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by Michael E. Goodich

VOICES FROM THE BENCH: THE NARRATIVES OF LESSER FOLK IN MEDIEVAL TRIALS

Edited by

Michael Goodich

palgrave
macmillan

93. For Coeunur's appointment as procurer: ADM MS 87 G 11 (signature 8, pp. 20–21) and Pages, *Histoire*, pp. 390–391.
94. Goodich, "Liturgy and the Foundation of Culs," p. 146.
95. Goodich, "Liturgy and the Foundation of Culs," p. 157.
96. "After the death": ADM MS 87 G 11, witnesses numbers 8 (Petrus Floch) and 17 (Johanna relictā Johannis Damon); "around two years or so after. . .": witness number 33 (Petrus de Bonabri).
97. ADM MS 87 G 11, witness numbers 4 (Petrinus Hervei alias Grasset) and 15 (Johanna uxor Perrini Hervei alias Grasset).
98. ADM MS 87 G 11, witness numbers 36 (Johannes Boyden) and 156 (Silvester Stephani). They may have both been asked specifically about the time of the miracle, since in the testimony of both witnesses, there is a phrase stating that the witness "does not remember otherwise about the time."
99. ADM MS 87 G 11, witness numbers 9 (Symon Maydo), 8 (Petrus Floch), 26 (Herveus Le Goff), and 27 (Yvo le Houssec).
100. For e.g., ADM MS 87 G 11, witness numbers 6 (Olivertus Le Bourdiec presbiter), 8 (Petrus Floch), 39 (Egidius Maletaille), 111 (Johannes Bourdin), and 239 (Yvo Natal).
101. Ranzano, Bibl. Cas. MS 112, fol. 62v; Pages, *Histoire*, 2:315, 322.
102. For example, ADM MS 87 G 11, witness numbers 1 (Yvo Gluidic), 5 (Alanus Philippoe), 28 (Johannes Jegot), 38 (Johanna, wife of Johannis Bau), 58 (Johanna uxor Guillemi Bourdon), 122 (Olivertus Danoual), and 281 (Johannes Avice).
103. As did Perrin Hervé, Symon Maydo, Jean Rolland, Hervé Maydo, Yvo le Houssec, Jean Boyden, and Silvester Stephani. On an average, Brittany witnesses testified to 1.44 miracles each; the witnesses to Perrin Hervé's miracle testified, on an average, to 2.57 miracles each.
104. Ranzano's *vita* appears in *AASS*, April, vol. 5, pp. 481–510; his brief listing of miracles *post mortem* is at pp. 509–510; it includes none of the miracles from the Brittany inquest.
105. Castiglione's list of miracles can be found in *AASS*, April, vol. 5, pp. 510–512, as well as in Vincent Ferrer, *Sermones de tempore et de sanctis* (Venice: Jacobus Pentius de Leuco, for Lazarus de Soardi), fol. [a3]v (exemplar from Bridwell Library Special Collections, Perkins School of Theology, Southern Methodist University, call number Bridwell 06298).
106. Pages, *Histoire*, 2: 282–83. Only the section of the tapestry with Vincent's posthumous miracles survives and still hangs in the cathedral in Vannes.

CHAPTER 7

SINGLE WOMEN, WORK, AND FAMILY:

THE CHANCERY DISPUTE OF JANE WYNDE AND MARGARET CLERK

Cordelia Beattie

the same Margarete then or yet havyng no childe of her owne feithfully promysed to take the seid jane your seid Oratrice [female petitioner] as her daughter and childe and do to her as she wold to her doughter or childe yf she had eny of her owne.¹

[Petition of Thomas Wynde and his wife, Jane]

for the favour and godewille she [Margaret] bare to the same Jane on a tyme when she was sike she then by her wille bequested to the same Jane dyverse parcelles of hir gods and if she had thenne died she shuld have had theym and afterward the same Jane departed unkyndly from hir ayens hir plesur wherfor she withdrewe her favour from hir.²

[Margaret Clerk's Answer]

The above two extracts are taken from the records of a dispute heard in the English Court of chancery at the end of the fifteenth century. Thomas Wynde and his wife, Jane, submitted a petition asking for a writ of *sub pena* to force Jane's former employer, Margaret Clerk, to appear before the Chancellor. Thomas, while cited as a co-petitioner, is only invoked at the beginning and end of the petition. The petition claims that Margaret owed Jane some recompense for a term of service that lasted more than six years. Margaret Clerk, in turn, submitted a written response to their allegations, which would help the court decide what action to take next. As was conventional in chancery, these documents were written in the third

person. Since chancery was not a court of record, how this case ended is not known. The survival of Clerk's answer, in addition to the original petition, makes this case relatively unusual for a minor dispute.

Legal battles, by their nature, focus on the moment at which a relationship breaks down. In this case, though, to support their respective stories each side offered an account of the relationship between the two women prior to the dispute. Both women were then unmarried but there were clearly disparities in their age, wealth, and power. Margaret Clerk was engaged in brewing and was wealthy enough to hire a chantry priest.³ This would probably associate her with what can be called an urban bourgeoisie.⁴ The location of the household is not given but Margaret is said to be "of Ramsey," which was a small town in Huntingdonshire.⁵ The Wynnes' petition is endorsed with the name of a surety from London but sureties could be found once the bill was brought to chancery.⁶ The petition also states—as can be seen in the first extract—that Margaret had no children of her own but it is unclear whether she was widowed or never married. Her wealth might suggest the former, although she could have inherited property from her parents rather than a husband.⁷

The two documents give different accounts of the circumstances of Jane's employment and subsequent service, although there are a couple of points on which they agree. First, that Jane was a servant in Margaret's house until she left to marry Thomas. Second, Margaret did have Jane written into her testament at one point. However, what were primarily under dispute in this case were the terms of Jane's employment and her claim to the disputed bequest. In order to make the argument for economic compensation, Jane's petition not only emphasizes the women's working relationship but alleges that Margaret had promised to treat her "as her daughter and child." Margaret's answer downplays both aspects and argues that she owed Jane nothing. The historian need not position herself with the chancellor and adjudicate whose story should be believed.⁸ Edward Muir and Guido Ruggiero suggest that "lies can often tell more about the past than apparent truths. . . Not just any lie will do in testifying about a crime. Usually lies must have the ring of credibility."⁹ In this case, both documents were presumably intended to offer plausible accounts. As such they allow one to move beyond the alleged truths of the dispute itself on to broader cultural attitudes, about—for example—employment practices and kinship. Aspects of Jane and Margaret's accounts will be compared with what was stated in other chancery petitions. It must be borne in mind, though, that the stories told would have been affected by the court to which they were being presented. The documents that survive—in this case, the written petition and answer—were determined just as much, if not more, by the legal requirements of chancery as by actual events.¹⁰ For

this reason, the nature of the court, its procedure, and the sources will be discussed first.

The Court of Chancery

This essay is concerned with what is known as the "English" side of chancery, the chancellor's jurisdiction to deal with bills of complaint, so-called because the records are predominantly in English.¹¹ The key aspect of the "English" side is that it did not operate according to the principles of common law. Although some scholars prefer to call the late medieval chancery a "court of conscience" rather than an equity court, the important point is that the chancellor decided cases according to some notion of what was fair or just.¹² As the chancellor was not bound by legal precedent, there was no need for chancery to be a court of record. This perhaps explains why we rarely get to know the final judgment on a case before 1544, and not all the supporting material survives.¹³ In order for a case to fall under the remit of the "English" side, the petitioner had to claim that he or she would not get justice in a common law court, for example, because the case was not actionable under common law, the petitioner was too poor to afford legal counsel, or the opponent was so powerful that the trial would be unfair.

The Wynnes do not fall into the "too poor" or "too powerless" categories, and do not make those claims. The case essentially revolves around a breach of trust. According to the petition, Margaret had promised to treat Jane as if she were her daughter and child and this was the understanding under which she had performed over six years of service. The Wynnes had no documentary evidence on which they could take this claim to a common law court. There was no written agreement and, indeed, no specific oral agreement as to what Jane should get for her service. Margaret had made a testament in which she had promised her various goods, but, as she was still alive, she had a right to change it. By appealing to the chancellor, the Wynnes presumably hoped that this would either force Margaret to offer a settlement or that the chancellor would make Margaret act on the initial promise.¹⁴ Chancery differed from a common law court in that it could not only award damages but also order the performance of an agreement.¹⁵

It has been argued that courts like chancery, which operated on some principle of "equity," were more attractive to women because they circumvented the restrictions of common law, such as married women's coverture.¹⁶ Tim Stretton is more circumspect and argues that just as the common law could be used to women's advantage, so too could equity be used against them.¹⁷ It should be remembered that the petition under discussion was brought in joint names. Thomas Wynne clearly had a vested interest in Margaret Clerk being made to hand over some compensation to

his wife, Jane, as—under the law of coverture—it would become his legal property.

Compared with common law procedure, bringing a case to chancery was a less formal process. Chancery was always open and could sit anywhere.¹⁸ A case was begun by a bill of complaint, rather than by purchasing a command that a court deal with a case (known as an original writ).¹⁹ This meant that the process could be swifter and cheaper than that of a common law court. The complaint to chancery could be made orally but it is difficult to estimate how many cases began in that way.²⁰ The petitions, which are our main source for what happened in chancery, are the bills that were handed in to the court by lawyers.²¹ Although these were commonly written in English from the reign of Henry VI (1422–61),²² it is not the case—as one social historian has claimed—that they “were written (or dictated) fairly informally by local people... using whatever arguments and forms of expression they thought would be most convincing.”²³ Chancery petitions are very formulaic, both in terms of their structure and the language used. The petitions, therefore, do not offer an unmediated petitioner’s “voice” but, then, neither does any source. Before returning to the specific case of the Wynodes and Margaret Clerk, I shall argue that there are ways in which the chancery documents can be understood as belonging to the parties in dispute, but it is important that the constraining factors are also recognized.

Haskett has identified the existence of eleven distinct sections in a chancery petition, each of which served a particular function. A petition begins with an address to the chancellor, the feature that has allowed petitions to be approximately dated. The next four sections together constitute the description of the case (what should have happened, what has prompted the bill, and the effects of the problem). The petition ends with a prayer to the chancellor (a formal request for help), itself divided into six sections.²⁴ The language used is also often formulaic—for example, claims that the problem had led to the “utter undoing” of the petitioner—but there is more diversity in the description of the case.²⁵ While both the format and the language of the petitions suggest the involvement of lawyers, this does not rule out the importance of the petitioner.²⁶ Haskett’s analysis of bill pairs—petitions pertaining to the same problem but from different petitioners—led to his argument that the distinct canon of form was used by lawyers “in a very active and creative manner” to better suit an individual petitioner.²⁷ This enables one to think about the creation of a petition as interplay between a lawyer and a petitioner. The petitioner would tell her story to the lawyer, not necessarily unprompted. The lawyer would structure and reword certain aspects of the story to fit the formula of a chancery petition but ensure that it was tailored to the individual petitioner.

Both petitioner and lawyer would have wanted to present a case that was going to have the greatest chance of success in chancery, but they would not have had free reign to concoct a fiction. There are also examples of petitions that failed due to errors of fact and had to be resubmitted.²⁸ The intention of a chancery petition was not to tell a compelling story but to get the case accepted into this venue. A brief discussion of the procedure of a chancery case will substantiate this point.

After a petition was handed in to chancery, if its case was appropriately set out a writ would be issued. Most petitions request a writ of some sort, usually to have either the opponent brought into chancery or the petitioner if he or she could not afford bail or was being denied it due to a powerful opponent.²⁹ The Wynodes’ petition requested a writ of *sub poena* to require Margaret Clerk to appear in chancery. The next stage would have been for the opponent to answer the charges made, under oath. This differed from the common law system where the rule against self-incrimination prevented the use of oaths.³⁰ It is likely that the opponent would have had to do this in person.³¹ The petitioner then had the option of submitting a replication, responding to the opponent’s answer, which might in turn produce a rejoinder from the defendant, and so on, until the allegations of the bill had been whittled down to a set of agreed points at issue.³² These were then used for the next stage, the gathering of evidence. Witnesses could be examined and depositions produced. By the mid-fifteenth century, it seems that all these elements were presented to the chancellor in written form.³³ Margaret’s answer was evidently submitted in this way as it concludes by asserting that she was willing to prove her case in chancery, if required. The chancellor could then make a decision on the evidence that was before him, order a search for further evidence, or examine further any of the parties involved. It is likely that not all cases lasted the distance, with some being dismissed, and others lapsing due to lack of funds or because the defendants had settled out of court.³⁴

In many ways what was presented in the written documents was crucial for both parties as their day in court—if it came—was far along the process. In the Elizabethan Court of Requests, which had a virtually indistinguishable process from chancery at that date, attorneys appeared at this hearing, with or without the parties they represented.³⁵ According to Stretton, in this court “judges were asked to choose between two or more conflicting representations of the truth, rather than to attempt to reconstitute the truth itself, as they might under an inquisitorial system. They relied on the arguments and evidence presented by each party, and rarely cross-examined witnesses to establish points not already raised by counsel. In short, they... restricted themselves to deciding which of the versions offered to them by competing lawyers was more compelling.”³⁶ It has been argued that

procedure was less formal before the sixteenth century, but it is still likely that from the mid-fifteenth century the written documents were the main means by which petitioners and their opponents could communicate their version of events, although both needed to ensure that they could defend in person whatever was alleged therein.³⁷ In this sense, then, the surviving texts can be seen as representing the respective voices of Jane and Margaret.

The Dispute

According to Jane's petition, when she was a single woman, aged eighteen, she and some of her "frendes" (kin) came to an agreement with Margaret Clerk that Jane should serve Margaret "in the occupacioun of brewing." No covenant was made between them as to the length of service, nor regarding money or other reward for the work. However, Margaret promised to treat Jane as if she was her daughter, as she had no children of her own. Jane came to Margaret with clothing, provided by her kin, and thirty ells of linen cloth.³⁸ The petition then relates that Margaret became ill and, at the point of death, made her testament and bequeathed to Jane some clothing, various household goods including brewing equipment, and first option to buy Margaret's house, and the rest of the brewing vessels. Jane served Margaret for around six and a half years and left to get married. She took neither wages nor apparel from Margaret.

Margaret, in her response to the petition, counters this story in a number of ways, first, as regards the initial agreement for Jane's service. According to Margaret's answer, a long time prior to taking in Jane, she had retained the service of a priest, Sir William Conyngton, to sing mass and pray for her and the souls of her parents and other relatives. Subsequently, he asked Margaret to take in his niece, Jane, offering to pay for her meat and drink and all other charges as she would do service for him too. Second, the answer challenges Jane's claim that she had brought with her cloth paid for by her own kin. It argues that Margaret had paid for the flax "and other stuffe" to make yarn, which she set Jane to spin "at the coste and charge of the same Margaret." This made thirty ells of cloth which she gave to Jane, along with "many other thynges. . . while she was yn hir service." Third, the answer disputes that the testamentary bequests which the petition had referred to were recompense for service and instead claims that they arose from "the favour and godewille" which Margaret then had toward Jane. As far as Margaret was concerned, there was no breach of promise as if she had died at that point Jane would have received the goods. However, Margaret's right to change her own will, which she did when Jane left her service "ayenst hir pleasur," is also asserted.

Both sides anticipated that their stories were credible and would help their case in chancery. At the heart of this dispute was Jane's work. Was she employed by Margaret or by her uncle? Who should have provided for her? Was she owed anything for the work performed? Jane's petition alleges that she was employed by Margaret in the trade of brewing, her kin would continue to provide her with clothing but Margaret would treat Jane as if her own daughter and, at the end of the period of service, she would be rewarded materially for her work. Margaret's answer is very clear that Jane was employed to wait on her uncle, a chantry priest, and providing for her was his responsibility. As such, this case can be used to think about women and work, in particular the overlapping spheres of service, apprenticeship, and family.

As P.J.P. Goldberg has put it, "Any relationship between master or mistress might technically be seen as one of service."³⁹ In this dispute, we have two very different but plausible accounts of a service relationship. In one, the young woman was employed in a trade and expected recompense. In the other, she undertook a variety of chores in return for bed and board. One school of thought sees both forms of work as offering young women various opportunities. Historians such as Smith, Goldberg, and Poos have made the case for the prevalence of "life-cycle service" in medieval England from at least the late fourteenth century. Young people, between the ages of twelve and thirty, would leave home and reside in an employer's household, usually serving for contractually limited periods, until they left to marry or work independently.⁴⁰ As such, service has a significant place in any discussion of women's work. Goldberg has most forcefully argued the positive aspects of service. For example, it "allowed them greater opportunity to find and even reject prospective marriage partners. . . . It permitted them a degree of independence that young girls living at home with their parents could not have enjoyed," and could also offer "a craft or commercial training that might be valuable subsequently."⁴¹

However, most recently, Kim Phillips has argued—from the evidence of low wage rates and that some women worked for food, lodging, and clothes only—that "it is difficult to see how such harsh working conditions could have in general held a high degree of economic and emotional independence for young women."⁴² The two different accounts that Jane's petition and Margaret's answer offer will not resolve this debate. They do suggest, though, that the issue of what young women could expect from service was also contested in the late fifteenth century. I shall use the details of this case alongside other evidence, particularly from additional chancery petitions, to say more about both types of service relationship. Key areas which will be discussed are the age of servants, the links between service and marriage, remuneration, the nature and status of work performed, the

involvement of others in setting up service positions, and the relationship between servant and employer.

Jane's petition can be used to think about the age of entering and leaving service in late fifteenth-century England. However, as some of the data is presented in an approximate or contradictory way in this petition, attention should first be paid to how precisely time was recollected. The petition states that Jane was "xviiij yeres and more" when she went to work for Margaret Clerk. Does this mean a few months beyond age eighteen or does this suggest that Jane did not know her precise age? It is possible that the latter was the case as there was no official system for recording births until the sixteenth century. In other courts there were inquiries into the exact age of individuals, which relied on witness testimony about when a birth took place and how they recalled this.⁴³ Goldberg, in his study of fourteenth and fifteenth century deposition evidence from the diocese of York, found that "age is recorded fairly consistently for witnesses from the late fourteenth century onwards. . . In the case of younger witnesses. . . precise ages are indeed frequently given and these may be regarded with some real measure of confidence. But for most older age groups. . . ages are frequently rounded up to the nearest decennial. Such ages are often qualified as approximate (*ciriter*) or a minimum (*et amplius*)." He gives the example of one man who was said to be twenty "or more" when he first testified early in 1394, but to be age thirty when he deposed five months later.⁴⁴ The arguments concerning whether one Alice de Rouclif was eleven or twelve at the time she allegedly consummated her disputed marriage, though, suggest that even the ages of younger individuals could be approximations.⁴⁵ Jane's petition also relates that she worked for Margaret for "vi yeres and a half," although no agreement had been made at the outset as to length of service. However, further on in the petition there is a reference to "the seid terme of vi yeres." The discrepancy might be because no fixed term had been agreed and Jane's leaving came about because she was getting married, rather than the end of a specific term. The petition recounts that Jane served "unto the tyme your seid Oratrice was married." Margaret's answer alleges that "Jane departed unkindly from hir ayens hir pleasur," which suggests an unexpected departure. The periods of service stated, therefore, might both be approximations.⁴⁶

We might accept, then, that Jane was not much older than eighteen when she entered Margaret's service and that she worked for just over six years. Goldberg's study of ecclesiastical court depositions found no servant below the age of twelve and rarely beyond about twenty-seven or twenty-eight.⁴⁷ Jane therefore seems to fit the profile of a life-cycle servant. I discuss what other petitions suggest about the age of servants, though, as later I make use of a petition relating to a female servant of the age of seven.

An Italian visitor to London around 1500 commented that males and females were commonly put into service at the age of seven or nine, but the scholarly consensus seems to be that this was the view of a stranger, based chiefly in London, and primarily concerning apprentices.⁴⁸ Chancery petitions, even when relating to service disputes, only occasionally give information about the age of the servants. Besides Jane's petition, all other references to the age of servants denote younger persons. For example, one John Brown's petition complains that his master sold his lands in Welle, Norfolk, while he was "within age of xiiij yere. . . tender of age and in his dayly service and rule."⁴⁹ The petition of John Langrake, a citizen of London, tells how he had been unfairly accused of having raped a servant "being of the age of xii yere which is of right wanton disposition."⁵⁰ That of John Elyngham, keeper of the King's pavilions, recounts how Alison, wife of Roger Benyngham, had abducted his "daughter and servant" to look after her sick husband. The girl is called a "child" but said to be aged twelve.⁵¹ In another petition, there is a reference to a "child" being employed to wait on a boarder but no age is given.⁵² So far, all these cases fit with the minimum suggested by Goldberg, but a late fifteenth century petition relates how Katherine Cole agreed to let her daughter "being within viij yere of age"⁵³ live with the widow Elizabeth Brown for the latter's "ease in her age." Barbara Hanawalt found evidence that service might start as young as seven, but argues that twelve was considered a more suitable age for a servant.⁵⁴ Nicholas Orme notes examples of female servants of the ages of seven and nine, but suggests that it was more common for regular work to start from the ages of twelve and fourteen.⁵⁵ It might well be that, whereas cause papers might under-represent the young as testimony below the age of puberty was forbidden, age was most often emphasized in chancery petitions when the servant was young, presumably in order to add an extra dimension to the disputes.⁵⁶

The information given in Jane's petition suggests that she married around the age of twenty-four or twenty-five. Those who argue for the prevalence of life-cycle service see this and late age of marriage for both sexes (mid to late twenties) as demonstrations that late medieval England followed what has been termed a northwest European marriage pattern.⁵⁷ Jane's move from service to marriage is one replicated in other petitions. For example, the petition of Alice, widow of Robert Chamberleyn, relates to when she was in service for her now deceased brother, "in her youthe afore the tyme of her manige." Cross-referencing with other sources has established the brother as a member of York's mercantile elite. The impression given is that Alice went into service with the expectation that she would leave to marry and that the employment would help increase her marriage portion. The petition claims that during this time—first stated as

eight years—Alice delivered to her brother more than five marks, various household goods, and a decorated girdle, and that the money “was geyvn unto her by her frendys towards her marige.” Her brother subsequently promised her forty marks on her marriage in recompense for the money, the goods, and her service, now stated as twenty-two years.⁵⁸ There are other petitions which suggest that employers might promise a marriage portion for successful service, although they originate in the counties and probably relate to noble service.⁵⁹ While some employers did make generous bequests to former servants, Goldberg’s study of testamentary bequests to servants in York suggests that legacies of clothing, beds and bedding, chests and pots and pans (which might also be useful toward setting up a marital household) were more commonplace.⁶⁰ This is more in line with what Jane was offered, stated as Margaret’s “best furred gowne, 1 mase, 1 hermes gyrdell, diverse bedding and napy, dyvers utensils with many and dyvers thynges of her household to a grette value and also certen’ brynyng vessels and certen’ malle to the value by estimatioun of vi. or vij. marc’ or above.” Presumably Thomas Wynde is cited as co-petitioner in this case because any property his wife then received would legally be seen as his.⁶¹

Employers might have viewed the eligibility of servants as a potential problem. The nature of life-cycle service—with the single servant moving into the employer’s household—meant that marriage effectively signaled its end with the former servant and spouse moving into a household of their own.⁶² Margaret Clerk’s answer makes reference to Jane leaving “ayens hir pleasur.” This perspective is evidenced in other petitions. That of three men, one a notary, claims that John Olney had taken a suit of trespass against them for witnessing a contract of marriage between Richard and Alice Bonnyfey, saying “they had taken out of his service the seid Alice.” Richard’s status is less clear, although he was said to be also living in Olney’s house.⁶³ Thomas Shiplode’s petition relates how, when he was an apprentice with John Leycestre of Bristol, he contracted marriage with Joan Kerver, also Leycestre’s servant. Leycestre then imprisoned him in his house until Shiplode signed a bond saying that he owed his master eleven pounds. The result was that he was not in a position to sue Joan regarding the contract of marriage, despite his confessor’s advice to do so.⁶⁴ We get a picture from the petitions, then, of service as enabling marriage for the servant—financially and through contact with potential spouses in the household—and as incompatible with it, in that it would cause the servant to leave.

Jane Wynde apparently stayed with the same employer for more than six years. Goldberg and Poos have suggested that it was common for servants to change employers annually, although both found cases where servants stayed in a particular household for a length of time.⁶⁵ Chancery petitions

suggest that such different practices entailed different pay arrangements. There are generally two types of chancery petition from female servants: those relating to a contractual wrangling which had led the women to be pursued in common law courts, often on other grounds such as debt or theft, and those pursuing the payment of a bequest after the death of a former employer. The contractual disputes concern agreed terms and wage rates. The bequest ones seem to offer a more immediate parallel to this dispute, in that they stem from those who had stayed with one employer for a significant amount of time, sometimes for agreed recompense at the end, sometimes on a less specific understanding, as was alleged in Jane’s petition. For example, the petition of William Kyrkeby and his wife, Elizabeth, claims that no wages were ever agreed for Elizabeth’s service with William Plummer, her cousin, but that he did promise payment for her service of twelve years. In this case her father seems to have been the intermediary and perhaps the kin connection led to the lack of detail in the original agreement.⁶⁶ The petition of John Nyman and his wife, Edith, does suggest a more specific arrangement with her former master, Walter Rawlys. It claims that Edith was “contynually in service” with him for nine years “and more” which meant he owed her four pounds and sixteen shillings, which he kept promising to pay before he died. The petition attempts to make Eve Rawlys, his widow and executrix, pay up.⁶⁷ However, that of Henry Archer and his wife, Joan, suggests that such bequests might not be fixed at the start but reflect the servant’s contribution during the period of service. It alleges that Joan’s master, John Welles, wanted to bequeath to her twenty pounds for the “grette and contynuell labour and attendance that she had with hym yn his sekeness,” and the Archers were pursuing Welles’ executor, William Clif, for that amount. From the surviving testament it can be seen that Welles did leave a servant called Joan twenty pounds, while other female servants were allocated forty shillings.⁶⁸ Margaret Clerk’s answer claims that she made the favorable bequest to Jane “for the favour and godewille she bare to the same Jane, on a tyme when she was sike.”

It is possible that individuals might stay in a particular household for a substantial period of time if they were learning a trade, one of the benefits posited for life-cycle service. Indeed, Jane’s petition constructs a picture of a service relationship in which she would learn a particular occupation and eventually take over her mistress’s business. While it does not go as far as arguing a formal apprenticeship, there are elements to the account which suggest a not dissimilar situation. According to the petition, Jane “was put to serve with the seid Margaret Clerk in the occupacioun of brewing.” This statement associates the petition with ones which relate to apprenticeship agreements, rather than those from other female servants which rarely mention what specific tasks the women performed.⁶⁹ For example, the

petition of Edmund Crosse, a London dyer, tells how Margaret Westhouse was put with his wife Agnes "to lerne the crafte and *occupacion* of Shepstry."⁷⁰ The petition of John Jonson of Exeter and his wife, Anastase, relates how Katherine Raddon was brought to them by her relative, Thomas Raddon, to be "taught the crafte of a sylkwoman" but, when he saw that Katherine was "well and perfectly instructe and lerned in her seid *occupacion*," he removed her and refused to pay for the three years. In this petition, Katherine's period of instruction is also referred to as "service."⁷¹

The petition of Emma Wyngar suggests the existence of a practice that shared some similarities with a formal apprenticeship but also with a more general service arrangement. Emma's petition asserts that when she was put in service with William Rippyngale and Margery, his wife, it was agreed that Margery would teach the girl "the crafte and mistere of a silkwoman and sewing." Emma's mother was to pay yearly twenty shillings for the teaching and the girl was to do other service in return for meat and drink. Emma only stayed with them for two years, whereas an apprenticeship would usually last seven years.⁷² Also, the petition claims that she did indeed do other work for the couple.⁷³ We do not know how widespread such arrangements were, but cases involving male apprentices not only show that some felt they should not have to perform other unskilled tasks but that employers might expect this.⁷⁴ Phillips' contribution to the historiographical argument about how prevalent female apprenticeships were in late medieval England also supports the case for less formal arrangements. She argues that "the substantial numbers of mistresses and masters of girls appearing before the mayor's court [of London] to answer why they had not properly enrolled them suggests that female apprenticeship was more common and *ad hoc* than available records indicate, and many girls may have served for only a short time, providing craft households with useful and financially attractive labour."⁷⁵ It is perhaps also telling that most of the references to female apprentices come from a limited range of trades (usually textile ones).⁷⁶ While the London craft fraternity of the Brewers provided for the good treatment of apprentices who were the sons and *daughters* of members in 1388, Judith Bennett found little evidence of any apprenticeships—male or female—in the London brewing trade before the sixteenth century.⁷⁷

The crucial difference between Jane's petition and the apprenticeship ones is that there is no suggestion that Margaret was being paid to train her. Indeed, if she was, surely Jane should not have expected any recompense. In the case of Katherine Raddon, her kinsman was meant to pay five marks for her learning and forty shillings annually for her bed and board. Another petition relates how William Balard found a position for his cousin's daughter, Elyn, to "lerne shepstrywerke" with Hugh Sande and

his wife, Joan. The girl's father, John Usher, was to pay forty shillings and find clothing for her.⁷⁸ In the above cases, someone—usually a relative—was still providing for the worker. The closest Jane's petition comes to this is the suggestion that her kin provided her with clothing. In service relationships the master or mistress would have provided clothing, as well as food and accommodation.⁷⁹ This detail was presumably to add to the claim that Jane was not working for merely bed, board, and clothing, but expected material recompense at the end.

The reference to a specific trade in Jane's petition was perhaps intended to elevate her position above that of a mere domestic servant. Brewers' servants could command decent wages, differentiated by skill, because they were essential to many brewers. However, Bennett has found that by the early fifteenth century such servants were overwhelmingly male and, by the late fifteenth century, single women were employed for only the least skilled and desirable tasks.⁸⁰ Another possible reason for the petition's specific reference to brewing is that it associated her further with the contested bequest. The petition relates how Margaret had bequeathed to Jane, amongst some other goods, certain brewing vessels and malt to the value of at least six or seven marks, and gave Jane first option to purchase her house and the rest of the brewing vessels. The overall impression given by the petition, then, is that Jane was being trained to take over Margaret's business. While female servants might have been increasingly pushed to the unskilled aspects of the brewing trade after the Black Death, women continued to run brewhouses, although this obviously required capital to invest in premises, equipment, and labor. As a result, such women were usually married or widowed.⁸¹ With the backing of her husband, Jane might well have been in a position to buy Margaret's house and the rest of the brewing equipment and so to run such an operation.

It could also be argued that the petition was not just using Jane's service of six or more years to lay claim to recompense, but also the position of pseudo-daughter to declare entitlement to the bequest of clothing, household goods, and brewing equipment, which can be seen as providing for her future. An interesting parallel is offered by the work of Dennis Romano on artisan households in fifteenth- and sixteenth-century Venice.⁸² As evidence for his contention that the lines between servants, apprentices, and kin were indistinctly drawn, he cites a widow who gave up her three year old daughter for adoption to a cook, who promised to treat the girl as his own child and marry her off as best he could. The contract between them stipulated that if the girl left the cook's household before this, her mother was to reimburse his expenses.⁸³ Jane's petition argues that Margaret had promised to treat her "as if her own daughter or child." While it is asserted that employers effectively stood *in loco parentis* to their

life-cycle servants,⁸⁴ the only other petition I have found which uses similar language seems to refer to a cross between adoption and service. The petition of Robert Cole and his wife, Katherine, relates how Katherine had agreed that her seven year old daughter should live with Elizabeth Brown to help her in her old age on condition that the woman "teche hit in all thyng as hit were her owen doughter of her bodye coming." The case came to chancery after the old woman's death as the mother wanted her daughter back but was being challenged by the woman's son.⁸⁵ If the understanding between Jane and Margaret was similar to the one discussed by Romano, it would account for both the lack of payment to Margaret for the alleged training and Jane's belief that she should still have been rewarded for her period of service. Margaret's answer does not respond to Jane's claim about treating her as if her daughter, but it does allege that "Jane departed from her unkindly." Although "unkindly" could suggest ingratitude or discourtesy, it was also used regarding children who violated natural obligations to their parents; "kinde" suggests inherent qualities.⁸⁶ The petition of Robert Cole and his wife refers to "the tendre favyoure that your said oratrice oweth unto her said childe as *nature* requireth" [my italics] in order to explain the mother's attempt to get her daughter back. Jane's departure without Margaret's consent might also explain the latter's refusal to honor her side of an earlier agreement, if there was one.⁸⁷

Before considering Margaret's answer further, the prominent involvement of a relative and/or a cleric in finding young women household positions deserves comment. Goldberg concluded, from his study of late medieval York, that service positions were most frequently found through informal networks based on kinship, trade, or locality, although Hanawalt has noted the involvement of clerics in London.⁸⁸ Jane's petition relates how her kin negotiated the arrangement with Margaret. From Margaret's answer, it seems that the key party was Jane's uncle, a chantry priest. Earlier I noted the kin involvement in the placing of Elizabeth Kyrkeby, and this was probably the case with Alice Chamberleyn who went into service for her brother.⁸⁹ From the cases just discussed, William Balard's petition relates how he placed Elyn because he was better acquainted in London than his cousin, her father, perhaps because he was a chaplain, Katherine Raddon's relative, Thomas Raddon, was a priest, and Margaret Westhouse was placed by Christopher Plomer, the parson of St Michael's in Basinghaw, London. We can also find examples of clerics involved in setting up other service positions. For example, the petition of James Gere, a priest, tells how one Joan Busse "beyng contre woman and of olde acquaintance with your said supplicant required him to set her in to service" in London, which he arranged.⁹⁰ Clerics were evidently viewed as trusted intermediaries by both sides, particularly in large cities. The petition of

Thomas Lawton complains that the clerk Thomas Beyryll put one Agnes Todde to board with him in Newport Paynell, Buckinghamshire, saying that she was "of good true and honest disposicion." However, after she had been in Lawton's house fourteen weeks or more, she stole goods to the value of sixteen pounds.⁹¹ Vouching for someone was clearly a serious matter. The petition of John Twigge, a London haberdasher, claims that a physician, Wolfram Cook, had taken an action against him for having vouched that Agnes Copley was a "trewe woman," as—subsequently employed by Cook as a servant—she stole from him.⁹² Margaret's answer gives the impression that she only took Jane in at the request of the young woman's uncle.

Margaret's response has much less to say regarding work performed than Jane's petition but it is at pains to challenge her version as Margaret does not accept that she owes Jane anything. According to Margaret's account, she took Jane in at the request of her chantry priest. The agreement was that he would pay for Jane's food, drink, and all other charges, as she would serve him too. This is plausible. The petition of Alison Tailor, a widow, relates how she employed a "child" to wait on Thomas Webster, a priest, who was boarding with her. The agreement was that she would be fully repaid as he would make her executor of his will.⁹³ As noted earlier, Margaret also challenges Jane's claim that she had brought with her cloth paid for by her own kin. Her answer counters that she had paid for material to make yarn, which she set Jane to spin, and gave her the cloth which was produced. The reference to Margaret making Jane spin is perhaps also included as it was low status work that any female servant would have been required to do.⁹⁴ This and waiting on her uncle are the only tasks mentioned in Margaret's answer. In this version, Jane performed services for Margaret in return, primarily, for lodging and some clothing, and there is no suggestion that Jane learned a trade.

It is here that the second type of chancery petition from female servants becomes relevant. These petitions typically claim that the servants were being falsely sued under the common law, usually for debt or theft, because their employers wanted their labor for free. For example, the petition of Agnes Kyrkeby claims that she was a servant to Robert Brand, a London brewer, for more than six years but he had not paid her so she told him she was leaving his service. He allegedly then initiated various suits against her so that she would work "for nought."⁹⁵ The petition of Isabel Esгаре contends that John Marchall, a London hatter, had agreed to pay her thirteen shillings and four pence a year. She threatened to leave his service when, after more than half a year, she had only received ten pence. According to the petition, Marchall then began an action of debt against her so that he could have her service without wages.⁹⁶ Such petitions suggest a tension

between servants, who felt they should be able to hire out their labor freely and be adequately and timely rewarded, and employers, who wanted to retain servants, preferably without paying wages.⁹⁷ While the Wynodes initiated this legal dispute, a similar tension between the key parties seems to have existed: Jane felt her service should be materially rewarded and Margaret evidently felt that board and lodging, provided jointly by Jane's uncle and herself, was sufficient recompense.

The claims on both sides in this dispute are commonplace. For example, Maryanne Kowaleski, in a study of late fourteenth century mayor's court records from Exeter, commented: "Servants who wanted to break their service contract normally advanced one of two complaints to show just cause: either their employer's failure to pay their salary or physical abuse. . . Employers frequently sued servants for withdrawal of their services before their term had expired, or for leaving 'without reasonable cause.' Other employers complained about dishonest servants who robbed their masters or cheated them over a period of years."⁹⁸ Such allegations have been found in most studies of master-servant relations, regardless of place or period.⁹⁹ It is presumably in part about the nature of the relationship, contractual but unequal. In terms of the strategies deployed in the dispute between the Wynodes and Margaret Clerk, though, it is perhaps possible to tie these into a particular historical context.

Goldberg's thesis about the attractiveness of life-cycle service largely pertains to the period from the Black Death to the mid-fifteenth century. He argues that while in the late fourteenth and early fifteenth centuries a high demand for labor led to "excessive" wages, a falling demand in the second third of the fifteenth century meant that by 1500 service was increasingly seen as "menial" and less appropriate for the daughters of urban elites. This view is largely based on his research on York but he does use a cause paper from late fifteenth century London to support this contention.¹⁰⁰ It is likely, though, that demand for servants in the capital remained high and that economic recession did not affect London until the sixteenth century.¹⁰¹ Others have questioned this hypothesis more generally.¹⁰² Whether there was a shift in how service was viewed in the late fifteenth century or not, it was thought credible at this date for Jane to paint her service as skilled labor which should be materially rewarded and for Margaret to argue in defense that the work itself was not significant enough to discuss or further reward.

The documents of this dispute, then, both give plausible accounts of the relationship between the two women. They have been analyzed for what they suggest of wider cultural understandings of the institution of service and its interconnectedness with other employment practices and familial relationships. It is important, though, that the records are related back to the

legal process which produced them. I have argued that the petition and the answer do not allow access to unmediated voices; that the structure and language of the petition and the answer were affected by the involvement of lawyers and the nature of the court. Some scholars who use legal records to discuss subaltern groups argue that it is a matter of isolating the various "veils" or "filters," such as formulaic language, particular legal requirements, or patriarchal conventions, so that we can see past them.¹⁰³ Yet to remove such skeins from the records would be to initiate a new form of distortion as people's lives were affected by such factors.¹⁰⁴ Christopher Cannon has argued, regarding common law pleas, that—"while we might doubt the stories told of events that supposedly happened outside of court—we cannot doubt the mediated status of the plea: 'it is representation in the third person, a report of what a woman said, not her 'complaint' but what 'she complains.' The texts these women had a rightful access to through their legal speaking were, like the stories their speech tells, controlled by the men who wielded legal pen and parchment and who dictated the forms of speech allowable in court."¹⁰⁵ The contention is that legal documents can reveal much about women's lived life at law. While I have sympathy with the project of recovering the lives of ordinary people, recognition of the limitations of the evidence is not to give up on historical subjects but rather a refusal to simplify their lives, which were lived within discursive systems.¹⁰⁶ We need a methodology that respects this point and this essay suggests one of the ways in which social and cultural historians might use chancery records.

Notes

1. The National Archives of the UK (TNA): Public Record Office (PRO), C 1/234/43 (1493-1500). The Petitions are undated but references to specific chancellors in the bills' addresses set date limits in the absence of other information.
2. TNA: PRO, C 1/234/44.
3. The annual cost for a chantry priest was about £6 per annum by the late fifteenth century: Clive Burgess, "'For the Increase of Divine Service': Chantries in the Parish in Late Medieval Bristol," *Journal of Ecclesiastical History*, 36 (1985): 50 [46-65]. Evidence from Reading and Salisbury confirms the amount: Dr Andrew Brown, personal communication.
4. For the argument that most brewers were not very rich, and that unmarried women would have been amongst the poorest of this group, see Judith M. Bennett, "Women and Men in the Brewers' Guild of London, CA. 1420," in *The Salt of Common Life: Individuality and Choice in the Medieval Town, Countryside, and Church: Essays Presented to J. Ambrose Riggis*, ed. Edwin Brezette DeWindt, SMC 36 (Kalamazoo: Medieval Institute Publications, 1995), pp. 186, 226-28 [181-232].

5. Anne Reiber DeWindt, "The Town of Ramsey: The Question of Economic Development, 1290-1523," in *Salt of Common Life*, pp. 53-116.
6. Margaret E. Avery, "An Evaluation of the Effectiveness of the Court of Chancery Under the Lancastrian Kings," *Law Quarterly Review*, 86 (1970): 96 [84-97].
7. Margaret's answer reveals the chantry priest was "to synge masse and prae for hir and the soules of hir fader and moder and other of hir frendys." This suggests that her parents were deceased but also does not mention a former husband.
8. For discussion of the problematic role of the historian discussing the subaltern from legal records, see John H. Arnold, *Inquisition and Power: Catharism and the Confessing Subject in Medieval Languedoc* (Philadelphia: University of Pennsylvania Press, 2001), pp. 1-15. See also Edward Muir and Guido Ruggiero, "Introduction: The Crime of History," in *History from Crime*, ed. Edward Muir and Guido Ruggiero, trans. Corrado Vivanti Curry, Margaret A. Gallucci, and Mary M. Gallucci (Baltimore: John Hopkins University Press, 1994), pp. vii-x [vii-xviii].
9. Edward Muir and Guido Ruggiero, "Afterword: Crime and the Writing of History," in *History from Crime*, p. 230 [226-36].
10. For a similar argument regarding ecclesiastical court records, see P.J.P. Goldberg, "Fiction in the Archives: The York Cause Papers as a Source for Later Medieval Social History," *Continuity and Change*, 12 (1997): 438 [425-45]. Regarding the records of canonization inquests, see Laura A. Smoller, "Miracle, Memory, and Meaning in the Canonization of Vincent Ferrer, 1453-1454," *Speculum*, 73 (1998): 430-31 [429-54].
11. J.H. Baker, *An Introduction to English Legal History*, 3rd edn. (London: Butterworths, 1990), pp. 117-18.
12. For a summary of the debate see Timothy S. Haskett, "The Medieval English Court of Chancery," *Law and History Review*, 14 (1996): 249-80 [245-313]. See also P. Tucker, "The Early History of the Court of Chancery: A Comparative Study," *English Historical Review*, 115 (2000): 795 [791-811].
13. See Timothy S. Haskett, "The Curteis Women in Chancery: The Legacy of Henry and Rye Brown," in *Women, Marriage, and Family in Medieval Christendom: Essays in Memory of Michael M. Sheehan*, C.S.B., ed. Constance M. Rousseau and Joel T. Rosenthal, SMC 37 (Kalamazoo: Medieval Institute Publications, 1998), p. 379 n37 [349-98].
14. Stretton found that for many cases in the Elizabethan Court of Requests, which dealt with similar cases to the medieval court of chancery, settlement and arbitration were commonplace: Stretton, *Women Waging Law in Elizabethan England* (Cambridge, UK: Cambridge University Press, 1998), pp. 82-83.
15. Alan Harding, *The Law Courts of Medieval England, Historical Problems: Studies and Documents*, 18 (London: George Allen & Unwin Ltd, 1973), p. 102.
16. Emma Hawkes, "'[S]he will . . . protect and defend her rights boldly by law and reason . . .': Women's Knowledge of Common Law and Equity Courts in Late-Medieval England," in *Medieval Women and the Law*, ed. Noël James Meunier (Woodbridge: Boydell Press, 2000), pp. 151-56, 160-161 [145-61]; Maria L. Cioni, "The Elizabethan Chancery and Women's Rights," in *Tudor Rule and Revolution: Essays for G.R. Elton from his American friends*, ed. Delloyd J. Guth and John W. McKenna (Cambridge, UK: Cambridge University Press, 1982), pp. 159-82. On coverture, see Caroline M. Barron, "The 'Golden Age' of Women in Medieval London," *Reading Medieval Studies*, 15 (1989): 35-37 [35-58].
17. Tim Stretton, *Women Waging Law*, pp. 28, 33. Butler has also demonstrated how both husbands and wives could make shrewd use of chancery to work around the rules of coverture: Sara M. Butler, "The Law as a Weapon in Marital Disputes: Evidence from the Late Medieval Court of Chancery, 1424-1529," *Journal of British Studies*, 43 (2004): 291-316.
18. Baker, *Introduction to English Legal History*, p. 119.
19. Tucker, "Early History," p. 791.
20. On the debate, see Tucker, "Early History," pp. 793-94.
21. Angus McIntosh, M.L. Samuels, Michael Benskin, eds., with the assistance of Michael Laing and Keith Williams, *A Linguistic Atlas of Late Medieval English*, 4 vols. (Aberdeen: Aberdeen University Press, 1986), 1:49. Petitions not in a chancery hand seem to be the originals submitted to chancery which were then copied by chancery clerks before being presented officially: John H. Fisher, Malcolm Richardson, and Jane L. Fisher, eds., *An Anthology of Chancery English* (Knoxville: University of Tennessee Press, 1984), p. 21.
22. Previously they were written in French, with a few in Latin. See John H. Fisher, *The Emergence of Standard English* (Lexington: University Press of Kentucky, 1996), p. 54.
23. Marjorie Keniston McIntosh, *Controlling Misbehavior in England, 1370-1600* (Cambridge, UK: Cambridge University Press, 1998), p. 119.
24. For a fuller discussion of the format, with examples, see Timothy S. Haskett, "The Presentation of Cases in Medieval Chancery Bills," in *Legal History in the Making: Proceedings of the Ninth British Legal History Conference, Glasgow, 1989*, ed. William M. Gordon and T.D. Fergus (London: Hambleton Press, 1991), pp. 12-13, 22-28 [11-28].
25. For e.g. on the language used in discussions of marital violence, see Butler, "Law as a Weapon," p. 296.
26. As many petitions are not in what is known as Chancery Standard English, this suggests the involvement of county lawyers: Timothy S. Haskett, "County Lawyers? The Compositors of English Chancery Bills," in *The Life of the Law: Proceedings of the Tenth British Legal History Conference, Oxford, 1991*, ed. Peter Birks (London: Hambleton Press, 1993), pp. 9-23. In terms of dialect, it has been found that it did not necessarily cohere with the regional characteristics of the petitioner: McIntosh, Samuels, and Benskin, eds., *Linguistic Atlas of Late Mediaeval English*, 1:49-50.
27. Haskett, "County Lawyers," p. 11; Haskett, "Presentation of Cases."
28. Haskett, "Presentation of Cases," pp. 17-21.

29. See Tucker, "Early History," pp. 798, 800–801.
30. Stretton, *Women Waging Law*, p. 80. The examination of the defendant under oath has led to comparisons being drawn with how ecclesiastical courts dealt with suspected heretics. See Haskett, "Medieval English Court of Chancery," p. 256.
31. Stretton, *Women Waging Law*, pp. 79–80.
32. Avery, "Evaluation," p. 91.
33. Haskett, "Medieval English Court of Chancery," p. 278. This is the period from which it is commonly said that other documents, besides the initial bill, start to survive. See also Avery, "Evaluation," p. 90.
34. Stretton *Women Waging Law*, p. 82.
35. Stretton, *Women Waging Law*, p. 81.
36. Stretton, *Women Waging Law*, p. 14.
37. Avery, "Evaluation," pp. 86–90. On the employment of attorneys see her p. 86 and Fisher, *Emergence of Standard English*, pp. 54, 162 n41.
38. An ell was a measure of length, used in particular for measuring cloth, fixed in medieval England by various acts of Parliament at forty-five inches.
39. P.J.P. Goldberg, *Women, Work, and Life Cycle in a Medieval Economy: Women in York and Yorkshire c.1300–1520* (Oxford: Clarendon Press, 1992), p. 158. Cf. Sarah C. Maza, *Servants and Masters in Eighteenth-Century France* (Princeton: Princeton University Press, 1983), p. 6: "domestic service is first and foremost a relationship."
40. Richard M. Smith, "Geographical Diversity in the Resort to Marriage in Late Medieval Europe: Work, Reputation, and Unmarried Females in the Household Formation Systems of Northern and Southern Europe," in *Woman is a Worthy Might: Women in English Society c. 1200–1500*, ed. P.J.P. Goldberg (Stroud: Sutton Publishing Limited, 1992; repr. as *Women in Medieval English Society*, 1997), pp. 29–31, 35–45 [16–59]; Goldberg, *Women, Work, and Life Cycle*, pp. 158–202, 225–32; L.R. Poos, *A Rural Society after the Black Death: Essex 1350–1525* (Cambridge, UK: Cambridge University Press, 1991), pp. 183–206, 225.
41. P.J.P. Goldberg, "Female Labour, Service and Marriage in the Late Medieval Urban North," *Northern History*, 22 (1986), pp. 26, 24 [18–38].
42. Kim M. Phillips, *Medieval Maidens: Young Women and Gender in England, 1270–1540* (Manchester: Manchester University Press, 2003), p. 131. See also Mavis E. Mate, *Women in Medieval English Society* (Cambridge, UK: Cambridge University Press, 1999), p. 57. Maza concluded, regarding service in eighteenth-century France, that it opened up possibilities for some but exposed many to "great dangers": Maza, *Servants and Masters*, p. 105.
43. See S.S. Walker, "Proof of Age of Feudal Heirs in Medieval England," *Medieval Studies*, 35 (1973): 306–323; J. Bedell, "Memory and Proof of Age in England 1272–1327," *Past and Present*, 162 (1999): 3–27.
44. Goldberg, *Women, Work, and Life Cycle*, p. 222.
45. P.J.P. Goldberg, trans. and ed., *Women in England c.1275–1525* (Manchester: Manchester University Press, 1995), pp. 58–79. A study in Ghana in the 1960s found that with children from the age of one, families

- would only approximate their ages. John C. Caldwell, "Study of Age Mismatchment among Young Children in Ghana," *Demography*, 3 (1966): 486 [477–90].
46. Le Roy Ladurie observed how peasants in early fourteenth century Montallou were vague in their descriptions of time, for example, "three or four years ago." Emmanuel Le Roy Ladurie, *Montallou: The World-famous Portrait of Life in a Medieval Village* (1978; repr. London: Penguin, 1990), p. 280. An example from Margaret Clerk's answer is that she "long tyme before" had engaged Jane's uncle as a chantry priest.
47. Goldberg, *Women, Work, and Life Cycle*, pp. 168–72. See also Poos, *Rural Society*, pp. 192–95.
48. Charlotte Augusta Sneyd, ed., *A Relation, or Rather a True Account, of the Island of England*, Camden Society, 37 (London: Camden Society, 1847), pp. 24–25. Nicholas Orme, *Medieval Children* (New Haven: Yale University Press, 2001), pp. 309–310; Goldberg, *Women, Work, and Life Cycle*. Cf. Ian Blanchard, "Reviews," *Economic History Review*, 2nd ser. 37 (1984): 118 [115–20].
49. TNA: PRO, C 1/22/67 (1452–54 or possibly 1494–1501).
50. TNA: PRO, C 1/64/1158 (1475–80 or 1483–85). This case is discussed in Barbara A. Hanawalt, *Growing Up in Medieval London: The Experience of Childhood in History* (New York: Oxford University Press, 1993), pp. 183–84.
51. TNA: PRO, C 1/1500/2 (1386–1558).
52. TNA: PRO, C 1/169/5 (1486–93 or 1504–1515).
53. TNA: PRO, C 1/64/731 (1475–80 or 1483–85). Further discussed below.
54. Hanawalt, *Growing Up*, pp. 114, 179.
55. Orme, *Medieval Children*, pp. 308–309. Seven, twelve and fourteen were all thought to be significant ages, denoting the age of reason and age of consent for females and males respectively. See Orme, *Medieval Children*, pp. 68, 336, or Phillips, *Medieval Maidens*, pp. 23, 27, 31.
56. Richard H. Helmholz, *Marriage Litigation in Medieval England* (London: Cambridge University Press, 1974), pp. 155. On the under-representation of the young in cause papers see Frederick Pedersen, "Demography in the Archives: Social and Geographical Factors in Fourteenth-century York Cause Paper Marriage Litigation," *Continuity and Change*, 10 (1995): 420 [405–36]. Goldberg's evidence, though, does include older witnesses who assert how many years it was since they first entered service which gives him their approximate age at entry: Goldberg, *Women, Work, and Life Cycle*, pp. 168–72.
57. Smith, "Geographical Diversity," pp. 25–27, 35–43; Goldberg, *Women, Work, and Life Cycle*, pp. 225–32, 325–29; Poos, *Rural Society*, pp. 141, 147–58. Cf. Mate, *Women in Medieval English Society*, p. 60.
58. TNA: PRO, C 1/126/26 (1506–1515). The damaged petition only names the brother as Thomas F. [...], a York merchant, but tells how he left his wife, Margaret, as his executrix. She then died so the petition was directed against her executors, William Whytiam, a priest, and George Smyth, a

merchant. The brother can therefore be identified as Thomas Fonby, a citizen and alderman of York, who died in 1504, leaving his wife, Margaret, as his executrix. Margaret's will of 1506 names her executors as William Whitlam, priest, and George Smyth, merchant. This allowed me to date the petition more narrowly. I acknowledge here the help of Charlotte Carpenter and her database of York's civic elite, 1476-1525. C 1/205/35 (1493-1500) is also an example of a relative, here the girl's father, making annual payments to her master to be kept toward her marriage.

59. E.g. TNA: PRO, C 1/28/179 (1459-66), C 1/61/269 (1480-83), C1/50/94 (1475-80 or 1480-85). On noble service, see Phillips, *Medieval Maidens*, pp. 109-120.

60. Goldberg, *Women, Work, and Life Cycle*, p. 182 and see P.J.P. Goldberg, "What Was a Servant?" in *Concepts and Patterns of Service in the Later Middle Ages*, ed. Anne Curry and Elizabeth Matthew (Woodbridge: Boydell Press, 2000), p. 18 [1-20].

61. For other examples of husbands and wives co-petitioning about what was owed to the wife, see discussion of the Kyrkebys, Nymans and Archers below. There are also similar cases where the husband petitions in his name only. For example, TNA: PRO, C 1/50/94 (1475-80 or 1480-85), C 1/61/269 (1480-83), C 1/187/13 (1493-1500).

62. See Poos, *Rural Society*, pp. 188-92.

63. TNA: PRO, C 1/22/122 (probably 1453-54 but perhaps 1495-1501).

64. TNA: PRO, C 1/75/83 (fourteenth to fifteenth century). From a different perspective, the petition of William Gerardson claims that John Eyan tried to force him to marry one of John's servants, who was "not of no virtuous condition": C 1/64/299 (1475-80 or 1483-85). Similar cases are discussed in P.J.P. Goldberg, "Masters and Men in Later Medieval England," in *Masculinity in Medieval Europe*, ed. D.M. Hadley (London: Longman, 1999), pp. 58-61 [56-70]; Shannon McSheffrey, "Men and Masculinity in Late Medieval London Civic Culture: Governance, Patriarchy and Reputation," in *Conflicted Identities and Multiple Masculinities: Men in the Medieval West*, ed. by Jacqueline Murray (New York: Garland Publishing Inc., 1999), p. 250 [243-78].

65. Goldberg, *Women, Work, and Life Cycle*, pp. 174-77; Poos, *Rural Society*, pp. 195-97, 201-204.

66. TNA: PRO, C 1/329/48 (1504-1515). See also the case of Alice Chamberleyn above.

67. TNA: PRO, C 1/151/116 (1486-93 or 1504-1515).

68. TNA: PRO, C 1/28/519 (1459-66); E.F. Jacob with the assistance of H.C. Johnson, eds., *The Register of Henry Chichele, Archbishop of Canterbury, 1414-1443*, 4 vols., Canterbury and York Society, 42, 45-47 (Oxford: Clarendon Press, 1937-47), 2:615-20. This is one of a small number of cases that I have managed to cross-reference with other sources. Usually this relies on a named party being a prominent member of a civic elite. In this example, the master, John Welles, was described in the petition as a London alderman and further information about him can be found in

- Sylvia L. Thrupp, *The Merchant Class of Medieval London* (1948; repr. Ann Arbor: University of Michigan Press, 1989), p. 373. The testament reveals that Henry Archer had also been a servant for John Welles, which is presumably how he met his wife.

69. Exceptions include the petition of Joan Bryges which claims that when she was in the service of Richard Thomson she "hade the charge of brede and ayll and other vraylles in his hows" and that of the widow Agnes Elsworth who was hired to look after her master's child: TNA: PRO, C 1/285/24 (1504-1515), C 1/261/33 (1502-1503). On the lack of evidence concerning the specific work of servants see Goldberg, "What Was a Servant?" p. 11, and Poos, *Rural Society*, p. 204.

70. TNA: PRO, C 1/296/70 (1504-1515) [my italics]. A shepster was a seamstress or tailor.

71. TNA: PRO, C 1/327/2 (1504-1155) [my italics]. Joan Wolbarowe's petition which tells how "xiiij yeres past she stode prentice with Katherine Dore of London silktrowster" also refers to her as a "servant": C 1/75/106 (fourteenth to fifteenth century); it can be dated more precisely to 1459-66 by the survival of related documents, C 1/27/482 and C 1/28/83. For "servant" as a term that was applied to apprentices see Elaine Clark, "Medieval Labor Law and the English Local Courts," *American Journal of Legal History*, 27 (1983): 337 [330-53].

72. Phillips argues that there was no impetus for girls to serve a full term if they would not receive the freedom of the City at the end of it: Phillips, *Medieval Maidens*, p. 134. See also Hanawalt, *Growing Up*, pp. 142-43.

73. TNA: PRO, C 1/274/12 (1502-1503).

74. See Goldberg, "Masters and Men," p. 61.

75. Phillips, *Medieval Maidens*, p. 134. This supports the argument of Caroline M. Barron, "The Education and Training of Girls in Fifteenth-Century London," in *Courts, Communities and the Capital in the Later Middle Ages*, ed. Diana E.S. Dunn (Stroud: Sutton, 1996), pp. 144-46 [139-153]. Cf. Judith M. Bennett, "Medieval Women, Modern Women: Across the Great Divide," in *Culture and History 1350-1600: Essays on English Communities, Identities, and Writing*, ed. David Aers (New York: Harvester Wheatsheaf, 1992), p. 159 [147-75].

76. Barron, "Education and Training," p. 144.

77. Barron, "Education and Training," p. 145; Bennett, "Women and Men in the Brewers' Guild," pp. 196-97.

78. TNA: PRO, C 1/258/6 (1502-1503). Elyn stayed until she married. Shepstry was presumably the wife's craft as the husband is referred to a "brige," a bridgekeeper. Hans Kurath and Sherman M. Kuhn, eds., *The Middle English Dictionary* (Ann Arbor: University of Michigan Press, 1956-2001; hereafter cited as *MED*), *briggere* (n.).

79. Clark, "Medieval Labor Law," p. 347; Goldberg, "What Was a Servant?" pp. 7, 16-17.

80. Judith M. Bennett, *Ale, Beer, and Brewsters in England: Women's Work in a Changing World, 1300-1600* (New York: Oxford University Press, 1996), pp. 49, 54-57.

81. Bennett, *Ale, Beer, and Brewsters*, pp. 52–56, 75. As discussed above, Margaret's marital status is unknown. There are earlier examples of never married women being left brewhouses to run: Bennett, "Women and Men in the Brewers' Guild," p. 204.
82. Dennis Romano, *Housecraft and Statecraft: Domestic Service in Renaissance Venice, 1400–1600* (Baltimore: John Hopkins University Press, 1996), pp. 99–105. Smith and Goldberg have argued that in the fifteenth century Italian service was very different to that in northwestern Europe, as suggested by the work of Klapisch-Zuber: Smith, "Geographical Diversity," pp. 27–35, 39–45; Goldberg, *Women, Work, and Life Cycle*, pp. 324–61, esp. 343–45; Chastane Klapisch-Zuber, "Female Celibacy and Service in Florence in the Fifteenth Century," in her *Women, Family and Ritual in Renaissance Italy*, trans. Lydia Cochrane (Chicago: University of Chicago Press, 1985), pp. 165–77; Chastane Klapisch-Zuber, "Women Servants in Florence during the Fourteenth and Fifteenth Centuries," in *Women and Work in Preindustrial Europe*, ed. Barbara A. Hanawalt (Bloomington: Indiana University Press, 1986), pp. 56–80.
83. Romano, *Housecraft and Statecraft*, p. 99. For European examples of assertions that servants or apprentices were to be treated as if the master's child, see Ruth Mazo Karras, *From Boys to Men: Formations of Masculinity in Late Medieval Europe* (Philadelphia: University of Pennsylvania Press, 2003), p. 121; J.E. Shaw, *The Justice of Venice: Authorities and Liberties in the Urban Economy, 1550–1700*, British Academy Postdoctoral Fellowship Monograph (Oxford: Oxford University Press, 2006), chapter 6.
84. Goldberg, "Masters and Men," p. 57; Clark, "Medieval Labor Law," p. 343.
85. TNA: PRO, C 1/64/731 (1475–80 or 1483–85).
86. MED, unkindeli (adv.), 3 (a), 4, 5 (a); kinde (n.), 1 (a), 2 (a), (c), 5b (a).
87. Cf. Klapisch-Zuber, "Women Servants," p. 68; Maza, *Servants and Masters*, pp. 171–72.
88. Goldberg, *Women, Work, and Life Cycle*, pp. 177–80; see also his "What Was a Servant?" pp. 13–14. Hanawalt, *Growing Up*, pp. 175–76; see also her p. 133 for examples of an abbot and a recluse performing similar functions. See also TNA: PRO, C 1/46/86 (1467–72 or possibly 1433–43) and C 1/20/13–14 (probably 1425–53; possibly 1465–83).
90. TNA: PRO, C 1/77/44 (1485–86).
91. TNA: PRO, C 1/100/22 (1486–93).
92. TNA: PRO, C 1/31/493 (1465–71 or possibly 1480–83). Hanawalt dates this case to 1483; Hanawalt, *Growing Up*, p. 176.
93. TNA: PRO, C 1/169/5 (cited above).
94. Barbara A. Hanawalt, "Of Good and Ill Repute: Gender and Social Control in Medieval England" (New York: Oxford University Press, 1998), p. 99; P.J.P. Goldberg, "Coventry's 'Lollard' Programme of 1492 and the Making of Utopia," in *Utopians and Idealists in the Later Middle Ages*, ed. Rosemary Horrox and Sarah Rees Jones (Cambridge, UK: Cambridge University Press, 2001), p. 99 [97–116].
95. TNA: PRO, C 1/66/390 (1475–80 or 1483–85).

96. TNA: PRO, C 1/31/77 (1465–71 or possibly 1480–83). Esigate probably should not have expected any wages before the end of the year: Clark, "Medieval Labor Law," p. 340. See also C 1/66/368 (1475–80 or 1483–85), and C 1/61/377 (1480–83).
97. Some such chancery cases are discussed in Madonna J. Hettinger, "Defining the Servant: Legal and Extra-legal Terms of Employment in Fifteenth-century England," in *The Work of Work: Servitude, Slavery, and Labor in Medieval England*, ed. Allen J. Frantzen and Douglas Moffat (Glasgow: Cuthine Press, 1994), pp. 206–228; I am grateful to Caroline Barron for drawing this article to my attention.
98. Maryanne Kowaleski, "Women's Work in a Market Town: Exeter in the Late Fourteenth Century," in *Women and Work in Preindustrial Europe*, p. 154 [145–64]. See also Clark, "Medieval Labor Law," pp. 335–36, 41.
99. For e.g. see Merry E. Wiesner, *Working Women in Renaissance Germany* (New Brunswick: Rutgers University Press, 1986), pp. 89–90; Monica Chojnacka, *Working Women of Early Modern Venice* (Baltimore: John Hopkins University Press, 2001), pp. 121–22; Maza, *Servants and Masters*, pp. 98–100; Cissie Fatchilds, "Masters and Servants in Eighteenth Century Toulouse," *Journal of Social History*, 12 (1978), 373–74 [368–93].
100. Goldberg, *Women, Work, and Life Cycle*, pp. 194–202; Goldberg, "What Was a Servant?" pp. 19–20.
101. Barron, "Golden Age," p. 48.
102. Mare argues that "there is no proof one way or the other": Mare, *Women in Medieval English Society*, p. 60. Goldberg cites as supporting evidence the work of Brodsky on late sixteenth century London but Ben Amos's research on sixteenth-century Bristol suggests that such changes might not have happened until the late sixteenth century: Goldberg, *Women, Work, and Life Cycle*, p. 201; Ilana Krausman Ben-Amos, "Women Apprentices in the Trades and Crafts of Early Modern Bristol," *Continuity and Change*, 6 (1991), 247 [227–52]. Bennett has cautioned that historians might be guilty of accepting the paradigm of "a great divide" between the medieval and the early modern periods and, in particular, she is not persuaded by Barron's account of a fall in female apprentices from the late fifteenth to the late sixteenth centuries, again based on Brodsky's evidence: Bennett, "Medieval Women, Modern Women," pp. 150, 159, 172 n53; Barron, "Golden Age," p. 48.
103. For such approaches see, for example, Sara Heller Mendelson, "'To shift for a cloak': Disorderly Women in the Church Courts," in *Women and History: Voices of Early Modern England*, ed. Valerie Frith (Toronto: Coach House, 1995), p. 6 [3–17]; Sharon Farmer, "Down and Out and Female in Thirteenth-Century Paris," *American Historical Review*, 103 (1998): 370, 372 [345–72]; Caterina Bruschi, "'Magna diligenti est habenda per inquisitorem': Precautions before Reading Doat 21–26," in *Texts and the Repression of Heresy*, 4, ed. Caterina Bruschi and Peter Biller, York Studies in Medieval Theology (Woodbridge: York Medieval Press, 2003), pp. 81–110.

104. As noted in Valerie Fritch, "Introduction," in *Women and History*, ed. Fritch, p. xix [ix-xxii] and Christopher Cannon, "The Rights of Medieval English Women: Crime and the Issue of Representation," in *Medieval Crime and Social Control*, ed. Barbara A. Hanawalt and David Wallace (Minneapolis: University of Minnesota Press, 1999), p. 168 [156-85]. See also Arnold, *Inquisition and Power*, p. 7.
105. Cannon, "Rights of Medieval English Women," p. 166.
106. For similar stances, see Sheila Fisher and Janet E. Halley, "Introduction. The Lady Vanishes: The Problem of Women's Absence in Late Medieval and Renaissance Texts," in *Seeking the Woman in Late Medieval and Renaissance Writings: Essays in Feminist Contextual Criticism*, ed. Sheila Fisher and Janet E. Halley (Knoxville: University of Tennessee Press, 1989), p. 13 [1-17]; Steven Justice, *Writing and Rebellion: England in 1381* (Berkeley: University of California Press, 1994), pp. 9, 260-61; Arnold, *Inquisition and Power*, pp. 1-15.

CHAPTER 8

"... ET EXAMINATUS DICIT...": ORAL AND PERSONAL HISTORY IN THE RECORDS OF ENGLISH ECCLESIASTICAL COURTS

Robert N. Swanson

"False horsen, thou shall not commande me to make any heges or gappis, nor thy maister. And if thou dar tare me, thow shall abyge." So the chaplain Nicholas Kendall was alleged to have addressed John Lentwhit in a dispute which, in 1528, found its way before an ecclesiastical court at York. The violent words were allegedly followed by violent deeds, as Kendall then threw a hatchet at Lentwhit and drew blood, and also struck him with a "long pyked staffe."¹ The truth of the record cannot be guaranteed—witnesses confirmed the deeds, but not the words—but the words were certainly what Lentwhit wanted on record as having been said. This is only one of numerous oral snippets documented in the surviving records of the pre-Reformation English church courts, although they are not all so forceful in their expression, or so violent in their contexts (even if in this case the precise background remains unclear).

Such recording offers significant opportunities to hear otherwise silenced voices, and through their words gain insights into the lives of people from all ranks of society.² The Romano-canonical documentary procedures used in the church courts give access to voices in ways not possible through the common law and customary processes of the English secular courts. Particularly important are the witnesses' statements offered during a case, where they survive. Although the record is often indirect—especially if surviving only in Latin, and therefore affected by the complexities of translation—this is perhaps the closest it is possible to get to medieval