward females in the later stages of life. Late medieval preconceptions of sexual attractiveness were weighted toward young women as evidenced in representations of the Virgin Martyrs as the epitome of beauty.¹²⁵ The Ages of Man discourse which drew from medieval ideas of natural philosophy and literature portrayed middle age as the ideal time in the male life-cycle. However, the Ages of Man scheme compressed together the ages of a woman's life so that, in one example, a woman has passed through seven stages by the age of twenty one.¹²⁶ The tales of the Virgin Martyrs and the Middle English romances associated femininity with maidenhood so that the former could rarely be enjoyed without possession of the latter.¹²⁷ In the evidence from the Sutton case, older women are referred to in a manner which suggests the donning of a new and less sexualised identity, indicated by the term 'vetula'.

Anthropological studies have argued that in certain societies detachment from childbearing, whether voluntarily or through age, permitted women to behave as men.¹²⁸ Medieval society elevated the status of men on account of gender and deemed masculine behaviour desirable. Transvestite saints donned masculine clothing and passed as men in order to gain power by transcending sex and gender.¹²⁹ With their fertile years behind them, women were divested of

¹²⁴ Bennett, *Women in the Medieval English Countryside*, pp. 149-50.

¹²⁵ Phillips, *Medieval Maidens*, p. 45; Kim M. Phillips, 'Maidenhood as the Perfect Age in a Woman's Life', in Katherine J. Lewis, Noel James Menuge and Kim M. Phillips (eds.), *Young Medieval Women* (Stroud, 1999), pp. 1-28.

¹²⁶ Mary Dove, *The Perfect Age of Man's Life* (Cambridge, 1986), p. 23.

¹²⁷ Phillips, *Medieval Maidens*, p. 47.

¹²⁸ Rene Gremaux, 'Women Become Men in the Balkans' in Gilbert Herdt (ed.), *Third Sex, Third Gender: Beyond Sexual Dimorphism in Culture and History* (New York, 1991), pp. 241-81 (p. 268).

¹²⁹ Valerie R. Hotchkiss, *Clothes Make the Man: Female Cross Dressing in Medieval Europe* (New York, 1996), pp. 13-32; Allen J. Frantzen, 'When Women aren't enough', *Speculum*, 68 (1993), 445-471 (pp. 462-67); Nancy F. Partner, 'No Sex, No Gender', *Speculum*, 68 (1993), 419-43.

many biologically female attributes such as the ability to menstruate and to bear children, and were thus unable to fulfil the societal expectations of their sex. Emancipated from concerns with ideals of femininity, older women took on masculine attributes to occupy a liminal but more privileged position in the community. Perceptions of older, post-menopausal women as a 'third gender' could account for the increased authority of their testimony.¹³⁰

Regarded as a 'third gender' and possessed of a status usually reserved for men, older women's metamorphosis permitted them to behave socially and culturally as men. Adoption of a new gender identity suggests that older women were not as strictly bound to prescriptive gender norms. The women of Sutton transmitted their memories through oral testimony to men other than their own sons. This process may have occurred if men were less inhibited when conversing with older rather than younger women. Older female deponents were endowed with more authority than younger women, and their physical presence may have been deemed less sexualised and threatening.

Conclusion

Comprised of personal recollections that were inseparable from an individual's own sense of selfhood, group memory in the depositions sits uncomfortably in opposition to personal memory. The legal counsel or clerical scribe could collude in the formulation of deponents' memories as demonstrated in the contrived interpolations in the evidence from John Kydde's deponents. Memory could be inscribed within a constructed and approved form of knowledge evident in attempts to stabilize the fluidity of deponents recollections and to impose an order of meaning on them. Memory strategies approved by a group could never suppress the individual in entirety.

Testifying in the Church court presented an unparalleled opportunity for a deponent's life story thus far to be chronicled. The most expansive and protracted memory strategy in the causes surveyed belonged to Friar Michael Dawnay which, at forty-three lines in length, chronicled the personal events of

¹³⁰ Sarah Salih, 'Performing Virginity: Sex and Violence in the Katherine Group', in C.J. Carlson and A.J. Weisl (eds.), *Constructions of Widowhood and Virginity in the Middle Ages* (New York, 1999), pp. 95-112 (p. 100); For the argument that the medieval clergy formed a third gender see R.N. Swanson, 'Angels Incarnate: Clergy and Masculinity from Gregorian Reform to Reformation', in Hadley (ed.), *Masculinity in Medieval Europe*, pp. 160-77.

greatest magnitude in his life over a period of twenty-five years.¹³¹ The mnemonic strategy of William de Ardyslay, prior of Monk Bretton, also speaks something of his social self. Accustomed to having his voice heeded, the high-status male deponent appears instead to have occupied the role of inveterate autobiographer. However, this was only a tendency amongst a small number of male deponents.

When compared with female group memory, male collective testimony appears more artificially constructed. Male deponents needed to work harder to render group testimony believable. In comparison, groups of women could remember authoritatively the birth of a friend's or neighbour's child. The male groups in *Walker c. Kydde* and *Fossard c. Calthorne* constituted their identity through gendered memory places on which their narratives could focus. In *Fossard c. Calthorne*, the male deponents constructed both their memory and William Calthorne's identity through their own movements which created a mnemonic later recalled in court. This recursive relationship between place and memory surfaced once more in *Walker c. Kydde*. The young men mythologized the fishing trip in order to create a homosocial group bound by emotive memories. The borders of the group were policed and memory strategy consolidated by locating their bonding activities outside the home. The memories of these men not only located the male defendants outside the home in homosocial settings but also crafted the male defendant's status and persona.

For many women such as Alice Sayer, Katherine Dowson, and Alice Baker, extrication from marriage and motherhood and ascent to the headship of a household preceded a wider responsibility for memory in the community, allowing these older women to behave as honorary men. Regardless of whether issues of life expectancy resulted in reliance on female testimony, the women of Sutton participated in the reconstruction of the parish's history in a way which the older men of the village could not. The family provided another group setting in which remembered pasts were constructed for specific purposes. The chapter which follows will consider how widowhood and close kinship affected the wife's position in the marital family's memory. Using cases concerning testamentary issues and disputes related to marriage brought on grounds of

¹³¹ See pp. 131-41, 207-11 above.

consanguinity, it will offer a discussion of men and women's memories of the family and will thus examine how gender influenced the construction of family memory.

Chapter 4: Family, Memory, and Gender

For shortness of life, dullness of perception, numbness of the soul, weakness of memory and fruitless occupations prevent us from knowing many things, and forgetfulness is ever the stepmother and enemy of memory ...¹

Intended to convince a slightly wary population of the utility of writing to preserve memory, Ranulph Higden's exhortation articulated the capacity for remembering in a discourse of gender and familial politics. His preface also speaks of the displacement of wives and the relative control over family memory and commemoration which women could gain through marriage. Alignment of stepmothers with neglect of memory and motherhood with its preservation may connote anxiety that family memory might depend on wives other than the children's mothers.² Higden's *Polychronicon* emerged from a monastic context, finding a readership amongst the aristocracy and gentry.³ While drawn from an elite milieu, this excerpt articulates a late medieval concern with memory which may also have preoccupied families below the level of the aristocracy.

Elisabeth van Houts, albeit for the high Middle Ages, has argued that women, especially when older, retained their position as guardians of memory through their care of the sick and dying. Patrick Geary holds that female commemorative capacity and function receded in the twelfth century in the face of monastic involvement in family memory.⁴ Van Houts in contrast maintains that female involvement did not recede in the twelfth century in the face of

¹ *Ranulphi Higden Monachi Cestrensis vol. 1*, (ed.) C. Babington, Rolls Series 41 (London, 1865-86), p. 4. *Siquidem vita brevis, sensus hebes, animus torpens, memoria labens, inutilis demum occupatio nos impediunt multa scire, novercante semper oblivione memoriae inimica.* Given-Wilson, *Chronicles*, p. 59. I have used Given-Wilson's translation.

² For the proliferation of stepmothers in Renaissance Florence see Christiane Klapisch-Zuber, 'The "Cruel Mother": Maternity, Widowhood, and Dowry in Florence in the Fourteenth and Fifteenth Centuries', in Lorna Hutson (ed.), *Feminism and Renaissance Studies* (Oxford, 1999), pp. 186-202 (p. 193).

³ Antonia Gransden, *Historical Writing in England, II, c. 1307 to the Early Sixteenth Century* (2nd edn., London, 1996), p. 44; Raluca Radulescu, 'Literature', in Radulescu and Alison Truelove (eds.), *Gentry Culture in Late Medieval England* (Manchester, 2005), pp. 100-18 (p. 111).

⁴ Geary, *Phantoms of Remembrance*, pp. 52-73.

monastic involvement in family memory.⁵ Van Houts and Geary both argue that women evinced great concern for their marital family's genealogy. Whether this applied to lower status groups and to late medieval England remains unclear. Widows and female family members usually participated in the commemoration of their late husband and other male family members.⁶

Female contribution to informal family memory is now assumed, however, scholarly attention has not yet been paid to male recollections and tales of ancestors more generally in a familial and quotidian situation.⁷ Rosenthal recently considered the memories of aristocratic men who testified in the Court of Chivalry in the 1386 suit of Sir Richard Scrope against Sir Richard Grosvenor. Intended to decide the rightful bearer of the heraldic arms to which both men laid claim, the proceedings produced memories of battles fought, knighthoods received, and heraldic arms borne.⁸ Many of the men who had fought in these battles discussed their own and the Scrope's ancestry with their kin and younger relatives. Oral transmission of a family's heraldry raises the related question of how genealogies were transmitted, among lower status families in particular. Comparative analysis of both male and female testimony will create room to consider the memorial roles men adopted in familial settings.

Examined with a more gender-sensitive eye, the excerpt drawn from the *Polychronicon* prompts a host of questions related to gendered modes of remembering: how did male relatives remember men and women in their families? Where was the husband and other male kin while the stepmother 'destroyed' the virtue of family memory? How far back could families recall their histories and what shaped these recollections?

⁵ van Houts, *Memory and Gender*, pp. 13-14.

⁶ Rowena E. Archer and B.E. Ferme, 'Testamentary Procedure with special reference to the Executrix', in Keith Bate et al. (eds.), *Medieval Women in Southern England*, Reading Medieval Studies, 15 (Reading, 1989), pp. 3-34.

⁷ D.R. Woolf, 'A Feminine Past? Gender, Genre, and Historical Knowledge in England, 1500-1800', *American Historical Review*, 102:3 (1997), 645-79 (pp. 654-55). For early modern examples of male relatives passing on memories, albeit of folk rather than family tales, see Fox, 'Remembering the Past in Early Modern England', pp. 234-37.

⁸ Rosenthal, *Telling Tales*, pp. 63-94.

In his study on collective memory, Maurice Halbwachs stressed the 'relations of kinship' as a paramount factor which gave shape to family memory.⁹ Cases related to testamentary issues provide rich evidence of memory practice amongst relatives who vied for the position of legitimate memory-keeper. Widow remarriage often attracted hostility from the previous marital family which could compromise her duty as guardian of her late husband's memory. Cases concerning disputed testaments and suits related to marriage yield great insights into the way that family memory could be utilised in order to displace widows from their commemorative roles. The final section of this chapter will examine marriage cases initiated on the grounds of consanguinity or affinity in order to present nuanced conclusions on family memory and gender. Disputes which were initiated in order to annul a marriage made within forbidden degrees of kinship or affinity contain depositions in which genealogies are recited, rendering much detail about the construction and control of family memory. Litigants drawn from the ranks of the gentry brought suits to annul forbidden degree marriages, permitting analysis of higher-status modes of remembering. Examining how gender and social status affected family memory practice, this chapter seeks to investigate the memorial roles men and women adopted in daily life.

The Widow's Tale: Memory, Marriage, and Litigation

Previous debate on memory and gender in the Middle Ages has focused on female responsibility over family memory when challenged by monastic involvement.¹⁰ From late medieval evidence, less has been posited on the threat to female memorial capabilities when women, and widows in particular, were confronted with rival male claims to the role of memory keeper from within their late husband's kin group or from his offspring. A testamentary dispute of 1382 demonstrates how rival claims to memorial responsibility were expressed in a quarrel over the goods of the deceased person. After the death of her husband, Richard del Sandes, Margaret, from the diocese of Carlisle, was determined to pursue her claim upon possessions her husband had bequeathed to her. In 1382,

⁹ Halbwachs, *On Collective Memory*, p. 63.

¹⁰ van Houts, *Memory and Gender*, pp. 13-14.

three years after her husband made his testament dated 1379, Margaret came before the court of York as plaintiff in a testamentary dispute initiated against Thomas del Sandes, a male relative of her late spouse.¹¹ When Margaret brought this case against her former in-law, they were in dispute over two related injustices which she alleged had been done to her by Thomas. She argued that he persisted in these wrongdoings.

One of the fundamental points of Margaret's suit was that Richard had made both her and Thomas executors of his testament and administrators of his goods; the deponents who testified on her behalf give accounts of their appointment. The three deponents appearing on behalf of Margaret attested that Richard had appointed both his wife and his brother, alongside William, rector of the parish church of Bowness, to act as executors of his will. Her argument alleged that Thomas subsequently obstructed her duties as a legitimate and sanctioned co-executor. William de Derham, a deponent in the case, attested that Thomas's efforts were known publicly in the city of Carlisle. It was common knowledge and renown that 'the aforesaid Thomas undoubtedly possesses the many goods of Richard himself and that he wickedly hinders and disturbs Margaret, his co-executor, in administering to the same goods and fulfilling the last will of the deceased'.¹² Margaret approached him informally before the case resulted in litigation and asked that he should surrender to her control over the administration of Richard's goods but he refused to do so. The fulfillment of the testator's last wishes was usually carried out by one of the appointed executors. Little practical movement could be made until executors agreed on who would receive the letters of administration in order to implement the testament itself.¹³ Perhaps Margaret and Thomas's disagreement had stemmed from conflict over who was in charge of the execution of the intentions inscribed in the testament. From this perspective, a duty that was often an onerous burden became a profitable role from which both parties and executors hoped to reap self-interested rewards.

¹¹ B.I., CP.E.139.

¹² Prefatus Thomas quamplura bona ipsius Ricardi indebite occupat et quod maliciose Margeriam suam coexecutricem in eisdem bonis adimplere impedit et perturbat.

¹³ Archer and Ferme, 'Testamentary Procedure', p. 8.

Aside from frustrating Margaret's position as executrix and withholding Richard's goods, another more specific complaint was set before Thomas. As the positions and articles drawn up on behalf of Margaret alleged, Richard had bequeathed a particular silver cup with a lid to her, not to Thomas, his kinsman. Fortunately, a copy of Richard's testament survives alongside the other apparatus of the suit, shedding a good deal of light upon this aspect of the dispute, particularly since the survival of late fourteenth-century testaments for the diocese of Carlisle is notably patchy.¹⁴ Richard del Sandes requested burial in the church of the Dominicans in Carlisle, leaving 6s 8d to two of the church's brothers; he also left 5 marks for the celebration of annual obits. Richard left the same amount of 10 marks to his sister, to John, her son, Margaret, his own wife and Thomas, 'son of Michael del Sandes'. While generous to his wife and kin, Richard does not mention any children which the couple may have had; nor does the dispute contain testimony or even any reference to children. His testament also records his desire that William, rector of the church of Bowness, Margaret and Thomas' co-executor, have a silver cup along with 10 marks. However, this is not the silver cup so ardently fought over. Richard also left a silver cup with a cover to Margaret his wife and bequeathed a silver cup with a cover to Thomas, son of Michael del Sandes. Confusion regarding ownership of this item was thus understandable since Richard left a silver cup with lid not only to Margaret but to Thomas as well. Clearly, Richard possessed two silver cups with covers. The description of the disputed cup suggests that one was more ornate than the other.

Further controversy developed when it was claimed that Richard del Sandes, while still alive, had mortgaged the cup to the abbey of Holmcultram for ten marks.¹⁵ John de Schilton had touched and drank wine from it during a visit to the abbey. The abbot of Holmcultram, probably Robert de Rawbankes, told John de Schilton that he would give the cup to either executor if he received ten

¹⁴ *Testamenta Karleolensia, 1353-1386*, (ed.) R.S. Ferguson, Cumberland and Westmorland Antiquarian and Archaeological Society, Extra Series, 9 (1893), pp. vii-xiii.

¹⁵ For further information on the abbey of Holmcultram see James Wilson (ed.), *VCH: A History of the County of Cumberland vol. 2* (1905), pp. 162-73.

marks for it.¹⁶ However, Margaret claimed that it was in Thomas' hands. We must question why Thomas and Margaret both wanted it and felt that theirs was the rightful claim. As will be shown, the use of objects in the maintenance of family memory of the deceased goes some way towards an explanation.

Household and personal items were often granted to family, friends and servants in wills and served as 'pegs' for memory, commemorating personal relationships within the household.¹⁷ In a similar fashion to memory places and sites, objects also functioned as *aide memoire* in order to resurrect fading memories and prevent forgetting. Objects were, and continue to be, interpreted as memory objects by those viewing or owning them. Individuals in receipt of these objects brought stories attached to them or their previous owners into the present. They were used and talked about in order to safeguard and maintain knowledge. As the alleged legitimate beneficiary of the disputed item, not to mention widow and executrix of the late Richard del Sandes, it is not surprising that Margaret asserted her right to possession of the cup. Socialised to care for the sick and dying, to prepare the bodies of the dead, and to pray for them after their demise, women and widows in particular, had long been regarded as memory specialists in the commemoration of the family's dead.¹⁸ Even when not responsible for the discharge of a late husband's testament, widows remained concerned that the duty was carried out to their satisfaction. John Paston's widow was much alarmed by their son's delay in providing for his father's monument.¹⁹

Many widows continued to hold and control their late husband's goods after his last will and testament had been discharged. Margaret, however, did not have this option and William de Derham testified to the disposal of many of the married couple's material possessions; 'various animals and household utensils

¹⁶ For a list of abbots of Holmcultram see Wilson (ed.), *VCH: Cumberland: vol. 2*, pp. 172-73. Rawbankes is recorded abbot of Holmcultram in 1365 and 1379, the period during which Richard del Sandes mortgaged his heraldic cup. Wilson (ed.), *VCH: Cumberland: vol. 2*, p. 173. Richard's will is dated 1379 while the dispute was brought in 1382.

¹⁷ van Houts, *Memory and Gender*, p. 93.

¹⁸ Geary, *Phantoms of Remembrance*, pp. 52-73; Jussen, 'Challenging the Culture of *Memoria*', pp. 229-30; Riddy, 'Looking Closely', p. 223.

¹⁹ Archer and Ferme, 'Testamentary Procedure', p. 14.

were sold by the said executors'.²⁰ From this evidence it is safe to assume that Margaret, though an executrix herself, had little or no control over the allocation of her late husband's goods. If she was denied possession of this item, there were few other items surviving from their marriage and shared household upon which she could focus as 'pegs' for memories of her deceased spouse.²¹

The silver cup complete with lid allegedly bequeathed to Margaret differed markedly, however, from that which she claimed was left to Thomas del Sandes. In the positions and articles, Margaret's proctor described the disputed item which was allegedly bequeathed to her in detail. It was commonly known that at the time of his death Richard had owned 'a silver cup with a beautiful silver lid standing upon three silver lions on whose lid was a knob [or boss] on the top of which cover was painted the arms that the same Richard was accustomed to bear while he was living'.²²

Bequests to relatives were often mediated by gendered assumptions and Thomas del Sandes might have expected, and later insisted, that the cup decorated with arms should be more appropriately and legitimately in the hands of a male member of their family. However, perhaps in Richard's testament, the absence of any surviving sons meant that the cup was granted to his widow. Since the ages of the plaintiff and her late husband are not given there is no indication of what life stage either may have occupied. However, Richard failed to bequeath possessions to any children in his testament, and in the deposition material there are no indignant sons or daughters supporting their mother's claim. It was Margaret's second husband, Richard Orfevre, who intervened and requested that Thomas permit his wife to complete her administration of her late husband's possessions.

Silver cups were expensive objects which might explain Margaret and Thomas' interest. Yet Richard del Sandes granted several other cups in his testament. That the silver cup was decorated with an armorial boss or knob might

²⁰ B.I., CP.E.139. *Diversa animalia et utensilia domus vendita fuerant per dictos executores.*

²¹ van Houts, *Memory and Gender*, pp. 93-120. Van Houts discusses the role of objects in the maintenance and communication of familial oral history.

²² B.I., CP.E.139. *Unum ciphum argentem cum cooperculo argentes pulcrum stante super tres leones parvos argentes in cuius cooperculi summitate fuerat unus nodus argents in quo depingebatur arma que idem Ricardus dum vixerat portare solebat.*

provide some suggestion of why both Margaret and Thomas desired and sought possession of it. Continuity in family memory could be better maintained if it were written down or inscribed in physical form. Early Renaissance Florence saw a proliferation of private *ricordanze*, writings which recorded the genealogy, patrimony, and central experiences of a family, however, such a tradition was not customary in late medieval England.²³ The ornate silver cup decorated with the del Sandes arms was commissioned, designed, and fashioned to communicate the family's wealth to others. The cup bearing Richard's arms would serve as a physical and visual prompt for the commemoration of the original owner for whom it was made, or his descendants, lest their genealogical line be forgotten. The arms and related heraldic motto upon the knob encapsulated the family's desire to be remembered. Examples of gentry and noble families engaged in heraldic display abound in the late Middle Ages. Many such families had their heraldry emblazoned on household items.²⁴ Heraldic devises could also be used to demonstrate status or newly found wealth in the present. Gentry and noble families also commissioned monumental brasses to commemorate themselves and deceased relatives.²⁵ Brasses and effigies could incorporate heraldic emblems and gentry brasses from the mid fourteenth century demonstrated the family's genealogy.²⁶ This kind of display may also have extended to the glorification of the family's past through the invention of genealogies.

Unlike the more prosaic silver cups bequeathed to others in Richard's will, this gilded and painted cup served as a direct memorial connection to its owners and the del Sandes family. In this capacity the armorial cup embodied the family's enduring presence throughout time. It served as a site of memory by providing a physical and symbolic genealogical item which contained and transmitted historical proof of the family's perpetual fortitude.²⁷ It implied their

²³ Ciappelli, 'Family Memory', pp. 26-38.

²⁴ Coss, 'Knighthood, Heraldry and Social Exclusion', p. 39; Jonathan Hughes, *Pastors and Visionaries: Religious and Secular Life in Late Medieval Yorkshire* (Woodbridge, 1988), pp. 13-16.

²⁵ Nigel Saul, 'Bold as Brass: Secular Display in English Medieval Brasses', in Coss and Keen (eds.), *Heraldry, Pageantry, and Social Display*, pp. 169-94 (p. 181).

²⁶ Saul, 'Bold as Brass', pp. 186-89.

²⁷ Nora, 'Between Memory and History', pp. 18-19.

past achievements and bore direct witness to their lineal descent. Perhaps Richard intended for the cup to be bequeathed along the male line, with its conveyance going from father to son. It could thus be assumed that Margaret and Richard del Sandes had not yet produced any offspring, male or female, from their alliance by the time of the latter's demise. Richard may have intended the item to be bequeathed to one of his children but when they were not forthcoming wished it to be left to his wife in their stead in order to reassure Margaret of her place within his family.

Richard was not reluctant to leave money and items to his blood relatives. If we return to Richard del Sandes' testament, he bequeathed ten marks to his sister, and the same amount to John, her son. Thomas, Margaret's rival for the cup, was indeed left a silver cup with a lid, but was also left a gown, a silver knife and ten marks. Excessive, perhaps, but this generosity may have alluded to an intimate familial relationship akin to that between uncle and nephew. Thomas is identified as the 'son of Michael del Sandes', but Thomas' father, perhaps already deceased, is not mentioned in Richard's testament.

Further motivation for Thomas' defiant pursuit of the cup might lie in Margaret's subsequent foray into the marriage market. In 1382, and probably by 1381, Margaret had already remarried. In the apparatus of the dispute Margaret is referred to as the wife of Richard Orfevre. One deponent, John de Schilton, recalled an occasion when he heard Richard demand or request with firmness on Margaret's behalf that Thomas should allow his wife to administer the goods of her late spouse.²⁸ The prospect of a widow remarrying was often economically and socially necessary and may have facilitated the continuance of family lines. Such pragmatism did not always prevail when close kin of the departed witnessed the remarriage of the deceased's widow. There was often animosity towards a widow who failed to thenceforth remain faithful to her husband by existing only as the living embodiment of and memorial to his death. The motif of the 'faithless widow' was a familiar construction in medieval literature and sermons, which had evolved from earlier first century redactions in Petronius's

²⁸ B.I., CP.E.139. Dicit quod audivit Ricardum Orferier maritu ipsius Margarie requirere cum instantia Thoma de Sandes ut permetteret uxorem suam administrare in bonis Ricardi de Sandes dudum maritu sui.

Satyricon and the Fables of Aesop of Phaedrus. These earlier tales had dwelt upon the sexual appetite of the lascivious widow. These fables were retold in the *Story of the Seven Sages* to a medieval audience which exerted enough cultural specificity to shift the focus of the representation of the widow. Rather than seeking a sordid encounter upon her husband's mausoleum like her first century counterpart, the 'faithless widow' of the twelfth-century demonstrates her licentiousness by proffering her husband's corpse to the soldier in return for a promise of marriage.²⁹ The absence of a widow prepared to embrace this symbolic and mimetic social death in tribute to her husband's memory created in the family the necessity for an heir or closely related kin member to shore up this memorial rupture.

Thomas decided that Margaret was not in need of, and after her remarriage perhaps not entitled to, the silver cup painted with Richard's armorial design. To his mind, if the cup passed to the childless Margaret, who had already remarried, one of the more important and significant memory items in their family, along with ambitions of the commemoration of that generation, would be consigned to oblivion. Margaret's remarriage to Richard Orfevre may have raised suspicion that a more dubious fate awaited the silver cup, not least because Richard's surname alludes to his trade as a goldsmith.³⁰

It is evident that Margaret's position of widow as memory specialist was denigrated and considered valueless by at least some of her late husband's family. A late husband's bed could not be violated by a subsequent remarriage.³¹ Remarriage swiftly after bereavement had implications for relationships with marital kin. The possibility that Margaret might eventually propagate the male line of another family while persisting in her possession of the cup with the del Sandes arms may have been more perturbing for Thomas. Margaret had remarried, thus becoming the 'faithless widow' of literature and sermon motifs who neglected her husband's memory by wedding another man.

²⁹ Jussen, 'Challenging the Culture of *Memoria*', pp. 222-25.

³⁰ See listings under 'aurifaber' in R.E. Latham (ed.), *Revised Medieval Latin Word-List from British and Irish Sources with Supplement* (Oxford, 1980), p. 38.

³¹ Patricia Skinner, 'Women, Wills and Wealth in Medieval Southern Italy', *Early Medieval Europe*, 2:2 (1993), 133-152 (p. 151).

A prompt return to the marriage market was not the only barrier to an unproblematic relationship with marital kin. Not only had Margaret shirked her duty to remain the chaste embodiment of her husband's memory but she seems to have produced no living offspring in order to propagate her husband's line, or to preserve his or his family's memorial tradition. Upon the loss of their spouses, widows in late medieval Florence often returned to their parental or family home.³² Widows usually stayed in their marital home while engaged in raising the children which that marriage had produced.³³ These privileges were only enjoyed until children became self-sufficient; she then had to proceed with little more than gifts received from her husband upon their engagement and consummation of their marriage, and her dowry of moveable goods with which she entered the marriage. It seems that widows with children were supported economically and protected from vulnerability only while she was essential for the preservation of the successive generation of the family line. It was to the widow's children or to heirs that land and property was transferred. This extension of the role of the widow persisted only until offspring and heirs reached the age of majority. Property and material goods were inextricably interwoven with family memory and preservation of the family line.

Difficulties exacerbated by emotional hostility were often manifested in the wake of funerals and in the face of the subsequent commemorative implications of family bereavement. Indeed, it was often at such important temporal events that these problems and hostilities between family members were set in relief. In this more complex situation, bereavement not only involved the formation of memories fuelled by emotion but also the negotiation of family relationships or perhaps even prompted conflict resolution. It should be emphasized that familial discord not only occurred when a husband died. Nevertheless, the widow involved in litigation over her late husband's possessions or control of her dowry found herself in a predicament unique to her position. The difficulty of where children might fit into the question of widowhood and bequests was not confined to problems with the widows' natal

³² Christiane Klapisch-Zuber, *Women, Family and Ritual in Renaissance Italy*, (trans.) Lydia G. Cochrane (Chicago and London, 1985), pp. 118, 122.

³³ Skinner, 'Women, Wills and Wealth', p. 142.

offspring. Remarriage introduced children from previous unions into the equation.

Central to any understanding of late medieval family memory practice is an appreciation of the importance of the blood tie. Margaret's failure to produce an heir in her marriage further facilitated her isolation from her marital family, particularly upon her remarriage. Christiane Klapisch-Zuber comments of Renaissance Italian women, they 'were not permanent elements in the lineage'.³⁴ Zrinka Stahuljak argues that women in secular genealogies function as 'grafts', usually acting as the 'agent of transmission'.³⁵ The mother's inclusion in the family tree was often seen to dilute the filiative relationship between father and son; her exclusion thus ensured that their 'natural' kinship remained absolute.³⁶ In her analysis of medieval representations of genealogy, Klapisch-Zuber charts the emergence of the family tree, arguing that it developed independently from the Tree of Jesse.³⁷ However, the function of husbands and wives may have differed in genealogies where succession was not a central concern. Church courts disputes initiated to annul marriages to kin members provide an interesting lens to place over family memory, gender, and the blood tie. The courts sought evidence of a blood relationship between the conjugal couple whose marriage was investigated. Genealogies such as these which were not intended to follow descent of land allow comparison of family memories from female and male deponents. How was family memory constructed and controlled? Were women remembered in genealogies and how did men and women remember one another? It is to these fundamental questions that we shall now turn.

Family Memory and Genealogy

Much ink has been spilt on the development and supposed absurdity of medieval canon law on consanguinity. Maitland's oft-quoted criticisms poured scorn on

³⁴ Klapisch-Zuber, *Women, Family and Ritual*, p. 118.

³⁵ Zrinka Stahuljak, *Bloodless Genealogies of the French Middle Ages: Translatio, Kinship and Metaphor* (Gainesville, 2005), p. 118.

³⁶ Stahuljak, *Bloodless Genealogies*, pp. 138, 141.

³⁷ Christiane Klapisch-Zuber, *L'ombre des ancêtres. Essai sur l'imaginaire médiéval de la parenté* (Paris, 2000).

the system's 'neatly drawn tables of affinity and doggeral hexameters'.³⁸ However, we should bear in mind the prejudice that nineteenth-century Protestant scholars of the common law might have borne against canon law and the medieval Catholic Church. Little better explanation for the kinship prohibitions has been found than Goody's suggestion that the early Church wished to breach the lay monopoly on landed estates through censure of endogamous marriage.³⁹ However, Roman law on inheritance had shaped the pre-Lateran IV consanguinity rule which extended to the seventh degree of kinship.⁴⁰ Additionally, David d'Avray and James Brundage have refuted Goody's argument on several fronts, favouring the Church's desire to promote social inclusion through exogamous marriages.⁴¹ Recognizing the difficulty with which individuals remembered their family's history, the Fourth Lateran Council of 1215 reexamined canon law on consanguinity, reducing the number of forbidden degrees from seven to four.⁴² While these prohibitions were relaxed, there was a new expectation that deponents should render more accurate testimony rather than repeat hearsay.⁴³

Despite criticism that many couples could uncover a consanguineous relationship which could allow annulment of their marriage simply by tracing their family's genealogy, the extant litigation offers no support for this viewpoint. Many took the restrictions so seriously that, if the consanguinity were known about at the time of the marriage, it might have been resisted by one

³⁸ F. Pollock and F.W. Maitland, *History of English Law* 2 vols. (2nd edn., Cambridge, 1968), vol. 2, p. 389; Helmholz, *Marriage*, p. 77.

³⁹ James A. Brundage, *Law, Sex and Christian Society in Medieval Europe* (Chicago, 1987), p. 88; Christopher Brooke, *The Medieval Idea of Marriage* (Oxford, 1989), p. 135. Both Brundage and, more forcefully, Brooke applaud the argument proffered by Jack Goody, *The Development of the Family and Marriage in Europe* (Cambridge, 1983), but argue that canon legal prohibitions on degrees cannot be linked to concerns with the Church's mission to accrue more land from the laity.

⁴⁰ Goody, *The Development of the Family and Marriage*, p. 137.

⁴¹ D.L. d'Avray, 'Peter Damian, Consanguinity and Church Property', in Lesley M. Smith and Benedicta Ward (eds.), *Intellectual Life in the Middle Ages: Essays Presented to Margaret Gibson* (London, 1992), pp. 71-80 (pp. 74-79).

⁴² E. Champeaux, 'Jus Sanguinis; Trois façons de calculer la parenté au moyen âge', *Revue historique de droit français et étranger*, 4th series, 12 (1933), 241-90 (p. 254).

⁴³ d'Avray, *Medieval Marriage*, pp. 105-106.

party, scorned by parents or annulled at a later date. The prohibited degrees were firmly impressed on the minds of most individuals to the extent that disputes which sought annulment of a marriage on the grounds of consanguinity are infrequent. Helmholz has described the respect with which these rules on close-kin marriage were observed and argues that this explains the paucity of cases.⁴⁴

Comparatively few of these disputes survive in the court of York when set against suits to enforce contracts of marriage.⁴⁵ However, those that do survive permit analysis of how family memory was constructed, invented and challenged in the ecclesiastical courts. Helen Cam, amongst others, devoted her scholarly attention to the pedigrees of ordinary individuals from their testimony in villeinage disputes.⁴⁶ However, genealogies produced in a common law context, arising from writs of villeinage or cosinage, focus on a different set of concerns. Genealogical narratives told in the Church courts merit our attention for the light they shed on clerical conceptions of kinship and blood ties. Questions put to deponents shaped their narrative genealogies according to canon law on marriage within forbidden degrees, encapsulating lay interpretations of these concerns. Clerical examiners questioned deponents on the degrees of kinship between the conjugal couple alleged to be relatives, generating sets of remembered ancestries which the clerical scribe recorded. The genealogies articulated in these disputes demonstrate how men and women remembered families and individual relatives, permitting comparison of male and female genealogies in several instances. Several gentry families brought suits to annul marriages to kin which nuances our discussion of memory and gender, allowing consideration of whether common law inheritance patterns influenced the form of their genealogies. Using evidence from the Church courts, they also permit examination of the argument set forward by Duby amongst others that genealogies became increasingly

⁴⁴ Helmholz, *Marriage*, p. 79. I have found thirteen cases in which affinity or consanguinity was at issue. Seven of these disputes examine the deponents on the relationship between the spouses alleged to be related, resulting in the recitation of partial family genealogies.

⁴⁵ Helmholz, *Marriage*, p. 25.

⁴⁶ Helen Cam, 'Pedigrees of Villeins and Freemen in the Thirteenth Century', in Helen Cam (ed.), *Liberties and Communities in Medieval England: Collected Studies in Local Administration and Topography* (London, 1963), pp. 124-35; Sam Worby, 'Kinship: the canon law and the common law in thirteenth-century England', *Historical Research*, 80:210 (2007), 443-68.

agnatic and patrilineal from the high Middle Ages.⁴⁷ These disputes also allow analysis of the claim that elite women suffered a decline in power from the high Middle Age but were able to exercise a measure of agency through the family.⁴⁸

From the eleventh and twelfth centuries genealogy was a popular form in which to express structural and symbolic relationships.⁴⁹ Members of the royal family and the nobility often commissioned genealogies to record deeds of their ancestors and by the twelfth century genealogical histories had become a genre.⁵⁰ Gentry families figure in the cases related to close-kin marriage which this discussion examines, but the deponents' genealogies are unique as oral narratives. The process of textualisation forced the narrative into a fixed form in which the clerical scribe adopted the role of narrator. An ancestry constructed in an oral context became a third-person Latin written record. Recording the spoken genealogy of a deponent in written narrative form altered the speech act. The standardized structure of the ancestries, providing evidence only on the alleged family relationship, suggests that the scribe filtered out and reshaped the spoken genealogy. Verbal genealogies were shaped within a canon legal discourse in which the only familial bond examined was that between the conjugal couple.

Examination of deponents within canon legal parameters thus produced genealogies which served a court usage rather than as a record for posterity of a family's ancestry. Articulated for the purpose of litigation rather than compiled or commissioned especially, these family trees might be usefully considered 'pragmatic' genealogies.⁵¹ However, this pragmatism left room for families to

⁴⁷ Georges Duby, 'Lineage, Nobility and Knighthood: The Mâconnais in the twelfth century – a revision', in Duby, *The Chivalrous Society*, (trans.) C. Postan (London, 1977), pp. 59-80. See pp. 67-75 for Duby's reassertion of his earlier position on the tightening of the kin group around the male line.

⁴⁸ Jo Ann McNamara, 'Women and Power through the Family Revisited', in Mary C. Erler and Maryanne Kowaleski (eds.), *Gendering the Master Narrative: Women and Power in the Middle Ages* (New York, 2003), pp. 17-30.

⁴⁹ Gabrielle M. Spiegel, 'Genealogy: Form and Function in Medieval Historiography', in Spiegel, *The Past as Text: The Theory and Practice of Medieval Historiography* (Baltimore, 1999), pp. 99-110 (p. 103).

⁵⁰ Spiegel, 'Genealogy: Form and Function', p. 103.

⁵¹ M.B. Parkes, 'The Literacy of the Laity', in M.B. Parkes, *Scribes, Scripts and Readers: Studies in the Communication, Presentation and Dissemination of Medieval Texts* (London, 1991), pp. 275-97 (pp. 278-79); see also R.H. Britnell (ed.), *Pragmatic Literacy, East and West, 1200-1300* (Woodbridge, 1997).

legitimize and validate their stance in the dispute, reshaping and moulding their pasts to suit the needs of the present. Consequently, genealogies were often altered to meet the needs of the present, functioning as ‘mnemonics of social relationships’.⁵² The family memory encoded in deponents’ evidence was thus never divorced from the process of invention and transmutation at the hands of the individual.

Analysis of the type of deponent chosen to present a party’s genealogy will allow a closer look at those individuals that constructed the family’s memory. Disputes over marriages within forbidden degrees of kinship resulted in examination of the practices of natal and marital kin groups towards the family’s memory. Family members were the logical choice in these disputes, bringing knowledge of their own genealogy to bear. Treatises on canon law often considered methods of proof in the ecclesiastical courts, setting down rules on the production of deponents which on occasion limited or excluded testimony from individuals or groups. Ambivalent attitudes towards the testimony of kin members did not prevent their production as deponents. Indeed, Charles Donahue has argued that the imperfect application of these rules in England alongside the seemingly endless allowances meant that most of those who were excluded in theory could testify in practice.⁵³ While Gratian had on one occasion excluded the production of family members, another of his canons is unequivocal in its significance for disputes over forbidden degree marriages. His canon on the matter is worth quoting:

That moreover parents, brothers, and relatives of both sexes should be admitted to testify to a marriage of their relatives either to unite or separate them, so it is both decreed in ancient customs as in the laws. Indeed for that reason parents especially and, if parents are wanting, the closest relatives are admitted because each one strives to know their genealogy with witnesses and documents, as well as from the testimony of their elders.⁵⁴

⁵² Jack Goody (ed.), *Literacy in Traditional Societies* (Cambridge, 1968), pp. 32-33.

⁵³ Donahue, ‘Proof by Witnesses’, p. 143.

⁵⁴ Brundage, ‘Juridical Space’, p. 149 n. 18. My translation. Quod autem parentes, fratres et cognati utriusque sexus in testificationem suorum ad matrimonium coniungendum vel dirimendum admittantur, tam antiqua consuetudine quam legibus approbatur. Ideo enim maxime parentes, et, si defuerint parentes, proximiores admittuntur, quoniam unusquis que suam genealogiam cum testibus et chartis, tum etiam ex recitatione maiorum scire laborat.

Relatives were thus permitted to testify on their family's ancestries. Helmholz's discussion of the types of witnesses used in cases concerning forbidden degrees of kinship focuses on the testimony of old men who may have been drawn from neighbouring areas and families.⁵⁵ However, were these deponents uniformly male and older? Younger family members testify in *Townley c. Talbot*, all seven of whom were aged between twenty-one and forty years.⁵⁶ Six of these witnesses were male and four, including the sole female, were relatives in the second, third or fourth degree. In *Doncaster c. Doncaster*, the deponents were aged forty-seven, forty and more, sixty and more, and sixty-eight and more. Four of the ten men produced on Peter Hildyard's side in *Hildyard c. Hildyard* were family members, two uncles and two brothers.⁵⁷ Gendered patterns which emerge support Goldberg's argument that male parties tended to produce deponents of the same sex but female parties tended to favour female witnesses.⁵⁸

Older men did testify but the picture is not as uniformly male as Helmholz supposes. In a dispute dated 1460, five elderly inhabitants of the village of Apple Trewick recount their knowledge of the alleged consanguinity between Robert Kyghley and Isabel, daughter of Henry Yonge, both of the same village. In his brief discussion of this case, Helmholz commented that 'one was in his sixties, two in their seventies, one in his eighties and one... was said to be one hundred years old. Such men were understandably hard to find'.⁵⁹ On closer inspection of the partially faded first name, as well as the use of the feminine descriptive noun 'vidua', the final deponent was actually a woman named Margaret Hall, a widow aged more than eighty.⁶⁰ Helmholz's assumption could stem partly from

⁵⁵ Helmholz, *Marriage*, pp. 82-83.

⁵⁶ B.I., CP.F.257. The name of the first witness is illegible but he is Alice's cousin in the second degree, aged thirty and more; John Wold, aged forty, no relation; Gerard Hoghton, aged twenty-three, related in second degree; George Manchester, aged thirty-six, relative but he did not know in which degree; Edmund Richardson, aged twenty-one and more; Ralph Bryscoll, aged twenty-three and more; Margery Goldesmyth, thirty-seven, related in fourth degree.

⁵⁷ B.I., CP.E.108.

⁵⁸ Goldberg, 'Gender and Matrimonial Litigation', p. 46.

⁵⁹ Helmholz, *Marriage*, p. 83. The left-hand margin of the parchment sheet on which the depositions are written is faded to the point where the name of one witness is partially obscured.

⁶⁰ The document reads 'Margareta Hall de Denton vidua'. Helmholz's footnote for this case should date the dispute 1460 rather than 1360.

conflation of family memory with custom, deemed a male preserve in the Church courts. Margaret Hall probably deposed as one of the oldest living inhabitants in the area with knowledge of the couple's family tree.

James Brundage argues that female deponents were called upon in cases involving consanguinity as 'repositories of genealogical lore' since these cases depended on 'detailed knowledge of the marital history and genealogy of the family involved'.⁶¹ Evidence from the Church courts confirms his suspicions. In *Doncaster c. Doncaster*, two of the four deponents were women.⁶² Margery Goldesmyth, aged thirty-seven, was the oldest relative to testify in *Townley c. Talbot*, her evidence providing more information than the other male deponents on family members outside the direct lines of descent but part of the kin group.⁶³ When a married couple testified on kinship in *Blakden c. Butre*, Agnes Yonger gave evidence first while John Yonger, described as 'husband of Agnes Yonger' deposes after her.⁶⁴ Typically female deponents were described as 'wife of' their husband. John's rather unusual account is also much briefer than that of his wife: on the first article, he agreed with everything that Agnes had deposed. On the second and third points he said 'briefly' that he did not know how to depose.⁶⁵ The clerk may have also condensed John's account because Agnes had included all the relevant information in her deposition. Gentry litigants employed female deponents less often than parties of lower status. For example, *Hoghton c. Shirburn* and *Townley c. Talbot* each employed only one female deponent who gave evidence on behalf of the female party.

The deponents who turned out to give evidence of a family's genealogy were thus usually drawn from a self-selecting group of relatives, neighbours, and friends. In this sense, deponents' testimony provides an aspirational interpretation of the family's social and economic position. The genealogies

⁶¹ Brundage, 'Juridical Space', p. 151.

⁶² B.I., CP.E.69.

⁶³ B.I., CP.F.257.

⁶⁴ B.I., CP.E.210. John Yonger: Johannes Yonger maritus Agnetis Yonger.

⁶⁵ B.I., CP.F.210. John Yonger: item idem requisitus de secundo et tercio articulis dicit breviter quod nescit deponere.

within these depositions thus embodied the social memory of a family, in terms of how it wished to view and present its past. Upwardly mobile families such as the Pastons endeavoured to improve their status with claims to noble ancestry. The Paston's attempt to reinvent their family memory is perhaps best evidenced in their fabricated genealogy which lauded the family's noble origins, glossing over their peasant origins and roots in the legal profession.⁶⁶

A family's ancestry was usually shaped through oral rather than written means.⁶⁷ The deposition evidence suggests that ancestry was discussed on many occasions, at family gatherings and in personal conversations between individuals. In *Doncaster c. Doncaster*, Agnes, wife of William de Sprotburgh, deposed that she had heard part of her family's genealogy from 'her father Robert Stirchorner and her mother [illegible] and many other men and women of the vill of Doncaster and from Peter le Bogher'.⁶⁸ The other parts of her family's ancestry she heard from fellow deponent, Agnes de Pykburn. However, Agnes de Pykburn claimed that she had only recently remembered the kinship between the couple though she had known it for a long time.⁶⁹ Deponents often included the source of their knowledge, and in *Hoghton c. Shirburn*, Margery Goldesmyth's information about an older relative who was still alive shows that family achievements were discussed and considered relevant to its self-representation.⁷⁰ Margery's evidence indicates that families discussed a broader genealogy than that which was presented to the Church courts.

Few families who litigated in the Church courts had the means to produce written genealogies or records which memorialised the relationships expressed in depositions. However, in the 1370 suit *Hildyard c. Hildyard*, the tendency

⁶⁶ *Paston Letters and Papers of the Fifteenth Century*, ed. N. Davis, 2 vols. (Oxford, 1971 and 1976), II, pp. 549.

⁶⁷ Philip Morgan, "'Those were the days": A Yorkist Pedigree Roll', in Sharon D. Michalove and A. Compton Reeves (eds.), *Estrangement, Enterprise and Education in Fifteenth-century England* (Stroud, 1998), pp. 107-116 (p. 108).

⁶⁸ B.I., CP.E.69. Deposition of Agnes, wife of William de Sprotburgh: *audivit a patre suo Roberto Stirchorner et matre sua [illegible] et aliis pluribus senioribus hominibus et mulieribus ville de Doncaster defunctis et de Petro le Bogher adhuc superstite.*

⁶⁹ B.I., CP.E.69. Deposition of Agnes de Pykburn: *Interrogata a quibus habuit orta fama predicta dicit quod de Roberto de Pikiburn marito suo et ipsa iurata iam tarde primo recoluerunt de consanguinitate et predicta videlicet ad festum pentecoste predictum et dicit quod est consanguinitate parti dicte Johanne in tercio gradu.*

⁷⁰ B.I., CP.E.187.

amongst the gentry to seek *ex post facto* dispensations for marriages to kin members permits closer examination of the written documents sent to Rome.⁷¹ Katherine Hildyard's late husband's son, Peter, claimed that the couple had sent a priest to Rome in vain for a dispensation to allow their marriage which was within forbidden decrees. John de Neuton, a public notary, knew that the couple were related for he had seen their genealogy recorded in the document which they had sent:

This witness saw a document in the Roman Curia written with the agreement of John Hildyard and Katherine about whom it is concerned, as it was said to this witness. In that document the witness himself saw the degrees of consanguinity between the said John and Katherine described clearly under this form: that Robert Hildyard and Peter Hildyard were brothers [follows with description of two lines of descent]⁷²

Deponents might have gained knowledge of genealogies in other circumstances. One George de Manchester heard about Alice Townley's abduction and the couple's kinship from men gathered for a judicial session:

Asked from who or whom he had heard this, he says from Sir Thomas Pylkyngton, knight, Roger Pylkyngton and some others then in the vill of Lancaster at the time of the session last held in the same place in Sawlay, Clitheroe and other villages and surrounding places.⁷³

Canon law and the clerical scribe mediated these memories, fashioning deponents' recollections in a juridical and textual framework. To appreciate the constructed nature of the notion of family in this context, we need only

⁷¹ B.I., CP.E.108.

⁷² B.I., CP.E.108. John de Neuton: vidit iste iuratus in Roma Curia unam cedulam scriptam de consensu partis Johannis Hildyard et Katherine de qua agitur ut isti iurati dicebatur assertive in qua cedula vidit iste iuratus gradus consanguinitatis inter dictos Johannem et Katerinam descriptos et videlicet sub hac forma quod Robertus Hildyard et Petrus Hildyard fuerunt fratres carnales [follows with description of two lines of descent].

⁷³ B.I., CP.F.257. George de Manchestr: Interrogatus a quo vel quibus sic audivit dicit quod a domino Thome Pylkyngton milite Rogero Pilkynghon et nonnullis aliis tam in villa Lancastr tempore cessionis ibidem ultimo tente quid in villa de Sawlay Clytherow ac aliis villis et locis circumvicinis.

remember the effect of the Lateran Council of 1215 whereby the canon legal searchlight shone on a narrower kin group related within four rather than seven degrees. Relatives named in a genealogy presented to the courts in 1200 or 1215 would no longer be included according to these rules. The intervention of examiners and clerical scribes who elicited and recorded deponents' knowledge of the family further shaped the remembered genealogies. It was not enough to name and position relatives in the family's genealogy, deponents also needed to designate the individuals named in their genealogy a family. One question put to deponents was 'whether they had seen any of the persons whose degrees they had counted behaving as relatives'.⁷⁴ This reliance on familial behaviour rather than the blood tie indicates how far concepts of kinship were shaped by cultural perceptions, raising questions such as how were families supposed to behave and how was a group judged to be a family. The majority of deponents answered that all of the individuals named in their statement acted as relatives. However, in the 1337 dispute, *Acclum c. Carthorp*, Margaret de Cloghton deposed that the Lascy family, from which Peter Acclum's wife, Joan, and her kinswoman Mariota descended, had behaved as a family:

Asked how she knows that they considered themselves relatives and acted just as relatives do, she says about it that a certain disagreement came about between some of the family of the lord of Newbiggin and those from the aforesaid kin. Agreement was reached between them at Brigholm in the manor of the lord of Brigholm where this witness saw that the aforesaid family of Lascy behaved in part just like relatives, as she says.⁷⁵

Drawing together both branches of the family, Margaret's evidence emphasises bilateral bonds of kinship rather than only one line. More importantly, her description of the wider 'Lascy family' involved in the dispute could embrace

⁷⁴ d'Avray, *Medieval Marriage*, pp. 108, 244-45. Hostiensis, *Summa Aurea*, X.2.20.47. *Duodecim, utrum viderint aliquas de personis graduum quos computant pro consanguineis se habere*. My translation.

⁷⁵ B.I., CP.E.33. Margaret de Cloghton: *Requisita qualiter scit quod sic pro consanguineis habebantur et se gerebant tanquam consanguineis dicit per hoc quod quondam discordia fuerat mota inter aliquis de familia domini de Neubiggins et illos de consanguinitate predicta et concordia fuerat facta inter eos apud Brigholm in manerio domini de Brigholm ubi ipsa iurata vidit quod predicta de consanguinitate de Lascy simul tenuerunt ex una parte tanquam consanguinei ut dicit ipsa deponens.*

relatives who were not mentioned in the genealogy remembered in the deponents' evidence.

The genealogical tree as a representation of the family was disrupted when deponents were asked about their personal knowledge of the relatives named in their accounts. When this question was answered the relationship between the two lines was thrown into sharp relief, altering the structure of the genealogy. Deponents usually supplied the names of several family members they had seen and known who, if the deponent was a relative of a party, tended to be drawn from their own line, or that of the party for whom they deposed. Intended to substantiate the witness's report of the genealogy, lack of knowledge of the other branch of the family reinforces the structural difference between the two lines; this disrupted the impression of knowledge of ancestors and revealed the fact that not all relatives and ancestors were viewed in same way.

On occasion, knowledge of the party's ancestors could verify testimony. Deponents were expected to know the ancestor that the parties held in common.⁷⁶ They were also asked for the common ancestor's name or a suitable alias.⁷⁷ In *Townley c. Talbot*, Margery Goldesmyth remembered that the common ancestor of the parties in dispute, Sir John Booth, was also known as Jenkin Booth 'to the end of his life'.⁷⁸ Margery's evidence suggests a colourful character, known to his neighbours by this name for many years. Indeed, Sir John Booth fathered a dynasty of ecclesiasts whose influence on the fifteenth-century church was profound.⁷⁹ His sons, William and Lawrence Booth, each took their turn as archbishop of York.

John Smelt appreciated that the imposition of a limit on his memory made his testimony believable. When John, aged more than one hundred years, was examined in his bed he deposed that he had known John and Jak Kyghley

⁷⁶ Helmholz, *Marriage*, p. 83.

⁷⁷ d'Avray, *Medieval Marriage*, p. 108. Hostiensis glossed canon 50 from Lateran 1215, advising canon lawyers to ensure that the deponents examined were able to provide a name, or an alias, for all the relatives which they identified

⁷⁸ B.L., CP.F.257. Margery Goldesmyth: alias ut terminis eorum vitam Jenkyn Booth.

⁷⁹ A. Compton Reeves, 'Lawrence Booth: Bishop of Durham (1457-76), Archbishop of York (1476-80)', in Michalove and Reeves (eds.) *Estrangement, Enterprise and Education*, pp. 63-88.

‘brothers in life as in death’ more than eighty years before.⁸⁰ It was from these brothers that the parties descended. His reason for not knowing or seeing any ancestor beyond these brothers was entirely plausible, providing a nuanced and more true account as it was reflective of social and familial relationships: ‘he did not see their father because John and Jak Kyghley were old men at this point and they had died seventy years before’.⁸¹

Despite canon legal requirements that demanded the common ancestor’s name, on occasion, the origins of a family were lost or confused to its members. Attempts to recover a family’s fixed past demonstrates the problem many theorists have identified in the genealogical search for origins; Foucault advocated renewed attention to ‘beginnings’ rather than ‘origins’.⁸² In Hildyard c. Hildyard, this absence of a common ancestor initiated a process of invention and reconstruction of the family’s past. The beginning of the family’s history, constructed under the pressure of a Church court dispute, can be found in its search for its origin. None of the men were able to name the common ancestor from whom the couple whose marriage was disputed were descended. Richard Hildyard deposed that the ancestor ‘was born in that part of the country called Essex’ but he did not know in which place.⁸³ John Hildyard could not name the ancestor but believed that he was born and had resided in South Essex or Essex; John de Sprottelay stated that the village in Essex was called Hildyard.⁸⁴ One deponent alleged a more local origin for John and Katherine Hildyard’s ancestor who ‘was born in parts of Holderness and was accustomed to live in the vill of Riston in Holderness’.⁸⁵ John de Veer had heard the family’s history from John

⁸⁰ B.I., CP.F.202.

⁸¹ John Smelt: patrem eorum non vidit quia adtinus isti iidem Johannes et Jak Kyghley senes erant et moriebantur ad lxx annos ultimos elapsis.

⁸² Michel Foucault, ‘Nietzsche, Genealogy, History’, in Paul Rabinow (ed.), *The Foucault Reader: An Introduction to Foucault’s Thought* (New York, 1984), pp. 76-100 (p. 80).

⁸³ B.I., CP.E.108. Richard Hildyard: ille stipes procreatus fuit in illa patria que dicitur Estsex.

⁸⁴ B.I., CP.E.108. John Hildyard: quod procreatus et natus in comitatu Southsexie vel Exsexie et ibidem morari communis consuevit prout audivit a suis senioribus dici.

⁸⁵ B.I., CP.E.108. John de Veer: natus fuit in partibus Holderness et in villa de Ryston in Holderness communis morari consuevit.

and Katherine themselves and was also a relative in the third and fourth degree of kinship.

Unfortunately the opposing party did not provide genealogical support for their argument so the family memory of the two branches cannot be compared. That the two sons moved from Hildyard in Essex is plausible enough for migration was common in the late Middle Ages. However, other explanations have been offered for the derivation of the family's name. It has been posited that the name derived from the area where the Hildyards dwelt, perhaps drawn from the phrase 'hill garth'.⁸⁶ Later family circumstances called for further analysis of its origin, providing alternative beginnings for the family's history. However, the family's seventeenth-century ledger book survives which covers its history from its alleged Anglo-Saxon beginnings.⁸⁷ This book provides still another, albeit much later, explanation for the family name which is allegedly derived from the Saxon word 'Hildegard' which rather fortuitously means 'of noble disposition'.⁸⁸ While this explanation seems apocryphal, perhaps invented to suit and augment the Hildyard's improved social status, it should alert us to the central difficulty with this family's history: they were not certain where they came from. This has led one antiquarian to state that Robert and Peter Hildyard, the common ancestor's two sons, were 'without any memorie of father, mother, or any other kindred or any possessions'.⁸⁹ Perhaps the family's history had become corrupted over time, prompting the men who deposed in the marriage case to find a plausible explanation which a name linked to a village certainly provided.

Michel Foucault argued that genealogy as a system of inquiry displayed both presence and absence; this dual function existed in the family histories set down by deponents.⁹⁰ It is easy to forget that the remembered genealogies presented in the depositions recorded the blood relationship between two

⁸⁶ Norman Miller, *Winestead and its Lords: A History of a Holderness Village* (Hull, 1933), p. 74.

⁸⁷ The seventeenth-century Hildyard family pedigree book known as the 'Leager' book is held at the Fast Riding Archive Office.

⁸⁸ Miller, *Winestead and its Lords*, p. 74.

⁸⁹ Miller, *Winestead and its Lords*, p. 75.

⁹⁰ Foucault, 'Nietzsche, Genealogy, History', p. 76.

individuals. Indeed, Christiane Klapisch-Zuber, amongst other scholars of genealogy, is quick to recognize the strongly selective nature of genealogy as a form of representation.⁹¹ Neither canon law nor the Church courts demanded a comprehensive ancestry; that is not where their interests lay. However, the absence that Foucault describes becomes clearer when these genealogies included relatives who were not part of the direct relationship traced. The presence of family members extraneous to the descent of both parties highlights the absence of other relatives who did not augment the family's ancestry. Daughters and sisters are not mentioned if they did not contribute to the parties' kinship or affinity.⁹² The examples of relatives appended to the family tree are male, included on account of the prestige which their success brought to their kin group. For example, in *Doncaster c. Doncaster*, Agnes, wife of William de Sprotburgh and Peter le Bogher, two of the four deponents, remembered Sir John de Doncaster in their descriptions of the family's genealogy.⁹³

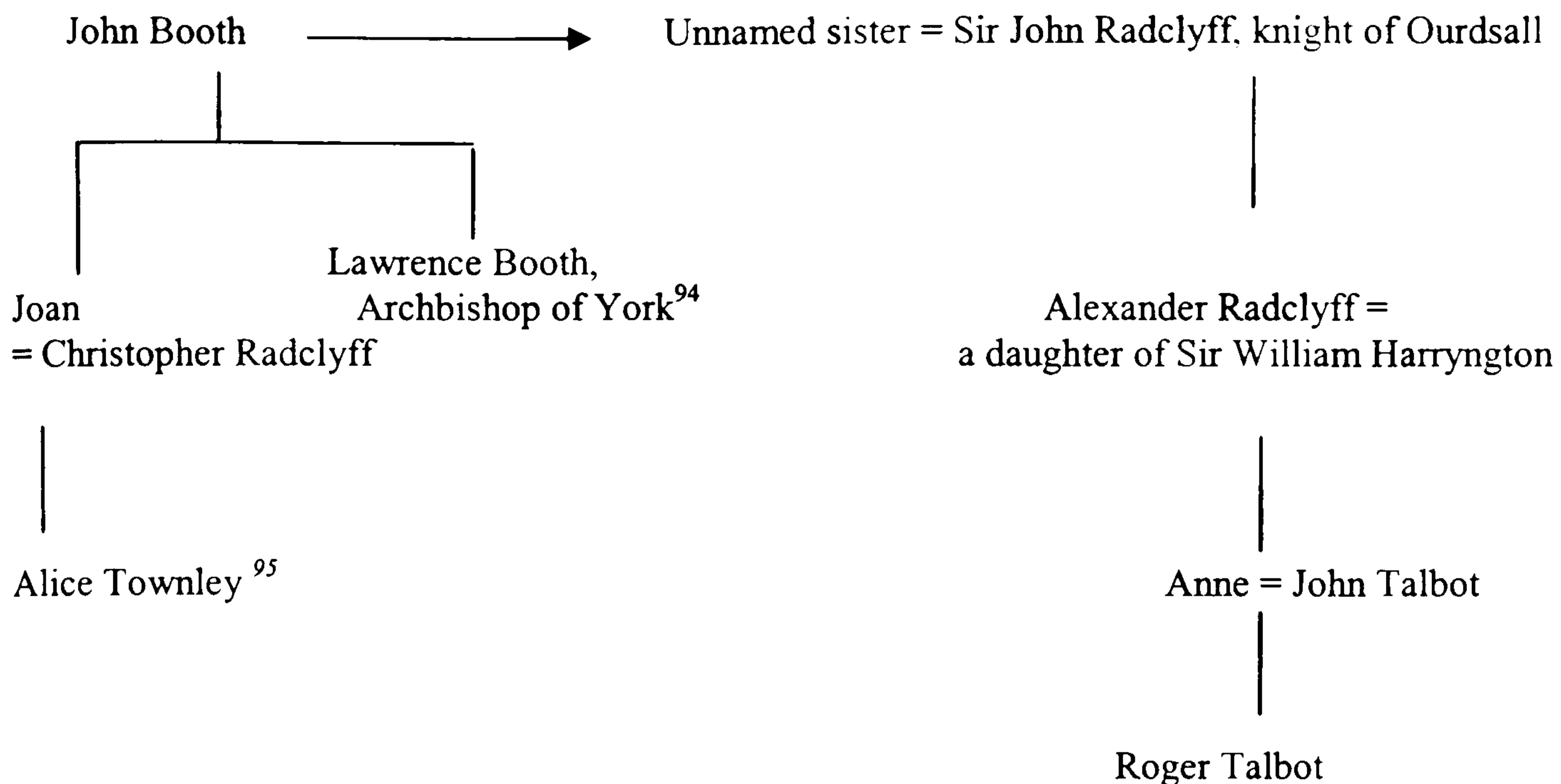
Recent family successes had the ability to work their way into the existing family genealogy. In *Townley c. Talbot*, a relative of Alice Townley, Margery Goldesmyth, may have realized that name-dropping Archbishop Lawrence Booth in her family's genealogy would impress and curry favour with the clerical audience of the court of York.

⁹¹ Klapisch-Zuber, *L'ombre des ancêtres*, p. 97.

⁹² Stahuljak, *Bloodless Genealogies*, p. 117.

⁹³ B.I., CP.F.69.

Figure 1 Deposition of Margery Goldesmyth:



Lawrence Booth surely made an impressive addition as archbishop of York and primate of the northern province, only outranked by the archbishop of Canterbury. No doubt the clerical scribe who recorded Margery's deposition would have been interested in her kinship with the Archbishop, perhaps explaining further his inclusion in her genealogy. His kinship would have ensured that a dispute in which his niece, Alice Townley, was plaintiff received the court's full and sympathetic attention.

At first glance, however, Margery's inclusion of Archbishop Lawrence Booth in the family's ancestry may not seem to glorify its memory but rather offers a remarkably up-to-date account of his career progression. Booth was only translated from the bishopric of Durham to York at the end of July 1476, the year before his niece's action in the court. When Margery deposed that Lawrence Booth was archbishop of York in July 1477 he had not yet been formally enthroned. This only took place on 4 Sept 1477.⁹⁶ While his enthronement as archbishop occurred in the same year Margery deposed, her evidence not only called upon his importance as a clerical and political figure but also called to

⁹⁴ Margery Goldesmyth: Interrogata de causa sue dicti in hac parte dicit quod Johannes Booth alias ut terminis eorum vitam Jenkyn Booth pater reverendum in christo [illegible] domini Laurencii dei gratia nunc Ebor Archiepiscopi habuit sororem cuius proprium nomen aut personam non novit ut dicit sed sic audivit dici a suis senioribus et multis aliis et presertim a quodam Johanne Chaterton de Manchestr.

⁹⁵ The apparatus of the case do not explain how Alice Townley received her surname, which differs from the family name.

⁹⁶ Reeves, 'Lawrence Booth', p. 84.

mind his successful career as an ecclesiastic in the decades which preceded the dispute. Further, his inclusion tapped into the extensive patronage network which Booth himself cultivated throughout his career as an ecclesiastic, using his connections to secure promotion of many of his relatives and fellow churchmen. Margery's testimony suggests that his election as archbishop made a significant contribution to the family's social memory, in terms of how it wished to present itself to others.

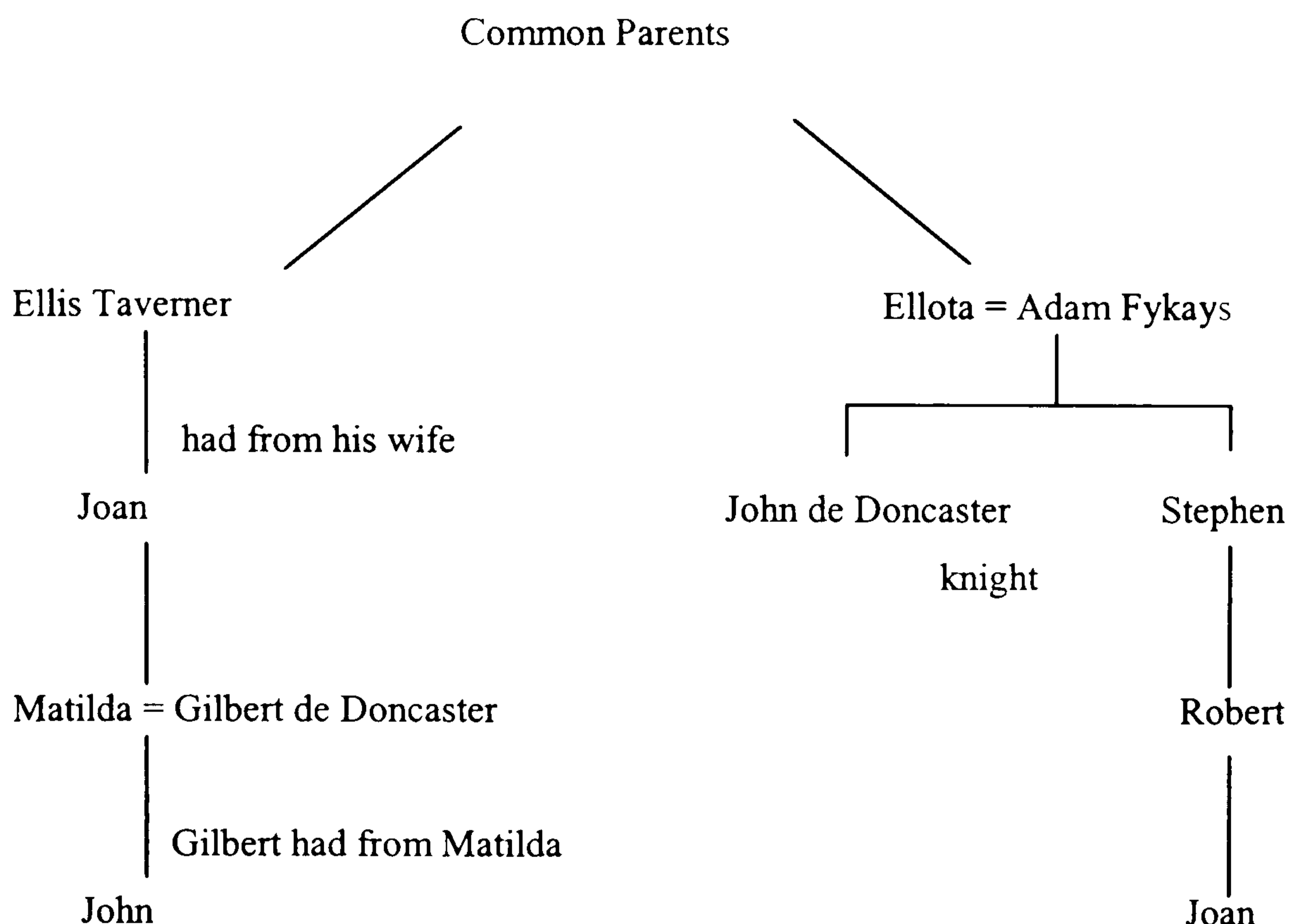
Gender affected the way genealogies were articulated and thus shaped how, and by whom, the family and its individual members were recollected. In *Townley c. Talbot*, Margery was the only deponent and relative to mention Archbishop Lawrence Booth while her six male co-witnesses, three of whom were also Alice Townley's kin, remained silent on the issue.⁹⁷ While we cannot attribute to Margery self-awareness of her position as the only female deponent, it is her deposition that provides us with this additional information.

If we examine the extant marriage disputes concerning close-kinship, it is evident that male deponents often tended to emphasise male rather than female kin in their genealogies. That Margery Goldesmyth remembered to include her influential kinsmen when the men of the family did not demonstrates that women could act as guardians of the kin groups' ancestry independently of their male relatives. One of the two male witnesses in *Doncaster c. Doncaster*, Peter le Bogher, elevated Sir John de Doncaster in his genealogy more than did the other deponents. His account, moreover, focuses more on the men in the family and gives more information about them. Peter was the only deponent who, when he named Stephen, Ellota's son and John de Doncaster's brother, included the detail that he was later killed in Doncaster.⁹⁸ Peter was sixty when he deposed in the case and was thus much closer in age to John de Doncaster and his brother Stephen than were either of the female witnesses.

⁹⁷ B.I., CP.F.257.

⁹⁸ B.I., CP.E.69. Peter le Bogher: fuit interfectus in villa de Doncaster.

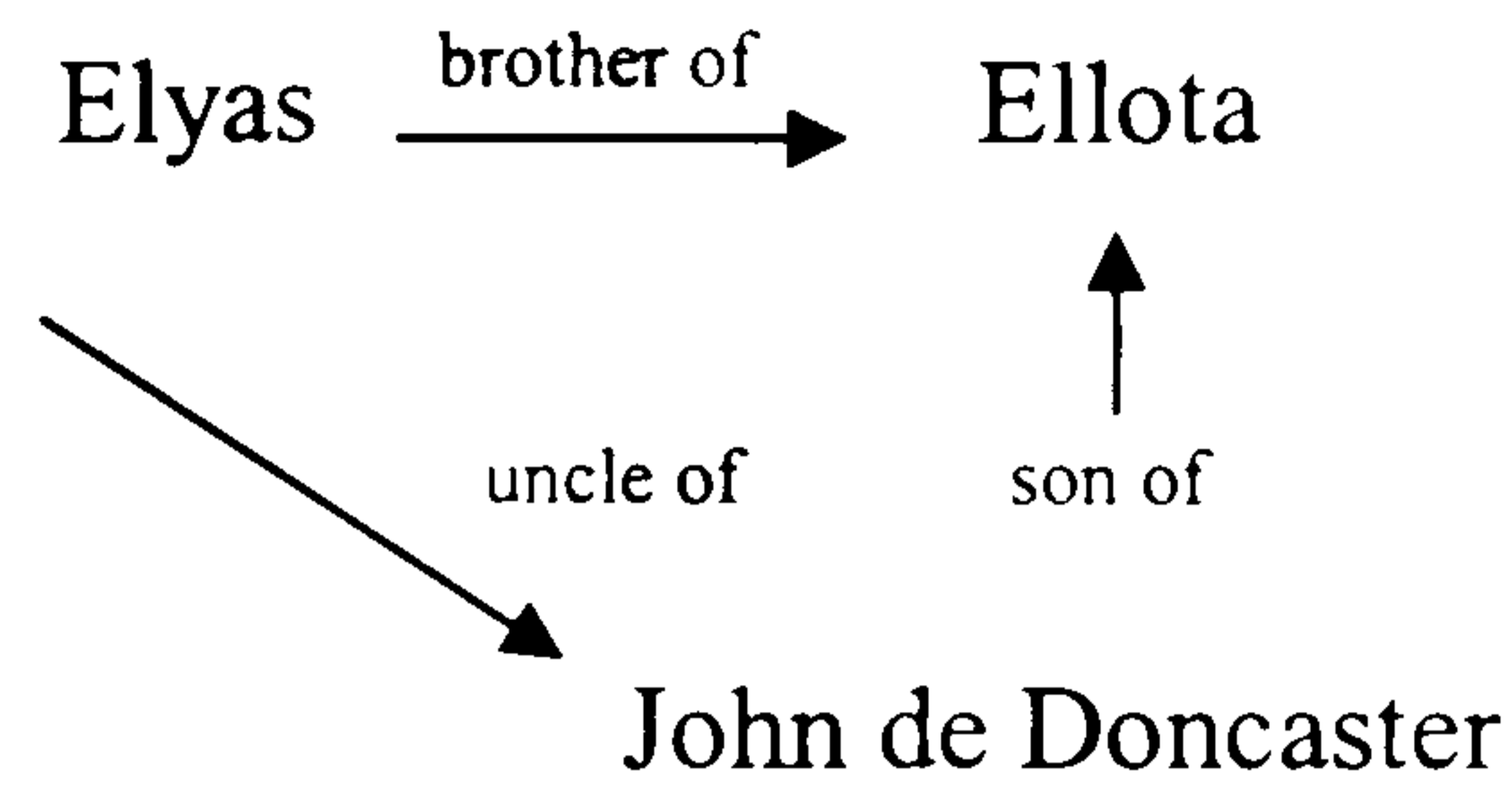
Figure 2 Deposition of Peter le Bogher:



Peter le Bogher's emphasis on male relatives in his remembered genealogy shaped the testimony of other deponents. Agnes, wife of William de Sprotburgh, named Peter le Bogher as one of the sources of her knowledge of part of the genealogy. Peter had told Agnes how her grandfather, Ellis, was related to the other branch of the family line that descended from his sister Ellota. Agnes' deposition contains Peter's description of Ellis' kinship which he had structured through male relationships: 'Ellis was brother of Ellota [illeg.] Ellis was uncle of the aforesaid Sir John de Doncaster which Sir John was son of Ellota'.⁹⁹ While Agnes, wife of William de Sprotburgh, relied on Peter le Bogher's memory of certain male family relationships, these details are only appended to her main genealogy in a smaller compacted family tree which separately described these relationships.

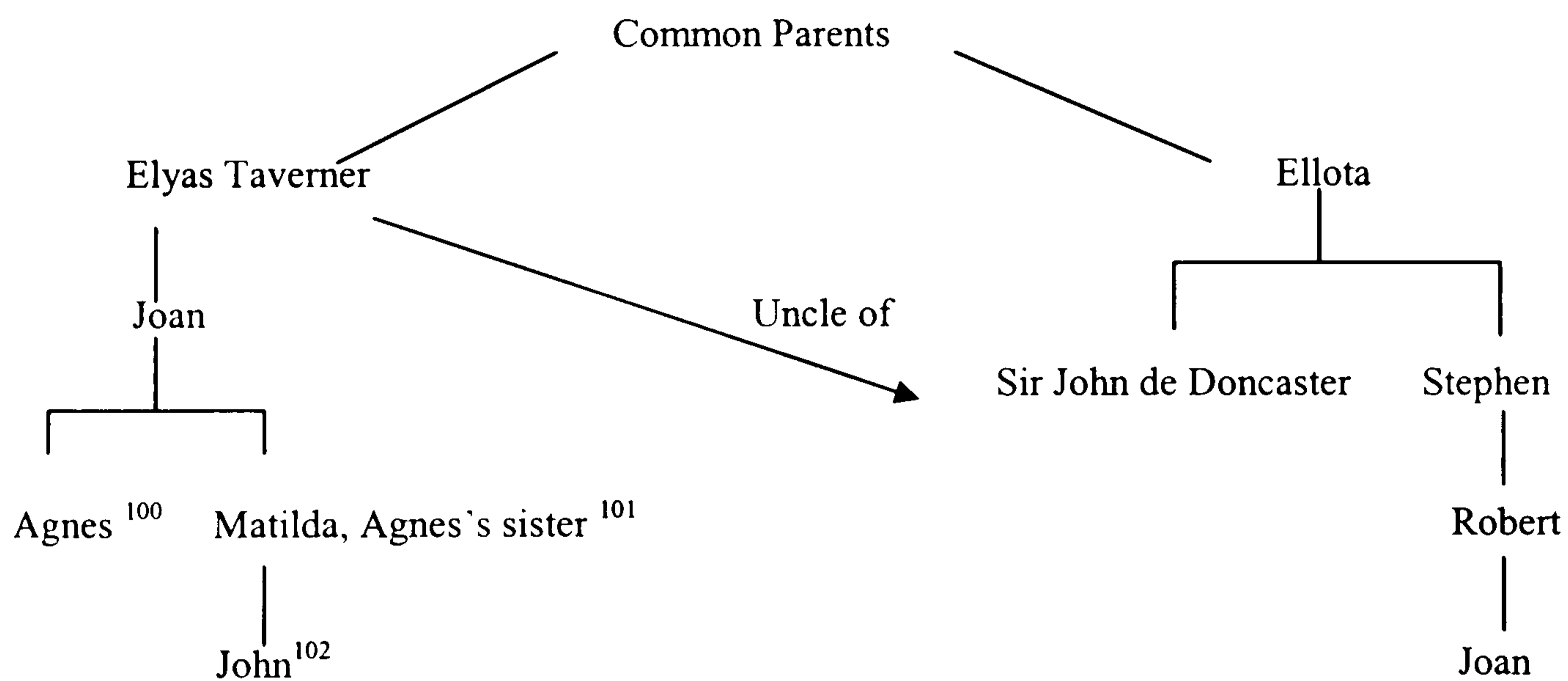
⁹⁹ B.I., CP.E.69. quod dictus Elyas fuit fratrem ipsius Ellota [illegible] dictus Elyas advunculus domini johannis de Doncaster predicti qui dominus Johannes fuit filius dicte Ellote in villa predicta.

Figure 3 Deposition of Agnes, wife of William de Sprotburgh:



Female deponents often traced descent through their female rather than male relatives. The women who gave evidence in Doncaster c. 1180 placed greater emphasis on female rather than male lines of descent. Agnes, wife of William de Sprotburgh, included her own relationship to Joan, grandmother of John, son of Gilbert, one of the parties in the dispute. John's mother was also Agnes' sister. The line of descent thus passed through female family members without reference to husbands or fathers.

Figure 4 Deposition of Agnes, wife of William de Sprotburgh:



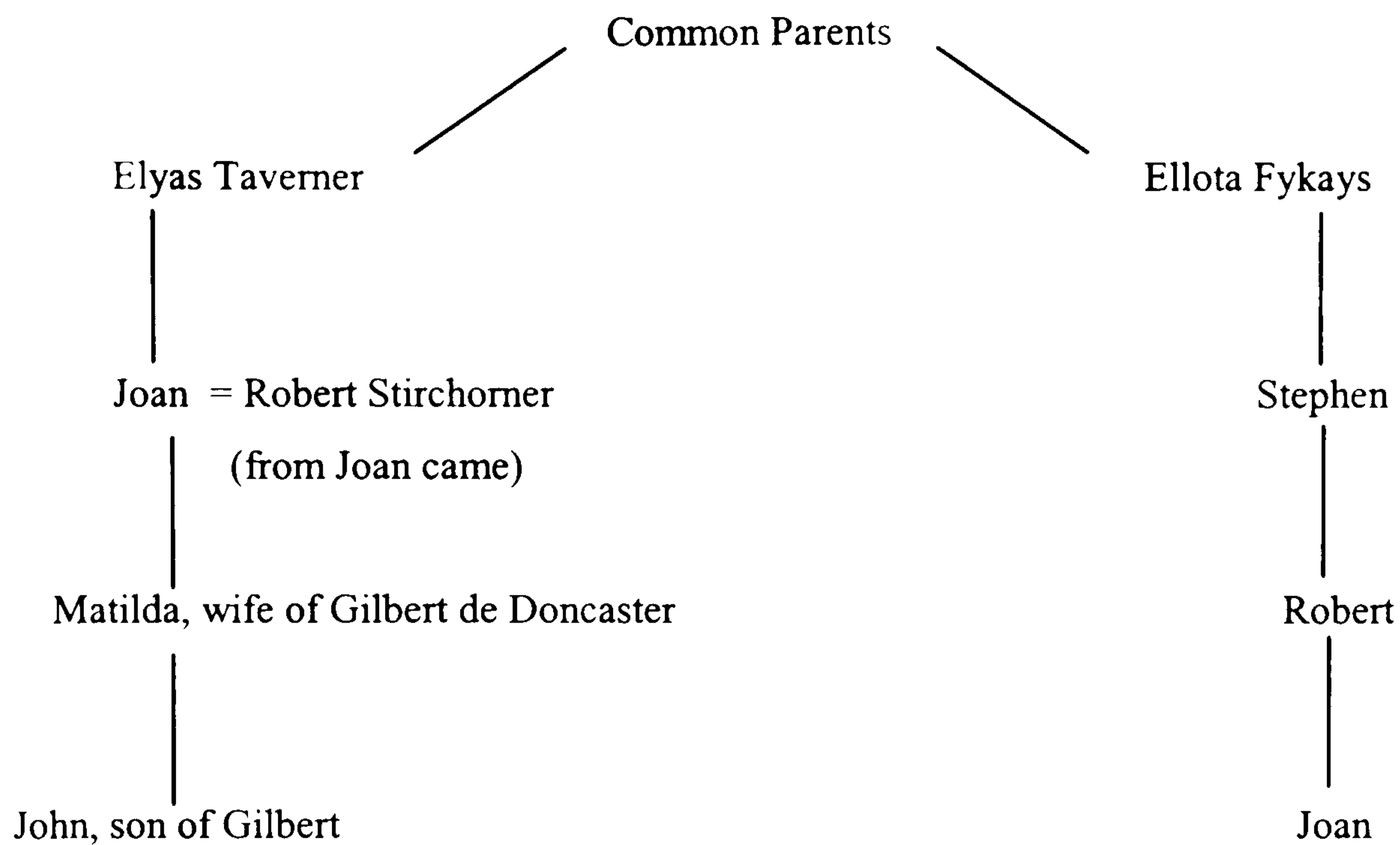
The deposition of Agnes Pykburn evinces the same female family network. Descent passes through Joan from whom her daughter Matilda was born. While Robert Stirchorner is mentioned as Joan's husband, he does not provide the procreative agency for Matilda's birth.

¹⁰⁰ Agnes, wife of William de Sprotburgh, who described this family tree places herself in the genealogy.

¹⁰¹ Matilda, wife of Gilbert de Doncaster.

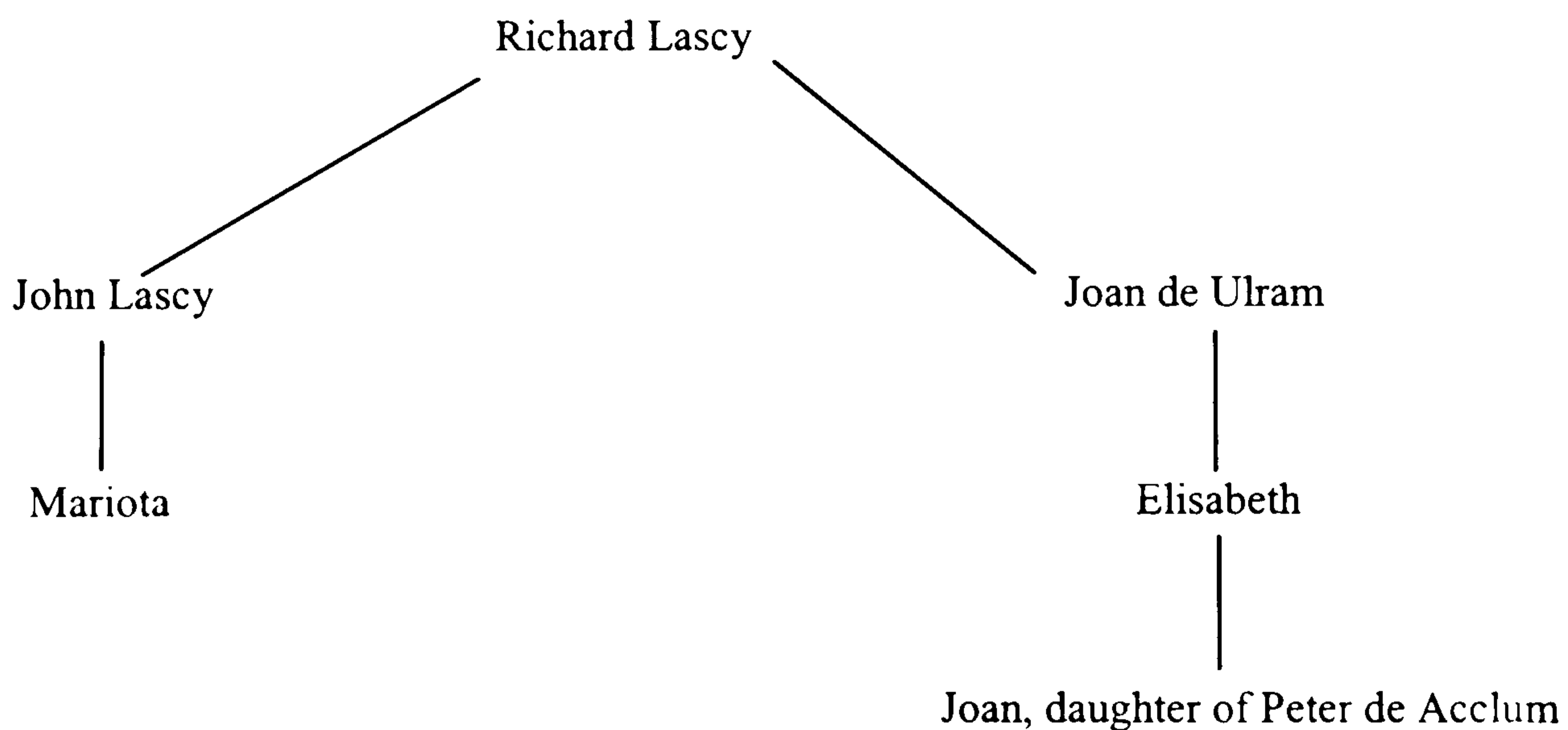
¹⁰² John, son of Gilbert de Doncaster.

Figure 5 Deposition of Agnes de Pykburn:



All four deponents, three female and one male, who testified in the 1337 dispute, *Acclum c. Carthorp*, traced the descent of both branches of the family through the female line.¹⁰³ The only male deponent in *Acclum c. Carthorp*, Robert de Thweng remembered that ‘from Joan came her daughter Elizabeth, and from the said Elizabeth came Joan, daughter of Peter’.¹⁰⁴ While the apparatus of the case describes Joan as daughter of Peter de Acclum, Robert states that Joan was born from Elizabeth so that Peter is not given procreative responsibility for her birth.

Figure 6 Deposition of Robert de Thweng:



¹⁰³ B.I., CP.E.33.

¹⁰⁴ B.I., CP.E.33. Robert de Thweng: Ex alio vero latere videlicet de Johanna processit Elizabeth filia sua carnale de dicta Elizabeth processit Johanna filia Petri filia sua.

The majority of male deponents, however, play down or omit the role of wives in family descent. When remembering conjugal couples, male deponents usually ascribed generative agency to the husband rather than the wife, even if he had married into the family. Female family members were thus often represented as adjuncts to their own genealogy. Even when a husband had married into the family, male deponents endowed him rather than the wife who had been born in the family, with the procreative agency, consigning female family members to adjuncts of the genealogy. In his genealogy of the Doncaster family, Peter le Bogher identified Ellota in terms of her relationship to her husband and son, describing her as ‘wife of Adam Fykays and mother of Sir John de Doncaster, knight’.

Higher status laity may have possessed greater awareness of the importance of memory and the advantages of recording events. An unusual knowledge of elite memory practice can be seen in Hoghton c. Shirburn when exceptions made on Lady Alice’s behalf sought to rehabilitate the reputations of two of her deponents, William Eukeston and Alice Huntyngton. Roger Shirburn alleged that both were unfit to depose as they were poor and tenants of Alice’s son, Robert Hoghton. William and Alice had not given evidence on the family ancestry but rather on Roger Shirburn’s abduction from her home several years earlier. Lady Alice responded that ‘although paupers or tenants of Sir Richard Hoghton, [William and Alice] are faithful persons’.¹⁰⁵

[T]hey are prudent and have orderly and clever memories and natural discretion, and they have integrity of mind and record of the actions which they saw and understood in the few years preceding. They are also endowed with their own property, from which they might adequately thrive, continually free and immune from all tenure of the said Sir Richard.¹⁰⁶

¹⁰⁵ B.I., CP.F.187. Exceptions on behalf of Lady Alice Hoghton: licet pauperes vel tenentes domini Ricardi Hoghton dicantur fideles.

¹⁰⁶ B.I., CP.F.187. Exceptions on behalf of Lady Alice Hoghton: sunt et discreti et ordinatam ac ingeniosam habent memoriam et discrecionem naturalem et sunt in eis integritas sensum et recordacio actionum quos annis parum precedentibus viderunt et intellexerunt sunt eciam in bonis propriis dotati unde competente valeant se sustentari et ab omni tenura dicti domini Ricardi liberi continue et immunes.

The majority of exceptions against witnesses state the reason for their production and the deponent's alleged incompetence, without addressing the ability of the deponent to remember. The concern with memory in Lady Alice's response to the exceptions is thus unique in nature.

Borrowing rhetoric from learned treatises on proficient memory practice, the statement argues that William Eukeston and Alice Huntyngton possessed 'orderly and clever' memories. The *ars memorativa*, manuals for training learned memory, which thirteenth-century authors lifted from a twelve hundred year malaise advised readers to organize their memory so that recollections were retrieved with greater ease.¹⁰⁷ Ordered recollections formed the bedrock of classical and late medieval memory techniques; memory images separated into manageable pieces gave the individual efficient control of their recollections.¹⁰⁸ William and Alice were described as possessing 'natural discretion', the word 'discretio' meaning 'prudence' or 'understanding'.¹⁰⁹ The exceptions brought not only served to restore their reputations but ascribed to their recollections a high level of knowledge and understanding of the events that occurred.

Aside from the memories discussed in chapter two, deponents seldom discuss memory for its own sake. If we consider the exceptions from Houghton c. Shirburn alongside an example from Doncaster c. Doncaster, the only other instance in which memory is explicitly mentioned in the cases involving consanguinity, then we can compare the discourses used. In this case, Agnes de Pykburn sought to explain why her information of the couple's kinship had only recently come to light despite her long knowledge of their genealogy.

Asked from whom the aforesaid report came, she says that from Robert de Pikiburn, her husband, and the witness herself. They first remembered slowly about the kinship and the aforesaid at the aforesaid feast of Pentecost, namely that there is kinship on the part of the said Joan in the third degree.¹¹⁰

¹⁰⁷ Carruthers, *Book of Memory*, p. 122.

¹⁰⁸ Carruthers, *Book of Memory*, pp. 7-8.

¹⁰⁹ Latham (ed.), *Revised Medieval Latin Wordlist*, p. 149.

¹¹⁰ B.I., CP.E.69. Agnes de Pykburn: Interrogata a quibus habuit orta fama predicta dicit quod de Roberto de Pikiburn marito suo et ipsa iurata iam tarde primo recoluerunt de consanguinitate et predicta videlicet ad festum pentecoste predictum et dicit quod est consanguinitate parti dicte Johanne in tercio gradu.

Set against the strong defence of the deponents' memory in Hoghton c. Shirburn, this discussion of the operation and praxis of memory seems rather less informed by elite memory discourse. Descended from gentry stock, Lady Alice Hoghton was also married to a knight, and is described as 'gentil woman' in the case. The higher social status which Lady Alice enjoyed could have placed the family in greater proximity to learned memory discourse.

Another deponent in Hoghton c. Shirburn, one Christopher Saylbury, provides the only instance in which the phrase 'genealogy' is used in an apparently intentional manner. After his account of the family tree, Christopher deposed as follows:

[H]e says that he heard it said from the report of the same relatives, namely Geoffrey Whalley, Richard Whalley, Thomas Syngleton of the parish of Preston, who better knew the genealogy and the ancestry of the same.¹¹¹

The majority of deponents stated that they knew bonds of kinship or consanguinity rather than the family's genealogy. Christopher's reference to 'genealogy' may reflect his greater familiarity with genealogy as a formal oral or written genre. Both Alice, widow of Sir William Hoghton, and Richard Shirburn, esquire, were gentry with the former higher in status than the latter. These examples raise the related issue of how social status affected remembered genealogies and family memory in disputes that involved higher status litigants.

Few people below the level of the aristocracy married within forbidden degrees in the hope of a dispensation for Rome was not munificent in its allocation.¹¹² It has been suggested that the gentry and aristocracy might not appear before the Church courts since their marriages were already allowed through dispensations.¹¹³ However, three of the seven disputes analysed for this discussion involve parties drawn from the ranks of the gentry. The greater tendency amongst the nobility and gentry to marry their kin does not mean that

¹¹¹ B.I., CP.F.187. Deposition of Christopher Saylbury: dicit quod sic audivit dici ex relacione cognationis eorundem videlicet Galfridi Whalley Ricardi Whalley Thome Syngleton de parochia de Preston qui melius sciverunt genologiam et parentelam eorundem.

¹¹² Helmholz, *Marriage*, p. 87.

¹¹³ Helmholz, *Marriage*, pp. 86-87.

such unions were common or undertaken taken lightly.¹¹⁴ Two of the three disputes alleged abduction despite complaints arising from the putative brides. In *Hildyard c. Hildyard*, John and Katherine Hildyard offered payment to the priest whom they hoped might secure a dispensation on their behalf. John de Estthorp deposed that:

the said John and Katherine, knowing the degrees of consanguinity between them, promised further to this witness that if he obtained a dispensation from the apostolic see so that they were allowed to marry, afterwards they would give six marks to this witness every year during his life so that this witness should celebrate Mass thenceforward for the souls of the mother and father and ancestors of abovesaid John Hildyard.¹¹⁵

Concerns for the intactness of family memory and lineage may have motivated the offer of this generous commemoration. Indeed, it was only the souls of John's parents who would specifically enjoy such prayers.

In the two disputes with gentry litigants considered here, both prospective grooms were accused of abduction. In *Townley c. Talbot*, Ralph Briscoll deposed further on the intimidation and assault of Alice Townley. A companion of Roger Talbot, one Mersden, commented on Roger's failure to kill Alice when his threats did not win her consent: 'seu thou will not ryd hir I shall ryd her for els sho will ryd us all of Sailebery'. His ridicule of the previous approach was followed with another cruel assault until Roger told him to stop beating her.¹¹⁶ Mersden had urged Roger Talbot to kill Alice, warning that she would 'ryd us all

¹¹⁴ Scott L. Waugh, *The Lordship of England: Royal Wardships and Marriages in English Society and Politics, 1217-1327* (Princeton, 1998), pp. 36-37, 61. Gentry families most often married their children into neighbouring families of comparable social status. Eric Acheson, *A Gentry Community: Leicestershire in the Fifteenth century, c. 1422-c.1485* (Cambridge, 1992), pp. 156-58.

¹¹⁵ B.I., CP.E.108. John de Estthorp, chaplain: dicti Johannes et Katerina scientes gradus consanguinitatis inter eosdem ut premittitur matrimonium contraxerunt promittentes ulterius isti iurati quod si huiusmodi dispensacionem optineret a sede apostolica supradicta et ipsam eis detulerit darent isti iurati singulis annis durante vita sua sex marcas sterlingorum dii tum iste iuratus imposterum celebraret pro animabus patris matris et parentum johannis Hildyard supradicti.

¹¹⁶ B.I., CP.F.257. Ralph Briscoll: seu thou will not ryd hir I shall ryd her for els sho will ryd us all of Sailebery et eam adtunc inhumaniter percussit cui Rogerus dixit cessa a tali percussione.

of Sailebery'. This cryptic reference could relate to lands held in that area, in particular the manor of John Talbot, Roger's father, which was named Sailebery.

If we turn to Hoghton c. Shirburn, an affinity dispute initiated in 1451, then another tale of abduction and forced marriage unfolds. Seven years before at the feast of St Philip and St James on 1 May, Robert Shirburn arrived with armed men at 'Towmethwate Hall' the home of Alice, widow of Sir William Hoghton, his late kinsman. An argument ensued between Alice and Robert; neighbours heard shouting and arguing. During the altercation, Alice was abducted from her home and taken to 'remote places' where she was kept for a long time against her will.¹¹⁷ Lower in status compared to Lady Alice, widow of the knight, Sir William Hoghton, Robert Shirburn is titled esquire in the apparatus of the dispute. Shirburn's branch of the family seems to have fallen on hard times in comparison to the bilateral branch from which Alice's husband, Sir William Hoghton, claimed descent. The deponents who testified on Alice's behalf suggested that Robert Shirburn had ulterior, and perhaps pecuniary, motives for pursuing the alliance.

Edmund Threlesall deposed on Alice's marriage to Robert Shirburn's kinsman: 'Sir William de Hogton had and took a certain Alice, plaintiff in this case, as wife and he produced and begot from her numerous children'.¹¹⁸ There is little reason for this emphasis on childbearing unless Edmund sought to impress upon the court that Alice's child-bearing days were over. Perhaps intended to prejudice the Church courts against a marriage made without bearing of children in mind, Roger Cowdray and Roger Stirholme testified that Alice was aged sixty and 'truthfully unable naturally to produce children'.¹¹⁹ However, this testimony may also have sought to convince the court that Robert Shirburn possessed an ulterior motive. Whether this dispute involved landed wealth is not immediately obvious. Widow of Sir William Hoghton, Lady Alice probably possessed a measure of landed wealth. Her son, Richard Hoghton, had probably taken over

¹¹⁷ Account based on depositions of William Eukeston and Alice Huntington.

¹¹⁸ B.L., CP.F.187. Edmund Threlesall: dominus Willelmus de Hoghton quandam Aliciam in hoc casu partem actricem habuit et duxit in uxorem et ex ea diversos liberos suscitavit et procreavit.

¹¹⁹ B.L., CP.F.187. Roger Cowdray: verisimiliter constare potest ipsam inhabilem esse naturaliter prolificandam.

much of his father's lands; two of the deponents, Alice Huntyngton and William Eukeston, are named as his tenants. Robert Shirburn may have sought an advantageous marriage to a dowager widow whose landed wealth complemented, and perhaps exceeded, his own.

The remembered genealogies produced in disputes involving higher status parties exclude wives more than lower status families. We might also suggest that the possible involvement of land in two disputes, and the definite concern with dower lands in *Hildyard c. Hildyard*, is indicative of gentry concerns. These disputes raise the important question of how far common law inheritance practice such as primogeniture and entail may have influenced the function and form of genealogies.¹²⁰

Analysis of *Hildyard c. Hildyard*, a dispute in which a widow sought to prove the validity of her marriage, and consequently obtain her dower from her late husband's heir, will allow closer examination of how concerns over inheritance may have affected the structure of genealogies remembered in the Church courts. It must be stressed that female exclusion from genealogies did not necessarily indicate familial preoccupation with a patrilineal ancestry. Rather these male-dominated lines of descent may reflect concerns with descent of land, compounded by socio-cultural norms which led men to rely on male rather than female deponents.¹²¹

Marriage, Kinship, and Widowhood

The vulnerable position occupied by a newly bereaved wife was made more precarious if she was also a kin member. If we turn to a marriage cause dated 1370, which resulted from a plea of dower before the King's Court, attitudes of the marital kin group towards widows and expectations of their behaviour can be further deconstructed.¹²² Male testimony of family genealogy allows examination of the memorial practices of male family members.

¹²⁰ Joseph Biancalana, *The Fee Tail and the Common Recovery in Medieval England, 1176-1502* (Cambridge, 2002).

¹²¹ Goldberg, 'Gender and Matrimonial Litigation', p. 46.

¹²² B.L., CP.F.108.

After John Hildyard's death, Katherine, his widow, sought her dower or third of her late husband's landed possessions in the Court of Common Pleas.¹²³ Both Katherine and John had been married before and it was partly this issue which caused problems for her as a widow; her late husband's sons resisted her attempts to recover her dower from their father's lands. The initial petition of Peter Hildyard, one of her late husband's sons, intended to strip Katherine of her dower. However, Katherine answered his petition with one of her own which included a request for a third portion of twenty-four messuages, one mill, sixteen tofts, half of fifty acres of meadow which returned eight shillings and twenty one bovates of land amongst other appurtenances in Arnold, Drypool, Riston, Preston, Sutton, Hedon, and Garton.¹²⁴ Despite litigating in the Court of Common Pleas, Katherine was then forced to bring suit against Peter in order to prove the validity of her marriage which he had challenged upon the grounds of consanguinity.¹²⁵ In the positions of the case Peter Hildyard was described as 'son and heir of John Hildyard'.¹²⁶ Sue Sheridan Walker has demonstrated that when a widow was endowed an heir lost part of his lands.¹²⁷ It was essential that she obtained a sentence in the ecclesiastical court which adjudged her marriage valid and legitimate so that she could obtain her widow's dower. If her marriage was annulled then she would have no entitlement to a widow's dower.

The objection Peter Hildyard brought in the Court of Common Pleas was that the marriage between his father and Katherine had never been valid in the first place. Defence against dower suits often incorporated allegations that the marriage was invalid, effectively depriving the widow of her right to dower.¹²⁸

¹²³ See Caroline Barron, 'Introduction: The Widow's World', in Caroline M. Barron and Anne F. Sutton (eds.) *Medieval London Widows 1300-1500* (London, 1994), pp. xiii-xxxiv.

¹²⁴ B.I., C.P.E.108. petivisset versus dictum Petrum terciam partem viginti et quatuor mesuagiorum unus molendini sexdecem toftii viginti et unus bovatarum et dimidie quinquaginta acrarum prati octo solidatis redditus et pasture ad trescentos bidentes cum pertinentis in Arnall Dripole Riston Preston Sutton Hedon et Garton.

¹²⁵ Sue Sheridan Walker, 'Litigation as Personal Quest: Suing for Dower in the Royal Courts, circa 1272-1350', in Walker (ed.), *Wife and Widow in Medieval England*, pp. 81-108 (pp. 87-88).

¹²⁶ B.I., C.P.E.108. Petri filii et heredis Johannis Hilyard.

¹²⁷ Walker, 'Litigation as Personal Quest', p. 81.

¹²⁸ Walker, 'Litigation as Personal Quest', p. 87.

Legal process dictated that the validity of the case should be examined in the ecclesiastical court. The legal counsel who may have represented John and Katherine before the King's Court were also instructed in canon law and dower cases demanded a particular knowledge of canon law on what constituted a valid marriage.¹²⁹ This privileged knowledge meant that arguments could be formulated in ways which played upon and made use of canon legal considerations. The argument put forward on John's behalf and the objection set forth were shaped by this prior knowledge of the canon law on marriage. The legal defence representing Katherine articulated their position regarding her opponent's manipulation of canon law on marriage rather eloquently: 'the said Peter, so that he might exclude the said Katherine from this her dower in the aforesaid court, undertook beforehand to object, without truth, that the same Katherine was never legitimately married to the aforesaid John'.¹³⁰

Canon legal exceptions to prevent clandestine and close kin marriages were played upon in order to ensure a result in Peter's favour. Deponents appearing on behalf of both Katherine and Peter gave evidence on the reading or concealment of banns. Peter's case against Katherine presented her contract with John as clandestine. In fact it was alleged by several deponents that it took place in the darkness of night, a long time before dawn, and with the church door closed. One John de Sprottelay, described as a relative of Peter Hildyard, even attested to his presence at the ceremony during which pieces of cloth hung over the windows of the chapel.¹³¹ While parties litigating in disputes concerning marriage often made much of the reading of banns, they were not actually required in order to make a canonically valid marriage contract.¹³²

For the deponents on both sides the issue upon which the case turned was simple: whether John and Katherine had sent to Rome to obtain a dispensation so that they could live together as man and wife in bed and board notwithstanding

¹²⁹ Paul Brand, "'Deserving' and 'Undeserving' Wives: Earning and Forfeiting Dower in Medieval England", *Journal of Legal History*, 22 (2001), pp. 1-20 (p. 8).

¹³⁰ B.I., CP.E.108. dictus Petrus ut dictam Katerinam ab huius dota sua excluderet in curia predicta prefate Katerine minus veraciter obicere presumpsit quod eadem Katerina nuncquam fuit prefato Johanni legitimo matrimonio copulata.

¹³¹ fecerunt panes suspendi coram fenestris capelle de Riston.

¹³² Helmholz, *Marriage*, p. 27.

the consanguinity between them. John Hildyard, Peter's brother and others deposed that the couple were related in the third and fourth degree; marriage between them was thus prohibited. Several deponents appearing for Peter, including the priest who had solemnized the marriage, stated that they had not actually sent any messenger while others claimed that their request was rejected. Deponents appearing for Peter were keen to attest to the suspension of the parish priest, Ives de Riston, from his office for solemnization of an illegitimate and clandestine marriage. The narrative aspects of the story of their marriage were employed in an attempt to render Katherine and John's marriage invalid and may well have been made to appeal to the clerical audience of the consistory court.

Several deponents appearing on behalf of Peter Hildyard gave evidence to the chaste nature of the couple's marriage after their consanguinity had been exposed. John Hildyard claimed that the archbishop had banned them from sexual intercourse with each other 'but they were to regard each other as brother and sister'.¹³³ John Hewison deposed that Katherine had a bed that was separate from John and that he had slept in a separate bed in another room. However, John Colnwill, who testified on behalf of Katherine Hildyard, had stated that the couple had lived together for many years as man and wife. Though Gratian had held that lack of consummation rendered a marriage invalid, Alexander III argued, and had established as precedent, that only words of present consent made a valid marriage.¹³⁴ The issue then was not that the Hildyard's marriage was invalid through lack of coitus but that the couple could not have intercourse because the bishop had made an injunction against them.¹³⁵

A writ dated 10 July 1370 dispatched from the *ex officio* personnel at Thorpe was included in the apparatus of the dispute. The document was apparently written in reply to a request from the instance personnel that they check their records for information related to John Hildyard.¹³⁶ If one or both of

¹³³ sed ut frater et soror se adinvicem haberent.

¹³⁴ Helmholz, *Marriage*, p. 26.

¹³⁵ Charles Donahue, Jr., 'The Policy of Alexander III's Consent Theory of Marriage', in S. Kuttner (ed.) *Proceedings of the Fourth International Congress of Medieval Canon Law* (Vatican City, 1976), pp. 251-91 (p. 277).

¹³⁶ Helmholz, *Marriage*, p. 9.

the couple were called before the archbishop on the charge of marital consanguinity then the *ex officio* archive or Act book was the most obvious and natural place to carry out an investigation.¹³⁷ In answer to the request, the *ex officio* personnel replied that ‘we have inspected the acts enrolled and remaining in a certain roll of the period from the year 1367 belonging to our register’ for information related to John Hildyard and any potential appearances before the archbishop.¹³⁸ The writ shows that the court took the Hildyard sons’ accusations seriously enough to order a search of the enrolled *ex officio* archives.¹³⁹ The archive search revealed that John had been cited but had not appeared. The couple were allowed to send to Rome for a dispensation but if they were unsuccessful the archbishop would proceed against them.

The argument put forward to invalidate the contract between Katherine and John was not the only carefully crafted strategy with a clerical audience in mind. John Colnvill in particular, testifying on Katherine’s behalf, provided an exceptional means of defending her position as wife and widow. The evidence of John de Colnvill, an inhabitant of the East Riding village of Rise and a neighbour of John and Katherine, is particularly instructive in illustrating certain of the concerns within this dispute. Of all the deponents testifying on Katherine’s behalf, only this witness provides an account of John Hildyard lying in bed on the point of death. John Colnvill deposed that Katherine stood by the bed where her dying husband lay, weeping and lamenting his departure. His testimony

¹³⁷ Helmholz, *Marriage*, pp. 7-8.

¹³⁸ The archive search took place on or before 22 June 1370 at Thorp near York: *noverint universitas vostra nos quedam acta in quodam rotulo excessum de anno domini millesimo ccc^{mo} sexagesimo septimo penes registrum nostrum remanente conscripta inspexisse tenoris per omnia infrascripti Johannes Hilyard morans in Roston duxit in uxorem Katherinam relicta domini Petri de Nutle militis defuncti qui se attingunt in tercio gradu consanguinitatis ex utroque latere [illegible] ad diem sabbati post proximum festum sancti andree apostoli quo vir citatus non comparuit ideo decretum est quod [illegible] sententia postea comparuit et dominus archiepiscopus concessit de supersedendo ab omni execucione faciendum contra eos usque festum sancti michaeli anno domini et [illegible] sexagesimo [illegible] ut interim mitterent ad curiam pro dispensacione quia si non haberent voluit tunc procedere contra eos.*

¹³⁹ I have found no other examples for the fourteenth or fifteenth century, however, this is probably because other cases did not result in recourse to the *ex officio* archives. Since the fourteenth-century court books for York suffer from a substantial lacuna, much remains unknown about the record-keeping practices of the courts. Should the personnel have overlapped in *ex officio* and *instance* cases then we might expect the record keeping to follow suit. There is an account of a woman, Alice Pepynell, who had to swear twenty-four-handed in order to cleanse her reputation but record of her compurgation only occurs in the cause paper depositions. See B.I., CP.E.72.

displays a representation of Katherine which may well have been specific to her position as a mourning wife.

As her husband John reached the point of his demise, Katherine was already engaged in a process of mourning. Female *memoria* or commemoration of the dead, particularly of a spouse, began before the moment when the soul departed from the body.¹⁴⁰ For Katherine to weep and lament by her husband's death-bed was the fulfillment of her expected role as wife and soon-to-be widow. John Colnwill deposed that she had cried saying, 'I have been too often a widow and I have many ungrateful sons'. John Colnwill continued with his account of the death-bed scene in which 'the aforesaid John [Hildyard] responded to these words, raising his hands from the bed and said [to Katherine] if any of my sons should do injury to you so I give to them my malediction just as I begat them'.¹⁴¹ She knew her place upon her husband's death and could thus be recast as an exemplary widow from the Bible or the chaste widow of Boccaccio's *Decameron*.

What Katherine gained from her representation as mourning widow, and legitimate guardian of her husband's memory, his sons lost as their treatment of their widowed stepmother invited their father's malediction. This unusual death-bed scene sets up rather successfully the opposing party as an unthankful and disrespectful son. While it emerges that the children Katherine spoke of were not all biologically hers, the use of the possessive pronoun further suggests some shirking of familial duty on their part which her husband's children might not have felt themselves.

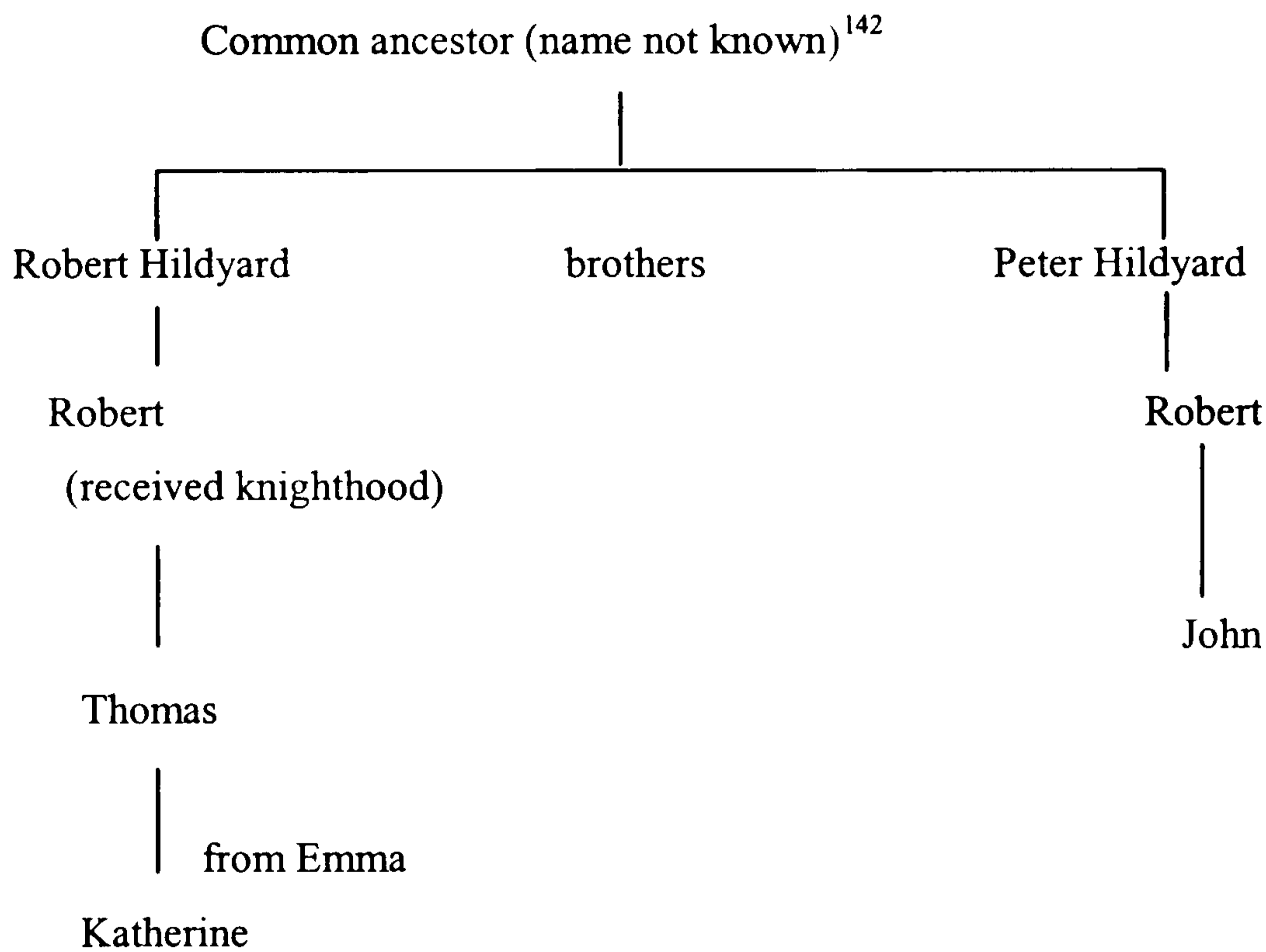
When John Hildyard, John de Veer, John de Sprottelay and Hugh Gilt deposed upon the blood relationship between Katherine and John Hildyard, they unveiled for their party an equally powerful and complex method of ridding the family of the troublesome widow. According to the ten men acting as Peter's deponents, his father John Hildyard and Katherine were related in the third and fourth degree. John de Sprottelay and John Hildyard traced the line from the late

¹⁴⁰ Geary, *Phantoms of Remembrance*, p. 52.

¹⁴¹ quando idem Johannes languerat in extremis iste testes visitavit eum et tunc eadem Katerina stetit iuxta lectum in quo idem Johannes iacebit et flevit ac dixit ego nimis sepe fui vidua et habui plures filios ingratos et ad illa verba prefatus Johannes respondit elevatis manibus de lecto et dixit si aliqui de filiis meis faciant tibi iniuriam ego do eis ita plene maledictionem meam sicut eos genaravi.

John Hildyard; from Peter, the second brother from whom the line descended, was born Robert, the father of the recently deceased John Hildyard. Further, John deposed that he had heard of their blood relationship from John himself, his uncle Peter and William Boy, an octogenarian. John de Sprottelay, junior, and many of the other men who deposed, followed the couple's relationship through male descent

Figure 7 Deposition of John de Sprottelay:



Not only did these deponents wish to expose the degrees of consanguinity between Katherine and John but through rehearsing the genealogy of the Hildyard line through predominantly male ancestors they sought to monopolize the official version of their family memory. They were in effect conferring upon themselves the task of memory keepers within the Hildyard line. Only male deponents narrated the family's genealogy which contained few references to the ancestor's wives. Robert Hildyard married the mother of Sir John de Sutton, knight of Holderness. Despite the prestige of this marriage only Hugh Gilt, who was not a kinsman of the Hildyards, includes it in his testimony.

Exclusion of female testimony in the Hildyard genealogy guaranteed male control over the family's memory, ensuring male interpretations of its history which placed emphasis on a male line. The Hildyard men and their male friends

¹⁴² B.I., CP.E.108. John de Sprottelay, junior, aged twenty one and more.

who acted as Peter's deponents were not the only bearers of the family's genealogy. John Helwysson told the court that he had heard the genealogy from John Veer, John de Sprottelay and Alice, John de Veer's wife, yet only the two men appeared as deponents.¹⁴³ We have already seen that female deponents gave prominence to women in their genealogies. Elision of wives from both branches of the Hildyard's genealogy and omission of evidence from female relatives strongly implied that descent through male relatives was the natural order. Perhaps this was intended to emphasize inheritance practice which favoured inheritance through primogeniture and the entail, whether tail general or tail male.¹⁴⁴

If we examine in greater depth the landholdings from which Katherine sought her third portion then the picture becomes a little clearer. The list of lands and appurtenances for which Katherine petitioned included Riston, however, this manor belonged to the Aumale fee which had descended down her own branch of the Hildyard family rather than that of John Hildyard, her late husband. After the death of Thomas, her father, Katherine and her sister Elizabeth were thus heiresses in their own right.¹⁴⁵ Simon Payling has shown that noble families married their sons to heiresses in greater numbers in the years after the Black Death.¹⁴⁶ However, John Hildyard's union with Katherine was a second marriage by his own choice and cannot be presented as an overt example of heiress hunting.

By the fourteenth century the branch of the Hildyard family descended from Peter Hildyard had built up a collection of small holdings in the

¹⁴³ John Helwysson: Interrogatus a quot vel quibus personis hoc audivit dicit quod a Johanne Veer et Johanne de Sprottelay contestibus suis et Alicia uxore Johannis de Veer qui Johannes de Veer Johannes de Sprottelay et Alicia supradicti et computarunt isti iurato pluries decem annis elapsos et dixerunt quod Robertus de Hildyard et Petrus de Hildyard fuerunt fratres carnales.

¹⁴⁴ Susan M. Wright, *The Derbyshire Gentry in the Fifteenth Century*, Derbyshire Record Society, 8 (Derbyshire, 1983), p. 35; Biancalana, *The Fee Tail and the Common Recovery*. Estate tail ensured that inheritance devolved to whomever the landholder decided.

¹⁴⁵ *Chronica de Monasterii de Melsa a fundacione usque ad annum 1396*, (ed.) E.A. Bond, Rolls Series 43, 2 vols. (1866-88), vol. 2, pp. 292-93.

¹⁴⁶ S.J. Payling, 'Social Mobility, Demographic Change, and Landed Society in Late Medieval England', *The Economic History Review*, New Series, 45:1 (1992), 51-73 (p. 70).

surrounding areas, in particular lands in Arnold.¹⁴⁷ A complaint made by Peter Hildyard in 1377, seven years after the dispute with Katherine, shows that he continued to hold land in the Riston area.¹⁴⁸ This evidence suggests that Katherine sought her dower at a time when the Hildyard men looked to consolidate their holdings.

Figure 8

Descent of Land from Peter Hildyard:

Peter



Robert



John



Peter

As his father's heir, Peter Hildyard had only recently acquired the family's estates. Gentry families were occasionally loath to share estates with widows who were perceived as a drain on the heir's inheritance.¹⁴⁹ By 1370 when the dispute with Katherine came about, the Hildyard men may have lost patience with widows who exercised their right to dower or even transferred the family's

¹⁴⁷ G.H.R. Kent (ed.), *VCH: A History of the County of York East Riding vol. 7 Holderness Wapentake, Middle and North Divisions* (2002), p. 344.

¹⁴⁸ Baildon (ed.), *Monastic Notes*, I, p. 136.

¹⁴⁹ Wright, *Derbyshire Gentry*, p. 34; Colin Richmond, *The Paston Family in the Fifteenth Century: Fastolf's Will* (Cambridge, 1996), p. 8.

lands to a second husband.¹⁵⁰ Estates in Arnold belonged to the Hildyard family but after Peter Hildyard's death, his widow took another spouse, Nicholas of Reddings, who is recorded as lord of the manor of Arnold.¹⁵¹ It later reverted to Peter Hildyard's descendants, Robert, John and then Peter and passed along the male line. Katherine may be the same woman who granted land in Riston to herself and her husband, Sir John Chaumon, in 1370 the same year as the marriage suit, which probably did little to placate her late husband's family.¹⁵² Peter Hildyard may have resented Katherine's marriage to another important landholder in the Riston area for her union with Sir John Chaumon consolidated lands which she already held, to which she might add her dower.

While the Hildyard branch from which Peter descended was traced through the male line with little mention of wives, and other female family members, the genealogies articulated in their depositions do not support Schmid and Duby's thesis of agnatic kinship arrangements.¹⁵³ The Hildyard men could all name the collateral line of cousins, providing additional information including Robert Hildyard's knighthood. Parties and deponents remained conscious of the bilateral kin group from which the opposing party descended.

Depositions do not always reveal the concerns which occupied individuals outside the Church courts. Consequently, it is difficult to know whether knowledge of inheritance patterns structured the genealogies articulated in deponents' evidence. However, if George Manchester, deponent in the 1476 Townley c. Talbot close-kin dispute, is the same Manchester inhabitant who left an early sixteenth-century testament then we can glean a little from the manner in

¹⁵⁰ Rowena E. Archer, 'Rich Old Ladies: the problem of late medieval dowagers', in A.J. Pollard (ed.), *Property and Politics: Essays in Later Medieval English History* (Sutton, 1984), pp. 15-35 (p. 26).

¹⁵¹ Kent (ed.), *VCH: East Riding*, vol. 7, p. 344.

¹⁵² Kent (ed.), *VCH: East Riding*, vol. 7, p. 343. See also East Riding Archive Office, DDR1 22'33. This document is dated July 1370. Much of the apparatus of the marriage suit brought in the ecclesiastical court is dated June 1370.

¹⁵³ Duby, 'Lineage, Nobility and Knighthood', pp. 67-75; Karl Schmid, 'The Structure of the Nobility in the Earlier Middle Ages', in T. Reuter (ed. and trans.), *The Medieval Nobility: Studies on the Ruling Classes of France and Germany from the Sixth to the Twelfth Century* (Amsterdam, 1979), pp. 37-59. For a discussion of the development of the theses proffered by Schmid and Duby see David Crouch, 'The Historian, Lineage and Heraldry, 1050-1250', in Coss and Keen, *Heraldry, Pageantry and Social Display*, pp. 17-37 (pp. 23-24).

which he granted his lands. His genealogy of the parties in Townley c. Talbot included few female family members and his will provides something of an explanation: ‘if his three sons had no male issue, for his land to pass to “Thurstan of Manchester my brother and hys heres male laghfully begottyn or bastard so that it be in the name”’.¹⁵⁴ George Manchester left his lands to his male descendants in tail male, ensuring that they remained intact without passing into another family through a daughter or female relative’s marriage.

Aware of the utility of patrilineal descent in a dispute which involved dower and land, the Hildyard genealogies which focused on male family members may not directly reflect how they viewed their own ancestry. Different jurisdictions certainly borrowed from one another. In a recent study of the extent to which the ‘learned laws’, civil and canon law, influenced common law ideas on kinship, the use of canon law calculation of forbidden degrees in common law treatises is highlighted.¹⁵⁵ However, patrilineal genealogies were not the norm in the Church courts. Genealogies were followed through male and female descent in cases where land, dower, and possessions were not primary concerns.

As widows, both Katherine, widow of John Hildyard, and Margaret, wife of Richard Orfevre, occupied a liminal position in relation to the kin of their late husbands. To refute the very existence of Katherine’s marriage to John in order to retain her dower struck at the core of her role as memory keeper. If her marriage was proven canonically invalid then not only was she deprived of her dower but her entire marriage and status as widow was stripped from her. Clearly this presented a direct challenge to Katherine’s role of memory specialist in family commemoration of the dead. However, it was difficult for them to alienate Katherine entirely from the family memory since she was herself part of the family line. To deny Margaret, widow of Richard del Sandes, her appointment as executor was an assault upon her performance of her role as widow and a rejection of her place within the family. The heraldic silver cup came to symbolize not only the protection of the del Sandes’ family memory but also its continuation in the future. For both widows, legal process in the form of testamentary and marriage litigation against their late husband’s kin allowed

¹⁵⁴ Morgan, ‘“Those were the days”’, p. 109.

¹⁵⁵ Worby, ‘Kinship: the canon law and the common law’, p. 453.

them to reassert their position within the memory and genealogy of the family. For widows and for their late husband's kin, litigation involved more than entitlement to material goods.

The female plaintiffs in these disputes sought recognition of their position as widows. To litigate against their husband's kin, far from alienating the widow as plaintiff from their former family network, served to assert their presence within the kin group. If the process of recovering personal possessions was linked both to family and to personal memory then we can view testamentary litigation as a strategy utilized to reclaim a widow's position within the family group.

A second wife and stepmother to the family's heir, Katherine Hildyard probably realized that her future in her husband's branch of the Hildyard family would be uncertain. While Katherine bewailed her 'many ungrateful sons', the Hildyard men sought to remind the court that they were also angry kinsmen, incensed that an invalid marriage was depriving the family's heir of a substantial portion of his inheritance. Katherine's deponents do not dwell on the sizeable dower which she pursued in the common law courts. Yet as David Herlihy and Klapisch-Zuber remind us, and the testimony itself makes clear, genealogies set down in disputes involving close-kinship only told part of a family's history.¹⁵⁶ Analysis of wills and other records, and reference to influential relatives suggests that the genealogies recorded had many other branches to their trees. When expressed in an elite male discourse, remarriage or stepmotherhood was disparaged as the enemy of family memory. Yet on a quotidian basis when accurate family lore was needed, female relatives provided a more balanced ancestry, couched in a distinctly female discourse.

¹⁵⁶ David Herlihy and Christiane Klapisch-Zuber, *Tuscans and their Families: a study of the Florentine catasto of 1427* (New Haven and London, 1985), p. 343.

Conclusion

This power of memory is great, very great, my God. It is a vast and infinite profundity. Who has ever plumbed its bottom?¹

With you as my guide I entered into my innermost citadel, and was given power to do so because you had become my helper. I entered and with my soul's eye, such as it was, saw above that same eye of my soul the immutable light higher than my mind.²

Alluding to the points where memory, autobiography, and confession intersect, these excerpts from Augustine's *Confessiones* bring us closer to the context in which medieval individuals experienced and interpreted memories of past events. This study has so far analysed the memorial roles which men and women adopted in daily life, revealing gender-specific modes of remembering. Manipulation of categories such as gender, occupation, and social status enabled litigants and deponents to fashion convincing self-identities. These narratives demonstrate behaviour which deponents deemed to be convincing accounts of gender performance. Questions more pressing, but not necessarily easier to answer, relate to how far deponents' memories reflected the lived experience of late medieval men and women. Where did agency meet social practice and how much agency could men and women exercise through their recollection of past events? These issues will be explained further below, through re-engagement with concepts of narration and autobiography.

Deponents' narratives offer a way into the discussion of memory practice. However, the chronology of this concern with memory also merits further attention. We should not view individuals, and their conceptions of selfhood, as divorced from their cultural setting. For example, why were these roles expressed in deposition evidence in the late medieval Church courts of York? What was the wider meaning of this interest in memory, and in what context should we view this development? The diocese of York followed the canons issued in the Fourth Lateran Council of 1215, including the requirement of annual confession for the

¹ Augustine, *Confessiones*, (ed.) Henry Chadwick (Oxford, 1998), p. 187.

² Augustine, *Confessiones*, (ed.) Chadwick, p. 123.

laity. Yet how did York differ from the other dioceses in England? Several authors of confessional literature and pastoral manuals completed their works in Yorkshire, and were under the patronage of various archbishops of York.³ Their influence may have initiated a greater emphasis on introspection and past events in the Church courts. Late medieval York also witnessed the growth of civic archives, the result of increased awareness of the utility of memory and the written record.

By focusing on the points where memory and self-identity coincide, this thesis situates these overlapping processes in a gendered framework. Examination of popular memory revealed that elite memory discourse rarely inflected informal memory practice. When deponents did encounter learned interpretations of memory, it was the result of the elevated social status of the litigant and perhaps the deponent. In *Hogton c. Shirburn*, the memory discourse drafted between the Church court personnel and the female litigant in defence of two lay deponents, William Eukeston and Alice Huntyngton, went as follows: '[T]hey are prudent and have orderly and clever memories and natural discretion, and they have integrity of mind and record of the actions which they saw and understood in the few years preceding'.⁴ This memory discourse, however, left room for human experience despite the scholarly tradition on which it relied. The late medieval Church courts allowed ordinary laypeople the remarkable opportunity to interact with learned concepts that had filtered down into the questions which deponents were asked, and the concerns which the courts articulated. William Eukeston and Alice Huntyngton, the subjects of the exceptions discussed above, also acted as agents of this discourse, transforming it through their social status and their capacity as deponents.

The clerical intervention exemplified in *Hogton c. Shirburn* is unusual. Yet the process which formed the depositions did not produce a straightforward replica of witnesses' responses, free from clerical intervention. The scribe did not passively record all that the deponents said. On occasion, clerical interpolations disrupt the narrative, adding legalistic terminology which reminds the reader of the mediated state of deponents' accounts. Scholars of autobiography consider

³ Hughes, 'Administration of Confession in the Diocese of York', pp. 90-92.

⁴ B.L., CP.E.187. See pp. 256-58 above.

this dialectic in terms of the relationship between the autobiographer and the expected audience or reader.⁵ Deponents' oral testimony began as a first person vernacular account in response to questions posed. The clerical scribe, with whom individuals negotiated a persona, then converted their story into a written Latin third-person account.

This method of recording has wider implications for the treatment of depositions as historical documents since they occupy the terrain between historical record and oral source. That the records retained an element of orality should not pose problems to the historian. In this sense, they are a testament to the familiar and conversational discourses which individuals deployed on a daily basis. Riddy astutely comments that the language which framed the deponents' statements, in particular the 'ut dicit' and 'dicit', 'indicate presence or at least adjacency' of the witness.⁶ In her discussion of women's oral history, Joan Sangster urges that oral records should not be treated as problematic. Rather these kind of sources should be regarded as evidence of 'the construction of women's historical memory'.⁷

Focusing on depositions provided a way into the discourses, narratives and personas employed in the Church courts. This thesis has also been concerned with the constructed nature of remembered narratives. Poststructuralists evince much concern that autobiography merely produces 'a narrative artifice, privileging a presence or identity, that does not exist outside language'.⁸ This study has treated litigation as narrative, in particular the manipulation of social status, gender, and occupation to suit the demands of the dispute. It has also considered whether depositions expose 'the dynamics of narration rather than the dynamics of society'.⁹ Remembering past events allowed individuals to reshape, and at times embroider, their narratives. Ivetta, prioress of Handale, manipulated

⁵ Sidonie Smith, *A Poetics of Women's Autobiography: Marginality and the Fictions of Self-Representation* (Bloomington, 1987), p. 6.

⁶ Riddy, 'Text and Self', p. 442.

⁷ Joan Sangster, 'Telling Our Stories: Feminist Debates and the Use of Oral History', *Women's History Review*, 3:1 (1994), 5-28 (p. 6).

⁸ Smith, *Poetics of Women's Autobiography*, p. 6.

⁹ Vincent Crapanzano, 'Life Histories', *American Anthropologist*, 86 (1984), 953-60 (p. 955).

narratives of female victimhood and violence in order to reshape her argument against the men with whom she was in dispute. Fortuitous survival of records allowed in-depth analysis of Ivetta's self-identity, but litigants in the other disputes surveyed presented opposing accounts. Pickworthe and Saperton c. Bracebridge, a dispute which sought to establish the identity of the father of Margaret Pickworthe's child, offers the historian an intriguing medieval round of 'murder in the dark'.¹⁰ Yet these narratives present the historian with culturally believable stereotypes and, more fundamentally, show how litigants and deponents utilised the court system.

This study has demonstrated that certain groups and individuals were considered memory specialists. As the dispute involving Katherine Northfolk shows, female deponents served as experts in disputes that turned on the age of either or both parties.¹¹ Despite the customary use of older male deponents in cases related to disputed tithes and parochial rights, older women could become memory specialists within this ostensibly male preserve. As bearers of local knowledge, women such as Alice Baker and the old women of Sutton were respected as the oldest living inhabitants, transcending the informal restrictions on female testimony.¹² The paucity of female evidence in disputes which turned on custom show that cultural boundaries inevitably existed to privilege male testimony. However, these examples demonstrate that female memory could influence and become inscribed in a parish or town's history.

Since deponents often testified in groups, telling the court of their shared memories, Chapter 3 explored the issues of collective and individual memory, arguing for a multitude of settings in which group memory was perceived as an advantageous court strategy. Gender and social status occasionally provide the primary influence in disputes where groups of men strengthened the party's argument with believable forms of male behaviour. In Walkar c. Kydde, a group of men fondly remembered their fishing trip which they had taken together 'as young men do'.¹³ The men and their legal counsel played upon perceptions of

¹⁰ B.I., CP.E.249.

¹¹ B.I., CP.F.89.

¹² B.I., CP.F.10; YMA, M 2(3)c.

¹³ B.I., CP.F.79.

male conduct. In this example, plausible behaviour meets social practice, forcing cultural historians to revise assumptions about gender, friendship, and intimacy in late medieval England. Chapter 4 explored female memory discourses which were articulated in a family milieu. Feminist scholars of autobiography have noted that female subjects told their own stories within a familial framework.¹⁴ In the Church court depositions, women testified confidently on kinship. Margery Goldsmyth in Townley c. Talbot and Agnes, wife of William de Sprotburgh, yielded just as much, if not more, information than male family members.¹⁵

The dispute over burial rights in Sutton-on-Holderness revealed gendered strategies of testifying in the Church courts.¹⁶ At the same time, it exposed local connections that existed amongst male friends and the way women were considered in relation to these associations. Yet for all its value, such a focus on group memory risks the neglect of individual acts of remembering. Self-representation mattered to litigants and deponents, an ongoing project which segued into autobiography.

Central to the understanding of individual or group memory is an appreciation of the construction of the self. This thesis interprets deponents' testimony as remembered narratives; products of a process of internal reflection in which the discourse of confession after the Fourth Lateran Council fed into examination of the self. The benefits of analysing women's life narratives are integral to the study of gender-specific memory patterns. Feminist theorists debate the relationship of women autobiographers to the genre, questioning how femininity shapes, structures and lends authority to writing about the self.¹⁷ Applied to the depositions of female witnesses, these considerations guided my attempts to locate and explain female self-identity. Female deponents had a complex relationship with their life stories. Sidonie Smith comments that 'male distrust and consequent repression of female speech' has constructed women's relationships to autobiography and dramatically affected the stories which

¹⁴ Susan Geiger, 'Women's Life Histories: Method and Content', *Signs: Journal of Women in Culture and Society*, 11 (1986), 334-51 (p. 348); Sangster, 'Telling Our Stories', p. 7.

¹⁵ B.I., CP.F.257; B.I., CP.E.69.

¹⁶ YMA, M 2(3)c.

¹⁷ Smith, *Poetics of Women's Autobiography*, p. 17.

women told.¹⁸ Attention to the silences in the evidence of female deponents brings us closer to social and cultural experience. While male dominance marks the historic genre of autobiography, male narratives deserve as much attention as female accounts for the light they shed on individual memory practice. Further, absence of female actors from men's stories and from certain types of disputes inversely alert us to the reality that women also had tales to tell. Nevertheless, men deposed more often than women in the Church courts of York. Male depositions are more likely to offer individual acts of autobiography, as the example of Friar Michael Dawnay demonstrates.¹⁹ Male familiarity with self-representation emanates from the gender-specific opportunities for self-expression which were available to men but limited for women.

Scholars of autobiography have demonstrated that women tend to play down their role in remembered past events, using the first person less often than men.²⁰ Despite these observations, and the greater numbers of male depositions in the Church court evidence, there is no indication that female narratives differed in form and structure from male statements. We should remember, however, that the use of the first person is obscured in the depositions. Further, for all the descriptions in which female deponents identify themselves as the 'wife of' their husband, there is the example of John Yonger, who testifies after his wife, is described as 'husband of Agnes Yonger' and hardly spoke.²¹

Women were better at remembering personal events. When litigants, usually female and urban, employed female deponents, stories emerged of women's lives, of births, deaths, and friendship networks. Women were more adept at narrating events which were familiar and related to friends and family members. Women's narratives focused rather more on events which involved physical and emotional experience such as childbirth, friendship groups, and family life. Female deponents such as Isabel, wife of John Croxton and Alice, wife of John Jakson, remembered children's births against a backdrop of

¹⁸ Smith, *Poetics of Women's Autobiography*, p. 7.

¹⁹ B.I., CP.F.89.

²⁰ Sangster, 'Telling Our Stories', p. 7.

²¹ B.I., CP.F.210. Deposition of John Yonger: Johannes Yonger maritus Agnetis Yonger.

friendship and emotion.²² Their testimony, along with many other women's evidence, satisfies the criteria set by Rita Felski in which autobiography involves discussion of personal life events.²³

In her examination of *The Book of Margery Kempe*, Felicity Riddy argues that the *Book* presents conflicting ideas of selfhood, the product of developments in confessional practice and an increased focus on interiority.²⁴ Peter Biller notes that advice to priests on the administration of confession indicates that women may have confessed more readily than men.²⁵ Contemporary comment on women's tendency to make confession more often might have wider implications for female memory patterns, in particular for the types of events which women and men recount. In a 1411 marriage cause initiated in the Court of York, Agnes Grantham was portrayed as a devout widow, receiving confession and living opposite the parish church of All Saints, Pavement.²⁶ Perhaps this increased female propensity to confess shaped and mediated female discourses in the Church courts. Riddy locates the evolution of a particular kind of selfhood to the fourteenth and fifteenth centuries in which individuals learned to examine their interiorized selves.²⁷ Canon 21 of Lateran IV, which made annual confession requisite for the laity, has been identified as the impetus for the 'regulation, codification, and formulation' of a confessional discourse.²⁸ Greater familiarity with confession may provide an explanation for the inclusion of personal life events in female depositions. Yet Murray and Riddy usefully remind us that interrogatories aimed at female penitents were predicated on gendered assumptions about the character traits and behaviour of women.²⁹ The majority

²² B.I., CP.F.201; B.I., CP.F.89.

²³ Rita Felski, 'On Confession', in Sidonie Smith and Julia Watson (eds.), *Women, Autobiography, Theory: A Reader* (Madison, 1998), pp. 83-95 (p. 83).

²⁴ Riddy, 'Text and Self', p. 446.

²⁵ Biller, 'Confession in the Middle Ages', p. 13.

²⁶ *Women in England*, (ed.) Goldberg, p. 154; Goldberg, *Communal Discord*, p. 135.

²⁷ For the argument that medieval selfhood should be viewed in terms other than confessional practice see Katherine C. Little, *Confession and Resistance: Defining the Self in Late Medieval England* (Notre Dame, 2006).

²⁸ Karma Lochrie, *Covert Operations: The Medieval Uses of Secrecy* (Philadelphia, 1999), p. 24.

of advice on confession was directed at male penitents with women regarded as 'a marked category, a signal of difference, exception or emphasis'.³⁰ We might question how many women were rendered silent under the heavy weight of these assumptions, with frustrations held in check, since they lacked the voice and the lungs of Margery Kempe.

Despite the misogyny of certain pastoral manuals, female propensity to attend Church and confess more often than men may have given women more experience in talking at length about their personal lives.³¹ Contemporary sources indicated that women attended church, confessed, and prayed in greater numbers than men.³² Confessorial manuals urged women to persuade their husbands into religious observance since wives were often more pious than their spouses.³³ When the Church courts called lay deponents to testify, they inquired most often about events which took place in the personal lives of the laity. Female memory was particularly well suited to the majority of disputes which came before the Church courts. Female tendency to confess may have honed women's cultural memory so that women remembered their pasts, and those of other women, more confidently. Lay opinion might have militated against female testimony but female memory could break through these prejudices, as Alice Baker and the women of Sutton demonstrate.

Men remembered past events in terms of legal matters, journeys and trips to markets, incidents which removed them from familial and home life. Women may not have remembered administrative positions and journeys overseas but this worked in their favour in the Church courts. In this context, male memories of a debt owed or timber sold seem woefully out of place. Compared with women who could recall other events in relation to childbirth, the male deponent was a jack of all trades and master of none. Male deponents did remember events

²⁹ Jacqueline Murray, 'Gendered Souls in Sexed Bodies: The Male Construction of Female Sexuality in Some Medieval Confessors' Manuals', in Biller and Minnis (eds.), *Handling Sin*, pp. 79-93 (p. 82); Riddy, 'Text and Self', p. 447.

³⁰ Murray, 'Gendered Souls in Sexed Bodies', p. 81.

³¹ Biller, 'Confession in the Middle Ages', p. 13.

³² Alcuin Blamires, 'Beneath the Pulpit', in Dinshaw and Wallace (eds.), *The Cambridge Companion to Medieval Women's Writing*, pp. 141-58 (p. 143).

³³ Sharon Farmer, 'Persuasive Voices: Clerical Images of Medieval Wives', *Speculum*, 61 (1986), 517-43 (p. 517).

with birth as a yardstick but only alongside greater numbers of female deponents who gave more detailed evidence. Female memory discourses allowed women to exercise a high level of agency when they talked about past events. Women's expertise at relating personal memories extended outward, lending female memory greater authority with age.

Yet how do we describe female memory in disputes with depositions from large numbers of women who remember the births of their own children? Can we even speak of 'women's narratives' and 'women's memories' in a collective and unproblematic manner? Susan Geiger urges careful treatment of female autobiography, lest the group be sacrificed before the altar of individual identity.³⁴ Further analysis of how selfhood shaped and mediated memory redresses this methodological imbalance, revealing where individual memory and group identity intersect. Geiger comments that attention should be paid to women as a larger group, so that gains from individual case studies can shape established patterns. Close examination of diverse life stories ensures that a wider picture of female memory can be formed without losing sight of the individual. Susan Stanford Friedman argues convincingly that interpretation of autobiography as an essentially individual act is reserved for the privileged male.³⁵ For the women who deposed in the late medieval Church courts of York, it is the commonality of the female experience of childbirth that lends individual female memories their authority. This endowed female memory with a collective identity to rival that of older men in disputes that relied on local custom. This kind of male testimony purposefully excluded women as deponents and social actors in order to make their argument water-tight. In contrast, female collective memory could survive without the presence of men or the need to exclude them. These memories of labour, childbirth, and infant death constitute a form of autobiography despite their collective and analogous nature.

From this study, we can extrapolate outwards to state that gender difference meant that women remembered personal events more readily than men. Gender underpinned the discourses that women drew on rather more than it

³⁴ Geiger, 'What's so feminist about women's oral history', p. 170.

³⁵ Susan Stanford Friedman, 'Women's Autobiographical Selves: Theory and Practice', in Shari Benstock (ed.), *The Private Self: Theory and Practice of Women's Autobiographical Writings* (Chapel Hill and London, 1988), pp. 34-62 (p. 39).

did with regard to those discourses drawn on by men. Women also had stronger and more secure ties to a gender-specific group memory than men. This may stem from a developed female cultural memory, in terms of 'received history'. Following from this, female memory gained a wider authority which ensured that women's memories extended beyond cases in the Church court in which birth was an issue.

How did individual memory and self-representation change in the *longue durée*? Interest in how deponents remembered past events began in the 1340s. Evidence from the extant depositions shows that examiners at this point started to ask witnesses 'qualiter recolit' – how they remembered - the past events of which they spoke. How deponents remembered the events which they narrated continued to concern the courts for over one hundred years. After 1450, there are fewer cases in which deponents were explicitly questioned on their memory. Disputes initiated in the latter half of the fourteenth and early-fifteenth centuries provide the most instances in which deponents were asked how they remembered. Why did the Church courts of York in the mid fourteenth century begin to question deponents on how they remembered past events? The court's concentration on deponents' recollections is less curious in light of the refinement of confessional practice, and, in York, the production of related pastoral literature and increased civic attention to memory. These three interrelated developments share a concern with modes of remembering. Supplementing the wider argument on the development of selfhood, this context offers a more detailed chronology of how confession practice influenced the laity in social practice.

Was York different from the other dioceses in England in which the canons of Lateran IV found practical application? Synodal decrees were published and later reissued with pastoral manuals in every English diocese after the Lateran council in the thirteenth and fourteenth centuries. In this sense, York was not unique. However, sustained output of pastoral literature distinguished this northern diocese from its counterparts. From 1350 Yorkshire produced a group of men educated at Cambridge, many of whom formed a sphere of influence around the archiepiscopal see, following in the footsteps of William Waddington and Robert Manning. The pastoral works produced by this formidable group, including trained lawyers like Waddington, remained unrivalled in all the other

English dioceses.³⁶ In the 1320s, William of Pagula, born near Hull and Oxford-educated, authored the *Oculus Sacerdotis*, a confession manual which found particular reception in Yorkshire.³⁷

Penitential writings may have influenced practice in the ecclesiastical courts since several of these influential figures found employment as personnel in the Church courts.³⁸ The Church courts of York offered opportunities for advancement to the secular clergy who were trained in canon law and in the households of influential churchmen. William Nassington, a Yorkshireman and canon lawyer in the patronage of John Grandisson, bishop of Exeter, worked in the Church courts of Exeter from 1332 as auditor of causes.³⁹ While employed as a proctor and Official at the court of York, Nassington may have authored the *Speculum Vitae*, a penitential verse manual almost as popular as the contemplative poem, *The Prick of Conscience*.⁴⁰ The household of Richard Bury, the bishop of Durham from 1334 to 1345, produced several notable figures who wrote on and were trained in confession, most notably John Acton, Official of the court of York in the early 1330s.⁴¹ Acton's pastoral manual, *Septuplum*, followed more than others in the tradition of the *Memoriale Presbiterorum* in its consideration of the social status of penitents.⁴² This later group of pastoral writers, after Pagula and Waddington, focused on the demands and rewards of internal reflection. That these works encouraged individuals to examine their inner selves is evident in *The Prick of Conscience* which urged the individual to

³⁶ Hughes, 'Administration of Confession in the Diocese of York', pp. 90, 92.

³⁷ Hughes, 'Administration of Confession in the Diocese of York', p. 93.

³⁸ The following discussion of pastoral writers in Yorkshire in the fourteenth century relies on Jonathan Hughes' wonderfully detailed study of the implementation of confession in the diocese of York.

³⁹ Michael Haren, *Sin and Society in Fourteenth-Century England: A Study of the Memoriale Presbiterorum* (Oxford, 200), p. 58; Hughes, 'Administration of Confession in the Diocese of York', p. 97. Dedicated to the study of Augustine's *Confessions*, John Grandisson, bishop of Exeter, concerned himself with the proper regulation of confession.

⁴⁰ Hughes, *Pastors and Visionaries*, p. 148; Hughes, 'Administration of Confession in the Diocese of York', p. 98.

⁴¹ Hughes, 'Administration of Confession in the Diocese of York', pp. 96-97.

⁴² Haren, *Sin and Society in Fourteenth-Century England*, p. 80.

‘ransak alle his lyf/And knawe whar of he sale hym schryf’.⁴³ Of northern, and perhaps Yorkshire, derivation, *The Prick of Conscience*, a poem on confession, became widely popular not only in York but throughout the other English dioceses.⁴⁴

A strong interest in confession amongst pastoral writers in Yorkshire who were also lawyers, advocates and officials in the Church courts may have made its personnel sharply aware of discourses of memory and confession in a judicial context. The diocese of York may have been unusual in its possession of canon lawyers who wrote pastoral manuals specifically on confession. Influence may have spread to other dioceses since these men served in a legal and pastoral capacity in other Church courts outside of York. The Church courts, in the form which they were to assume for the rest of the medieval period, can only be identified from the mid-thirteenth century. It is therefore to be expected that a group of dedicated churchmen and reformers, from whose ranks Church court officials and canon lawyers were drawn, allowed confessional practice and procedure in the developing ecclesiastical courts to feed into one another.

This precocious group of men who formed a circle around the Court of York could provide a partial explanation for the survival of such a voluminous archive of litigation in the diocese of York. These men produced literature on confession but on the other hand worked in and around the Church courts. For these men and their successors, litigation related to the everyday lives of the laity may have constituted a large source on social practice amongst the laity. It seems not to be a coincidence that this archive survives in York, a diocese which saw an output of confession literature unparalleled in the other English dioceses.

An appetite for memory was also manifest elsewhere in York. The city of York promoted and maintained its own civic memory, underpinned by an administration which fostered an interest in the history of the Church in York. While York lacked a civic tradition which could produce an urban chronicle akin to those which appeared in late medieval London, the city cultivated its own image in which memorialisation and recording of events contributed to a

⁴³ Hughes, ‘Administration of Confession in the Diocese of York’, p. 107.

⁴⁴ Hughes, ‘Administration of Confession in the Diocese of York’, p. 95.

distinctive communal identity.⁴⁵ This concern with memory and records is expressed in the late fourteenth- or early fifteenth-century oath of the city's common clerk: 'And truly ye shall kepe all manere of boukes and monumentes, and all other thinges that long unto the comenalte. And all thinges that shall be enterd of recorde, ye shall truly enroull and register...'.⁴⁶ Knowledge from the civic archives had practical applications too, providing evidence which supplemented popular memory. In 1457, John Shirwood, common clerk of the city for thirty-one years, deposed in a dispute over tithes in the Green Dykes area of York, calling upon the civic registers to bear out his testimony on local boundaries and the parish of St Lawrence's rights to tithes.⁴⁷ Charged with the responsibility of safeguarding and maintaining the civic records, the common clerk also nurtured the city's communal memory.⁴⁸ In the early fifteenth century, Roger Burton, a particularly industrious incumbent of the office, incorporated an account of York's ceremonial swords into the civic register.⁴⁹ Intended as part of an initiative to record civic customs, the description narrates the circumstances in which the swords were given to the city.⁵⁰ Burton wished the swords' royal associations to be 'impressed upon the minds of posterity', glorifying the city's past and present image so that 'praise and honour to the citizens should multiply and increase.'⁵¹

A copy of the chronicle of the archbishops of York also found its way into the city register. An individual who exerted great influence over civic administration and archiving in the early fifteenth-century York, Roger Burton spent part of his early career in the pay of the ecclesiastical courts. Prior to his employ as common clerk, Burton, a lawyer, worked for the archiepiscopate in the

⁴⁵ Rees Jones, 'York's Civic Administration', p. 110.

⁴⁶ O'Brien, "'The Veray Registre of all Trouthe'", p. 246.

⁴⁷ B.I., CP.F.342.

⁴⁸ O'Brien, "'The Veray Registre of all Trouthe'", p. 248.

⁴⁹ Rees Jones, 'York's Civic Administration', p. 108.

⁵⁰ Two of the three civic swords had royal connections through Richard II of England and Sigismund, Holy Roman Emperor.

⁵¹ *York Memorandum Book III*, (ed.) Joyce W. Percy, Surtees Society, 186 (1973), p. 123.

Church courts.⁵² Late medieval clerks served a variety of masters, often working for ecclesiastical and civic administrations which had many opportunities for lawyers, notaries, and clerks. This awareness of the importance of memory, both individual and collective, flowed from the ecclesiastical courts into the civic sphere. The memorialisation of York's churchmen and the veneration of its civic pride were significant endeavours. However, as the chronicle of the city's archbishops demonstrates, such influence did not flow in only one direction.

The impetus for the chronicle came from the cathedral itself. Dobson notes that 'the first and second parts of the chronicle were written by, or at the instruction of, members of the senior cathedral clergy at York'.⁵³ In 1430, Roger Burton copied the history of the archbishops into the city register, perhaps to compensate for the absence of a civic history in the manner of the London chronicles.⁵⁴ Deborah O'Brien observes that Burton may have acknowledged his connections with the archiepiscopate in his inclusion of the Chronicle of the Archbishops of York in the civic register.⁵⁵ The memorial relationship between the ecclesiastical and civic spheres in late medieval York was thus complex and reciprocal.

Consideration of the importance of memory in late medieval York returns the inhabitants of the city and its suburbs to centre stage. While Roger Burton did not testify in the Church courts, and has not left a deposition for the cultural historian to mine, his actions during his common clerkship speak volumes of the concerns which preoccupied the late medieval mind. O'Brien comments that Burton appended his name to the majority of items which he recorded in the registers, using a greater range of descriptions for his occupation than other

⁵² Rees Jones, 'York's Civic Administration', p. 108. A chance reference in the York Minster chamberlains' accounts reveals a sum rendered to 'Magister Roger de Burton' in 1396 for services including writing letters. O'Brien, "The Veray Registre of all Trouthe", p. 255.

⁵³ Barrie Dobson, 'Contrasting Chronicles: Historical Writing at York and Durham at the Close of the Middle Ages', in Ian Wood and G.A. Loud (eds.), *Church and Chronicle in the Middle Ages: Essays Presented to John Taylor* (London, 1991), pp. 201-18 (p. 215 n. 47).

⁵⁴ Dobson, 'Contrasting Chronicles', p. 214. The incorporation of this chronicle into the city's history which Dobson deems to be an 'unexpected initiative' was not so unexpected after all.

⁵⁵ O'Brien, "The Veray Registre of all Trouthe", p. 262.

holders of the office.⁵⁶ These efforts suggest that, like the memorandum which he recorded, he considered himself an individual ‘worthy to be remembered’.

Put simply, one did not have to testify in the Church courts to engage in self-representation and to have memory on one’s mind. Yet the development of selfhood after Lateran IV and the proliferation of confessional literature authored in Yorkshire suggests that the diocese of York, and the city in particular, offered unusual stimulation to those who remembered and wished to be remembered. While the civic administration focused on communal memory, the individual was not consigned to oblivion, particularly when charged with the unique responsibility of creating and maintaining the city’s image. Indeed, the development and expression of selfhood, in terms of gender, occupation and social status, was often situated in the space between the individual and the larger group.

Examination of the gendered self under the lens of memory practice yields great fruits for the gender historian. Rather than arguing that all notions of ‘essential’ gender identities dissolve since they are all constructed, it is more useful to historicise how gender identity affected memory practice.⁵⁷ Memory and self-fashioning intertwined as individuals presented an idealised version of their identity in their statements. Accustomed to talking about meaningful aspects of their own lives, female deponents remembered births, family history, and other personal experiences. Though male witnesses preferred to remember legal affairs and public events, the context and the clerical examiner demanded more. Deponents of both sexes, well versed in confession, entered their own minds in the company of the examiner. In so doing, they viewed the eye of their souls and plumbed the depths of their memory. The paths which they trod, the selves they encountered, and the memories retrieved depended on their gender.

⁵⁶ O’Brien, “The Veray Registre of all Trouthe”, p. 262.

⁵⁷ Butler, *Gender Trouble*, p. 140.

Appendix 1: Types of Causes Used

York, Borthwick Institute for Archives.

CP.E. series, fourteenth century

Assault on Prioress	Defamation	Matrimonial	
CP.E.3 [1305-6]	CP.E.72 [1356]	CP.E.23 [1332-33]	CP.E.95 [1367-68]
	CP.E.170 [1362-64]	CP.E.25 [1333]	CP.E.97 [1368]
	CP.E.249 [1363]	CP.E.33 [1337]	CP.E.111 [1372]
		CP.E.62 [1348]	CP.E.102 [1365-67]
		CP.E.69 [1351]	CP.E.103 [1368-69]
		CP.E.76 [1357-58]	CP.E.108 [1370]
		CP.E.77 [1357-61]	CP.E.121 [1372]
		CP.E.82 [1355]	CP.E.138 [1386-86]
		CP.E.85 [1362-63]	CP.E.159 [1394-95]
		CP.E.89 [1365-66]	CP.E.210 [1394]
		CP.E.92 [1366-67]	CP.E.221 [1396]
Testamentary	Tithes		
CP.E.139 [1382]	CP.E.49 [1344]		
CP.E.174 [1390]	CP.E.52 [1345]		
	CP.E.67 [1354-55]		
	CP.E.270 [1340-41]		

CP.F. series, fifteenth century.

Ecclesiastical Liberties

Matrimonial

CP.F.89 [1425]

CP.F.46 [1422]

CP.F.186 [1450]

CP.F.59 [1410]

CP.F.187 [1451-52]

CP.F.79 [1418-19]

CP.F.189 [1453-54]

CP.F.81 [1418-19]

CP.F.196 [1456]

CP.F.101 [1431]

CP.F.200 [1431-32]

CP.F.104 [1433]

CP.F.201 [1430]

CP.F.113 [1431-34]

CP.F.202 [1462]

CP.F.175 [1433-34]

CP.F.208 [1465]

CP.F.133 [1422]

CP.F.257 [1477]

CP.F.179 [1435-38]

Tithe

CP.F.10 [1404]

CP.F.338 [1420-21]

CP.F.221 [1440-41]

CP.F.342 [1457]

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M 2(3)c. Parochial rights dispute at Wawne and Sutton-on-Hull, fifteenth-century.

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